

NOMINATION OF JOHN PAUL STEVENS TO BE A JUSTICE OF THE SUPREME COURT

WEDNESDAY, DECEMBER 10, 1975

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 2:20 p.m. in room 2228, Dirksen Senate Office Building, Senator Quentin N. Burdick presiding.

Present: Senators Burdick, Eastland, Hruska, and Thurmond.

Also present: Francis C. Rosenberger and J. C. Argetsinger, of the committee staff; and William P. Westphal, chief counsel, Subcommittee on Improvements in Judicial Machinery, assistant to Senator Burdick.

Senator BURDICK. The committee will come to order.

Our first witness this afternoon will be Mr. Anthony R. Martin-Trigona, of Chicago, Ill.

Do you swear that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF ANTHONY ROBERT MARTIN-TRIGONA OF CHICAGO, ILL.

Mr. MARTIN-TRIGONA. I do.

For the record, my name is Anthony Robert Martin-Trigona. I reside in Chicago, Ill., and maintain offices at One IBM Plaza in Chicago.

I want to thank the committee and the Senators here today for the opportunity to appear and testify and present what I believe is information which may prove of value to the committee in formulating an assessment as to whether they should recommend confirmation of Mr. Stevens as an Associate Justice on the Supreme Court.

I would like to emphasize at the outset that I have no personal feelings with respect to the nomination of Judge Stevens; that I have never met the man, and indeed, before I saw him here in this room on Monday, I had never even seen him. Quite frankly, I have not formed any opinion as to any of his own views or any of the decisions in many of the matters relating to philosophical principles which have previously been discussed. Therefore, I do not wish to necessarily be understood as appearing in opposition to the nomination, but rather, appearing and proffering to the committee certain information which I feel can assist the committee and be a value to it in conducting its own investigation.

I feel it is correct to point out in this respect that some of the materials which I have developed and which have been furnished

to me involved hearsay; others involve circumstantial issues which possibly might be explained away. Nevertheless, in my own opinion I think they raise questions of sufficient importance that the committee should be informed of them, and consider them, and attach to them the significance it feels is their due.

I would like to break down or divide my specific comments into three areas. One, some discussion of an affidavit which was previously furnished to the chairman of the committee and certain members of the committee. Two, to discuss a lawsuit which was brought relating to certain aspects of the affidavit, and finally, to go into in somewhat greater detail certain statements and understandings which I have concerning the so-called Keane question.

First, with respect to the affidavit which I furnished to the committee, I feel it would be both helpful and appropriate if I first reviewed very briefly the circumstances which motivate me to contact the committee.

The affidavit, in essence, relates to a number of conversations which I had with Mr. Jerome Torshen, the assistant counsel of the special commission, and the sum and substance related in the affidavit were that, while Mr. Torshen and Mr. Stevens served on the special commission investigating charges of impropriety against judges on the Illinois Supreme Court, that damaging information relating to certain sitting judges was withheld.

I think in this connection it is necessary to point out that damaging information relating to some judges was also disclosed, and in fact, two sitting judges, both Republicans, did, in fact, resign from the Illinois Supreme Court as the result of the work of this commission.

For purposes of clarity and completeness, I think it would be appropriate and reasonable at this time to read into the record the affidavit which was furnished to the chairman, and the affidavit is as follows.

[The witness read the affidavit which is printed above at page 60.]

Mr. MARTIN-TRIGONA. I did sign it, Senator. It was acknowledged in the State of Illinois and in the city of Chicago.

In summary, then, the affidavit basically states that information provided to me by an attorney, under circumstances which would indicate that the information was reliable, indicated that cocounsel to the commission had, in essence, restricted the scope of disclosures made with respect to the work product or fruits of their investigation into unlawful acts and acts of impropriety by sitting justices on the Illinois Supreme Court.

Frankly, I don't know if Mr. Torshen told me the truth. My own opinion and belief is that he did tell me the truth. I have never had an independent way to verify the information simply because the records of the commission have been sealed and have never been made available to me, despite, of course, my efforts to secure their release through the aforementioned judicial proceedings.

I believe, that with respect to this particular issue, one way of proceeding, of course, would be to call Mr. Torshen to testify and, perhaps, to weigh the relevant credibility of the testimony of the witnesses. However, I believe that lawyers have a rule of evidence, and they call it the best evidence rule, and to the extent that record still exists, I think it would be appropriate to suggest that committee members themselves or, perhaps, at least in the first instance, committee

staff members, examine the documents to the extent that they are still in existence and determine exactly what they say.

Now, this, at the very least, would remove, I think, the cloud which will continue to hang over Judge Stevens. The staff of the committee or a member thereof could then report to the committee as to the presence or absence of information damaging to any judge, and I think it would be entirely appropriate, and I would suggest that it be done without saying what information was found in the event there is something damaging.

Very clearly, a wrongdoing by a judge in Illinois is of no direct concern to this committee. Nevertheless, the fact that information relating to it may have been withheld is highly relevant and probative to the nomination which is now before the committee.

The second area which I would like to go into with some greater detail is the lawsuit involving Judge Stevens and the sitting judges that is mentioned in the affidavit. I think there is some basis that the committee would wish to be further advised of it.

I would like to explain the circumstances under which it was filed and explain the position I took. I think it is important that in assessing my credibility you reflect upon the fact that, first of all, I filed the action and took that position on the public record approximately 3 years before Judge Stevens was nominated to the Supreme Court and over 1 year before I was denied admission by the Illinois Supreme Court, so, therefore, these allegations in that case long predate any action on my initial application by the Illinois Supreme Court and certainly predate Mr. Stevens' nomination to the Supreme Court of the United States.

I think that any lawyer reading the complaint, the original complaint, No. 72 C 2290, would have to be impressed with the fact that the allegations involving Judge Stevens were very carefully drawn and they were most circumscribed. The complaint points out in explicit language that in three different accounts Judge Stevens was, pursuant to the Federal Rules of Civil Procedure which require that a necessary or indispensable party be joined, and as chief counsel to the commission it was clear to me then, and I think it is now, that he was, pursuant to Federal Rule 19, a necessary or indispensable party.

Judge Stevens, in the complaint, is mentioned only as a direct principal party in one of the counts, and that was the count relating to the nondisclosure or coverup, I believe as Senator Mathias characterized it, of the work product of the investigation. Therefore, it is important to note that the accusations contained in the complaint were carefully worded and narrowly drawn.

The suit moreover was drawn against the sitting judges of the Illinois Supreme Court simply because they were the logical defendants. They control both admission to the court and in this instance, in the case of the suit more importantly, disbarment proceedings.

One of the judges for whom the commission had found had committed positive acts of impropriety had never been disciplined and had been allowed to resume the practice of law. The other judge, Justice Klingbeil, had been permitted to resign and receive a State pension from the State of Illinois. Neither judge had at any time ever refunded to the State the illegal stock profits which the commission had found these men had received.

Therefore, it seemed reasonable, and I think perhaps electable to join the sitting judges of the court as defendants since (a) my best information was that they were the custodians of the commission and (b) ultimately any disbarment actions against them would relate back to their inherent judicial power.

Senator BURDICK. This action you are testifying about refers to your appeal to get your legal license to practice?

Mr. MARTIN-TRIGONA. No, sir, it does not.

Senator BURDICK. What does this refer to?

Mr. MARTIN-TRIGONA. This relates to the proceeding previously referred to as the 72 C 2290, the action to secure release of the non-published commission documents and work product, also to recover the illegal stock profits which had never been recovered, and finally to see that some disciplinary sanctions were imposed upon the judges who had previously been found guilty of positive acts of impropriety.

Senator BURDICK. And what happened?

Mr. MARTIN-TRIGONA. I am just about to go into that.

Senator BURDICK. The reason I ask is that we have a vote on the Senate floor and we will have to recess in a minute for that.

Mr. MARTIN-TRIGONA. I would be happy to interrupt my testimony right now.

Senator BURDICK. We will take a brief recess.

[A brief recess was taken.]

Senator BURDICK. The committee will come to order.

Mr. MARTIN-TRIGONA. Senator, you asked about the subsequent history of that case.

Senator BURDICK. Well, I was wondering which case you were referring to. There were two cases involved: one dealing with your license to practice law; and one dealing with the action you brought in reference to the Chicago situation.

Mr. MARTIN-TRIGONA. The case involving my license has not at this point been mentioned in my testimony. The case involving the actions of the special commission and the efforts to procure disclosure had a history basically as follows. As I indicated in the affidavit, the case was assigned to Judge McLaren who had formerly been Assistant Attorney General in the Nixon administration.

He refused to issue the summonses in the case and dismissed it, I think a day or two or so, very shortly after it was filed. I then appealed to the seventh circuit his dismissal of the case and his refusal to issue summonses. This issue was heard by the court of appeal on December 4, 1973. And at that time, as I indicate in my recitation of the affidavit, they took the rather unusual action of reversing Judge McLaren immediately, right from the bench.

