

**NEW YORK STATE BAR ASSOCIATION**  
**Professional Ethics Committee Opinion**

Opinion #10 - 1/29/65 (1-65)      Topic: Encouraging Fraudulent Divorce.

Digest: Improper for lawyer to arrange foreign state divorce where foreign court is not advised with respect to the client's actual residence.

Canon: None

QUESTION

An opinion is requested as to the propriety of the following actions by a New York attorney:

1. Is it unethical for a New York attorney to send a client to an Alabama lawyer for the purpose of obtaining an Alabama divorce when the New York lawyer knows his client is not domiciled in Alabama?
2. Is it unethical for a New York attorney to refer a client to another New York attorney specializing in matrimonial matters where the first attorney has reason to believe that the matrimonial specialist will arrange for the client to obtain an Alabama divorce and where both attorneys know that the client is not domiciled in Alabama?

OPINION

It seems apparent from the wording of the question submitted that it is contemplated that the Alabama court would not be informed that the client is not a bonafide resident of that state.

If such is the case, it will be improper for a member of the New York Bar to advise or assist in the procuring of the divorce.

If, however, the foreign court is fully advised with respect to the client's actual residence and there is no imposition upon the other party to the marriage, and the client intends to establish an actual and bonafide residence in the State of Alabama, there would, in our opinion, be no impropriety.

This question was considered by the Committee on Professional Ethics of the New York County Lawyers' Association (Question No. 100, "Opinions on Professional Ethics", William Nelson Cromwell Foundation, page 568).

A majority of that Committee found that the mere fact that the New York statutes do not provide for the relief desired is not in itself sufficient ground to condemn the participation of a New York lawyer in aid of a divorce in a foreign jurisdiction according to the law there in effect. The Committee pointed out that the vice of the arrangement arises from the possibility of imposition upon the injured party and a proposed fraud upon the foreign court by concealment of the true facts.

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With respect to question 2, if the circumstances are such that it is unethical for the New York attorney to send his client to Alabama for the purpose of obtaining an Alabama divorce, it is equally unethical for him to refer a client to another New York attorney for that purpose.

Opinion #11 - 4/23/65 (11-64) Topic: Endorsement of Judicial Candidates

Digest: Lawyers may endorse judicial candidates, and such candidates may announce the support of certain attorneys so long as there is no appearance of impropriety.

Canons: Former Canons 2, 3.  
Judicial Canons 30, 32

QUESTION

You inquire as to the propriety of

1. lawyers endorsing judicial candidates;
2. a judicial candidate announcing that he has the support of a number of former presidents of bar associations or of a specified number of attorneys; and
3. a judicial candidate soliciting a lawyer for his support and endorsement.

OPINION

1. It would normally be proper for lawyers to endorse judicial candidates. Members of the bar bear a special responsibility for the selection of qualified candidates for judicial office. It is "the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selections of Judges. It should protest earnestly and actively against the appointment and election of those who are unsuitable for the Bench . . ." (Canon 2 of the Canons of Professional Ethics of the American Bar Association.)

Opinion 189 of the Committee on Professional Ethics of the American Bar Association, with which this Committee concurs, concluded that:

"Lawyers are better able than laymen to appraise accurately the qualifications of candidates for judicial office. It is proper that they should make that appraisal known to the voters in a proper and dignified manner. A lawyer may with propriety endorse a candidate for judicial office and seek like endorsement from other lawyers."