

Maryland Judicial Ethics Committee

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O Published Opinion **G** Unpublished Opinion **G** Unpublished Letter of Advice

Newly Appointed Judge May Participate in Political Gatherings Relating to Judge's Election

The Committee has received inquiries regarding the propriety of speaking at meetings of political organizations and attending political functions of various types from several recently appointed judges who must stand for election at the next general election.

The general rule, of course, is that a judge may not engage in any form of partisan political activity. Canon XXVII, Maryland Rule 1231. See also directive of Chief Judge Hall Hammond issued by the Administrative Office July 21, 1971. The sole exception occurs "[w]here * * * it is necessary for judges to be nominated and elected as candidates of a political party * * * ." In such circumstances only, a judge is not prevented "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." Maryland Canon XXVII.

In his July 21, 1971 directive, Chief Judge Hammond said it is improper for a judge to attend political fund raising functions or engage in any political or partisan activity "except to the extent necessary to obtain or retain his or her judicial office as an immediate candidate through an elective process." (Emphasis supplied.) The Committee concurs with Judge Hammond that the exception must be read as applying only when the judge is an "immediate candidate". Otherwise, since most incumbent elected judges expect to stand for re-election on expiration of their present term of office, the general rule forbidding political activity would be all but meaningless.

The question then becomes: When is one an "immediate candidate"? Although circumstances may vary from jurisdiction to jurisdiction and from election to election, experience has shown that a newly appointed judge often must begin campaigning immediately upon his appointment to protect himself against defeat at the polls. The Committee is persuaded that this occurs with sufficient frequency to warrant the conclusion that every newly appointed judge becomes an "immediate candidate" upon assumption of office. Therefore, a newly appointed judge may attend and speak at political gatherings from the date of his qualification until the general election in which he is a candidate. The conduct of a judge during this campaign period is governed by Rule 9 and Canon XXIX. Maryland Rule 1231.