It then went back to Judge McLaren and a motion was filed for transfer to a new judge and it was assigned to Judge Austin. Judge Austin then heard briefs on the matter and dismissed it in 1974. It was again appealed to the U.S. Court of Appeals for the Seventh Circuit. The basic defense, if you will, of the judges was that they were immune from suit and that no Federal question had been stated.

In addition, they raised the question whether I lacked standing to recover the funds which had arguably been taken from the people of Illinois. The seventh circuit issued an opinion on October 30 of this year and indicated on procedural grounds that it would affirm the

dismissal. It said first of all that I did not have standing to bring it because I had not been injured specially from anyone else. If money had been taken from the State, every taxpayer's funds had been taken to a proportionate degree; and second, that no Federal question had been stated and indicated that the mere commission of a tort, I think the language was, does not give rise to Federal jurisdiction.

With the Senator's permission, I would like to supplement my testimony and affidavit on this point by furnishing to the committee, as soon as I can make them available, copies of the briefs and of the complaints so that they will be incorporated by reference.

In this connection, Senator, if I might have a day or so, I did not bring them with me. But I will put them in the mail tomorrow morning and they shall certainly be here by Friday if they come by express mail.

Senator BURDICK. I cannot guarantee how long the record will be open because we want to proceed with this nomination. I would think if you have them you should have them here by tomorrow.

Mr. MARTIN-TRIGONA. I will do my best.

[The material referred to was subsequently received by the committee.]

Mr. MARTIN-TRIGONA. I think, to summarize the state and status of this legal action, at no time was any decision on the merits ever handed down. The circuit court of appeals which considered the issues resolved them on a threshold question of standing and on the preliminary issue of whether in fact, the unlawful action of a State official could involve sufficient grounds to give rise to a Federal question of jurisdiction.

The defendants in the proceeding at no time deny the allegations, nor did they at any time contest the fact that the allegations, if true, would establish improper conduct. Therefore, I think one can begin to see that there is at least a real basis to examine and look into the work product and the official records of the special commission to determine just what—wherein lies, as it were, the factual foundation.

The third and final area of interest and inquiry which I would like to urge upon the committee involves the facts and circumstances relating to what I suppose can be characterized as the Keane situation, the Thomas Keane situation.

In this connection I would point out that much of the material related thereto is circumstantial in nature, and I am not necessarily taking a position upon it. But I think it is very fair to state that given the gravity and seriousness of the appointment under consideration and the need to have integrity on the Court, that every possible question and every lead should be investigated to the fullest extent, even if it is to the point of a dead end.

Mr. Keane was mentioned in passing yesterday. I think it is appropriate that he be identified with somewhat greater precision simply because he is not a national figure, although perhaps he is a relatively notorious local figure. Mr. Keane is the major figure in Chicago politics of four decades. He was a State senator and then for 30 years an alderman. Over a number of years, spanning at least a decade and possibly longer, he was repeatedly charged by the press with profiting from public office by allowing his associates to profit and by profiting himself.

It is a matter of record, I believe, that he was ultimately indicted by a grand jury and convicted by a Federal petit jury, and in all fairness, certiorari was pending on this decision, although it was confirmed by the U.S. Court of Appeals for the Seventh Circuit.

With this background and with some greater detail of information as to Mr. Keane's role and the very great extent of his power and influence in Chicago politics, I think it is important then to proceed to reflect on certain facts and circumstances, most of which are uncontroverted at this time. (A) Shortly after resuming the private practice of law, Mr. Stevens immediately was contacted by the Keane firm as cocounsel on one case and subsequently thereto on a second case.

Therefore, as early as the 1950's, the beginning of the 1950's, he presumably was relatively well acquainted with Tom Keane from personal knowledge, information, and experience.

Second, it is my understanding that Mr. Keane also had as one of his attorneys Jerome Torshen and the attorney-client relationship existed prior to Mr. Torshen's appointment as assistant counsel to the special commission.

Thereafter, of course, in 1969 both Mr. Torshen who had an attorney-client relationship with Mr. Keane, and Mr. Stevens who was a long-time acquaintance and former cocounsel with Mr. Keane, were appointed to supervise the investigation of the charges of impropriety. I think in this connection, Senator, it is well to point out one significant factor.

The special commission was composed of very eminent practicing attorneys in the State. Nevertheless, to the same extent that a Congressman or Senator will rely on his staff for digging and information in an investigation, the commissioners themselves relied very heavily on the staff, and with particular regard to relying on the investigatory efforts of the counsel and cocounsel who were supervising the discovery and who as lawyers were in a special position to understand just how to put together a good thorough investigation.

I have spoken with members of the news media who covered the reports and proceedings of the special commission thoroughly, who were very friendly with Mr. Stevens and Mr. Torshen. At no time were any of the news media ever aware that Mr. Stevens was acquainted with Mr. Keane or that Mr. Torshen was an attorney for Mr. Keane. They have indicated to me that had they been aware of these facts it would have placed a disturbing light on (a) the work product of the commission, and (b) the allegations which were circulating even then that some sort of coverup, and that is not my own word, but it is a word that was given yesterday, that some sort of coverup had been effectuated.

I think there is at least there a matter of concern simply because there is a possible appearance of impropriety. Now here you have both the chief counsel and the assistant counsel having a relatively significant relationship with a figure who is a senior democratic leader, perhaps the second most influential man in the city of Chicago, and who has been involved repeatedly in accusations of profiting from public office, particularly when the commission is being charged with investigating whether judges have profited from public office.

I believe that had the relationship between Keane and Torshen and

Keane and Stevens been made aware, this would have placed an entirely different light on the proceedings and might have indeed occasioned a new special commission.

Several weeks after the report of the special commission was filed, Mr. Torshen, as attorney for Mr. Keane, lodged in Federal court a major antitrust action. It would appear from the extent of the pleadings necessary to prepare such a complex piece of litigation, that he had been working on this litigation at the time of the special commission and prior thereto.

In summary, I feel there is a very serious question presented as to whether or not the appearance of impropriety would have been charged or made known to the public had the public or members of the press been aware that the counsel and chief counsel sitting as it were at the very epicenter of commission activities and in a position to direct the scope and extent of the inquiry and to influence the nature of the investigation had been associated on a relatively intimate basis with Mr. Keane.

In this connection, I believe it is worthwhile to jump ahead, as it were, to the case of *United States v. Keane* in the seventh circuit. Despite the fact that Mr. Stevens had been a judge for 5 years, and the cocounsel relationship with Mr. Keane went back possibly as long as 20 or more years, he disqualified himself from hearing the petition for rehearing in bank.

Nevertheless, on February 7, he did enter an order allowing Mr. Keane to file a somewhat larger brief. The attorney who was the moving party on behalf of Mr. Keane in that order was Mr. Torshen. I find it difficult to reconcile and balance the recusal in the *Keane* case with the nonrecusal in the case of *Cousins v. Wigota* because Mr. Wigota was Mr. Keane's lawyer.

The majority opinion in *Cousins v. Wigota* details the facts relatively extensively that most of the actions that were alleged to have been unlawful, and which were found in part to have been unlawful by the court of appeals majority, occurred in Mr. Keane's office.

Mr. Stevens also apparently dissented in a case involving Mr. Barrett who was the county clerk and who had been found guilty, I believe, by a Federal jury of having solicited and accepted bribes in connection with the performance of his official duties.

When I try to place into a consistent pattern the longstanding knowledge of the nominee with his recusal in one case and his nonrecusal and indeed dissent in two other cases, I am left with a puzzle, a question. Perhaps it is no more than that, but I think it would be entirely appropriate to say that it raises legitimate questions which, in my view, have not been completely and adequately answered by the nominee and which deserve further examination by the committee.

As the Senator may possibly be aware, the time the affidavit was filed with the committee, the affidavit and only the affidavit was available to me as a source of information regarding the nominee. Thereafter, conducting an independent investigation, the link, if you will, between Mr. Keane and the nominee, Mr. Stevens, was first developed and disclosed. After I came to Washington at the behest and telegram of the committee and presented my statement to the committee on Monday, I was advised of additional information which again I feel is probative to the committee. It provides, I think, a further possible in-

dication of very close and continuing connections between the convicted political figure, Mr. Keane, and Stevens' law firm.

And I refer now specifically to material involving a story which appeared in yesterday's Chicago Daily News on page 4, and I will read from it just very briefly.

Senator BURDICK. Well, read it briefly because we are running out of time.

MR. MARTIN-TRIGONA. It says—

Edward I. Rothschild and six others, plus a number of secret investors, bought the city-owned 148-acre Gage farm tract in west suburban North Riverside after a sale at the bargain price of \$2.1 million was approved by the city council at the instigation of Thomas Keane. Rothschild and the other buyers, including at least three close business associates of Keane, made substantial profits from resale and leasing of various parts of the land.

In this connection I think it is fair to clarify the record on at least one point. The nominee denied that Mr. Keane had been a financial participant in the Gage farm purchase and that is correct. I do not believe it was ever claimed that he had been a participant in the Gage farm purchase. As a public official, he would have been prohibited by State law from buying property which was being sold by the city.

