

1979 WL 43209 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 18, 1979

*1 The Honorable C. Marshall Cain
House Ways and Means Committee
The State House
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Cain:

You have asked this Office for an opinion concerning the constitutionality of the appropriations provided in Part I, Section 119, of the 1979-80 General Appropriations Act entitled 'Contributions.' You have asked three questions:

1. Is it legal to give public funds to a private organization?
2. Does it make a difference if the organization performs a public purpose?
3. If it is legal to give public funds to private organizations performing public purposes, which organizations currently listed in Section 119 conform to this criteria?

This question has been raised on a number of occasions in past years, and the answer is controlled by the case of [Bolt v. Cobb](#), 225 S.C. 408, 82 S.E.2d 789 (1954). In brief, this case recognizes the validity of appropriation of public funds for the performance of a public function through the agency of a nonprofit, nonsectarian entity, such as organizations which provide health services, welfare services, and other public purposes for which appropriations may be made.

[Article X, Section 11, of the Constitution](#) as amended in 1977 retains substantially the provision of former Section 6 of Article X and provides:

The credit of neither the State nor of any of its political subdivisions shall be pledged or loaned for the benefit of any individual, company, association, corporation or any religious or other private education institution . . .

As noted in the opinion of the Attorney General dated April 28, 1971, copy attached, this provision would be violated unless the 'contribution' was appropriated for a public purpose. This means that, in each case, the purpose for which the funds are to be expended must be examined to assure that it is a public purpose in the constitutional sense, such as health, education, historic preservation, etc.

In summary, our opinion in answer to your questions is as follows:

1. Public funds may be appropriated to a private nonprofit, nonsectarian organization if the funds are to be expended in the promotion of a valid public purpose.
2. It is our opinion that any funds appropriated must be utilized for a valid purpose.
3. We have examined the list of organizations contained in Section 119 of the 1979-80 Appropriations Act. It appears that those items which are listed as dues which the State pays to organizations to further State functions are valid within the

doctrine of Bolt v. Cobb. It further appears, from the names of a large number of those listed, that they are organized for various public functions such as health, education, welfare and historic preservation; but only a case-by-case examination of each organization could lead to a determination of whether it would be an eligible recipient.

Finally, in any event it is important to assure that the funds appropriated are actually expended for a public purpose, as required by the provisos to Section 119.

Sincerely,

***2** Daniel R. McLeod
Attorney General

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