

1976 WL 30734 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 23, 1976

*1 Mr. C. Walker Limehouse
Orangeburg City Attorney
Post Office Box 627
Orangeburg, SC 29115

Dear Mr. Limehouse:

Attorney General McLeod has referred your letter of February 25, 1976, to me for reply. You have inquired whether the City of Orangeburg may donate land and the cost of maintenance for a small chapel to be used for religious purposes. It is our opinion that such a contribution by the city would violate both Article I, Section 2 of the South Carolina Constitution and the First Amendment of the United States Constitution which prohibit the 'establishment of religion.' I am enclosing a previous opinion of this Office which states that 'the use of public facilities for the dissemination of [this] literature is violative of the Constitution of South Carolina, which provides for the complete and absolute separation of church and state.' The donation and maintenance of land is, in our opinion, even more of an entanglement of the State in religious matters than is the allowance of religious literature.

The United States Supreme Court in [Lemon v. Kurtzman](#), 403 U.S. 602 (1971) propounded three tests for determining if a statute violated the establishment clause. To be constitutional:

- 1) it must have a secular legislative purpose;
- 2) its principal or primary purpose must be one that neither advances or inhibits religion;
- 3) the statute must not foster an excessive government entanglement with religion.

It appears that the city's proposed action would violate all three of the tests. If you have further questions, please feel free to contact us.

Sincerely,

Christine W. Kelso
Law Clerk

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