Thus it appears and the evidence suggests that there was a close relationship between Mr. Keane's associate and Mr. Keane's law firm going back many years, specifically to 1954, at least. At the time Mr. Stevens was an active senior partner in the firm. Quite frankly, speaking as a lawyer, I think it could reasonably be expected that Mr. Stevens had knowledge of the extent and the nature both of the client that Mr. Rothschild claimed to represent, and also of the relatively large financial investment which was being made.

Therefore, at the time of serving on the special commission, there is, I feel, furnished a motive for Mr. Stevens to have been particularly sensitive to any line of inquiry which would have led to the doorstep of a sitting democratic Illinois Supreme Court justice.

I think there was some question raised yesterday as to whether the nominee had ever engaged in the use of a blind trust. I think it is very important to distinguish a blind trust, which is typically one used by a public official to have his assets in the hands of an investor who does not tell him what he has so he will not know and will not have a conflict, from a land trust.

Now the nominee was not asked and did not specify whether he had ever been the beneficiary of a land trust. A land trust is a relatively unique Illinois legal doctrine or institution which has many useful features entirely apart from the secrecy of the interest of the persons involved.

Senator BURDICK. Just a minute. Do you have any evidence that he had a land trust? I have given you a lot of latitude. Do you know anything about a land trust? Tell us.

MR. MARTIN-TRIGONA. Senator, my point was—

Senator BURDICK. I am trying to be fair with you, but I want some evidence pretty soon. Do you know anything about a land trust?

MR. MARTIN-TRIGONA. I am trying to point out that the committee itself questioned Mr.——

Senator BURDICK. You are supposed to give us evidence. Now I want evidence from now on. Do you have any evidence?

Mr. MARTIN-TRIGONA. The evidence, Senator, does not relate to the fact of whether Mr. Stevens was or was not a participant in the Gage farm transaction. That, I think, could best be determined by a reference to the documents. The relevance of what I am pointing out to the Senator is that it creates a motive, an apparent conflict of interest, vis-a-vis this service on the special commission.

I am not accusing Mr. Stevens of having had a land trust interest in the Gage farm. Nevertheless, I find it difficult to believe that the senior partner invested what I have been told as \$120,000 in this venture, and that Mr. Stevens was entirely ignorant of this fact. I think there is a rather fair basis to conclude that there is a question of impropriety raised when the firm and a senior partner in the firm had a close relationship with the same democratic politician who also was retaining Mr. Torshen as counsel.

I believe that Mr. Stevens is a very bright and aware, and perceptive lawyer. I indicated that he had a quick mind and he quickly grasps significance, and I find on this point it difficult to assume that he was not aware of these things at the time that he performed the services for the special commission. And therefore I think there is a basis for a motive which I feel the committee should investigate.

I do not think it is appropriate to impose upon a witness to the committee the burden of producing a smoking gun. I think it is appropriate to impose upon a witness to the committee the burden of coming forward with circumstances which would be of interest to the committee.

In closing, I would like to thank the committee for the opportunity to come before the committee and to relate what I think are serious questions raised on the record concerning the facts and circumstances which gave rise to possible impropriety. I understand that efforts have been made to attack my own character and veracity to possibly Senators and Senators' staffs.

From my point of view, I sincerely regret that these things have been done on behalf of Judge Stevens. Indeed, I think it would be inappropriate for me to address such innuendoes in my own testimony before the record, but I am happy to address and explain any incident in my own background which any Senator feels casts any doubt on my own character and veracity.

With that, I think, Senator Burdick, I would turn the matter over to the committee and given the information which has now been produced in open record, the committee may deal with it and act with it as it sees fit.

I think there is certainly a basis for at least a staff member of the committee to preliminarily examine the documents to determine just what the special commission records say. We all know from our own experience that in past years very severe charges were made against high public officials. Initially these were called crank charges or unsubstantiated charges and later when the documents trickled into the public record, the most stunning consequences arose as a result.

And I think therefore it is important that this committee proceed with an abundance of caution and, if necessary, with an excess of thoroughness rather than a lack of excess.

Thank you very much, Senator, and if there are any questions, I would be most pleased to address myself to them.

Senator BURDICK. The purpose of the hearings is to get evidence and not to get impressions or argument. The purpose of the hearing is to get evidence. That is what we are trying to get on the qualifications of Mr. Stevens. Now you have started your testimony by reading your affidavit, which you have read in full, which I have before me.

As I look through this affidavit, I find it replete with—I will quote some of it. "This led to a series of discussions with Mr. Torshen." Then again, "Mr. Torshen and I discussed the work." Again, "Mr. Torshen assured me." "Mr. Torshen assured me," again. And again, "Mr. Torshen assured me." Again, "Mr. Torshen mentioned." Again "Mr. Torshen had strong indications, gave strong indications." Again, "during the scope of our conversation, Mr. Torshen repeatedly referred to."

Now, that is your affidavit. I do not find one piece of direct evidence in that affidavit. Do you have any?

Mr. MARTIN-TRIGONA. Senator, I believe the affidavit speaks for itself. It is evidence that this question is raised.

Senator BURDICK. Just a minute. I have given you lots of latitude. Do you have any evidence of what you say Mr. Torshen told you of your own knowledge?

Mr. MARTIN-TRIGONA. How would it be possible?

Senator BURDICK. I am just asking, do you have any?

Mr. MARTIN-TRIGONA. Yes, I think the evidence is my testimony.

Senator BURDICK. What is that?

Mr. MARTIN-TRIGONA. Senator, I believe the evidence as presented in a court of law in an administrative proceeding or a committee hearing is testimony. I have been sworn and I have testified as to these facts and circumstances.

Senator BURDICK. According to the affidavit, you rely entirely on what Mr. Torshen told you. Could you point out something in your affidavit that comes from your own knowledge? I want to know what it is.

Mr. MARTIN-TRIGONA. Senator, I believe the testimony itself is evidence and I would refer you respectively, sir, to the best evidence which is the documents themselves. I think the affidavit is fairly clear as was my testimony. I have never been permitted to view the original evidence for the best evidence.

Senator BURDICK. Take your own affidavit right now and point out the line and page where you have direct evidence, will you?

Mr. MARTIN-TRIGONA. Senator, I believe the affidavit was read into the record. The testimony, as such, is evidence.

Senator BURDICK. At this stage, I am going to read to you an affidavit by Mr. Torshen.

AFFIDAVIT OF JEROME H. TORSHEN

STATE OF ILLINOIS

County of Cook ss:

Jerome H. Torshen, being duly sworn upon oath, deposes and says that he is an attorney at law having been admitted to practice before the Supreme Court of the State of Illinois in 1955 and that he has been subsequently admitted to practice before the bars of the Supreme Court of the United States, the Courts of Appeal for the Seventh, Eighth, Ninth and District of Columbia Circuits and before the United States District Court for the Northern District of Illinois, that he resides at 442 West Wellington Avenue, Chicago, Illinois, and maintains his office at 11 South LeSalle Street, Chicago, Illinois.

Affiant was privileged to serve as assistant counsel to Judge John Paul Stevens on the staff of the Special Commission of the Illinois Supreme Court ("the Commission"). As a result of the report of the Commission, two Justices of the Illinois Supreme Court resigned. Subsequently, in an unrelated matter, affiant's law firm, for a time, represented one Anthony R. Martin-Trigona in connection with Mr. Martin-Trigona's application for admission to practice law in the State of Illinois. Affiant's law firm withdrew from that representation prior to the hearings resulting in denial by the Illinois Supreme Court of the said application.

Affiant has been advised that Mr. Martin-Trigona has submitted a document which, in effect, charges that affiant advised Mr. Martin-Trigona that the Commission had obtained evidence sufficient to cause the resignation of two Justices in addition to those who had resigned, but that this evidence was, in some manner, suppressed. Apparently, it is charged that Judge Steven was involved.

These charges are false, malicious and scurrilous. No such statements were ever made by affiant to Mr. Martin-Trigona. Moreover, no material was obtained by the staff of the Commission which indicated any impropriety, much less illegal conduct, on the part of any members of the Illinois Supreme Court other than those two Justices who resigned.

Affiant has known Judge Stevens for almost twenty years as a lawyer, as a colleague on the staff of the Commission and as a judge. He is a superb legal craftsman, a gentleman of impeccable character and deep sensitivity, and a man of the utmost integrity. His fitness for judicial office is, if anything, exemplified by the performance of his function as counsel to the Commission.

JEROME H. TORSHEN.

Subscribed and sworn to before me this 5th day of December, 1975.

MARIA A. CABEL,
Notary Public.

Senator BURDICK. Now, your affidavit relies entirely upon your conversation with Mr. Torshen, and I ask you again, do you have any independent evidence, other than the conversation you had with Mr. Torshen?

Mr. MARTIN-TRIGONA. Based on my conversations with Mr. Torshen, and I believe in the truth of what he told me, I believe that the independent evidence which could be produced to support the allegations would be the original files, work product, the documents of the special commission. I think they can resolve with finality and impartiality any conflict between the affidavits.

