

Judicial Conduct and Disability Act Controversy

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In 1980, the Judicial Conduct and Disability Act was passed by the Congress; within the Act, judiciary discipline measures were outlined (Hall & Feldmeier, 2012). Ever since it was passed, the Act has become a point of controversy, which is the primary product of the concerns about the constitutionality of it and whether the Act can be deployed as a means of elimination of unwanted judges. The following paper addresses the Act from the perspective of its constitutionality, the measures applicable to judges caught in misconduct and the terms of judges' removal, as well as the terms of appointment.

To fully understand the nature of the controversy over the 1980 Act, it is worth determining whether the Act is constitutional or not. There are several factors that indicate the non-constitutionality of it. Firstly, under the 1980 Act, a complaint against a judge can be put forward by any individual. In addition, the Act does not have any *sine qua non* conditions except that the judge should be an effective court administrator. The description of prejudicial conduct also appears evasive, as well as the standards for behavior that might be deemed ethical or unethical. Also, the Act does not fall under the category of case or controversy as per Article III. In the *Bergen v. Edenfield* case, it was ruled that the procedures of case reassignment, sanctions, and impeachment are for the council to decide on, not the court (*Joseph B. Bergen, n.d.*). Thus, the constitutional nature of this Act can be cast doubt upon. Rather, the Act consists of internal administrative procedures that facilitate more efficient regulation of the judges' conduct.

An Article II judge is the one involved in unethical behavior. Such behavior implies treason, bribery, and, possibly, crimes of political nature as well as crimes committed repeatedly, as established in *Hastings v. Judicial Conference of the United States* (*Hastings v. Judicial Conference of United States, n.d.*). In the same case, Judge Hastings argued for the unconstitutionality of repeated reassignment of cases from judges such as him. Although his objections were denied Hastings' point was that the only constitutionally justified disciplinary measure would be impeachment. In reality, the Act does not determine any prerequisites to remove judges from their positions, instead allowing the cases to be reassigned, thus depriving judges of their primary authority. Whether such deprivation meets the Constitution's intentions is arguable. The Framers

Selected Literature On Judicial Conduct And Disability

Minjie Lin



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spend or waste a little at a time inadvertent

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