

1974 WL 28020 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 6, 1974

**\*1 Re: Clarendon County Supply Bill**

Mr. G. H. Hardee  
Clarendon County Supervisor's Office  
Court House  
Post Office Box 362  
Manning, SC 29102

Dear Mr. Hardee:

In order that you might have written confirmation of our telephone conversation which occurred on or about August 19, 1974, with reference to the above matter, I have drafted the following.

You have requested that legal review be given to the validity of the above-referenced legislation, with specific reference to its constitutionality.

The Legislation in question, and that particular provision in which you are concerned abolishes the Office of County Supervisor. This provision was inserted into the Clarendon County 'Supply Bill,' and reads as if it is a permanent provision encompassed therein.

An answer to this question, specifically that of the primary power of the Legislature with respect to the abolishment of non-constitutional officers, such clearly can be done. In the case of Fooshe v. McDonald, 82 S.C. 2263 S.E. p. 3 1908 case, an identical question was raised with reference to the Fairfield County Supervisor, which Office was abolished pursuant to Legislative enactment. In that case, the Supreme Court referring to the constitutionality of this provision held that there was nothing in the section of the Constitution to support the demand of the petitioner which would hold that the enactment was invalid as being contrary to the Constitution. This case was decided in accordance with the present day Constitution and it is the opinion of this Office that the same holding would prevail in the instant situation.

A secondary question, however, is whether the temporary Legislation, of a 'County Supply Bill,' can have the affect of a permanent enactment. In the case of Mills v. McLeod, it was held that a temporary law can have the effect of temporarily amending or overriding a permanent provision. The temporary enactment, however is only valid during its life-time. In the instant situation the County Supply bill being a yearly plenary bill, there is substantial question as to whether the insertion of a permanent provision therein would be effective after the life of the Bill. It is clear that is can be effected immediately, however although there is a great deal of doubt and little judicial precedent, there is a valid possibility that the permanent provision would die with the expiration of the temporary bill.

In rendering this opinion, it must be noted and kept in mind that the question of the constitutionality of special legislation creating county supply bills, is not being answered and is reserved in this opinion. Legislation of this type could be questionable in light of the recent Supreme Court decision in the case of Knight v. Salisbury, and it is with this precautionary closing that this opinion is rendered.

Very truly yours,

Timothy G. Quinn

Senior Assistant Attorney General

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