Very briefly, Senator, much of what Mr. Torshen's affidavit relates to—consists of conclusions. Second, I am taken totally by surprise that he knew Judge Stevens for as long ago as 20 years because I was advised by someone, by a member of the press, that Mr. Torshen had told them that he did not know Judge Stevens very well at the time that he was appointed assistant counsel.

Quite frankly, Senator, the more I hear about this case and the more that is denied concerning my allegations, the more I feel very possibly questions are raised which very seriously ought to be considered by the committee.

Senator BURDICK. I asked you for an answer, if you had any independent evidence. The answer is "No"?

Mr. MARTIN-TRIGONA. Yes. The work products of the special commission, that is the best evidence. It will ultimately resolve with impartiality—

Senator BURDICK. But you do not have it?

Mr. MARTIN-TRIGONA. It is not in my possession, but I have tried to secure it.

Senator BURDICK. Do you have any direct evidence of any connection or wrongdoing on the part of Mr. Stevens in regard to the Keane matter, any direct evidence?

MR. MARTIN-TRIGONA. Keane matter? What are you specifically referring to?

Senator BURDICK. You spent considerable time talking about some connection with Mr. Keane.

MR. MARTIN-TRIGONA. I think what we were talking about, sir, in connection with Mr. Keane was acts of impropriety or appearance of impropriety. I believe that failing in conceal—concealing from the public a previous cocounsel relationship with a common political source, such as the chief counsel, could reasonably be construed by an impartial person as the appearance of impropriety.

I believe furthermore if Mr. Stevens was aware that a senior partner was an investor in land deals with persons who had been identified as associates of Mr. Keane, that again questions are raised.

I would like to again remind the Senator I think I have been fairly careful at all times with respect to my allegations regarding Mr. Stevens because of the fact that ultimately I believe that the committee has to make its own independent investigation. I lack subpoena power, sir, I lack the physical resources to do the kind of investigation I think would be warranted under the circumstances.

The committee does have subpoena power and it does have the resources in terms of people power to go into these matters a little bit more thoroughly.

Senator BURDICK. Exhibit D, filed with your affidavit, in the case you took before the seventh circuit, says:

In this connection it is well to reiterate that Judge Stevens of this court was named as a defendant in this action solely because of his connection with the Special Commission and his knowledge of the Special Commission's files and work product. At no time did the plaintiff ever suggest that Judge Stevens had committed any acts of impropriety in connection with the Klingbiel-Solfisburg episode.

MR. MARTIN-TRIGONA. Senator, if I might respond to that. Of course I would like the record to reflect my reading of that. At the time that was filed in the court of appeals, I was not aware that Mr. Stevens had been involved in a cocounsel relationship with Mr. Keane. I learned that last week for the first time.

At the time that that brief at the court of appeals was filed, I was not aware that Mr. Stevens' senior partner had been a land investor with a number of persons who were identified as close associates of Mr. Keane. Had I had this information in my possession at that time, I might have come to different conclusions.

Nevertheless, specifically with respect to Justices Klingbiel and Solfisburg, no one, including myself, has ever said that he was involved in any impropriety with Klingbiel and Solfisburg himself. The affidavit, I think, is relatively clear that the coverup related to judges who have not yet even been named in the public record.

Therefore, I think that with that clarification my testimony stands uncontradicted on that point.

Senator BURDICK. Your testimony stands on no evidence whatsoever. That is all it stands on right now.

At this time, without objection, I ask that the affidavit of Frank Greenberg, and the affidavit of Henry L. Pitts, who were cochairmen of the commission, together with the affidavit of Joseph Torshen, which I read into the record, be made a part of the record at this point.

[The material referred to follows:]

AFFIDAVIT OF HENRY L. PITTS

STATE OF ILLINOIS
County of Cook, ss:

I, Henry L. Pitts, being first duly sworn, state as follows:

I am advised that there has been a charge that John Paul Stevens and Jerome Torshen, as Chief Counsel and Associate Counsel, respectively, to the Special Commission which investigated charges relating to the integrity of the judgment entered by the Supreme Court of Illinois in *People, etc. v. Isaacs*, No. 39797, suppressed evidence relating to misconduct of judges of said Court.

As President-Elect of the Illinois State Bar Association, I was appointed by order of the Supreme Court of Illinois on June 17, 1969, together with Mr. Frank Greenberg, the President-Elect of the Chicago Bar Association, to select three other members of the Illinois Bar to serve as a five-man Special Commission to investigate the circumstances relating to the Court's decision in *People v. Isaacs*, No. 39797. Messrs. Stevens and Torshen were selected by the Special Commission to assist in the making of the investigation. From the inception, the Special Commission made it clear that its counsel were answerable solely to the Special Commission in ascertaining all of the relevant facts regarding all of the judges of the Supreme Court of Illinois. In carrying out that searching investigation for the Special Commission, Messrs. Stevens and Torshen worked closely with the members of the Special Commission. As organizers of the Special Commission, Messrs. Greenberg and I were familiar with all of the oral and documentary evidence adduced during the investigation. I personally read every deposition taken by members of the Special Commission's legal staff and reviewed documents obtained during the course of the investigation. All leads developed by the legal staff were reviewed by Mr. Greenberg and me and the other members of the Special Commission.

Based upon the foregoing, I can state without any reservations whatever that no evidence regarding the conduct of any judge of the Supreme Court of Illinois was suppressed by Messrs. Stevens and Torshen. The Special Commission and all of the staff recruited by it served without pay; the younger lawyers recruited by the Special Commission to assist Messrs. Stevens and Torshen were acting solely out of a desire to serve the public and were, therefore, in a uniquely independent position. Under these circumstances, it is inconceivable that any evidence could have been suppressed.

Throughout the investigation and the interrogation of the witnesses, including judges of the Supreme Court itself, Mr. Stevens pursued the truth fearlessly and in a thoroughly professional manner. Mr. Stevens' performance in the public interest as the Special Commission's counsel was exemplary in all respects.

In more than thirty-six years of private practice and work in the organized bar at the national and state levels, I have not observed an individual more superbly qualified than Judge Stevens to serve on the Supreme Court of the United States, as evidenced by an unsolicited letter which I wrote to Senator Charles H. Percy on April 16, 1970, a copy of which is attached hereto. I have complete confidence that Judge Stevens has all of the qualities of mind and heart necessary to make a great Justice.

HENRY L. PITTS.

Subscribed and sworn to before me this 5th day of December, 1975.

NANCY R. KRANZOW,
Notary Public.

[Attached]

APRIL 16, 1970.

HON. CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: Upon my return to the city, I noted last week's news item concerning your submission of John Paul Stevens' name for the Court of Appeals in our circuit. I want to congratulate you for this action, for you know how highly I regard Mr. Stevens.

I am writing this for the purpose of describing in more detail the basis for my opinion. I have had a unique opportunity to observe Mr. Stevens closely and to evaluate his personal and professional attitudes and ability under the most trying circumstances. I am referring to his serving as Chief Counsel to the

Special Commission appointed by the Illinois Supreme Court last June to investigate the integrity of that Court's decision in the Isaacs case. When Frank Greenberg and I were given this assignment by the Supreme Court, we had to select the other three members of the Commission, as well as an investigative staff, all of whom served without compensation. Mr. Stevens responded to our request that he act as Chief Counsel without any hesitation, knowing full well that this meant six weeks of the most intensive and difficult work—and on a matter that had obvious implications for a practicing attorney. Mr. Stevens' organization of the investigation, the handling of the preparation for the public hearings, the interrogation of witnesses and directing the legal research, was one of the most impressive professional performances I have had the pleasure of observing. And it was done with a volunteer staff of younger lawyers and accountants in an incredibly short time in a case which had drawn intense public attention.

In addition to the highest of professional competence, integrity and courage, Mr. Stevens has the other qualities so necessary in a judge. He is a compassionate and sensitive man devoid of any trace of arrogance sometimes found in those as intellectually gifted as he.

No one has solicited this letter. Mr. Stevens does not know I am writing it. Finally, permit me to say, Senator, that your sponsorship of a lawyer like John Paul Stevens for the federal bench is the complete and eloquent answer to some of those who have recently been so critical. We lawyers have a special responsibility in this area and I'm confident that the bar is heartened by your action.

Sincerely,

HENRY L. PITTS.

AFFIDAVIT OF FRANK GREENBERG

I, Frank Greenberg, being first duly sworn upon oath depose and say as follows:

1. I am a lawyer and the senior member of the law firm of Greenberg Keele Lunn & Aronberg, with offices at Suite 4500, One IBM Plaza, Chicago, Illinois 60611. I reside at 320 West Oakdale Avenue, Chicago, Illinois 60657. I am 65 years of age. I was admitted to the bar of the State of Illinois in 1932 and have practiced law in Chicago since that date. I am a past president (1969-70) of The Chicago Bar Association.

