

NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinion

Opinion 91 - 10/7/68 (21-68)

Topic: JUDGES  
Digest: POLITICAL CONTRIBUTIONS  
Canon: Judicial 28

QUESTION

(1) May a candidate for judicial office or a member of his immediate family contribute to his party organization in the event he is nominated by the Judicial Convention to the office he seeks?

(2) May a member of the judiciary or a member of his immediate family make annual contributions to the political party with which he was affiliated when elected?

OPINION

ABA Judicial Canon 28 entitled "Partisan Politics", prior to 1950 prohibited all judges from participation in political campaigns, including contributions. In that year the Canon was amended by adding the following provision:

"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".

The same amendment was adopted by the New York State Bar Association and added to the New York State Judicial Canon 28 in 1963.

Rule 4 of the Rules of the Administrative Board of the Judicial Conference of the State of New York provides:

"No judge or justice during the term of his office shall hold any office in a political party or organization or contribute to or take part in any political campaign except for judicial office".

A financial contribution to the political party of a judicial candidate is clearly within the exception of Judicial Canon 28 and Rule 4, and Question (1) is answered in the affirmative.

Other political contributions are prohibited by the same Canon. ABA Informal Decision #774 held that the philosophy of Canon 28, as amended, prohibits judges from contributing money to political parties for campaigns in which the judge was not a candidate for election or re-election. A judge should not do indirectly through members of his family, what he himself is restrained from doing. Thus he should not cause or encourage contributions by members of his family.