



JUDICIAL INVESTIGATION COMMISSION

Building 1, Room E400
1900 Kanawha Boulevard, East
Charleston, WV 25305-0834

April 12, 1993

Re: JIC Advisory Opinion 1993-10

Dear

In a letter to Counsel dated April 1, 1993, you requested an advisory opinion from the Judicial Investigation Commission of West Virginia. In that correspondence you indicated that you serve in a two-judge, single-county circuit in County, West Virginia. You indicated that you are in the process of marrying a woman who is employed by a sole practitioner of law whose primary practice is before the Circuit Court of County. You request an advisory opinion setting forth what steps are necessary for the Court and the practitioner to insure against even the appearance of impropriety either on the Court's part or the attorney's part once the marriage takes place.

This request was reviewed by the Commission at its recent meeting. The inquiry which you make is controlled by the language of Canon 3E(1) of the Code of Judicial Conduct. That Canon states:

CANON 3

A Judge Shall Perform the Duties of Judicial
Office Impartially and Diligently

E. Disqualification.

(1) A judge shall disqualify himself or herself
in a proceeding in which the judge's impartiality
might reasonably be questioned

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The Canon then sets forth certain specific instances when disqualification would be appropriate. However, interestingly, the commentary states that under the rule stated in Canon 3E(1) a judge is disqualified whenever the judge's impartiality might reasonably be questioned regardless whether any of the specific rules of Section 3E(1) apply.

Based upon the language as set forth in the Canon, it is the opinion of the Commission that Canon 3E(1) would prohibit any appearance by the sole practitioner in your Court after your marriage to the woman who is employed by the attorney.

If there is any further question regarding this matter, do not hesitate to contact the Commission.

Very truly yours,

Fred L. Fox, II

Fred L. Fox, II, Chairman

CRG/bl