2. In June, 1969, the Illinois Supreme Court, faced with charges of alleged improprieties on the part of then Chief Justice of the Court Roy J. Solfsburg, and an Associate Justice, Ray I. Klingbiel, appointed an ad hoc commission (hereinafter the "Commission") of five lawyers to investigate these charges. The investigation by the Commission and its report to the Illinois Supreme Court led to the resignation in August, 1969 of Justices Solfsburg and Klingbiel.

3. I was named by my colleagues on the Commission and served as Chairman of the Commission. Promptly upon its organization the Commission selected John Paul Stevens, a member of the Chicago bar (now a justice of the Court of Appeals for the Seventh Circuit), to serve as its counsel. With the consent and approval of the Commission, Mr. Stevens called to his assistance, to serve as assistant counsel, Jerome H. Torshen of Chicago, Illinois and several other younger members of the Chicago bar to serve as associate counsel. Mr. Stevens acted as counsel to the Commission under the Commission's direction and under my direction as Chairman of the Commission and he performed his duties with exemplary skill, integrity and professionalism. I commend his service in the highest possible terms.

4. The occasion of this affidavit is that I am informed that one Anthony Martin-Trigona has made a charge, the substance of which I understand to be that Mr. Stevens and his associate counsel, Jerome H. Torshen, discovered during the course of the Commission's investigation, and suppressed, evidence which, if disclosed, would have led to the resignation of two other Justices of the Illinois Supreme Court. I believe this charge to be wholly false and I regard Mr. Anthony Martin-Trigona as a particularly unreliable gossip-monger.

Both Mr. Stevens and Mr. Torshen were in constant communication with me during the entire course of the Commission's investigation and I am completely confident that I was privy to all of the information which they or other members of the Commission staff may have had with respect to alleged misconduct of or improprieties on the part of any member of the Illinois Supreme Court. Had Mr. Stevens or Mr. Torshen been in possession of evidence tending to implicate any

other members of the Illinois Supreme Court in the matters which were the subject of the Commission's investigation I am certain that I would have known about it.

5. Neither I nor, to my knowledge, any other member of the Commission or any member of its staff suppressed any evidence germane to the subject matter of the investigation, whether such evidence involved Justices Solfsburg and Klingbiel or any other Justices of the Illinois Supreme Court. I am completely confident that the charge made by Anthony Martin-Trigona is completely without foundation and that neither Mr. Stevens nor Mr. Torshen possessed or suppressed any evidence that, if disclosed, would have resulted in the resignation of any Justice of the Illinois Supreme Court other than the two Justices whose conduct was the subject matter of the investigation.

6. All of the evidence gathered by the Commission, both in the form of documentary evidence and testimonial evidence, was deposited with the Clerk of the Illinois Supreme Court immediately after the filing of the Commission's report and so far as I know that material is still in the possession of the Clerk and is open to inspection. To the best of my recollection the material deposited with the Clerk included not only the transcripts of the testimony taken at the open hearings conducted by the Commission but also included the depositions taken by Mr. Stevens or other members of the Commission staff in the preliminary phases of the investigation, and in preparation for the open hearings.

7. I wish to report that I know Mr. (now Justice) Stevens and Mr. Torshen to be honorable men of great probity and integrity and I entertain no suspicion that they could have been possessed of any relevant evidence which they did not disclose to me as Chairman of the Commission. And I further repeat that I know of no evidence that, however directly or remotely connected with the work of the Commission, would have implicated any other Justice of the Illinois Supreme Court in any improprieties that would have supported any charges against them or would have called for their resignation.

Dated at Chicago, Ill. this 5th day of December, 1975.

FRANK GREENBERG.

Subscribed and sworn to before me, a Notary Public in and for the County of Cook, State of Illinois this 5th day of December, 1975.

CATHERINE DELMEY,
Notary Public.

Senator BURDICK. Well, I might as well ask you one small question here while we are waiting. You state for the record, "I served as a temporary employee of the U.S. Senate in 1966 when I was on the staff of the U.S. Senator Paul H. Douglas."

I do not know whether that leaves me with the impression that you had a responsible position there. What kind of a job did you have?

Mr. MARTIN-TRIGONA. Well, I was one of the junior assistants in the office. I had just graduated from college and I was told to come here and be an intern in the office and do what I was told.

Senator BURDICK. You were a summer intern?

Mr. MARTIN-TRIGONA. Well, at the time, Senator, there was a possibility—I had not decided where I would go to law school—but there was a possibility I might be kept on the staff if I came to law school in the District. I ultimately was accepted by two laws schools in Illinois and did not stay on the staff.

Senator BURDICK. I understand you received \$152 for your work as an intern.

Mr. MARTIN-TRIGONA. That is right. I might point out in that connection that I resisted accepting any payment whatsoever, but I was told that it was necessary for me to be on the payroll, so I did accept an honorarium of whatever the amount was, of \$152. It was a most pleasant and pleasing episode in my life to have the opportunity to work here in the Senate, to observe how it operated firsthand.

Senator BURDICK. I offer for the record at this time the report of the case of *In re Anthony R. Martin-Trigona, Petitioner*, issued on the 25th day of September, 1973, 302 Northeastern Second 68.

[The material referred to follows:]

55 ILL. 2D 301—IN RE ANTHONY R. MARTIN-TRIGONA, PETITIONER, No. MR 1297.
SUPREME COURT OF ILLINOIS. SEPTEMBER 25, 1973

Petitioner applied for admission to the practice of law after committee on character and fitness had been unable to certify that he had the requisite good moral character and general fitness to practice law. The Supreme Court held that mischaracterization of nature of pending action listed in application for admission to the practice of law and the making of untrue, scurrilous and defamatory charges against members of district committee on character and fitness warrant denial of application.

Application denied

1. *Attorney and Client*—4

State possesses authority to inquire into private and professional qualifications of applicant for admission to the practice of law. Supreme Court Rules, rule 708(d), S.H.A. ch. 110A, § 708(d).

2. *Attorney and Client*—7

Where applicant for admission to the practice of law refuses to cooperate in investigation of his character and fitness to practice by failing to answer constitutionally permissible questions or where evidence adduced demonstrates other appropriate bases, state may deny admission. Supreme Court Rules, rule 708(d), S.H.A. ch. 110A, § 708(d).

3. *Attorney and Client*—4

Mischaracterization of nature of pending action listed in amended application for admission to the practice of law and the making of untrue, scurrilous and defamatory charges against members of district committee on character and fitness warrant denial of application. Supreme Court Rules, rules 708(b, d), S.H.A. ch. 110A, § 708(b, d); U.S.C.A. Const. Amend. 1.

4. *Attorney and Client*—5

Applicant for admission to the practice of law has duty to see to it that matters contained in application are accurately described and, where a gross mischaracterization appears, committee on character and fitness is justified in refusing to certify applicant unless reasonable explanation is proffered.

5. *Attorney and Client*—4

Giving of improper oaths by applicant for admission to the practice of law subjects declarant's integrity and veracity to question. Supreme Court Rules, rule 708(d), S.H.A. ch. 110A, § 708(d).

6. *Attorney and Client*—7

Correspondence sent by applicant for admission to the practice of law to members of committee on character and fitness can be considered in determining applicant's fitness to practice law. U.S.C.A. Const. Amend. 1.

7. *Attorney and Client*—7

Letter which applicant for admission to the practice of law has sent to an attorney and which contains invective directed against the attorney can be considered by committee on character and fitness, after both applicant and committee's counsel have rested their cases, in rebuttal to applicant's presentation.

8. *Attorney and Client*—4

Activities of applicant for admission to the practice of law warrant denial of application when those activities, if they had been performed by an attorney, would have warranted disciplinary action.

9. *Constitutional Law*—287

Hearing before district committee on character and fitness to determine fitness of applicant for admission to the practice of law did not deny applicant procedural due process on theory that committee counsel improperly functioned in dual role

of investigator and prosecutor, that committee was not in position to render decision adverse to applicant because of his accusations directed at committee members and that entire committee may have been prejudicially affected because four of its members had voluntarily disqualified themselves after substantive rulings had been made.

John F. Bauzhaf, III, Washington, D.C., for petitioner.

Robert P. Cummins, Chicago, for respondent.

Per Curiam :

Petitioner, Anthony R. Martin-Trigona, applies to this court for admission to the practice of law in this State after the Committee on Character and Fitness for the First Judicial District was unable to certify that he had the requisite good moral character and general fitness to practice law. 50 Ill.2d R. 708 (d).

Petitioner passed the Illinois bar examination in March, 1970, and submitted his application with the necessary affidavits to the Committee on Character and Fitness for the Fourth Judicial District. That committee conducted an extensive investigation of petitioner and held four hearings. Petitioner subsequently sought disqualification of the committee, and we ordered the matter referred to the Committee on Character and Fitness for the First Judicial District and further directed that committee to employ counsel to assist in the discharge of its duties.

