

FORMAL OPINION NO. 1*

The Idaho State Bar Commission has been asked for an opinion as to the ethics or propriety of a candidate for Justice of the Supreme Court expressing his opinion as to whether or not the Supreme Court was right or wrong in making a decision which has now become the law of this State.

It appears that certain candidates in this State have been asked by certain interests to express an opinion as to whether or not the Supreme Court was right or wrong in a certain decision recently rendered. It further appears that this is an attempt on the part of those particular interests to get from a candidate in advance an expression of opinion as to how he would decide a case were the same to come before him.

Under the Canons of Judicial Ethics of the American Bar Association, which are adopted by Rule 151 of the Supreme Court of Idaho, it is my opinion that it is absolutely improper and unethical for a candidate for judicial office to express any opinion such as asked for above, either as to past or pending cases, or as to future issues or litigation which might arise.

Judicial Canon 30 of September 30th, 1937, . . . , provides:

"A candidate for judicial position should not make or suffer others to make for him, promises of conduct in office which appeal to the cupidity or prejudices of the appointing or electing power; he should not announce in advance his conclusions of law on disputed issues to secure class support, and he should do nothing while a candidate to create the impression that if chosen, he will administer his office with bias, partiality or improper discrimination."

It is further my opinion that nothing could serve to more quickly degrade the bench and bar and destroy the independence of our judiciary, than for a candidate for judicial office to express his opinion on legal issues previously decided by the courts, or which might come before him as a Judge if elected.

It appears . . . that Judicial Canon 14, reading as follows:

"A judge should not be swayed by partisan demands, public clamor or considerations of personal popularity or notoriety, nor be apprehensive of unjust criticism."

can be applied to candidates for judicial office, for certainly if a candidate can be permitted to express his views on legal issues, he will, if elected Judge, undoubtedly be swayed by partisan demands afterward, as well as before.

DATED this 4th day of May, 1944.

*Although this opinion probably remains valid, the Committee on Ethics and Professional Responsibility of the Idaho State Bar no longer comments on the propriety of judicial conduct. Such conduct is regulated by the Idaho Judicial Council.