

33**CONTRIBUTIONS, JUDICIAL CAMPAIGN**

Adopted June 6, 1964.

Syllabus

Lawyers may contribute reasonable amounts to the campaign funds of candidates for judicial office, and may solicit contributions from others.

A candidate for judicial office may not receive and lawyers may not give any contribution which is excessive in amount or which might justify the inference that the contribution is a device or attempt to gain from a judge his special consideration or favor, in the receipt of appointments from the bench or otherwise.

Lawyers may circulate and sign petitions endorsing candidates for judicial office. However, the practice of asking brother lawyers to sign postcards or pamphlets soliciting votes for the candidates, when coupled with a request that such material then be returned to the campaign committee for mailing, violates Judicial Canon 30, even though the candidate may not at the time be a judge. Lawyers who participate in such a breach by the candidate are in violation of Professional Canon 32.

Facts

A lawyer is a candidate for judicial office. His campaign manager, also a lawyer, desires to make gifts to the candidate's campaign fund, and to solicit others to do so. He also desires to send postcards to other members of the bar imprinted with a message endorsing the candidate. The other members are instructed to address and sign the postcards and return them to the campaign manager for mailing. The Committee has been asked whether either the candidate or his campaign manager is violating any of the canons of professional or judicial ethics.

Opinion

Lawyers have a particular obligation to assist in the selection of well qualified judges, Professional Canon 2. This must, however, be done in a manner which cannot be construed as an attempt to exert personal influence on the court, Professional Canon 3.

Lawyers may contribute to the campaign funds of judges if the contributions are reasonable in amount and not tainted by any motive of influencing the judge in the administration of his office or in the appointment of receivers, referees, trustees, special masters, and the like. Since a judge may not receive gifts from lawyers, Judicial Canon 32, and they may not make such gifts, Professional Canon 3, such contributions must be given only to a campaign fund managed by others and not to the candidate himself. The committee must itself expend the moneys on his behalf, and no part of the fund may be paid over to the candidate by the committee. Otherwise, the committee serves merely as a conduit for transmitting funds from lawyers to judges.

Lawyers may solicit such contributions from other members of the Bar and from the public at large, under the same limitations.

A lawyer may send postcards or pamphlets endorsing the candidacy to those with whom he has an established professional or personal relationship. Distribution to any larger group violates Professional Canon 27 (advertising) if the sender is identified as a lawyer. The campaign manager may not, however, request that the postcards or pamphlets be signed or addressed and then be returned to him for mailing. This practice creates an inference that the candidate or his manager is using the power and prestige of judicial office to promote the candidacy in violation of Judicial Canon 30. Under this Canon, the candidate may not permit others to do acts which he himself is forbidden, and the action of the campaign manager is equally unethical, Professional Canon 32. The result is the same even though the candidate may not at the time be a judge. Lawyers should, however, have the moral stamina to resist such coercion.

Since a judge cannot use the power and prestige of his office to promote his own candidacy, he may not send out letters to members of the bar asking for endorsement of his candidacy, ABA Op. 105 (1934); ABA Op. 139 (1935); or solicit his own campaign funds, N.Y. County Op. 304 (1933).

Ordinarily a judge should stand on his official record and leave the promotion of his candidacy to others. ABA 139 (1935) *supra*.

Obviously the candidate and his supporters are under other inhibitions, particularly those imposed by Professional Canons 2, 3, 27 and 32, and by Judicial Canons 4, 12, 13, 14, 24, 26, 28, 30 and 32.