

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

inquired about would not compromise this principle. In fact, the Bar, by permitting the Society to do this, would be aiding in the effort to provide legal services to the disadvantaged. (See 41 Notre Dame Lawyer 961).

The Committee believes that letters of this type should be sent only to those who presumptively might be unable to pay for legal services. Hence the letters should be forwarded only to residences of low income areas.

Opinion #76 - 6/6/68 (25-67)

Modified by 416

Topic: GROUP LEGAL SERVICES PROGRAMS
Digest: VALIDITY OF GROUP LEGAL SERVICE PROGRAMS UNDER RECENT UNITED STATES SUPREME COURT DECISIONS.
Canons: Former Canons 27, 35, 47

QUESTION

Numerous inquiries have been made relating to the validity of various types of group legal service programs. Heretofore, Canons 27 and 35 have been widely interpreted as making it ethically improper for lawyers to organize or participate in most group legal service programs. The current inquiries stem from widespread uncertainty as to the continued validity of prior interpretations applicable to such programs in view of the recent decisions of the United States Supreme Court in United Mine Workers v. Illinois State Bar Association, 389 U.S. 217 (1967); Railroad Trainmen v. Virginia State Bar Association, 377 U.S. 1 (1964); and NAACP v. Button, 371 U.S. 415 (1963).

The Mine Workers case sustained the employment of a salaried attorney by a labor union to prosecute workmen's compensation claims for union members. The Trainmen case sustained a referral plan under which union members with personal injury claims arising out of their employment were advised to consult specific lawyers who had agreed with the union to handle such cases at specific rates. The NAACP case permitted that organization to provide the services of staff lawyers to members and to others in litigation involving racial discrimination.

OPINION

Our Committee recognizes that substantial uncertainties have been created by these Supreme Court decisions as to the extent to which group legal services programs, previously held to be ethically improper, should now be permitted. These decisions, together with the growing movement to provide adequate legal service to the disadvantaged, have led bar associations throughout the country to begin to restudy the desirability of amending Canons 27 and 35 so as to permit the possible approval of certain appropriately organized group legal service programs. Under the present doubtful state of the law, and in the absence of amendments to Canons 27 and 35, we are not prepared to approve programs not clearly covered by the three cases cited above.

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As we understand the Supreme Court decisions, they are based upon the constitutional guarantees of freedom of speech, assembly and petition. They do not, however, appear to mandate approval of programs lacking adequate safeguards to prevent commercialization, or which fail to assure independence of professional judgment and fidelity in the lawyer-client relationship.

Absent some future modification of the Canons, we adhere to our Opinions No. 53 and 53(a), in which we concluded that it would be improper under Canons 35 and 47 for a lawyer to be employed by a corporation to render legal service to corporate employees. The Supreme Court decisions in our opinion, do not give the right to employers, either corporate or individual, to enter into contracts to provide legal services for their employees or for others, in violation of accepted professional standards or of state law.

Although this Committee does not render opinions on matters of law, we call attention to Section 495 of the Judiciary Law. Inter alia, this Section forbids corporations and voluntary associations from practicing law, or rendering legal services of any kind, or furnishing attorneys or counsel.

Opinion #77 - 6/6/68 (6-68)

Topic: Advertising: NOTICE OF
CHANGE OF OFFICE LOCATION
Digest: ERECTION OF PUBLIC SIGN AT
SITE OF PROPOSED NEW OFFICE
BUILDING
Canon: Former Canon 27

QUESTION

An attorney who is required to move from his present office location because of the widening of a street by the State asks whether it is proper for him to erect a sign at the construction site of his new office building. It will recite the firm name and state the office will be relocated there due "to the New York State taking over the present location at.....(address and zip code)."

OPINION

Canon 27 provides that it is "unprofessional to solicit professional employment by -- advertisements" direct or indirect.

Every indirect form of advertising designed to secure professional employment is improper. (Drinker, Legal Ethics 232 and 247.) General announcements of the removal of an office to a new location are discouraged as an appeal to the public for employment. ABA 264 states that announcements should be by card sent only to attorneys, clients and close friends who would consider the news of genuine interest and value. The cards should not go to persons with whom an attorney has no personal dealings or relations, and to whom it would be a suggestion of employment. ABA Inf. 146 is to the same effect.