

1980 WL 121186 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 22, 1980

\*1 Honorable Richard W. Riley  
Governor  
State of South Carolina  
Post Office Box 11450  
Columbia, South Carolina 29211

Dear Governor Riley:

In response to your request for an opinion from my Office regarding the constitutionality of an act of the General Assembly which creates the Old Jacksonborough Historic District in Colleton County, my opinion is that, while there may be a question raised as to its validity under the 'no laws for a specific county' language of Article VIII, Section 7 of the South Carolina Constitution as interpreted by the South Carolina Supreme Court in Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 (1975), a later decision of that Court may very well provide some authority for its validity. In Kleckley v. Pulliam, 265 S.C. 177, 217 S.E.2d 217 (1975), the State Supreme Court upheld local legislation relating to a multi-county special purpose district, the Richland-Lexington Airport District, which, the Court said, performs regional functions. The Court also declared:

The concluding sentence of Section 7 provides that 'No laws for a specific county shall be enacted and no county shall be exempted from the general laws of laws applicable to the selected alternative form of government.' Read alone, this prohibition against the enactment of laws for a specific county would be given such a broad interpretation that it would prohibit the enactment of a law establishing a state park or a branch of a state college in a designated county. The prohibition against laws for a specific county cannot be given an interpretation which might result if the words were taken by themselves and out of context. The prohibition was not intended to create an area in which no laws can be enacted. Rather, the prohibition only means that no law may be passed relating to a specific county which relates to those powers, duties, functions and responsibilities, which under the mandated systems of government, are set aside for counties. 262 at 183. [Emphasis added.]

Assuming that the power to act with respect to historical matters is not a power reserved to the counties, and it has not been explicitly made so by the 'home rule' legislation, then the General Assembly is apparently free to legislate locally thereon. Of significance in this regard is the following prefatory language of the General Assembly:

Whereas, the General Assembly recognizes the great historic and cultural significance of South Carolina's only provisional state capitol, at the village of Old Jacksonborough on the banks of the Edisto River in Colleton County; . . . :

Sincerely,

Daniel R. McLeod  
Attorney General

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