

1972 S.C. Op. Atty. Gen. 110 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3297, 1972 WL 21434

Office of the Attorney General

State of South Carolina

Opinion No. 3297

April 11, 1972

**\*1** The jurisdiction of magistrates in civil cases must be the same throughout the State and if there is a departure from the civil limits fixed by general law, such departure must be based on some logical basis and sound reason for special legislation.

Chairman

Richland County

Legislative Delegation

You have inquired as follows:

“At the meeting of the Richland County Legislative Delegation held April 4, 1972, it was moved and passed that I, on behalf of the Delegation, write you to request an opinion as to the constitutionality of special legislation increasing the civil jurisdiction of one or all of the Magistrates in Richland County to more than \$200.00, the amount set by the general law. We notice that several Counties have done this—some by constitutional amendments and some by statutory law.”

I advise that, in the opinion of this Office, the jurisdiction of magistrates in civil cases must be the same throughout the State and that if there is a departure from the civil limits fixed by general law (Section 43–51, Code of Laws, 1962, as amended), such departure must be based on some “logical basis and sound reason for special legislation.” The bases for this conclusion are set forth below.

Article 5, Section 21 of the Constitution of South Carolina, provides, in part:

“Magistrates shall have jurisdiction in such civil cases as the General Assembly may prescribe.”

This constitutional provision does not appear to have the effect of authorizing the fixation of civil jurisdiction on an individual magisterial basis. Note Article 5, Section 20, which authorizes the magistrates' terms of office, generally, to be fixed by the General Assembly; but that provision of the Constitution includes also the specific authority that “the terms need not be uniform in the State or in any county.” The implication from this provision would seem to be that where the General Assembly has meant to authorize a departure from the general scheme of jurisdiction and terms for the office of magistrate, it has specifically so provided, and it has not so provided with respect to the jurisdictional limits authorized to be fixed by the General Assembly.

Article 3, Section 34 of the Constitution provides that the General Assembly shall not enact local or special laws “where a general law can be made applicable.” That a general law can be made applicable with respect to the civil jurisdiction of magistrates appears self-evident from the fact that the General Assembly has done precisely this, as referred to in your letter, by enacting Section 43–51 of the Code of Laws, which fixes the jurisdiction of magistrates in civil cases, generally, at \$200.00.

Article 3, Section 34 of the Constitution also contains a provision which permits the General Assembly to enact “special provisions in general laws” but, as stated in [Gillespie v. Pickens County, 197 S.C. 217, 225, 14 S.E.2d 900](#):

\*2 “This cannot be construed so as to nullify the constitutional purpose to secure general laws having uniform operation throughout the State, except in those cases where there is some logical basis and sound reason for special legislation.”

For example, if a magistrate happens to be an attorney, there may be some sound and logical basis for extending the amount of his civil jurisdiction, or there may be a provision warranting special legislation in all cases where the office of magistrate is held by an attorney. Other special circumstances may exist, warranting such departure from the general feature, but this Office is not apprised, with particularity, as to the basis upon which special treatment is sought.

The cases cited below are the principal ones upon which the conclusions herein expressed are based.

[Townsend v. Richland County, 190 S.C. 270, 2 S.E.2d 777](#)

[Gillespie v. Pickens County, supra](#)

[Dillon County v. Maryland Casualty Co., 217 S.C. 66, 59 S.E.2d 640](#)

[City of Columbia v. Smith, 105 S.C. 348, 89 S.E. 1028](#)

[State v. McCaw, 77 S.C. 351](#)

[Grimball v. Parham Company, 96 S.C. 443](#)

[Fordham v. Fordham, 223 S.C. 401, 76 S.E.2d 299](#)

[Walker v. Harris, 170 S.C. 242, 170 S.E. 270](#)

[Elliott v. Sligh, 233 S.C. 161, 103 S.E.2d 923](#)

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