

December 13, 1973

OPINION LETTER NO. 358
Answer by Letter - Klaffenbach

Honorable Richard E. Martin
State Representative, 7th District
912 Corby Building
St. Joseph, Missouri 64501



Dear Representative Martin:

This letter is in response to your opinion request asking:

"1. Does Article III, Section 12 of the Constitution of Missouri, or any other provision of the Constitution or laws of this State prohibit a member of the General Assembly from accepting payment from the United States of America, in accordance with the provisions of the Criminal Justice Act (18 USC § 3006A), for the representation of an indigent defendant charged with a federal felony or misdemeanor where such representation is provided pursuant to and required by an order of appointment entered by a United States District Judge or United States Magistrate?

"2. Where a member of the General Assembly is engaged in the practice of law in partnership with other lawyers and all fees received by any partner or associate of such law firm are shared by all partners, does Article III, Section 12 of the Constitution of Missouri, or any other provision of the Constitution or laws of this State prohibit a law partner or law associate of such a member from accepting payment from the United States of America, in accordance with the provisions of the Criminal Justice Act (18 USC § 3006A), for the

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representation of an indigent defendant charged with a federal felony or misdemeanor where such representation is provided pursuant to and required by an order of appointment entered by a United States District Judge or United States Magistrate?"

You further state that:

"U.S. District Judges and U.S. Magistrates have the duty of appointing attorneys to represent indigent defendants who are charged with federal violations and who cannot employ their own attorney. The appointments are made on a case by case basis from a roster of practicing and qualified attorneys. The attorneys are compensated in accordance with the schedule set forth in 18 USC § 3006A. Many members of the General Assembly are practicing and qualified attorneys. The U.S. District Judges and Magistrates are uncertain if those members of the General Assembly should be considered eligible for the appointments and compensation or not."

In our view your question is answered by our Opinion No. 34, January 5, 1973, to Bradshaw, copy enclosed, in which we held that a member of the General Assembly who accepts an appointment and receives compensation as an attorney to represent indigent defendants by a court as provided in House Bill No. 1314, 76th General Assembly, Second Regular Session, violates the provisions of Section 12, Article III of the Missouri Constitution, and that other members of the law firm are disqualified from accepting such appointments for compensation. We are also enclosing our Opinion No. 355, August 19, 1969, to Salveter, which is self-explanatory.

We conclude that a legislator accepting such employment for compensation would come within the prohibition of Section 12, Article III, and that, for the reasons stated in the enclosed opinions, such employment could not be accepted by members of the legislator's law firm.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Honorable Richard E. Martin

Enclosures: Op. No. 34
1/5/73, Bradshaw
Op. No. 355
8/19/69, Salveter