Following an extensive period of correspondence between counsel for the committee and its members and petitioner and his counsel, during which time petitioner's counsel withdrew and new counsel was retained by him, that committee advised the petitioner of four matters that bore adversely to his application. First, his refusal to undergo a current psychiatric examination; second, his misleading characterization on his application of pending litigation in which he was involved; third, his communications with the committee and its counsel; fourth, the volume, nature and content of the litigation set out in his application. A hearing was held at which petitioner was represented by counsel. The committee, after receiving evidence, including various affidavits in support of petitioner's admission, was unable to certify him as qualified to practice law. In his brief, petitioner presents three issues: first, the record does not support the committee's findings; second, he was denied procedural due process; third, any further delay in his admission to practice would be unconscionable.

[1, 2] As the United States Supreme Court has said, "A State can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar, but any qualification must have a rational connection with the applicant's fitness or capacity to practice law." (*Schware v. Board of Bar Examiners of New Mexico*, 353 U.S. 232, 239, 77 S.Ct. 752, 756, 1 L.Ed.2d 796, 801-802; *Law Students Civil Rights Research Council v. Wadmond*, 401 U.S. 154, 91 S.Ct. 720, 27 L.Ed.2d 749.) It follows that the State possesses the authority to inquire into an applicant's private and professional qualifications in making this determination. In *Koussberg v. State Bar of California*, 366 U.S. 36, 81 S.Ct. 997, 6 L.Ed.2d 105, the court described a screening process for applicants who sought admission to the California bar. This procedure is comparable to that existing in this State which initially places the burden of establishing good moral character and fitness to practice upon the applicant. Properly constituted committees have the power to investigate, question and determine fitness. (In *re Latimer*, 11 Ill. 2d. 327, 143 N.E.2d 20, cert. denied, 355 U.S. 82, 78 S.Ct. 153, 2 L.Ed.2d 111. Where an applicant refuses to cooperate in such investigation by failing to answer constitutionally permissible questions or where the evidence adduced demonstrates other appropriate bases, a State may deny admission.

In the case at bar the First District committee requested that petitioner undergo a psychiatric examination by a specialist who would be mutually acceptable to the parties. This request occurred after the Fourth District committee had obtained information in petitioner's Selective Service file which indicated that petitioner had been purportedly found unfit for military service because of a "moderately-severe character defect manifested by well documented ideation with a paranoid flavor and a grandiose character." His rejection had occurred subsequent to filing his initial application for admission. This information was revealed after the chairman of the Fourth District committee had written the State Director of Selective Service on March 12, 1971, seeking access to petitioner's file. Several days later the State Director, pursuant to the appropriate regulation then in effect (32 C.F.R. sec. 1606.32(4)), authorized that an appropriate committee representative would be permitted to "review" this material at State Selective Service headquarters.

At the hearing before the First District committee, petitioner objected to the introduction of this Selective Service material. The committee overruled the objection and accepted the documents. Petitioner then submitted affidavits from his personal psychologist to the effect that any emotional problems he had previously experienced were due to factors that had since been reconciled. Petitioner further challenged the power of the committee to recommend a psychiatric examination.

Petitioner does not now contest the validity of the aforementioned Federal regulation but rather seeks to exclude the introduction of the Selective Service material on the basis that no lawful authority was established to copy the documents because the authorization only stated that the file might be reviewed. He specifically objects to the use of several documents in the file because of their alleged hearsay nature and his inability to confront the declarant as to the truth of matters therein stated. He further argues that a subsequent favorable report submitted by his personal psychologist in February, 1973, as to his present emotional stability far outweighs any detrimental observations contained in prior reports by this individual. Finally, petitioner asserts that he is willing to undergo a psychiatric examination, but only if this court so orders.

[3] Consideration of the myriad issues raised as to petitioner's mental stability is not necessary. We find that the matters hereinafter discussed are sufficiently adverse to petitioner to warrant denial of his application for admission.

The second matter to be considered is the description of a pending action listed in petitioner's amended application filed with the First District committee which characterized a lawsuit filed by petitioner as one "for interference with [a] lease." The record reveals that this small-claims action, commenced in January, 1972, against a judge, was for "conspiracy, extortion, attempted theft and related offenses * * * violation of the Organized Crime Control Act of 1970, and denial of due process and civil rights * * *, and other tortious conduct." It is to be gathered from the record that this action apparently arose from this judge's conduct while in the performance of his judicial functions. Petitioner sought damages of \$500.

Petitioner now alleges that there is no proof that this was a mischaracterization. Further, he maintains that his attorneys prepared this application and he did not even see this document prior to his signing the affidavit of verification to the effect that the matters contained therein were true. At the hearing before the First District committee, his former attorneys admitted that they had prepared the amended application and submitted it prior to petitioner having seen it. However, the attorneys testified that the amended application was prepared from information supplied by the petitioner and that they were unaware of the true nature of the case.

[4. 5] Our rules (50 Ill. 2d R 708(b)) require that an applicant submit a verified application to the Committee on Character and Fitness. It is his duty to see that matters therein are accurately described. Where, as here, a gross mischaracterization appears, the committee is justified in refusing to certify the applicant unless a reasonable explanation is proffered. A satisfactory explanation was not made in this instance. And, as we noted in the case of *In re Latimer*, 11, Ill. 2d 327, 336, 143 N.E. 2d 20, cert. denied, 355 U.S. 82, 78 S. Ct. 153, L.Ed.2d 111, the giving of improper oaths subjects the declarant's integrity and veracity to question.

It was further proved that petitioner in his correspondence with the First District committee, its counsel and this court, made charges against the members of that committee and its counsel that were untrue, scurrilous and defamatory. While the volume of correspondence is extensive, the substance of several letters will be set out in detail. In correspondence to the committee's counsel he made a number of frivolous demands including a request for a list of clients of each committee member and the political affiliations of each member. In another, petitioner charges that the General Assembly and this court were corrupt, that this court had already decided the merits of his case and that the committee members were emotionally ill and might be compared to "scum" that rose to the top of their profession. In correspondence with this court petitioner charged that "clubby, powerful, Chicago Lawyers" were unduly delaying and harassing him and he demanded that the committee members undergo psychiatric examination. Petitioner also asserted that in secret sessions with his prior counsel, the committee's attorney attempted to force him to cease various pending litigation. He further alleged that he had been harassed by the organized bar through its questionable, illegal acts, and its attempt to affect

a political campaign he was waging at the time. The record reveals charges of a similar nature in other correspondence which contains at times vulgar and profane language.

[6] Petitioner contends that this correspondence is protected by the first amendment's freedom of speech provision and because of its private nature has not caused public harm to any person, organization or profession. Thus, while he concedes these communications are unusual and forceful, he maintains that no action may be taken against him. The question presented is not the scope of petitioner's rights under the first amendment but whether his propensity to unreasonably react against anyone whom he believes opposes him reveals his lack of responsibility, which renders him unfit to practice law.

This type of conduct is not confined to these proceedings. Where judges have ruled against him, petitioner has seemingly ignored proper appellate procedure by his unprofessional actions. He made a "Motion to Vacate Fraudulent Judgment [against petitioner] Entered by an Insane Judge", accusing this judge of misconduct caused by "a pathological antipathy of the defendant [petitioner] which rendered her [judge] temporarily mentally insane for the purposes of proceeding against the defendant." In this motion petitioner asserted that this judge was a defendant in another action commenced by petitioner and therefore should have disqualified herself from consideration of the case in which a monetary judgment was entered against him. This case is described in his amended application for admission as involving a "parking violation" which was filed in December, 1971.

In another matter petitioner filed a motion in December, 1972, against another judge, seeking a hearing to determine "his sanity, competence and fitness to hold judicial office." In petitioner's affidavit in support of this motion he averred that the judge told him to entreat another individual in order to obtain an extension of time in a pending matter. Petitioner refused and further suggested to the judge that the latter "not participate in the case further because you [judge] will be named as a defendant in a related case today." Petitioner claimed that the judge then began to yell, physically assault him, and "spit" on him. As a result of his altercation petitioner concluded that the judge was "not mentally competent to discharge the duties of a Circuit Judge and, whether from marital or medical problems, or from psychopathic hatred of the affiant [petitioner], is not in a fit state of mind to act in any case involving "affiant." Petitioner substantially repeated his conclusions as to the sanity of this judge when he entered his appearance in the case therein pending before the same judge, and in this document further alleged that the judge had unsuccessfully attempted to solicit a bribe from petitioner. He further castigated opposing counsel, a city attorney, in this pending matter as being "unscrupulous and incompetent" and "illegally" representing the city of Urbana, Illinois.

On the same day petitioner filed the aforementioned motions, he also instituted an action naming the judge as a defendant. It was alleged that this judicial officer was involved in a vast conspiracy with real-estate brokers, a bank, the city attorney and others designed to deprive petitioner of his property interests, and, inter alia, it further alleged this judge's involvement in the aforementioned bribery attempt. It would appear from the record that petitioner then sought dismissal of this action without prejudice.

