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NOV 7 1984

Honorable R. H. McSwean
 Judge of Probate, Henry County
 P.O. Box 457
 Abbeville, AL 36310

Probate Judges - Poll Lists -
 Fees - Funds

Discussion of compensation
 afforded Probate Judges in
 furnishing poll lists.

Dear Judge McSwean:

The Attorney General's Office received an opinion
 request from you concerning the following matter:

"On September 4, 1984, a primary election
 was held and on the same date a special
 election was held on certain
 constitutional amendments. I have
 submitted to the State Comptroller a
 claim for reimbursement of the expenses
 of this election. I asked for
 reimbursement for furnishing the list for
 the primary election and for the list

furnished for the special election. The State Comptroller has remitted payment for only one of these lists. He gave no reason for his refusal to pay for the other list. He advised us by telephone that he had just decided that he was only going to pay for the list furnished for one of the elections.

I have discussed this matter with our attorney and it is his opinion that we are entitled to payment for furnishing the list for each election. I find that over the years there has been no question that this is a correct interpretation of the law."

Code of Alabama 1975, Section 17-4-130 provides in pertinent part: "The judge of probate shall deliver or cause to be delivered to the inspectors in each precinct, each district, each ward or each other subdivision one copy of the list prepared for such box or voting place immediately preceding every general, primary or special election,...."

Code of Alabama 1975, Section 17-4-138 further provides for payment to the probate judge or his assistants for the preparation of the lists furnished election inspectors at an amount not exceeding .05¢ per name.

Relying on a previously released opinion, the Attorney General continues to be of the opinion:

"that where a Judge of Probate in such instances when authorized to furnish two separate lists actually furnishes only one list and makes copies of this list for the subsequent election or primary, he is entitled to compensation for only one list. In Quarterly Report of Attorney General, Volume 77, page 40, it was held that where the Probate Judge actually prepares and furnishes two separate lists, he is entitled to compensation for both lists.

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I am therefore, of the opinion that the answer to your question depends upon whether or not the governing body of the county is sufficiently satisfied that the Judge did in fact prepare and furnish two separate lists and, if this be the case, he would be entitled to compensation for both lists."

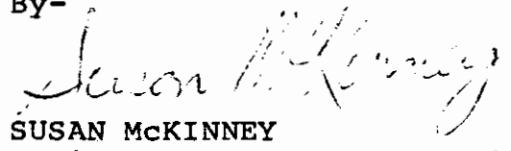
Opinion to Honorable Clyde Teas, Winston County under date May 15, 1964.

I do hope I have adequately answered your inquiry. If, however, I may be of further assistance, please do not hesitate to contact me.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By-


SUSAN McKINNEY

Assistant Attorney General

CAG/SMcK/cg