

1975 WL 29033 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 28, 1975

\*1 Honorable James B. Edwards  
Governor  
State House  
Columbia, South Carolina

Dear Governor Edwards:

You have requested an opinion as to the constitutionality of several Acts of the 1975 General Assembly as they relate to the prohibitory language of Section 7 of Article VIII of the State Constitution as follows:

. . . No laws for a specific county shall be enacted . . .

Act R-421 of 1975 creates the Darlington County Library in Darlington County and, in so doing, in my opinion, violates the hereinabove quoted language of Article VIII, Section 7. See, e.g., [Knight v. Salisbury](#), 262 S.C. 565, 206 S.E.2d 875 (1974); [Thorne v. Seabrook](#) (Opinion No. 20030, filed June 14, 1975) (concurring opinion of Moss, C.J. and Littlejohn, A.J.).

Act R-439 authorizes the governing board of the Slater-Marietta Fire District in Greenville County to provide police protection within the district. This Act is, in my opinion, likewise violative of Section 7 of Article VIII and, most probably, of Section 1 thereof as well since it alters the powers of an already existing political subdivision by means other than a general law. Cf., [Neel v. Sbealy](#), 261 S.C. 266, 199 S.E.2d 542 (1973); [Knight v. Salisbury](#), supra.

Act R-440 authorizes the governing body of the City of North Myrtle Beach to levy an annual tax not to exceed ninety-five mills. Section 10 of Article VIII provides in part:  
No laws for a specific municipality shall be enacted, . . .

Act R-440, in my opinion, violates this provision and, most probably, Section 1 of Article VIII for the same reason as hereinabove outlined vis a vis Act R-439.

Act R-436 authorizes McCormick County to borrow up to one hundred five thousand dollars to build a vocational school in the county. I enclose herewith a copy of an earlier, opinion issued by this office as to the probable unconstitutionality of that Act.

Act R-428 removes certain roads from the highway system in Clarendon County. Inasmuch as the Act does not relate to the powers, duties or responsibilities of Clarendon County and inasmuch as the State Supreme Court has not as yet clearly decided the meaning of the aforementioned prohibitory language of Section 7 as it applies, in general, to any law relating to a specific county, my opinion is that Act R-428 is, most probably, constitutional.

Act R-416 provides for an annual salary for members of the Beaufort County Board of Education and Act R-437 authorizes the board of trustees of each school district in Laurens County to levy a tax for a teachers' salary supplement of twenty percent. Because of the recent decision of the State Supreme Court in [Moye v. Caughman](#) (Opinion No. 20064,

filed July 10, 1975), I must conclude that these two Acts are, most probably, constitutional. In Moye, the Supreme Court held that:

. . . The General Assembly has not been mandated by any constitutional amendment to enact legislation to confer upon the counties the power to control the public school system. To the contrary, the command of new Article XI, Section 3 is 'The General Assembly shall provide for the maintenance and support of a system of free public schools.' Slip Op. at 2.

\*2 This broad language used by the Supreme Court in Moye indicates to me that, at least until that Court places a more definitive interpretation on the effect of Article VIII on public education legislation, all such legislation should be considered as not violative of Article VIII, Section 7. The Court in Moye noted that, although the question of whether the act under consideration violated Article III, Section 34 was not raised, several South Carolina cases indicate that Section 34 does not deal with matters specifically covered by Article XI.

Act R-429 provides for the addition of a special magistrate for Lexington County. Although legislation dealing with the judiciary does not come within the purview of Article VIII, this Act, in my opinion, does violate Section 1 of Article V of the State Constitution which provides in part:

The judicial power shall be vested in a unified judicial system, . . .

Recent Supreme Court decisions have invalidated legislation creating a family court in Dorchester County and adding an associate judge to the Horry County Court, holding that such legislation did not further the aim of a unified judicial system consisting of courts of uniform jurisdiction. State ex rel. McLeod v. Knight (Opinion No. 20035, filed June 16, 1975); State ex rel. McLeod v. The Civil and Criminal Court of Horry County (Opinion No. 20053, filed July 9, 1975). While magistrates are specifically provided for in the Constitution [S.C.CONST. art. V, § 23], nonetheless, they must be provided for in a manner consistent with a unified judicial system. Act R-429 does not, in my opinion, promote that goal and is, therefore, most probably unconstitutional.

Very truly yours,

Daniel R. McLeod  
Attorney General

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