

**NEW YORK STATE BAR ASSOCIATION**  
**Professional Ethics Committee Opinion**

funds of the party that has nominated him and seeks his election or re-election".

New York State Judicial Canon #28 was revised in 1957 to include the same amendment. The practical intent of these amendments is obvious. It is to allow incumbent Judges to compete for re-election on some basis that would at least give them a chance to obtain a party nomination or re-election against a non-judicial opponent who is under no similar restrictions.

In my view, the majority decision is out-of-step with the most recent amendments to ABA and New York State Judicial Canon #28. The existing limitations upon the political activities of incumbent Judges (if properly enforced) are more than sufficient to avoid the appearance of judicial improprieties. Any further restrictions will seriously impair the opportunity of an experienced incumbent Judge to seek re-election to his judicial office.

Regretfully, I do not share the faith that a political party will necessarily re-nominate a competent Judge who has completely divorced himself from all political activity with the party during the term of his judicial office.

Opinion #137(a)- 3/1/71 (65-70)

Topic: Judges;  
Partisan Politics.

Digest: Justice of the Peace of second class town not exempt from provisions prohibiting incumbent judges from participating in partisan politics.

Judicial  
Canons: 4, 24 and 28.

QUESTION

May a Justice of the Peace of a second class town serve on a county committee of a political party?

OPINION

Town Law Sec. 31(2) provides that in a town of the second class (towns containing a population of less than 10,000 excepting towns in Westchester County and such towns as shall have determined to become towns of the first class) the Justices of the Peace shall be members of the town board and exercise the powers of the town board. It was held in N.Y. State 137 (1970), and in N.Y. State 64 (1967) that a judge may not hold office in a political club, nor may he engage in partisan political activities, other than those relating to campaigning for his own election in judicial office.

This Committee stated in N.Y. State 146(a) (1970) that a "degree of public confusion regarding the impartiality of the judiciary arises when a lawyer defending felonies and other important criminal cases also serves as a justice of the peace". This same public confusion regarding the impartiality of the judiciary arises when a Justice of the Peace engages in political activities unrelated to his own election for judicial office. Accordingly, it is the opinion of the

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Committee that a Justice of the Peace of a second class town may not serve on a county committee of a political party and that N.Y. State 137 (1970) applies to all persons holding judicial office.

The applicable Canons of Judicial Ethics are 4, 24 and 28.

Opinion #138 - 5/28/70 (5-70)

Topic: Letterhead:  
LL.M Degree

Digest: Not permissible to use a designated specialty on firm letterhead where the specialty is based on a degree earned.

Code\*: DR 2-102 (A) (6)  
DR 2-102 (F)  
DR 2-105 (A)  
EC 2-9  
EC 2-10  
EC 2-14

QUESTION

Several attorneys in an office have earned Master degrees in Labor Law designated as "LL.M (in Labor Law)". They have asked whether this designation may appear on their letterhead.

OPINION

A lawyer may list any earned law degrees (LL.B; J.D.; LL.M; S.J.D.; or J.S.D.) following his name on letterheads. See N.Y. State 105 (a) (10/30/69). Any listing of law degrees earned must be accurate and dignified. See EC 2-10.

New York State has no provision for certification of a lawyer as a specialist in a particular field of law. EC 2-14 of the Code provides as follows: "In some instances a lawyer confines his practice to a particular field of law. In the absence of state controls to insure the existence of special competence, a lawyer should not be permitted to hold himself out as a specialist or as having training or ability, other than in the historically excepted fields of admiralty, trademarks and patent law."

The committee is of the opinion that the Codes does not permit a lawyer to hold himself out on his letterhead or cards, as a specialist in a particular field of law other than the three historically excepted fields. ABA 1131 (1970) is of the same opinion re "LL.M in taxation". The committee is also of the opinion that DR 2-102 (F) does not authorize the use of such designation.

Opinion #139 - 5/28/70 (16-70)

Topic: Conflict of interest;  
Confidences and secrets  
of client