



## Committee on Professional Ethics

Opinion #264 - 10/20/72 (43-72)

Topic: Assistant Prosecuting  
Attorney; Political  
Activity

Digest: Assistant prosecuting attorney may not be member of political club but may contribute money to political party.

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

### QUESTION

May an assistant district attorney or an assistant county attorney performing duties as a prosecutor be a member of, hold political office in, or serve on, a committee of a political club and may he contribute money to a political party?

### OPINION

Political clubs which exist principally in the metropolitan New York City area are the foundation of the party political organization. Parties have clubs in various election districts. The club is an informal group that gets together, pays dues, maintains a clubhouse (usually of one or two rooms) where the members meet and handle affairs of patronage and service to their members and the voters in their district. They designate the members of the party's county committee for their district, participate in the selection of candidates, and at election time conduct a grass-roots campaign to get out the vote for the party's candidates. The clubs are the gears, pistons, driveshaft, and brakes of the political machine. N.Y. State 137 (1970).

Even apart from any restrictions imposed by law, e.g., Public Officers Law Sec. 73(8), Election Law Secs. 181, 426, 18 U.S.C. Sec. 595, it is improper for a prosecuting attorney or his assistants (full or part-time) to be a member of a town, city, county or state committee of a political party. N.Y. State 217 (1971); N.Y. State 234 (1972); N.Y. State 241 (1972). A fortiori, it is improper for a public officer with prosecuting duties to be a member of, hold office in, or serve on a committee of a political club for the reasons set forth in N.Y. State 217 (1971) and N.Y. State 241 (1972). EC 7-13; EC 8-8; EC 9-6; Canon 9.

Although it is improper for a prosecuting attorney to solicit funds or to lend his name to the solicitation of funds (except when he is a candidate for election or re-election) as the lending of the prestige and power of the public prosecutor's office to such solicitation gives the appearance of impropriety, N.Y. State 248

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(1972), the contributions by the public prosecutor do not give rise to the same infirmities. Accordingly, it is not improper for a prosecuting attorney or his assistants to make contributions to a political party.

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