

# The State of South Carolina



## Office of the Attorney General

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May 14, 1991

The Honorable Joe Wilson  
Senator, District No. 23  
606 Gressette Senate Office Building  
Columbia, South Carolina 29202

Dear Senator Wilson:

By your letter of April 17, 1991, you have asked for the opinion of this Office as to the constitutionality of S.341, which would provide that the Presidents of the South Carolina Federation of Republican Women and the South Carolina Federation of Democratic Women will be ex officio members of their respective State committees.

Political party officers do not hold State offices and therefore although the selection process is statutorily created, it governs a non-public office. 63A Am.Jur.2d Public Officers and Employees, §21; 29 C.J.S., Elections, §85 (a); State v. Bivens, 149 S.E.2d 284 (W. Va. 1966); see also, opinion to Mr. Burkhalter from J. Emory Smith, July 29, 1986. The constitutional guarantees apply to public offices and generally not office holders in private organizations. Therefore, no readily discernible constitutional issues are apparent from this proposed bill.

Of course, should the bill be enacted, in considering the constitutionality of an act of the General Assembly, it is presumed that the act is constitutional in all respects. Moreover, such an act will not be considered void unless its unconstitutionality is clear beyond any reasonable doubt. Thomas v. Macklen, 186 S.C. 290, 195 S.E. 539 (1937); Townsend v. Richland County, 190 S.C. 270, 2 S.E.2d 777 (1939). All doubts of constitutionality are generally resolved in favor of constitutionality. While this Office may comment upon potential constitutional problems, it is

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solely within the province of the courts of this State to declare an act unconstitutional.

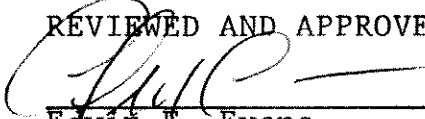
Sincerely,




Treva G. Ashworth  
Senior Assistant Attorney General

TGA:bvc  
Attachment

REVIEWED AND APPROVED BY:



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ROBERT D. COOK  
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