

1972 S.C. Op. Atty. Gen. 161 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3331, 1972 WL 20470

Office of the Attorney General

State of South Carolina

Opinion No. 3331

June 22, 1972

***1 Statute authorizing the municipal court of the city of Columbia to levy fines in excess (up to \$200.00) of those provided in Section 15-905, Code of Laws of South Carolina, 1962, as amended, complies with the constitutional provisions of Article 5, Section 34, Subsection 9 of the Constitution of South Carolina.**

Chairman

Richland County Legislative Delegation

You have requested that this office advise you whether the proposed legislation increasing the jurisdiction of the municipal court of the City of Columbia so as to authorize it to levy fines in an amount not exceeding \$200.00 complies with the constitutional requirements of this State. This question basically involves Article 5, Section 34, Subsection 9 of the Constitution of South Carolina, which prohibits the enactment of special legislation when the General Assembly has a general statute covering the subject.

Pursuant to Article 5, Section 1 of the Constitution of South Carolina, ‘The General Assembly may also establish county courts, municipal courts and such courts in any or all the counties of this State inferior to circuit courts as may be deemed necessary’ As to municipal courts, power has been given in the above section of the General Assembly to establish such courts in any or all of the counties. It, therefore, has the right to establish but a single court of this character in this State; for the right to establish in any county confers the right to establish in but a single county or town. *City of Columbia v. Smith*, 105 S. C. 348 at 358, 89 S. E. 1028.

If, then, the General Assembly has the power to establish inferior courts in counties or cities of its choosing, it follows that the General Assembly also has the authority to establish county or municipal courts with varying jurisdictions or authority. There is no provision in the Constitution, nor is there any valid reason why the cities of Columbia, Greenville, Spartanburg, Anderson and others should not have such ‘inferior’ courts with a varying jurisdiction to suit local conditions. The establishment of municipal courts is authorized by the same section of the Constitution, and unquestionably municipal courts and inferior courts are placed upon the same footing as to the legislative power of establishment in any or all counties of the State. *City of Columbia v. Smith*, (*supra*.) at 359.

Furthermore, in *City of Greenville v. Foster*, 101 S. C. 318, 85 S. E. 769, the Supreme Court of South Carolina held, ‘It is apparent that the General Assembly may either establish such municipal courts as it may deem necessary in any or all counties of this State,’

Consequently, Article 5, Section 34, Subsection 9 of the South Carolina Constitution, which provides that ‘In all other cases, where a general law can be made applicable, no special law shall be enacted’ does not bar the enactment of the proposed bill since the General Assembly has a constitutionally granted power to establish inferior or municipal courts having different jurisdictions and powers. The General Assembly, having such authority, may clothe the municipal court with such powers as in its discretion is deemed necessary. Obviously, a general law establishing the maximum monetary penalty in all municipal courts is within the General Assembly's discretionary power as is a law patterned after the legislation which you have proposed, providing a higher monetary penalty for a particular city. It is, therefore, the opinion of this office that the proposed legislation

increasing the jurisdiction of the municipal court of the City of Columbia is within the powers of the General Assembly and does not run contra to the prohibitions regarding special legislation.

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