

Maryland Judicial Ethics Committee

Opinion Request Number: 1971-05

Date of Issue: March 1, 1972

O Published Opinion **G** Unpublished Opinion **G** Unpublished Letter of Advice

Judge May Serve on Board, but Not Participate in Funding Activities, of Charitable or Educational Organization Not Related to Work of Court

This is a belated reply to your letter of November 8, asking me, in my capacity as Chairman of the Judicial Ethics Committee of the Maryland Judicial Conference, to request the Committee to consider your continued participation as a member of the Board of Directors of [eight charitable and educational] organizations[.]

A reply to your letter has been so long delayed because the Committee is mindful that an advisory opinion in this area may set a precedent with far reaching implications.

The problem must be considered in the light of Canon XXIII, which provides, in effect, that a judge should not incur obligations which will in any way interfere or appear to interfere with his devotion to the expeditious and proper administration of his official functions, and Canon XXIV, which provides, in effect, that a judge should avoid giving ground for any reasonable suspicion that the power or prestige of his office is being utilized to persuade others to contribute to charitable enterprises.

At least two of the Maryland Rules would seem to have a bearing on the problem. Rule 6 provides, in part,

“A judge shall not hold an office or directorship in any ... enterprise, or venture, if the holding thereof interferes with the performance of his official duties or permits the exploitation of the prestige of his office or conflicts with the impartial exercise of his official duties.”

Rule 8 prohibits the solicitation of funds for charitable purposes but the Committee note emphasizes that the Rule is not to be construed as prohibiting judges from serving on

“committees, commissions or Boards established for charitable, educational or religious purposes or for the purpose of the improvement of judicial administration.”

The Committee is satisfied that your participation in civic and charitable endeavors and in organizations which have as their purpose the improvement of the administration of justice, particularly as it affects juvenile offenders, is motivated by your desire to increase your effectiveness as a judge of the Juvenile Court. Praiseworthy as these activities are, it seemed to the Committee that they are subject to two possible criticisms.

Criticism might be directed at the fact that since most of these organizations are in a sense voluntary and are dependent for their support on contributions from the general public, the inclusion of your name as a director or officer in material used for publicity purposes might well be regarded as at least an indirect participation in the solicitation of funds. The Committee has been informed that some members of the judiciary mindful of this restriction, have asked that their names be omitted from any campaign literature.

A second criticism might be directed at the fact that at least three of the organizations which

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you mention (...) would appear to be agencies which are closely related to the work of your court. It may well appear to members of the public that as a Board member you might not be able to act with complete objectivity in an instance where a juvenile offender had been evaluated by one of these agencies prior to a court appearance or is committed to one of these agencies for care or therapy. It seems to us that this criticism could be minimized if you had no official connection with any agency which appears before your court or to which juveniles are referred. This should not be taken to mean, however, that you could not have a continuing interest in the work of the agencies.

After a careful consideration of the questions which you raised, and without intending to question the reasons for your participation in the work of the various agencies, the Committee was of the opinion that a continuation of your directorship in the National Area Council of X and of Y Association could not be the subject of valid criticism, so long as you do not participate in any fund raising activity. We are not sufficiently familiar with the activities of the other organizations which you have enumerated to express an informed opinion as regards the propriety of your continued participation. We are satisfied, however, that you will be able to make this determination by applying the criteria set forth in the two immediately preceding paragraphs to the programs of the several agencies.

The Committee fully understands your position in this matter and is entirely sympathetic but felt that there was no reasonable alternative to the view expressed in this letter.