

1979 WL 43233 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 29, 1979

*1 Thurmond Bishop, Esquire
Abbeville County Attorney
122 Court Square
Abbeville, South Carolina 29620

Dear Mr. Bishop:

You have requested an opinion from this Office as to whether or not the General Assembly has the authority to close a road which is solely county operated. In my opinion the General Assembly does have that authority. Counties are subdivisions of the state and are subject to the plenary control of the General Assembly, except as such control is limited by constitutional provision. [Parker v. Bates](#), 216 S.C. 52, 56 S.E.2d 723 (1949). There is no constitutional limitation on the legislature's authority over highways and roads. Cf., S.C.CONST. art. VIII, § 7; § 4-9-30(5), CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended.

You have also requested an opinion as to whether or not special acts such as Act No. 690 of 1978 [60 STAT. 2338 (1978)], which closed certain roads in Abbeville County, are unconstitutional under either the 'no laws for a specific county' language of [Article VIII](#); Section 7 of the State Constitution or the 'no special law where a general law can be made applicable' language of Article III, Section 35, subdivision ix thereof. In my opinion, such legislation is not unconstitutional because [Article II of the Articles of Amendments of the South Carolina Constitution](#) provides in part: The General Assembly of this State may enact special or local laws concerning the laying out, opening, altering or working roads or highways, . . .

This constitutional provision necessarily implies the General Assembly's power to close roads by special legislation.

Chapter 9 of Title 57, CODE OF LAWS OF SOUTH CAROLINA, 1976, provides a procedure for any interested person, state agency or political subdivision which desires to close a street or highway, setting forth requirements of notice and of a petition to a court of competent jurisdiction; this procedure, however, is additional to the power reserved to the General Assembly in the aforementioned Article of Amendments and does not place any limitation thereon.

With kind regards,

Karen Lecraft Henderson
Senior Assistant Attorney General

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