

1972 WL 25334 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 30, 1972

***1 In re: An Act Providing For a Medical Examiner For Charleston County; No. 1432; Clerk of Senate**

The Honorable John C. West
Governor
Columbia, South Carolina

Dear Governor West:

You have inquired as to the validity of an Act providing for a Charleston County Medical Examiner Commission, which Act makes special provision relating to investigation of violent or unexplained deaths in Charleston County and medical examination of such bodies to determine cause of death.

The Act provides that a county medical examiner or deputy is empowered to order an autopsy (Section 5), that the county coroner may not hold a formal inquest until the investigation of the county medical examiner has been done and his reports completed [Section 9(c)], and provides criminal penalties for certain acts which are not criminal in other counties (Section 10).

While there is no prohibition against coroners or other investigating officers or officials utilizing the services of technically-trained personnel, the Act in question requires that certain things with reference to the subject deaths be done in Charleston County, but not in other counties of the State. In effect, the Act appears to interpose the office of medical examiner and his powers and duties between the coroner, as well as other regular law enforcement investigating personnel, and the normal investigation until such time as the examiner's investigation has been completed.

It is not felt that this Act is saved by the 'special provisions' language of Article 7, Section 11, Constitution of South Carolina, nor be any special conditions existing in Charleston County.

The services provided by the Act are needed, and, if the Act simply made such services available to coroners or investigating officers in the normal course of investigation, the constitutional objection would not exist. In view of the mandatory provisions of the Act, however, it is the opinion of this Office that the Act would constitute special legislation prohibited by Article 3, Section 34, Constitution of South Carolina.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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