

1974 WL 28048 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 11, 1974

*1 Honorable Allen R. Carter
State Senator
Post Office Drawer 5818
North Charleston, South Carolina 29406

Dear Senator Carter:

Your letter of February 6, 1974, requests the opinion of this Office as to the constitutionality of Senate Bill No. 701.

S-701 provides for the establishment of the Charleston County Traffic Court, with jurisdiction in the County of Charleston except for certain designated areas. It provides for the jurisdiction of the Court, the judges thereof and other personnel, the jury and the manner of selection thereof, appellate procedures, and other detailed related matters concerning the Court.

The Court sought to be established is, therefore, a special court created for Charleston County, or portions thereof, with specially designated appropriate powers and procedures. In my opinion, it is special legislation prohibited by Section 1 of Article V of the Constitution (Judicial Reform), rectified April 4, 1973. This constitutional provision requires that the judicial power be vested in a unified judicial system which shall include a Supreme Court, a Circuit Court, 'and such other courts of uniform jurisdiction as may be provided for by general law.' There appears no reasonable or rational basis why this type of court cannot be created by general rather than special law; in fact, a joint committee of the General Assembly is now in course of preparation of a bill to create a unified judicial system in accordance with the constitutional mandate set forth above.

While S-701 may similarly be violative of Article VIII of the Constitution, which prohibits the enactment of specific laws for any county, I have not considered the application of that Article in the preparation of this opinion.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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