[7] Further, petitioner has, in the course of other business relations in February, 1973, written a letter to a member of the bar referring to documents which bore this attorney's signature as having been signed by a "palsied lunatic." Petitioner specifically charged this attorney with "champerty, barratry and maintenance" and described him as "shaking and tottering and drooling like an idiot, * * * a physically and mentally sick man * * *." Petitioner demanded that this attorney cease his "insane activity." The invective directed against this lawyer, who suffers from a mild case of cerebral palsy, was occasioned upon his serving "notice of forfeiture" upon petitioner in an unrelated real-estate transaction. Petitioner objected to the introduction of this letter and several other aforementioned documents because both sides had rested their cases. Thus he concludes there was no need for him to attempt to refute them. The committee's acceptance of this material was not improper, for we believe that committee counsel had the right to introduce evidence in rebuttal to petitioner's presentation, and many of these matters arose after this counsel had initially presented his case.

[8] Such conduct by an attorney would warrant disciplinary action. (In re Sarelas, 50 Ill.2d 87, 277 N.E.2d 313.) Where it appears that a candidate, who represents to this court that he is fit to practice law, proceeds in the same manner, it can only result in a basis for denial of his application.

[9] Petitioner argues that he was denied procedural due process before the First District committee. The thrust of his allegation is threefold. He asserts that the committee counsel improperly functioned in a dual role of "investigator and prosecutor" while advising the committee members as to legal matters pertaining to this case. Secondly, he implies that the committee was not in a position to render a decision adverse to him because of his accusations directed at committee members. Finally, he suggests that the entire committee may have been prejudicially affected because four of its members voluntarily disqualified themselves after substantive rulings had been made. To alleviate any possible charge of bias in future cases of this nature petitioner suggests a possible alternative procedure applicable to attorney disciplinary matters. However, petitioner requests that in this instance, because of lengthy delay, we ignore the committee's recommendation in arriving at our decision as to the propriety of petitioner's qualifications.

Our decision in the case of *In re Latimer*, 11 Ill.2d 327, 143 N.E.2d 20, cert. denied, 355 U.S. 82, 78 S.Ct. 153, 2 L.Ed.2d 111, is dispositive of several of these contentions. In that case we observed: "Admission cases are not governed by the same rule as disciplinary actions against attorneys, where definite charges are lodged. Under our rules the committee is charged with the duty of inquiry and investigation, not preferring charges, and granting certificates only to such personnel as are fit, by good character and morals, to be admitted to the practice of law." (11 Ill.2d at 332, 143 N.E.2d at 23.) We further noted that it was the committee's duty to conduct a sufficient investigation to enable it to properly pass upon an admission application. In this regard we find no basis for petitioner's critical analysis of the function of counsel for the committee.

We must reject the contention that the committee was an improper forum to decide petitioner's case because it had been allegedly prejudiced by his accusations against it. The tenor of petitioner's correspondence is analogous to that involved in *Latimer*, and our remarks there are equally applicable in this instance. "They [applicant's statements] were disparaging of the commissioners * * * and constituted a forum of intimidation calculated to compel the granting of a certificate of good moral character and fitness, irrespective of applicant's qualifications." (11 Ill.2d at 833, 143 N.E.2d at 24.) Moreover, under the circumstances, we believe the voluntary disqualification by several committee members during the course of these proceedings is rather indicative of the conclusion that petitioner received a proper determination as to the merits of his application and we reject any contrary suggestion.

In petitioner's presence at the termination of oral argument in this cause on June 21, 1973, we directed the clerk of this court to file all correspondence directed to the court or its members by petitioner concerning this matter. This material was to be incorporated in the record. After this cause was taken under advisement for decision and opinion, each member of this court on or about July 23, 1973, received notice that his deposition was being taken by petitioner on written interrogatories in a pending action commenced by petitioner in the Federal District Court, Northern District of Illinois (73 C 1255), against counsel for the First District committee and other parties. The clerk is now directed to file those interrogatories as a part of the record in this proceeding.

After review of all these matters, we find that it has been demonstrated that petitioner should not be admitted to the practice of law in this State. While it is not challenged that he may possess the requisite academic qualifications to practice law, the record overwhelmingly establishes that he lacks the qualities of responsibility, candor, fairness, self-restraint, objectivity and respect for the judicial system which are necessary adjuncts to the orderly administration of justice. Petitioner's application for admission is denied.

Application denied.

Senator BURDICK. Senator Thurmond.

Senator THURMOND. Thank you.

Mr. Martin-Trigona, as I understand you are testifying here against Judge Stevens upon the information that Mr. Torshen gave you. You do not have any knowledge yourself of it, but it is what Mr. Torshen told you; is that correct?

Mr. MARTIN-TRIGONA. Senator, if I might just clarify a point which I made at the beginning of my testimony, and I am not sure you were here at that time. I think I indicated, I hope clearly, that I am not testifying per se against Mr. Stevens.

I indicated that there were matters which I felt the committee ought to pursue on its own. Since I cannot resolve them with finality to the extent that any ultimate conclusions would be formed as being adverse, that would be a finding of the committee, and not of my own. It is correct with respect to the second phase of your question that, yes, initially the information presented to the committee last week did relate to information furnished to me by Mr. Torshen.

I think it is fair to point out that I have engaged in a struggle in the courts of some 3 years' standing or pending seeking to ascertain the ultimate truth of Mr. Torshen's statements by reference to the documents themselves. I have been unsuccessful to date in securing the disclosure of the commission records. I do have 60 days from October 30 to petition for certiorari to the Supreme Court. If time permits, I would like to do so and there may be additional remedies available at this time.

In the State courts I just do not know, but yes, at this time what I know arises out of what Mr. Torshen told me. I think the earlier testimony was also quite clear. I saw Judge Stevens for the first time in my life on Monday when he came to the committee and was questioned by the various members.

Senator THURMOND. Well, in other words, what you are saying is that Mr. Torshen made certain statements to you and you relied on that and you believe in that and that is the reason you are here today, is it not? Otherwise, you would not be here.

Mr. MARTIN-TRIGONA. Senator, I think it is a very fair characterization. Let me answer you with greater specificity. He was my attorney. At the time that he was representing me, I had total faith in this man. He represented me for almost 2 years. I paid him somewhere around \$5,000 or \$6,000 or \$7,000, I do not remember how much. I believed the man. I still believe that what he told me was true.

However, assuming it was mere lawyer's—or untrue or trying to impress a client, the ultimate truth, it seems to me, can be ascertained by looking at the documents. The documents speak for themselves. The record would speak for itself. All I am trying to do is suggested to the committee that it send either a member of the committee or a staff member to examine the documents and that that member or staff member form an opinion and report back.

I would be very happy if the staff member came back and said there is nothing to it. Mr. Torshen told a lie. Mr. Trigona was in error when he believed Mr. Torshen. I do not have any vested interest in fighting John Paul Stevens. I have never met the man before Monday.

Senator THURMOND. In your affidavit, paragraph 17 reads this way :

Mr. Torshen assured me on numerous occasions that if the full and complete record of investigatory materials which had been assembled by himself and Mr. Stevens had been released, at least two additional judges (in addition to the two who did in fact resign) would have been forced to resign from the Illinois Supreme Court.

Did Mr. Torshen assure you of that?

Mr. MARTIN-TRIGONA. Yes.

Senator THURMOND. In paragraph 18 :

Mr. Torshen mentioned the specific name of one judge and stated in words to the substance of : "He would be off the Court today if it were not for the fact that we restricted the scope of our report and limited the findings to the specific area of our mandate, and kept our mouths shut about other information which we developed as a result of our investigatory activities." Mr. Torshen also referred me to the actual report of the Special Commission to note the careful manner in which key passage of the report had been drafted to limit the scope of the disclosure being made.

Did Mr. Torshen tell you that ?

Mr. MARTIN-TRIGONA. Yes, sir. I might point out that I did not identify the judges who he mentioned. I would prefer not to identify them simply because I do not think it is relevant to this proceeding. Second, Mr. Torshen may have lied ; third, it might cast aspersions. However, I would be perfectly happy to furnish the names of the judges that he mentioned to the committee, either in closed session or in a closed written transmittal. I am not sure that is relevant.

Senator THURMOND. Your case then has to be built on what Mr. Torshen told you because you have no direct evidence yourself. Judge Stevens has made no statements to you and me and no one else has made any statements to you, except Torshen ?

Mr. MARTIN-TRIGONA. Yes, Senator, I think it is a very fair characterization.

Senator THURMOND. Now, in the affidavit of Mr. Torshen presented by the Senator from North Dakota here, Mr. Torshen in response to that says :

These charges are false, malicious and scurrilous. No such statements were ever made by affiant to Mr. Martin-Trigona. Moreover, no material was obtained by the staff of the Commission which indicated any impropriety, much less illegal conduct, on the part of any members of the Illinois Supreme Court other than those two Justices who resigned.

So you see what Mr. Torshen says about your statement.

Mr. MARTIN-TRIGONA. Well, Senator, if I may respond to your question very briefly—

Senator THURMOND. In other words, you do not agree. Are you saying Mr. Torshen said something and Mr. Torshen denies it and you now want to deny that ? He uses very strong language. He says "false, malicious and scurrilous."

