

1975 WL 29196 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 21, 1975

*1 Hon. James R. Metts
Sheriff
Lexington County
Lexington, South Carolina 29072

Dear Sheriff Metts:

You have requested an opinion from this office as to the constitutionality of a 1975 Act bearing Ratification No. 429, which provides for a special magistrate in Lexington County, including his jurisdiction, powers and duties.

That Act was submitted for the Governor's signature in the last days of the 1975 session of the General Assembly; according to the provisions of Article IV, Section 21 of the State Constitution, the Governor has five days in which to approve, veto or refuse to sign legislation presented to him. If adjournment of the General Assembly prevents return, then the Governor has two days after the opening of the next session in which to return the legislation. For these reasons, the Act has not become law and will not become law until at least two days after the convening of the legislature in January, unless the Governor should veto it before then.

The opinion of this office is that the Act is most probably unconstitutional as violative of Article V, Sections 1 and 22 of the State Constitution. See, e.g., [State, ex rel. McLeod v. Knight](#), 264 S.C. 532, 216 S.E.2d 190 (1975); [State, ex rel. McLeod v. The Civil and Criminal Court of Horry County](#), 265 S.C. 114, 217 S.E.2d 23 (1975). While magistrates are specifically provided for in the Constitution [S.C.CONST. art. V, § 23], nonetheless, in our opinion, their jurisdiction must be prescribed in a manner consistent with a unified judicial system by means of general law and consistent with Section 22 of Article V as interpreted by the Supreme Court in the decisions hereinabove cited.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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