

1984 S.C. Op. Atty. Gen. 23 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-5, 1984 WL 159814

Office of the Attorney General

State of South Carolina

Opinion No. 84-5

January 20, 1984

*1 The Honorable Dalton Sheppard, Jr.
Member
House of Representatives
District No. 85
420-C Blatt Building
Columbia, South Carolina 29211

Dear Mr. Sheppard:

This letter is in response to our telephone conversations in which you have inquired how the thirty day period is computed in determining if a person has registered thirty days prior to an election. All of the previous advice of this Office has stated that you exclude the day of the election and count backward thirty days. However, there is some question as to what is then the thirtieth day.

I am enclosing a 1964 formal, published opinion of the then Attorney General, Daniel R. McLeod. He has stated that the thirtieth day is not counted and that registration completed on that date would be invalid for an election held within thirty days of that date. See also South Carolina Code of Laws, 1976, Sections 7-5-150 and 7-5-220. I am informed by James Ellisor, Executive Director of the State Election Commission, that this is also the interpretation that the Election Commission follows in determining the last day to register to vote.

However, a determination of what is the last day to register is an extremely close question. It is clear that election statutes are generally liberally construed in order to resolve any questions of eligibility in favor of a voter. 1969-70 Op. Atty. Gen., No. 2821, p. 33. In a 1968 letter of advice of this Office, Robert W. Brown advised that the thirtieth day would count as the last day to register to vote. There is also some language in the case of [State v. Schnierle](#), 5 Rich. 299 (1852) that, although interpreting different statutory language, gives some support to Mr. Brown's advice. (copy enclosed).

However, it is my understanding that a hearing has already been held before the county executive committee regarding whether or not a person who qualified to vote when he registered on the thirtieth day and that the committee has made a ruling on the elector's eligibility. It is further my understanding that this same question could arise again at the run-off scheduled for Saturday. As this issue has been determined by a committee authorized by law to make such a determination, it would be improper for this Office to take any further position or comment on this particular matter. This is in accord with the longstanding policy of this Office not to issue an opinion where the matter in dispute is in litigation or where an opinion would interfere with a decision previously reached by a judicial or quasi-judicial body.

Additionally, you have inquired if a person who is not qualified to vote in the first election for failure to register more than thirty days before the election would be able to vote in a subsequent run-off. South Carolina Code of Laws, 1976, Section 7-5-220, provides in part that
[r]egistration certificates issued thirty days or less before an election shall not be valid for such election or any second race or runoff resulting from the election . . . (emphasis added).

*2 See also Section 7-5-150.

Therefore, if a person was not qualified to vote in the first election, he would not be qualified to vote in a subsequent run-off.

This letter is offered only as the advice of the undersigned attorney, and is not a formal opinion of this Office.

Sincerely,

Treva G. Ashworth

Senior Assistant Attorney General

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