

1972 WL 25951 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 20, 1972

*1 The Honorable Thomas E. Smith, Jr.
Member
House of Representatives
Post Office Box 308
Pamplico, South Carolina

Dear Representative Smith:

You have requested an opinion from this office concerning the constitutionality of the use of Florence County funds for the purpose of maintaining a dirt road leading to a chicken farm. In your letter you stated the owner of the road gave the County a revocable easement over this land for the purpose of maintaining a road for public use.

Two methods of acquiring property for public roads are eminent domain and dedication. It has been stated, however, that the reservation of the right to revoke defeats the dedication. See McQuillin, The Law of Municipal Corporation, Dedication, Section 33.10 at page 658 (1964). Were it otherwise the property owner would receive the benefit of county maintenance since he may revoke the easement at will. It is the opinion of this office that such would be inconsistent with the constitutional prohibition against the use of public funds on private property.

Very truly yours,

Charles A. Taylor, III
Assistant Attorney General

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