

1980 WL 120606 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 15, 1980

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Attorneys at Law
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Dear Mr. Legare:

You have inquired if a person may vote in the Republican Presidential Primary to be conducted in March 1980, and then be eligible to vote in the regularly scheduled Democratic Primary to be held in June 1980. It is my understanding that this procedure will be a separate primary, financed by the Republican Party and conducted wholly apart from any other election procedure to be held on the same date. The only candidates on the ballots to be prepared by the party will be Republican Presidential candidates. The Republican Party will then hold their regular primary elections for all offices later in the month of June 1980.

This so-called procedure is not a primary in the legal sense, but is more nearly identified as a straw vote or a poll being held separate and apart from the laws of the State relating to primaries by political parties.

[Section 7-13-1010 of the Code](#) of Laws (1976) sets out a pledge for each voter to make before voting in a primary. This statute applies only to primaries which are conducted in accordance with South Carolina Election Laws and is not applicable to the so-called primary to be held in March 1980. The force of the statute is directed against voting in one party's primary election or participating in the nominating convention of a party and then participating in another party's primary election or nominating convention for any office for which the primaries are being conducted. Its purpose is to prevent party-raiding and thereby influencing the nomination of a person to be a candidate in the General Election. The March procedure does not nominate anyone and has no binding force or effect. Under the Election Laws of this State, voters do not cast ballots for Presidential candidates but, instead, cast ballots for Presidential electors who may be nominated by the various political parties. The March 'primary' is, therefore, not a legally recognizable election procedure and has no more force or effect than the response to a telephone inquiry by a poll taker as to the Presidential choice of individuals.

I, therefore, advise that anyone may participate in the March 'Presidential Primary' and that such participation will not affect his subsequent participation in any regularly scheduled primary conducted in accordance with South Carolina Law.

Very truly yours,

Daniel R. McLeod
Attorney General

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