

1972 WL 25204 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1972

*1 Mr. G. Werber Bryan

Messrs. Bryan, Bahmuller & King
Attorneys at Law
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Sumter, South Carolina 29150

Dear Werber:

Thank you very much for your letter of January 20 concerning Section 15–1675.2 and asking if this statute constitutes an improper delegation of legislative power. This section provides for the appointment of the judge of the Civil and Domestic Relations Court of Sumter, upon the recommendation of a majority of the Bar Association of Sumter, County.

In my opinion, this is a proper delegation of legislative power. Gould v. Barton is the most recent case in point, which struck down the authority vested in a Zoological Society to appoint a public official to the governing body of a political subdivision. This case is cited at [256 S.C. 175, 181 S.E.2d 662](#). The Supreme Court pointed out that the Zoological Society was a non-governmental, private organization closely akin to a civic club in legislative significance. Similar authority sought to be vested in a Kiwanis Club and other civic clubs was struck down in [Ashmore v. Greater Greenville Sewer District, 211 S.C. 77, 44 S.E.2d 88](#). The case of State v. Taylor, cited in your letter, is, in my opinion, ample authority to sustain the delegation of power made in Section 15–1675.2. The reasoning of the Ashmore and Taylor cases seems to recognize that if there is a rational relation between the appointive power and the objectives of the law, that this deregation will be upheld.

There are some other facets that must be considered, in light of Gould and [Bradley v. City Council of Greenville, 212 S.C. 389, 397, 46 S.E.2d 291](#), and Blalock v. Johnston, 180 S.C. 40, 18 S.E.2d 51, but it appears to me that Gould does not preclude the procedure which is provided by statute for the selection of the judge of the Civil and Domestic Relations Court, upon recommendation of the majority of the Bar Association of Sumter County.

Insofar as any conflict between the Executive and Judicial Branches is concerned, it appears to me that the Constitution authorizes the General Assembly to form such inferior courts as it determines, and this, in my opinion, carries with it the authority for the method of selection of the judges of such courts. As noted, it appears to me that the method provided is valid.

With all best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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