

OPINION NO. 44(1962) 439(1961)
ANSWERED BY LETTER.

May 10, 1962



Honorable Ray G. Cowan
311 West Tenth Street
Kansas City, Missouri

Dear Judge Cowan:

For several weeks now we have given a great deal of study to the problem which has been posed to us regarding whether you could continue to receive your Circuit Judge retirement compensation and serve as a county court judge and be paid for same.

Frankly, Judge, I have had four different assistants consider the question. Two say Yes, two say No. As I view it, there are reasonably sound arguments either way.

The problem is whether or not there is, or may be, incompatibility in the two offices. One theory supported by cases would tend to indicate that the two offices would be incompatible because a judge might be called upon to act in a case where acts of a county court might be under review. The opposite theory is that this danger is too remote and that retired judges should not be precluded from other public service.

Basically, I think it is a practical decision which you will have to make insofar as determining what risk of losing your compensation is involved if you serve as a county judge.

I simply cannot say with any degree of calculated certainty how the Missouri Supreme Court would rule on this point.

Yours very truly,

TFE:ml

THOMAS F. EAGLETON
Attorney General

cc: Hon. Jasper M. Brancato