

1974 WL 28091 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 14, 1974

*1 Mr. Doane E. James
Carolina Landscape Company
Highway 301
Latta, South Carolina

Dear Mr. James:

I am sorry that I have not heretofore had an opportunity to answer your letter of January 16.

You have inquired whether or not a member of the Legislature should or should not disqualify himself for a matter which must rest initially with that legislator, and ultimately with the voters. Regardless of the merits or demerits of your position (and I express no opinion in this respect except to state that I understand fully your reasons for such position), the fact of disqualification of a member to vote on the grounds of interest is something which the courts cannot remedy, in my opinion. This is so because of the provisions of our Constitution which separate the legislative and judicial functions. There is no statute or constitutional provision relating to the matter.

My approach to the problem is, as it must be, purely from the legal side and, in that respect, I do not think that there is any legal procedure available to prevent the legislator from voting because he alleged interest in the matter or to challenge the validity of legislation because of the existence of such conflicts of interest.

The answer to your question is that recourse must be had through the ballot box and by the creation of public opinion.

I appreciate your letter and invite your comments on any matter at any time.

Cordinally,

Daniel R. McLeod
Attorney General

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