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The Law, New Judicial Ethics Code

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By JACK C. LANDAU
Newhouse News Service

NEW YORK — The American Bar Association was surprised to learn last week that there is little opposition so far to a proposed code of judicial ethics for all local, state and federal judges.

Provoked by Scandals

Drawn up in the wake of scandals involving former Supreme Court Justice Abe Fortas and Supreme Court nominee Clement F. Haynsworth Jr., the sweeping new proposals to govern almost all aspects of judicial behavior — on and off the bench — received their first public hearing on the bar association's annual convention here.

The 40 federal, state and local judges from around the nation who attended the initial hearing appeared generally satisfied with the proposed code, which makes radical changes in the existing canons of ethics. For example:

- It absolutely bars a judge from sitting on any case in which he has any financial interest.
- It flatly stops him from participating in a group, such as the Warren Commission on the Kennedy Assassination, that may become politically controversial.

It severely limits participation in any political fund-raising events or other political activities except when they come up for re-election.

Barring Provision

The one provision of the new code that appears to be headed for trouble would bar judges from participating in any political fund-raising events or other political activities except when they are appointed for life or on state appellate judges who are appointed for life or for long terms, it will pose extreme burdens on justices in lower state courts and in county and city courts who generally have to run for re-election every two to four years.

While this provision has no effect on federal judges, who are appointed for life, on state appellate judges, who are appointed for life or for long terms, it will pose extreme burdens on justices in lower state courts and in county and city courts who generally have to run for re-election every two to four years.

While encouraging judges to be active in groups seeking improvements in the administration of justice, the proposed canons specifically bar a judge from accepting appointments "to a government committee...charged with resolving issues of fact or policy" unconnected to legal activities.

This rule is aimed particularly at situations such as the Warren Commission. After the commission completed its report, there were repeated charges that President Johnson had exploited the office of chief justice for political ends.

In explaining this provision, Seymour urged judges to participate in legal affairs and noted that one Supreme Court justice, after the Fortas resignation, refused to accept any more public speaking engagements.

The American Bar Association was surprised to learn last week that there is little opposition so far to a proposed code of judicial ethics for all local, state and federal judges.

But we also felt that the public has a right to know how a judge spends his outside time because, after all, he is being paid as a full-time judge," Seymour added.

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This rule is aimed particularly at situations such as those affecting former Supreme Court Justice Abe Fortas. After the commission completed its report, there were repeated charges that Fortas had allowed himself to be influenced by some interest in return for accepting gifts, and had failed to protect the proper conduct of the case.

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While this provision has no effect on federal judges, who are appointed for life, or on state appellate judges who are appointed for life or for terms that will not exceed the time in which they come up for re-election.

As one local judge commented: "This is going to be very hard to explain to the party — that you only show your full support in an election time."

But the 40 judges who attended the hearing seemed, for the most part, pleased with the new code and only asked technical questions, attempting to clarify some specific provision. The code of ethics has further public hearings this fall before it is presented to the entire ABA for approval, probably next February.

One judge at the meeting just sat quietly and listened. He was Clement Haynsworth.

"We thought that judges have some rights to privacy," Seymour said. "Under the current canons of ethics, judges are not required to tell the public..."