

[Modifying November 2, 1981 advisory opinion]

Judicial Inquiry Commission

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May 28, 1982

It has come to the attention of the Commission that our Advisory Opinion 124, which was rendered to you on November 2, 1981, is inconsistent with a prior Advisory Opinion of the Commission, 47. The earlier Advisory Opinion, rendered in 1978, holds that:

“While it appears under Canon 7 of the Alabama Canons of Judicial Ethics that a municipal court judge would have to resign his judicial office to seek an elective non-judicial office, we find the constitutional provisions [Section 6.065 and Section 6.08 of Amendment 328, Constitution of Alabama, 1901] to be controlling in this instance.”

Thus, the conclusion reached by the Commission in 1978 was that Section 6.065 of Amendment 328 exempted municipal court judges from the Section 6.08 prohibition against running for election to a non-judicial office, the constitutional provisions are controlling and neither the Constitution of Alabama nor the Canons of Judicial Ethics require a municipal court judge to resign his judicial position prior to seeking election to a non-judicial office. Our Advisory Opinion 124 is thus modified to be consistent with our prior Advisory Opinion, 47.

Very truly yours,