

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

December 15, 1980

The Judicial Inquiry Commission has considered your request for an opinion concerning whether a judge, who receives a county salary supplement, should recuse himself from litigation in which the county is a party.

It is the opinion of the Commission that the mere receipt of a salary supplement from a county does not disqualify a judge from sitting in cases to which the county is a party. However, in instances in which the judge's salary supplement is directly related to the matter in litigation or could be substantially affected by the outcome of the litigation, disqualification could occur.

The opinion of the Commission is based upon the provisions of Canon 3C of the Alabama Canons of Judicial Ethics; more specifically Canon 3C(l)(c) which provides that:

- (1) A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where:
- * * * *
- (c) He knows that he ... has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

Under this Canon, there are undoubtedly many fact situations which could arise and which the Commission would have to consider on a case by case basis. However, the mere fact that a judge receives a salary supplement from the citizens of the county through the county governing body does not in and of itself disqualify a judge from sitting in all proceedings to which the county is a party.

Sincerely,

JUDICIAL INQUIRY COMMISSION