

NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinion

Opinion 88 - 10/7/68 (18-68)      Topic: JUDGES - ELECTION CAMPAIGN  
ACTIVITIES  
Digest: ELECTION CAMPAIGN ACTIVITIES  
OF JUDICIAL OFFICE HOLDERS  
Canons: Former Canon 2  
Judicial Canons 28, 30

QUESTION

Advice has been requested by candidates for judicial office concerning certain election or reelection as judge.

OPINION

Canons 28 and 30 of the Canons of Judicial Ethics outline generally the duties and responsibilities of judges concerning partisan politics and candidacy for office.

The last paragraph of Canon 28 states that:

"Where, however, it is necessary for judges to be nominated and elected as candidates of a political party, nothing herein contained shall prevent the judge from attending or speaking at political gatherings or from making contributions to the campaign funds of the party that has nominated him and seeks his election or re-election."

Canon 30 in part states:

"If a judge becomes a candidate for any judicial office, he should refrain from all conduct which might tend to arouse reasonable suspicion that he is using the power or prestige of his judicial position to promote his candidacy or the success of his party.

"He should not permit others to do anything on behalf of his candidacy which would reasonably lead to such suspicion."

This matter has been the subject of a number of opinions of the American Bar Association's Committee on Professional Ethics, which are summarized in A.B.A. Journal, Volume 54, April, 1968, at page 410.

In answer to specific questions, it is the opinion of the committee that match boxes and posters to be displayed throughout the city are proper in a judicial campaign provided that they are in good taste and in no way offend a sense of propriety. Such advertising may contain a picture of the candidate, the office he is seeking, his present elected position, and his qualifications for the position.

It is the opinion of the committee that judicial candidates may do door-to-door canvassing, talk with the voters, meet them at the entrance to offices and factories, and use radio advertising in

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furtherance of their candidacy, speaking for themselves and having others speak for them. However, all activities of a judicial candidate should be on a high plain consistent with the dignity of the office.

The candidate is free to express his opinion on political issues and on the qualifications of those who oppose him. This would include criticism of an incumbent judge, so long as the criticism is truthful, in accord with principles of freedom of speech. Such criticism and arguments must be dignified and stay within the bounds of truth.

Judicial candidates may solicit the support of lawyers and others in their campaign activities. Committees may be organized and endorsements may be published, and if all endorsers are lawyers, they may be identified as lawyers in the advertisements. Endorsement would be ethical whether the office sought is a judicial or non-judicial one and whether it requires legal experience or not.

It is not improper to form citizens' committees to support the candidacy, provided that lawyers whose names appear in a list of the committee are not identified as lawyers, unless all members of the committee are lawyers.

While it is the duty of the members of the Bar to endeavor to promote the appointment or election of qualified judicial candidates (Canons of Prof. Ethics #2), a published endorsement by an individual lawyer would not be proper.

Restrictions on the use of lawyers' committee imposed by bar association rules should be honored by lawyers subject thereto.

<u>Opinion 89 - 10/7/68 (22-68)</u>	<i>Topic:</i> ARTICLES <i>Digest:</i> PUBLICATION OF LEGAL ARTICLES IN NEWSPAPERS AND MAGAZINES. <i>Canons:</i> Former Canons 40, 27
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QUESTION

May an attorney write a series of unsolicited articles on legal subjects in lay magazines and newspapers?

OPINION

It is the opinion of the Committee that it would be proper for an attorney to write such articles.

Canon 40 of the Canons of Professional Ethics expressly states that "a lawyer may with propriety write articles for publication in which he gives information upon the law." This Canon has been interpreted by many bar associations, see ABA 92, ABA Informal 228, ABA 463, 538, 743; New York City Bar Association 270, 859; New York County Lawyers 264, 396, 516. All of these opinions permit the publication of articles provided they are of a general nature. The writing may be done with or without compensation, ABA 92; New York City 270.