

1973 WL 27778 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 27, 1973

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Sumter County  
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Attorneys at Law  
P. O. Box 2038  
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Dear Werber:

Please excuse my neglect in answering your letter of November 28, but it is due to the fact that I departed the State about that time on a two weeks' business-pleasure trip and only returned after the middle of December.

I think that your concern as to the authority to pass an act changing the jurisdiction of magistrates, the number of magistrates, and for certain reforms in the present county court system is properly taken.

I think that the primary objection to legislation of this type is found in the judicial reform article ratified April 4, 1973, Section 1 of which provides that the judicial power shall be vested in a Supreme Court, a circuit court, 'and such other courts of uniform jurisdiction as may be provided for by general law.' I know that a proposed bill will be submitted to the General Assembly at its next session implementing the provisions of Section 1 and I have no doubt that legislation such as is referred to by you would run afoul of the requirement that the courts be uniform and made so by general law. For this reason, I do not feel that this type of legislation is now permissible.

The local government amendment referred to in your letter, presents an abstacle also but the drafts of proposed legislation which I have seen do not contemplate court procedures and it is my view that they should not include such provisions but leave this to the court reform enactment. Moreover, this is probably required under the constitutional provisions.

I therefore feel that it is by far the better course and perhaps the only course to leave such legislation for general enactment. If the counties have views upon the matter, they can of course, urge them in the Legislature and make representations to the committee having cognizance of the judicial legislation. Senator Dick Riley of Greenville is the chairman of that committee.

With best wishes.

Cordially,

Daniel R. McLeod  
Attorney General

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