

1977 S.C. Op. Atty. Gen. 132 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-160, 1977 WL 24502

Office of the Attorney General

State of South Carolina

Opinion No. 77-160

May 25, 1977

***1 In Re: Senate Bill 354**

The Honorable Ralph K. Anderson, Jr.
Member
House of Representatives
Box 468
Florence, South Carolina 29501

Dear Ralph:

Your letter of May 25 inquires as to the validity of S.354 which recites in the title thereof that its purpose is to 'provide for three additional special magistrates for Florence County to serve during the nighttime and on weekends and provide for their jurisdiction.'

The jurisdiction provided is set forth in the following grants of power and authority:

- '(1) To issue criminal warrants;
- (2) To approve and accept written bonds in criminal matters or in lieu of written bonds to approve and accept cash bonds;
- (3) To order the release of prisoners when proper and adequate bonds have been duly posted;
- (4) To transfer any such warrant and written or cash bond to a magistrate having proper jurisdiction.'

The magistrates may not permit the trial before them of any cause but are required to transfer such causes to the magistrate having proper jurisdiction.

It is my opinion that the bill would provide for an unconstitutional law.

Article V of the Constitution relating to the judicial department provides for a unified judicial system which shall include courts other than the Supreme Court and circuit courts as may be provided for by general law, such courts to be of uniform jurisdiction. It is my opinion that the magistrates' courts come within this provision, specifically Article V, Section 1. The Authority given the General Assembly to provide for the terms of magistrates and for their civil and criminal jurisdiction as provided in Article V, Section 23, is limited by the requirement of Section 1 that such courts must be of uniform jurisdiction. The powers proposed to be given to some magistrates in Florence County departs from the scheme of uniform jurisdiction and is therefore at variance with the constitutional mandate. Such grants of jurisdiction can only be given by general law.

I therefore advise that, in my opinion, S.354, if enacted, would be unconstitutional.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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