

FORMAL OPINION NO. 98*

A request has been submitted to the Idaho State Bar and referred to the Committee concerning the contribution lawyers may make to the re-election of judges.

The question involves both the Code of Professional Responsibility and Canons of Judicial Ethics.

The American Bar Association, has held that lawyers are better able than laymen to appraise the qualifications of a candidate for judicial office. It is proper that they should make their sentiments known to the voters in a dignified manner. Therefore, a lawyer may endorse a candidate for judicial office and seek endorsement for him from other lawyers. Lawyers should be actuated by a sincere belief in the qualifications of the candidate and not by selfish motives. If the lawyer believes that the candidate lacks qualifications, he should have the courage to refuse a request for endorsement.

The American Bar Association Committee has held that if a candidate or judge merits support, lawyers may contribute to the campaign, preferably to the campaign committee rather than to the candidate. This is particularly so if the cost of the campaign exceeds what the candidate would be expected to bear personally.

The judicial canon which prohibits the acceptance of presents or favors from lawyers practicing before a judge has also been held not to prohibit such contributions.

It is the opinion of the Professional Ethics Committee that the Election Committee of the judicial candidate should comply with the "Sunshine Law", but because said statute (Idaho Code § 67-6601) has been determined by the Secretary of State to apply only to judicial candidates seeking the office of Supreme Court Justice, it is the recommendation of the Professional Ethics Committee that the names of all contributors be made available to the public upon request to the candidate

or the candidate's treasurer. It is the opinion of the Committee that this would promote the confidence of the legal and judicial system.

Opinion 189 and 226 of the American Bar Association have been announced on this subject.

*This is an undated opinion.