Governor Denied Authority to Proclaim a Bank Holiday on December 26, 1947.

Strom Thurmond

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STATEMENT OF J. STROM THURMOND, GOVERNOR OF SOUTH CAROLINA, ON HIS INABILITY TO PROCLAIM A BANK HOLIDAY ON DECEMBER 26, 1947.

The Executive Secretary of the South Carolina Bankers Association has asked me to proclaim a bank holiday on Friday, December 26, 1947. I would like to do this but do not have authority under the law to proclaim such a holiday.

The Attorney General substantiates my opinion that I am legally unable to do so.

Section 3 of Act No. 532 of the Acts and Joint Resolutions of the South Carolina General Assembly passed at the 1946 session provides:

"In addition to the holidays enumerated in Section 7050-7051-7052-7053 of the Code of Laws for 1942, at the request of Chairman of the State Board of Bank Control and the President of the South Carolina Banker's Association, the Governor may declare any other day or days of the year legal holidays for banks and cash depositories, PROVIDED, HOWEVER, That this power shall not be exercised except in case of an emergency."

The Chairman of the State Board of Bank Control and the President of the South Carolina Bankers Association have not officially stated to me that an emergency exists and have not requested me to grant a holiday for this reason. Therefore, I could not issue such a proclamation without violating the law which I have sworn to uphold.

I favor the day after Christmas of each year being legally declared a bank holiday so that the employees of banks may enjoy this day with their families during this festive period of the year.
I would like to see the law amended so as to make a bank holiday on December 26 of each year in the future and will be happy to sign a bill providing for this if the Legislature sees fit to pass it.

###
Hon. J. Strom Thurmond, Governor,
State House
Columbia, S. C.

My dear Governor Thurmond:

This will acknowledge receipt of your letter of December 10th, reading as follows:

"Please advise me whether I have the authority to declare the day after Christmas, December 26, as a holiday. It is my wish to take such action if the Governor has such authority, and I am enclosing a proclamation issued by Governor Cherry of North Carolina which I ask you to please return along with your reply.

I shall thank you to let me hear from you as soon as possible as the banking interests have requested that I issue this proclamation and are anxious to know if I intend to do so."

In reply I advise that Section 7050 of the Code of 1942 "enumerates" the Legal Holidays in South Carolina. It says:

"National Thanksgiving days and all general election days, and also the first day of January, the nineteenth day of January, the twenty-second day of February, the tenth day of May, the third day of June, the fourth day of July, the first Monday in September, the eleventh day of November and the twenty-fifth day of December in each and every year shall be legal holidays: Provided, That each first Monday in any month shall be a legal day of judicial or sheriff's sales or the transacting of any legal business."

This office knows of no law conferring on the Governor the power and authority to amend Section 7050 - by declaring the 26th of December, or any other day, a legal holiday. No inherent authority rests in the Governor to declare a holiday.

In addition to the above Section 7054 of the Code of 1942 gives the law applicable to "Banks and Cash Depositories" and as to how they shall proceed and what days are, for them, legal holidays.

The proclamation of Governor Cherry of North Carolina, issued under the law of that State does not alter the above opinion.

Yours very truly,

John M. Daniel (Signed)
Attorney General