

JPC 1987-1
March 23, 1987

The Committee has met and considered your request for certain opinions relative to the matters raised in your letter to us of December 16, 1986. In view of the questions you have posed, we will address them separately.

1. Pledges to the Presidential Campaign of The Honorable Pierre S. duPont, IV

We understand that prior to your appointment to the Court and your assumption of office on December 12, 1986, you and your wife made separate pledges to Governor DuPont's Presidential campaign. You also have indicated that the Committee should assume that your wife has no significant outside income, and you have asked us to advise you whether either or both of you may with propriety complete these political campaign pledges.

This question is generally controlled by Canon 7 of the Delaware Judges' Code of Judicial Conduct. Thus, Canon 7A(3) prohibits you from paying an assessment or making a contribution to a political organization or campaign. Under Canon 7A(4), neither you nor your spouse may make, either directly or indirectly, any contribution to any political party. Finally, Canon 7C prohibits you from engaging in any other form of political activity except on behalf of measures to improve the law, the legal system or the administration of justice.

From your inquiry we have not been able to determine whether your pledges are legally binding obligations. If you are so bound, we suggest that you discuss this matter with representatives of Governor DuPont to request that you be relieved of such commitments. We make this suggestion to you on the basis of Canon 2, since political contributions, even of a legally binding nature, would have an appearance of impropriety

Assuming you and your wife have no legally binding obligations to complete these pledges, the Committee is of the opinion that neither of you may with propriety make any contributions to a political campaign during your term of office.

2. Membership on the Court Consolidation Committee

We understand that the work of the Court Consolidation Committee has now been completed and its formal report has been issued. Thus, we believe that the questions you have raised are moot. However, in the listing of your name as a member of the Committee, it would be appropriate to note that you assumed your judicial office after the work of the Committee was completed.

3. Service as a Church Trustee and of the Peninsula Annual Conference of the Methodist Church, and Other Related Church Activities

We understand that the function of the Trustees of each group is to maintain and manage church properties. You also serve as Chairman of the Administrative Board of your church, and have been active in this capacity for ten years. Your responsibilities as Chairman are similar to

the role of the President of any charitable organization. In addition you also serve as Lay Leader of your church. In that capacity, you organize the Annual Laity Church Service and participate in the reception of new members throughout the year.

Thus, you have requested an opinion whether your judicial office precludes you from continuing to serve in any of the foregoing positions, and if continued service is not prohibited, you have asked for our recommendations concerning renewing your current church roles when they expire.

All of these matters are controlled by Canon 5 of the Delaware Judges' Code of Judicial Conduct. Thus, under Canon 5B a judge may participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties. However, we call your attention to the fact that there are certain limitations imposed upon you. Under Canon 5B(1) you should not serve in any of the foregoing capacities if the organizations will be engaged in proceedings that would ordinarily come before you or will be regularly engaged in adversary proceedings in any court. Moreover, the Commentary to Canon 5B observes that it is necessary for a judge regularly to re-examine the activities of each organization with which he is affiliated to determine if it is proper for him to continue his relationship with it. In particular, judges are cautioned about service on boards of organizations which may make policy decisions that could have political significance or imply commitment to causes that may come before the courts for adjudication.

Also, in connection with your church activities, you should observe the strictures of Canon 5B(2), which prohibit you from soliciting funds or permitting the use of the prestige of your office for that purpose. Finally, under Canon 5B(3) you should not give investment advice to any of the church organizations you serve, although you may continue as a Trustee even though the various boards have the responsibility for approving investment decisions. The purpose of this rule is to avoid placing you in a fiduciary relationship regarding the handling and investment of church funds.

Subject to the foregoing considerations, we are unanimously of the opinion that you may with propriety continue serving as a Trustee of the various organizations and in the other capacities outlined above. We also believe that your continued service in any of the foregoing capacities is a matter of your personal choice.

We trust that the foregoing opinions are responsive to your inquiries.

Andrew G. T. Moore, II, Justice, Chairman
William T. Allen, Chancellor
Robert C. O'Hara, Judge
Vincent A. Bifferato, Judge
Paul E. Ellis, Judge
Robert W. Wakefield, Judge
Alfred Fraczkowski, Judge