

1973 WL 27696 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 18, 1973

***1 Re: No. 52—County**

Mr. L. O. Ashley
Route 2
Abbeville, South Carolina

Dear Mr. Ashley:

You have requested that we advise you as to whether or not, in view of a 1973 act bearing Ratification Number 58, the County Supervisor of Abbeville County any longer has exclusive control over the operation of the county chain gang.

Section 55-451 of the Code provides in part:

All convicts [sentenced to the] public works of a county shall be under the exclusive supervision and control of the county supervisor and by him formed into a county chain gang and required to labor on the highways, roads, bridges, ferries and other public works or buildings of the county. . . . Should the supervisor . . . find that it is inconvenient or impracticable to work any convict committed to the county chain gang, he may turn such convict over to the Penitentiary authorities.

Section 6 of the 1973 act provides in part:

[T]he [Board of Commissioners for Abbeville County] . . . shall have the following powers:

. . .

11. To regulate, control and provide for the construction, maintenance, operation and use of public streets, roads, bridges, sidewalks, drains, courthouses, jails, buildings, prison farms and other public improvements and facilities.

And Section 7 of the aforementioned act provides in part:

The [county] supervisor . . . shall be responsible under the supervision of the board for performing the duties enumerated in Section 6(11).

You have not called our attention to any other relevant statute, and our own research does not disclose the existence of any.

While, under the 1973 statute, the Board of Commissioners has ultimate control over jails, prison farms and other public improvements and facilities, the control which the County Supervisor possesses with respect to the County Chain Gang has not been altered or changed by that legislation. The term ‘chain gang’ is not synonymous with such terms as ‘jails,’ ‘prison farms,’ or ‘public facilities.’ A ‘chain gang,’ obviously, refers to a group of prisoners [See AMERICAN COLLEGE DICTIONARY Chain Gang at 199], that is, to individuals and not, as we view the matter, to a public improvement. Inasmuch as the term ‘chain gang’ is not listed among the items set forth in Section 6(11), the ‘chain gang’ is not, then, something which the board may ‘regulate, control and provide for.’ Unless we have overlooked a statutory provision to the contrary either contained in the new act or in some other, it is our opinion that the County Supervisor of Abbeville County possesses still exclusive control over all convicts who have been sentenced to the public works of Abbeville County and formed by the Supervisor into a ‘chain gang.’

That officer alone is empowered by law to determine whether or not to turn any or all convicts committed to the public works of the county over to the State Penitentiary.

Very truly yours,

C. Tolbert Goolsby, Jr.

*2 Deputy Attorney General

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