

1974 WL 28052 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 25, 1974

*1 Mr. George Warren, Jr.
Attorney at Law
Post Office Box 27
Hampton, South Carolina 29924

Dear George:

You have requested the opinion of this Office as to whether the soil removed from an excavation for a public building may be transported with county labor and machinery to a point upon privately owned property for the purpose of filling that property so as to make it more usable. It is my understanding that the owner of the property is willing to reimburse the county for the cost of gasoline which may result from hauling the fill dirt a greater distance to the property than a nearer area.

As indicated in the enclosed opinion directed to Governor West, it has been the consistent opinion of this Office that county machinery, forces and funds may not be expended upon private property. In at least two counties, Chester and Laurens, injunctions against the use of such county equipment and forces have been enjoined.

The same conclusions are applicable with respect to the digging of ditches upon privately owned property whereby county forces or machinery or funds are expended. Such an action constitutes, in my opinion, the use of public funds or property for private purposes, which cannot constitutionally be done.

I therefore am of the opinion that the procedures as outlined by you are not constitutionally permissible.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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