

1976 WL 30539 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 8, 1976

***1 Re: Contract for the Calhoun Paper's Project**

Mr. Charles H. Lesser
Assistant Director for Archives and Publications
S. C. Department of Archives and History
Post Office Box 11669
Capitol Station
Columbia, SC 29211

Dear Mr. Lesser:

I have reviewed the contract proposed to be entered into by and between the University of South Carolina (USC), the South Carolina Department of Archives and History (Department), and the South Carolina Society (Society) and everything therein appears to be in order. The only question is whether or not the Department can enter into a contract which is binding beyond the term of the Commission. Given the factual situation surrounding the collation and publication of the Calhoun Paper's Project, it is the opinion of this Office that the Department has the authority to execute a contract extending beyond the term of the Commission.

The general rule is that an agency may not contract beyond the term of its Commission. However, an exception is made in case where the nature of project requires a long term contract and where such a contract is of benefit to the agency involved. See: 72 AM.JUR.2d 'States' Section 74. Clearly the Calhoun Paper's Project is long term in nature. The contracting parties have jointly sponsored the Project since 1959. The task of collating, editing and publishing the several volumes of papers of John C. Calhoun is not one which can be done quickly. Moreover, it appears to be the type project for which continuity is important. Thus, the Calhoun Paper's Project falls within the exception allowing the Department to contract beyond the term of the Commission.

Yours very truly,

M. Elizabeth Crum
Assistant Attorney General

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