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Every Supreme Court Member Duty Bound to Help Decide Every Case (health permittingly) Unless an IRREMOVABLE conflict-of-interest Element Precludes

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DEPARTMENT OF PROFESSIONAL STANDARDS

Judicial Conduct Committee

FOR YOUR INFORMATION

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PRESS RELEASE

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Every Supreme Court member duty bound to help decide every case (health permitting) unless an IRREMOVABLE conflict-of-interest element precludes

No member of the U.S. Supreme Court is entitled, morally or legally, to decline to participate in deciding any case because of a removable conflict-of-interest element -- such as his ownership of stock in a corporation-litigant -- but must remove such element and participate fully, to fulfill the requirements of Justice and his oath of office; per a statement issued today by Hamilton A. Long of Philadelphia -- a member of the Bar of New York, retired, and a writer in the field of constitutional law. He comments that his statement is prompted by a report in the N.Y. Times of August 30, 1971 that some Court members have been indulging themselves in the practice of disqualifying themselves in any case involving a company in which they own securities -- naming Justices Harlan, Stewart and Blackmun; and reporting that Justice Blackmun has, for instance, disqualified himself in two pending, important cases involving the Ford Motor Company because he owns 100 shares of its stock.

The Long statement avers that the Justices' good intentions and purity of motive are irrelevant and equally so the amount of securities held, large or small; and likewise any prior instances of such disqualification by members of the Court because no such instance of unsound conduct can serve as a valid precedent for repetition in the future. He stresses that the controlling consideration is every litigant's right to equal legal justice -- for instance by full participation of all Court members (in good health) in deciding the case; a big corporation being no less entitled to such justice than any individual litigant. Such "equal legal justice" is of the essence of the equality contemplated by the Declaration of Independence -- together with equality in the sight of God, Man's Creator, Long states.

Any litigant having knowledge of such disqualification by any member of the Court for such invalid reason has the duty, besides the right, according to the Long statement, to petition this member and the Court for relief -- to insure the member's removal of the impediment by selling the securities and his full participation in the case so as to permit the dispensation of justice by the full court (all current members in good health). He asserts that every member must always be fully active as a member while free of any possibility of conflicting self-interest, hence free of financial tie to any litigant as by owning stock. Long highlights the fact that the Times report notes the possibility that disqualification by Justice Blackmun in the Ford case could possibly in effect make Ford the loser, whereas his participation might mean it would be the winner (due to members' predilections).

Any court of multiple members is subject to the same considerations and rule, according to the Long statement, but chief of all the Supreme Court; in fulfillment of the goal recited in the Constitution's Preamble : to "establish Justice."

Hamilton A. Long