



Committee on Professional Ethics

Opinion #241 - 3/17/72 (21-72) Topic: Assistant Prosecuting Attorney.
Political Activity.

Digest: Assistant prosecuting attorney
may not be a member of a county
or town committee of a political
party.

Code*: Canon 9
EC 7-13; 8-8; 9-6.

QUESTION

May an assistant district attorney or an assistant county attorney performing duties as a prosecutor serve as a member of a town, city, county or state political committee.

OPINION

N.Y. State 217(1971) held that a district attorney may not serve as a member of a county committee of a political party. No different result is applicable for assistant district attorneys or those performing such duties, or with respect to city, town, or state political committees.

It has been held that a district attorney's staff is like a law partnership. N.Y. State 118 (1969). It has consistently been held that if one member or an associate of a firm is disqualified from representing a client, all of the partners and associates of the firm are likewise disqualified. N.Y. State 40 (1966); N.Y. State 82 (1968); N.Y. State 118 (1969); N.Y. State 203 (1971); N.Y. State 214 (1971).

It is essential that lawyers, particularly those in public service, avoid even the appearance of impropriety. EC 9-6. To maintain the integrity of our judicial system and to comply with the basic ethical concepts upon which New York State 217 (1971) is based requires that the same concept that disqualifies all members of a firm from representing a client when one member of the firm is so disqualified, be applied to a district attorney's staff where the district attorney is disqualified from serving on a party political committee.

The responsibilities of a public prosecutor as enunciated in EC 7-13 and EC 8-8 are equally applicable whether one is discussing a county political committee or a town political committee. The appearance of impropriety is present and the layman will not distinguish between the two political bodies, as they are all part of the same political hierarchy. An assistant county attorney, when acting as a prosecutor, must abide by the same restrictions and carry out the same responsibilities as other prosecutors. The nomenclature is unimportant.

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Therefore, an assistant county attorney, who prosecutes cases in any court, is ineligible to serve on a party political committee.
