

1976 WL 30746 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 26, 1976

*1 The Honorable Joyce C. Hearn
Member
House of Representatives
Richland County
1316 Berkeley Road
Columbia, South Carolina 29205

Dear Mrs. Hearn:

Your letter of March 26 requests the opinion of this Office concerning the tenure of office of the county executive committee under the provisions of Section 23-258 of the Code of Laws of 1962, and asks:

'Please advise whether this means new committeemen officially begin their new term at 12:01 a.m. on the morning of the convention, or when the convention is called to order, or when the new county chairman is elected, or when the convention is adjourned?'

The concluding sentence of Section 23-258 provides:

'The tenure of office of the committee shall be until the day of the county convention in each general election year.'

A day is generally construed to mean the period encompassed from 12 midnight of the beginning of that day until 12 midnight following its expiration. Read literally, this statute fixes the tenure of the committee so that it will expire at 12 midnight of the day of the county convention. It is my opinion, however, that the intent of the General Assembly was not to fix such a time, but I must add that this conclusion is expressed without complete confidence as to its correctness. The issue can only be resolved finally by a court adjudication.

My reasons for reaching this conclusion are as follows. The County committees function under a chairman who is elected by the county convention which, in all instances, does not meet until sometime during the day of the county convention, generally at 12 m. or at 4 p.m. The State executive committeeman is *ex officio* a member of the county committee also and that person is elected by the county convention. While executive committeemen may vote in all matters coming before the county committee, the chairman, if he is not a member of the committee, may not vote on any question except in case of a tie. Therefore, if the most recently named members of the executive committee should undertake to assume office prior to the county convention they would be without a chairman, who might or might not be able to vote in all matters, depending upon whether that person is or is not a member of the county committee, and without a State executive committeeman, who is a full participating member. Additionally, I am informed that all political parties construe the statute to mean that members of the county committee serve at least until the convening of the county conventions. I am not informed as to whether any political party has reached a determination of the precise time at which the new county committee takes office. This practice is, in my opinion, tantamount to an administrative construction of the statute, which is entitled to some weight.

I am of opinion that the county committee continues in office until the election by the county convention of a chairman thereof and of a State executive committeeman.

*2 I must emphasize that the issue involved is subject to reasonable arguments, pro and con, and that it can only be finally resolved by court determination.

Very truly yours,

Daniel R. McLeod
Attorney General

1976 WL 30746 (S.C.A.G.)

End of Document

© 2016 Thomson Reuters. No claim to original U.S. Government Works.