

1972 WL 25945 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 17, 1972

***1 In Re: Probate Judge, Estate Fees**

Honorable Mildred M. Bledsoe
Probate Judge
McCormick, South Carolina

Dear Judge Bledsoe:

Honorable Henry Mills has referred to this Office your letter of March 16 inquiring whether or not you are entitled to receive certain estate fees provided for all probate judges in Section 27-303, 1962 Code of Laws of South Carolina.

The McCormick County Appropriations Act for the current year provides in Section 21 thereof (1971 Act No. 801):

‘All salaries provided in this Act for officers and employees shall be in lieu of all fees and commissions, and all fees and commissions heretofore authorized shall issue to the county.’

The Probate Judge for Spartanburg County brought up the same question you have asked when a similar provision was made with regard to his salary in 1938. Suit was brought to get a judicial determination of the matter. [Spartanburg County v. Pace, et al., 204 S.C. 322, 29 S.E.2d 333](#). The Supreme Court of South Carolina decided the issue adversely to Judge Pace, holding that it was the clear intent of the General Assembly to take away from officers of Spartanburg County all fees, and place them on a salary basis. The Court stated further that the Inheritance Tax Law, being a general act, could not be construed to permit payment of such fees to the probate judge by the Tax Commission.

In view of the foregoing, we must conclude reluctantly that you have no right to receive the fees provided by Section 27-303.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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