

Maryland Judicial Ethics Committee

Opinion Request Number: 1978-07

Date of Issue: January 16, 1979

O Published Opinion **G** Unpublished Opinion **G** Unpublished Letter of Advice

Judge's Campaign Committee Not to Contribute to Campaign Committee of Judges in Another Jurisdiction

You have requested our advice as to the propriety, under the Canons and Rules of Judicial Ethics, of a political contribution from a campaign committee of a group of judges in one jurisdiction to their counterparts in another locale. You state that a committee had been formed to support the election of several judges of X jurisdiction. These judges, nominated by both the Democratic and Republican Parties, ran in the recent general election without opposition on the ballot. Likewise, a committee was formed in Y jurisdiction to support the candidacy of each of you in seeking election to the circuit court. Both of you were also nominated by each political party and thus ran uncontested in the recent general election. You informed us that X jurisdiction judges' committee had a financial surplus, while Y jurisdiction judges' committee had incurred a deficit. The question asked is whether a contribution of \$500.00 by the X jurisdiction judges' committee to the Y jurisdiction judges' committee would violate Canon XXVII's prohibition against political activity.

For the reasons set forth below, we conclude that it would violate the Canon for the X jurisdiction judges to make the contemplated contribution.

Canon XXVII provides as follows:

“While entitled to entertain his personal views of political questions, and while not required to surrender his rights or opinions as a citizen, it is inevitable that suspicion of being warped by political bias will attach to a judge who becomes the active promoter of the interests of one political party as against another.

“He should neither accept nor retain a place on any party committee nor act as party leader, nor engage generally in partisan activities.

“Where, however, it is necessary for judges to be nominated and elected as candidates of a political party, nothing herein contained shall prevent the judge 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.”

Although the Canon's prohibition against active promotion or general engagement speaks in terms of “the interests of one political party against another” or “partisan activities,” this Committee has construed the prohibition to extend to activities on behalf of a “non-partisan” committee formed to support the election of sitting judges. [Opinion Request No. 1972-01], issued April 7, 1972. *See also* [Opinion Request No. 1975-08], issued July 7, 1975; [Opinion Request No. 1974-05], issued July 22, 1974. Moreover, a contribution to such a committee in the not insubstantial amount of \$500.00 would, in our judgment, constitute the “active” promotion of the interests of the Y jurisdiction judges' committee. *Cf.* [Opinion Request No. 1972-01], *supra*.

Consequently, the X jurisdiction judges' committee could properly make the contribution only

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if it would fall within the exception in the third paragraph of Canon XXVII. This exception, applicable to judges who are themselves candidates for election, has been interpreted broadly by the Judicial Ethics Committee. Thus, in [Opinion Request No. 1975-08], *supra*, this Committee stated:

“[T]he prohibition against political or partisan activity contained in Maryland Canon XXVII does not apply to a judge who has been appointed to office and must stand for election ... at the next general election.”

In [Opinion Request No. 1977-07 (unpublished)], issued November 28, 1977, we noted that the exception to Canon XXVII’s prohibition of political activity “must have been written with the realities of political elections in mind.” And in [Opinion Request No. 1978-02], issued May 8, 1978, we stated:

“The Canons of Judicial Ethics are not designed to impose handicaps on those judges forced to compete for their seats at the polls. The exception to Canon XXVII’s proscription is manifestly intended to make it possible for incumbent judges, seeking election, to compete against their opponents without disadvantage.”

Nevertheless, the exception to Canon XXVII’s general prohibition against active political involvement is not unlimited. With respect to the right of judges seeking election to engage in political activity, we believe that the political activity must have some relationship to the election of such judges. Thus, in [Opinion Request No. 1978-02], *supra*, we said that a judicial candidate may buy tickets to fund raising dinners of other political aspirants “if he feels that this activity will promote his candidacy.” [Opinion Request No. 1973-06], *supra*, declared that partisan political activity was permitted “to the extent necessary to obtain or retain his or her judicial office as an immediate candidate through an elective process.”

It is apparent that the purpose of the exception in Canon XXVII is to allow a judge, who must seek election, to advance his candidacy like other candidates for elective offices. Legitimate political activity that directly or even indirectly furthers one’s own candidacy is permitted under the Canon. Examples are attendance at political fund raisers of other political candidates ([Opinion Request No. 1978-02], *supra*), the joint judicial campaign of sitting judges ([Opinion Request No. 1974-03], issued April 25, 1974), and public appearances on behalf of other judges in a joint campaign ([Opinion Request No. 1974-05], *supra*). It is evident that the exception is sufficiently broad to permit most types of campaign activities designed to enhance one’s own possibilities for election. However, the exception is not so far-reaching as to allow political contributions which cannot in any manner be expected to benefit the candidacy of the contributor.

The proposed campaign contribution by the X jurisdiction judges will not serve to further the election prospects of the unopposed X jurisdiction judges. There is no relationship between this proposed transaction and the goal of promoting the donors’ candidacies. It is the opinion of a majority of the Ethics Committee that a \$500.00 contribution by a judges’ committee in X jurisdiction to a similar committee in Y jurisdiction would violate Canon XXVII.