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Politics, Business, Appointments

Severe Limits on Conduct In New Code for Judges

By Charles F. Kiley

Severe restrictions on the political and business activities of judges throughout the country are contained in the final draft of a revised Code of Judicial Conduct made public yesterday by a special committee of the American Bar Association.

The proposed changes, first since the Code was drafted in 1923, also caution judges to exercise their power of appointment "only on the basis of merit, avoiding nepotism and favoritism" in designating such as referees, special masters, receivers and guardians. That canon also would apply to the appointment of clerks and secretaries.

TEXT OF CODE PAGE 5

The Code, consisting of seven canons, was developed by the ABA Special Committee on the Standards of Judicial Conduct under the chairmanship of Roger J. Traynor, retired Chief Justice of the California Supreme Court.

The committee of fourteen, not including a reporter and consultant, was appointed in August, 1969. Two members of the panel are New Yorkers—Whitney North Seymour, a former president of the ABA and a partner of Simpson, Thacher & Bartlett, who was vice chairman, and Judge Irving R. Kaufman of the Second U. S. Circuit Court of Appeals, a past president of the Institute of Judicial Administration.

The proposed Code will be submitted to the ABA House of Delegates for adoption at the association's annual meeting in August in San Francisco. Thereafter, the ABA will request appropriate authorities in the fifty states and the Judicial Conference of the United States to adopt the revised canons as standards for all state and federal judges.

The Code for Judicial Conduct follows by three years the ABA's revision for the first time since 1908 of the Code of Professional Responsibility for lawyers.

Highlights of Code

Among the provisions in the revised code for judges are the following:

- A judge's political activity would be limited to securing his re-election to judicial office. Further, restrictions would be placed on solicitation of funds for his campaign and contributions by him to political parties. A judge, or candidate for judicial office, would not

(Continued on page 5, column 8)
A. A judge should respect and protect the dignity of all persons, whether or not they are parties to the proceedings, and should not be influenced by considerations of personal or professional gain. A judge should not allow his personal interests or affiliations to interfere with the performance of his judicial duties.

B. A judge should refrain from participating in extrajudicial activities that have a substantial likelihood of appearing to affect the impartiality of the judge or the integrity of the judicial process. Extrajudicial activities may include, but are not limited to, activities that involve the judge in a position of authority or influence, such as membership on a board of directors or a committee of a governmental body, or participation in a political campaign.

C. A judge should not, without permission of the court, engage in financial transactions or other activities that may be interpreted as affecting the judge's impartiality or the integrity of the judicial process. A judge should not engage in financial transactions or other activities that may be interpreted as affecting the judge's impartiality or the integrity of the judicial process. A judge should not engage in financial transactions or other activities that may be interpreted as affecting the judge's impartiality or the integrity of the judicial process.

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position to influence him. He should not give the appearance of being a voluntary character witness.

Commentary

Public confidence in the judiciary is enhanced if judges act in an unbiased and unprejudiced manner. Where a judge has participated in any private proceedings, he must disclose it and recuse himself from any further proceedings involving the party or parties involved. The act of recusal is a matter of procedure and not a matter of guilt or bias.

Canon 3

A Judge Should Perform the Duties of His Office Impartially and Diligently

The judicial duties of a judge are public duties, the performance of which requires activities that are conductive to public confidence in the judiciary. Judges are public officers, and their duties are performed under oath and are subject to the authority of law.

Commentary

Diligence is required of a judge to perform his duties. The performance of his duties is crucial to the administration of justice. If a judge fails to perform his duties, it may result in the denial of justice to the parties involved.

Canon 4

A Judge May Engage in Activities to Improve the Law, the Legal Profession and Administration of Justice

A judge, subject to the proper performance of his judicial duties, may engage in activities that contribute to the improvement of law, the legal profession, and the administration of justice.

Commentary

Engagement in activities to improve the law, the legal profession, and administration of justice is an important aspect of a judge's public role. However, it is important to ensure that such activities do not interfere with the performance of his judicial duties.

Canon 5

A Judge Should Regularly File Reports of Compensation Receiving from Private Organizations and of Certain Financial Activities

A judge may receive compensation from private organizations and may engage in certain financial activities. However, such compensation and activities are subject to reporting requirements.

Commentary

The reporting requirements are necessary to ensure the public's confidence in the judiciary. They allow the public to determine whether a judge's actions are consistent with his judicial role.

Canon 6

A Judge Should Not Accept Gifts or Payments Other Than Those Permitted by Law

A judge may not accept gifts or payments other than those permitted by law. Such gifts or payments are considered gifts or presents for the judge and are subject to the reporting requirements.

Commentary

Gifts or payments other than those permitted by law are considered gifts or presents for the judge. They may create the appearance of impropriety and must be reported.

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