

1975 WL 29492 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 10, 1975

*1 Mrs. Ruth W. Cupp
University Counsel
Medical University of South Carolina
80 Barre Street
Charleston, South Carolina 29401

Dear Mrs. Cupp:

This is in reply to your letter of January 13 and our recent telephone conversation.

You have inquired as to the power of the Medical University of South Carolina to exercise eminent domain proceedings. The purposes of such proceedings would be to acquire property for: (1) Business Services Building, (2) Allied Health Sciences Building, and (3) Student Center.

The 1949 Appropriations Act (1949 Acts 340, Section 34) granted the power of eminent domain to the Medical College of the State of South Carolina and the County Board of Commissioners of Charleston County. This section was a portion of the main act and not designated as a permanent or general statute. This section of the Act was not compiled in either the 1952 or 1962 Code of Laws.

An opinion of some years ago was rendered to the effect that the annual appropriations acts are not a part of the general statutory law and therefore not includable in the Code. 1931 Op. A.G. 137. Where an act is left out of the Code, even through error or inadvertence, the omitted act becomes inoperative. [State v. Meares](#), 148 S.C. 118, 145 S.E. 695 (1928). In this regard, see also: [Brooks v. Jones](#), 80 S.C. 443, 61 S.E. 946 (1908); [Raggio v. W.O.W. Life Ins. Society](#), 228 S.C. 346, 90 S.E.2d 212 (1955) (Taylor dissent).

It would therefore seem that the Medical University would be precluded from proceeding under the authorization of the 1949 Act.

After discussing the matter with Attorney General McLeod, the conclusion was reached that the opinion expressed at 1967 Op. A.G. would control the present issue. Under the authority of [University of South Carolina v. Mehlman](#), 245 S.C. 180, 139 S.E.2d 771 (1964) the Attorney General opined that the Public Works Eminent Domain Law does not confer upon state agencies the power of condemnation, but merely provides the method for such acquisition when the authority is otherwise properly vested. Our research indicates that no specific authorization exists for the Medical University and therefore it could not proceed under the Public Works Act.

A copy of the opinion is enclosed for your inspection.

I hope this will be of assistance to you, and if I may be of further help please do not hesitate to call.

Yours truly,

Cameron B. Littlejohn, Jr.
Law Clerk

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