

1979 WL 43131 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 24, 1979

*1 Honorable Jarvis R. Klapman
Member
House of Representatives
125 Hendrix Street
West Columbia, South Carolina 29169

Dear Representative Klapman:

You have requested an opinion from this Office as to the constitutionality of the following provision contained in Section 121 of the 1979-80 General Appropriations Act:

Provided, Further, that the expenditure of funds known as 'C' construction funds shall have the approval of a majority of the Legislative Delegation members of the county in which the expenditures are to be made. 1979 Acts and Joint Resolutions, Advance Sheet No. 7 at 839 (October 12, 1979).

In [Bramlette v. Stringer](#), 186 S.C. 134, 195 S.E. 257 (1938), the South Carolina Supreme Court invalidated a statute which authorized the Greenville County Legislative Delegation to, inter alia, designate what roads were to be constructed or improved with the proceeds of bonds to be issued by Greenville County, saying:

Here the General Assembly is seeking no necessary information, and none of the duties involved by this Act upon the Legislative Delegation are of a supervisory nature, or are incidental to their duties as members of the Legislature, but on the other hand are fully discretionary acts, relating exclusively to the executive functions in the government of Greenville County, and in our opinion such parts of the Acts as attempt to give the delegation the discretion to say . . . what roads should be constructed or improved by the proceeds of the bonds and the loan, are clear violations of Article I, Section 14 [now Section 8] of the Constitution, and are therefore null and void. 186 S.C. at 149-50. [Emphasis added.]

See also, [Dean v. Timmerman](#), 234 S.C. 35, 106 S.E.2d 665 (1959); 1968-69 Ops.Atty.Gen. No. 2695.

Based upon the foregoing authorities, my opinion is that the above-quoted language of Section 121 of the 1979-80 General Appropriations Act is violative of the Separation of powers provision of the South Carolina Constitution.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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