
E-71-1 It is unethical for an attorney to organize alone or with other individual attorneys or lay persons or groups, a testimonial dinner or event for a judge during his term of office or for a candidate for the office of judge. It is also unethical for an attorney to purchase tickets for, attend, or contribute to such a testimonial, unless organized by the Bar Association

The committee in an opinion dated October 26, 1970 [E-70-1], adopted the above opinion without the words “or for a candidate for the office of judge.” The committee has now been requested to consider whether the October 26, 1970, opinion should be extended to include the words “or for a candidate for the office of judge.” The committee believes that the opinion of October 26, 1970, should be so extended.

The October 26, 1970, opinion relating to testimonial dinners for judges promulgated upon publication in the December [Wisconsin] Bar Bulletin was made prospective only. The revised and restated opinion at the above caption is prospective only and will be effective on promulgation by publication in the April 1971 Bar Bulletin.

In reaching the above opinion the committee based its conclusion upon the following considerations:

1. The reasons in support of the October 26, 1970, opinion relating to testimonial dinners for an incumbent judge apply equally well to a candidate for the office of judge. A copy of the October 26, 1970, opinion is adopted by reference and made a part of this opinion.

2. American Bar Association Professional Ethics Formal Opinion No. 312, adopted August 9, 1964, reviews many situations of political activities of the

Bench and Bar. The opinion lists specific activities as guidelines both for lawyers and judges and concludes at page 687 as follows:

“It is to be noticed that all of the proscriptions detailed above apply equally to nonjudge candidates for judicial office as well as to judges.”

3. Fairness alone compels that candidates seeking office should live by the same rules as incumbent judges seeking reelection.

In the opinion of October 26, 1970, relating to testimonial dinners for judges, the committee was concerned primarily with the relationship between Bench and Bar and only incidentally with political activity. The committee is aware that the opinion of October 26, 1970, and this opinion create limiting guidelines for political activity. However, existing statutes provide methods by which financial support can be given candidates for the office of judge. The Code of Professional Responsibility encourages participation by lawyers in judicial elections. In this regard see Ethical Consideration (EC) 8-6, which reads in part as follows:

EC 8-6. Judges and administrative officials having adjudicatory powers ought to be persons of integrity, competence, and suitable temperament. Generally, lawyers are qualified, by personal observation or investigation, to evaluate the qualifications of persons seeking or being considered for such public offices, and for this reason they have a special responsibility to aid in the selection of only those who are qualified. It is the duty of lawyers to endeavor to prevent political considerations from outweighing judicial fitness in the selection of judges. Lawyers should protest earnestly against the appointment or election of those who are unsuited for the bench and should strive to have elected or appointed thereto only those who are willing to forego pursuits, whether of a business, political, or other nature, that may interfere with the free and fair consideration of questions present for adjudication.

*(Note—This Advisory Opinion is issued pursuant to Article IV, Section 5 of the State Bar By-Laws.)