Mr. MARTIN-TRIGONA. Let me make this response to your characterization, Senator. First of all, if Mr. Torshen's affidavit can be taken as truth, there is no damaging evidence, then I would have assumed that they would have resolved the issue with finality by asking that the evidence or reports of the commission be disclosed.

Although he attacks me personally and makes his own characterization of the records of the commission, he does not offer to disclose them.

Secondly, I think what you get into is—quite frankly, you are a lawyer and I will talk to you as a lawyer, Senator—a question of tussling over credibility. For example, if this was a lawsuit rather than a congressional hearing, the judge would say we have two witnesses and he would probably enter a discovery order. The documents would be produced and perhaps initially examined in camera by the court and ultimately they would find themselves into the record of the trial.

Now we do not have that situation here simply because—

Senator THURMOND. We are going to have to move on, so if you will just answer the question. You have had your opportunity, and we wanted you to have it, but our time is somewhat limited.

Now, do you know Mr. Henry L. Pitts, the president of the Illinois State Bar Association?

Mr. MARTIN-TRIGONA. Do I know him personally, Senator? No. I have never met him.

Senator THURMOND. Have you ever heard of him?

Mr. MARTIN-TRIGONA. Yes, many times. He is a fairly prominent attorney.

Senator THURMOND. He was a member of that five-man special commission, was he not?

Mr. MARTIN-TRIGONA. I believe he was, yes. I could refresh my recollection by referring to the report. I do happen to have a copy with me and I can confirm it momentarily.

Senator THURMOND. Look in your book and see if you can find it.

Mr. MARTIN-TRIGONA. Yes, Henry Pitts signed the reports. He was one of the members.

Senator THURMOND. Now he made an affidavit here and here is what he said:

As organizers of the Special Commission, Messrs. Greenberg and I were familiar with all of the oral and documentary evidence adduced during the investigation. I personally read every deposition taken by members of the Special Commission's legal staff and reviewed documents obtained during the course of the investigation. All leads developed by the legal staff were reviewed by Mr. Greenberg and me and the other members of the Special Commission.

Based upon the foregoing, I can state without any reservation whatever that no evidence regarding the conduct of any judge of the Supreme Court of Illinois was suppressed by Messrs. Stevens and Torshen.

Then he goes on and praises Judge Stevens.

Now do you know Mr. Frank Greenberg?

Mr. MARTIN-TRIGONA. I do not know him personally. Is that your question. I have not met him personally.

Senator THURMOND. Well, he was the chairman of this commission, I believe, was he not? Look up his name and see if his name is in there.

Mr. MARTIN-TRIGONA. He was the chairman.

Senator THURMOND. He was the chairman. Well, let us see what he says about it. He says:

The occasion of this affidavit is that I am informed that one Anthony Martin-Trigona has made a charge, the substance of which I understand to be that Mr. Stevens and his associate counsel, Jerome H. Torshen, discovered during the course of the Commission's investigation, and suppressed, evidence which, if disclosed, would have led to the resignation of two other justices of the Illinois Supreme Court. I believe this charge to be wholly false and I regard Mr. Anthony Martin-Trigona as a particularly unreliable gossip-monger.

Both Mr. Stevens and Mr. Torshen were in constant communication with me during the entire course of the Commission's investigation and I am completely confident that I was privy to all of the information which they or other members of the Commission staff may have had with respect to alleged misconduct or improprieties on the part of any member of the Illinois Supreme Court. Had Mr. Stevens or Mr. Torshen been in possession of evidence tending to implicate any other members of the Illinois Supreme Court in the matters which were the subject of the Commission's investigation I am certain that I would have known about it.

So here is the chairman of the commission, and the man who served as president of the Illinois Bar Association who takes a position that is adverse to the position taken here. Now do you have—again we want

to ask you—do you have any evidence, any knowledge of your own, against Mr. Stevens being confirmed?

Mr. MARTIN-TRIGONA. Well, again, Senator, I would like to point out that I am attempting in my testimony to bring to your attention matters which I feel the committee should investigate using the rather broad powers which are available to it. I feel relatively confident that were I to be delegated with the committee's power that the information which I have reviewed could be flushed out with documents.

Senator THURMOND. You heard what the chairman of the commission said, and you heard what a member of the commission said, and you heard Mr. Torshen's affidavit which contradicts you. Now do you have any evidence of your own? What do you know yourself against Judge Stevens that should command the attention of the Senate to consider to prevent confirming?

Mr. MARTIN-TRIGONA. Well, Senator, the full thrust of my testimony here today involves a number of areas.

Senator THURMOND. I am not speaking about the thrust of your testimony. You have already given us that. I am asking you what evidence do you have yourself, what knowledge do you have yourself that you can contribute to this committee, that is adverse to Judge Stevens, that would warrant the Senate to refuse to confirm him?

Mr. MARTIN-TRIGONA. Senator, I think there is a predicate in your question which I find troublesome. I do not think it is necessary for me to come before the committee and say here is something which I think is adverse. I think it is entirely appropriate for a witness to come before the committee and say here is something—a matter which is something I think you ought to investigate to resolve with a particularity, and to determine with finality.

Senator THURMOND. That is what the committee has done. That is what these affidavits are all about.

Mr. MARTIN-TRIGONA. That is part of the committee's work product. But I notice—I think it is a very interesting comment on the affidavit—none of the three gentlemen say why don't they look at the documents if they don't believe us. I don't see why there would be any difficulty with either the committee or staff member looking at the documents to make an independent assessment.

I think one can reflect on the Watergate hearings where the President of the United States made a number of statements which were later found to have a questionable foundation in fact. I do not want to get into that particular tragedy in our national history, but nevertheless, people tend to—

Senator THURMOND. Was Mr. Torshen your attorney when you applied to be admitted to the bar in Illinois?

Mr. MARTIN-TRIGONA. Yes; and I trusted him implicitly. I believed in that man and I think the record will reflect that he represented me for a period of 2 years.

Senator THURMOND. I believe the distinguished Senator from North Dakota has put in the record a copy of that decision by which you were denied the practice of law.

Mr. MARTIN-TRIGONA. He was not my attorney at that time.

Senator THURMOND. I will not take time to go into that, but I just wanted to note that Mr. Torshen was your attorney.

Mr. MARTIN-TRIGONA. Not at that time.

Senator THURMOND. You had released him at that time?

Mr. MARTIN-TRIGONA. I believe I testified earlier that we had come to a disagreement.

Senator THURMOND. He was your attorney prior to that, is that it?

Mr. MARTIN-TRIGONA. Yes. He was my attorney from approximately July of 1970 to April of 1972. I was then denied admission in September of 1973.

Senator THURMOND. Well, thank you very much.

Mr. MARTIN-TRIGONA. Thank you, Senator. I appreciate the opportunity to put these matters to the attention of the committee.

Senator BURDICK. Our next witness will be Mr. Rocco Ferran, president of the Citizens for Legislative Reform, Albany, N.Y.

TESTIMONY OF ROCCO FERRAN, PRESIDENT, CO-EQUAL CITIZENS FOR LEGISLATIVE REFORM, INC., ALBANY, N.Y.

Mr. FERRAN. Thank you, Senator.

My name, for the record, is Rocco Ferran. I am president of the Co-Equal Citizens for Legislative Reform. We have a box address, 1976, Albany, N.Y.

I would like to say that the Co-Equal Citizens for Legislative Reform strenuously oppose the nomination of John Paul Stevens to be associate justice of the Supreme Court for the following reasons:

Because Judge Stevens is a lawyer, a member of a profession which is already over-represented on the Supreme Court.

We oppose because the selection process utilized by President Ford was undemocratic and probably unconstitutional, employing, as it did, a private lawyers club, the American Bar Association, to recommend a candidate, while at the same time denying participation to those Americans who will be most affected by the new Justice's decisions.

We oppose because a representative form of government requires that there be a diversity of occupations in the hierarchy.

We oppose because logic, reason, and justice prescribe that a non-lawyer, a member of the governed, should be on the Supreme Court.

We oppose because there is an overwhelming need for, and an undeniable right to an ultimate authority, such as a Supreme Court Justice, who is not a lawyer.

Because Judge Stevens is a lawyer, that is more than sufficient reason to deny his nomination for the position of Supreme Court Justice.

Lawyers make up less than one-fifth of 1 percent of the population, yet virtually all power and authority in the United States is held by individuals or groups who are lawyers. The law profession itself is an unregulated monopoly which treats the law as its own private reserve.

"Justice", Aristotle remarked, "is a peculiar virtue in that its possessor benefits his fellow members of society rather than himself." The main beneficiary of justice in this Nation would appear to be lawyers.

The very best lawyer candidate for Associate Judge of the Supreme Court is the least desirable choice of the governed. Lawyers get no brownie points when they habitually exclude the governed from the whole of the Federal judiciary. Lawyers in sum are not