

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

only over-represented on the Supreme Court, they are also under-responsive to the constitutional rights of the governed.

We oppose because the selection process employed by the President is undemocratic. The use of the American Bar Association, a private lawyers' club, to screen candidates for positions on the third branch of Government, while excluding all other citizens and groups is repugnant at best, and probably illegal.

The American Bar Association, with its built-in biases and its micro-minority status, does not have a constitutional role in the selection process. The American Bar Association is by no means exemplary of the democratic process and is in no way qualified to make selections for the other 99.9 percent of the population. The thought of the American Bar Association discarding the qualities in a Supreme Court candidate that may well be the prime prerequisite of the governed is unconscionable.

We oppose because Judge Stevens' nomination runs counter to the prerequisites of a representative form of government.

The questionable claim to exclusive expertise is no justification for allowing any single group to gain control of any branch of government. Experts are the servants of power, not the other way around.

The importance of this appointment might have been alluded to by Thomas Jefferson when he said—

Were I called upon to decide whether the people had best be omitted in the legislative or the judiciary department, I would say it is better to leave them out of the legislative. The execution of the laws is more important than the making of them.

We oppose because logic, reason, and justice prescribe that a non-lawyer, a member of the governed, should be on the Supreme Court. Knowledge of what the law is is a universe removed from knowing what the law should be. It could be justly argued that lawyers should be encouraged to perfect their profession, while leaving the citizens free to perfect their society. It is more preferable that laymen learn what the law is, than to have lawyers or any single group determine what the law should be.

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

Vast inequities exist in our society simply because lawyers are all pervasive in government. For instance, the New York State attorney general prosecutes criminal violations under provisions of the education law which governs the conduct of all the professions existing the law profession. In private practice, lawyers have virtually immunity from the consequences of their actions as a direct result of one of their unwritten laws: a lawyer never sues another lawyer on behalf of an aggrieved client.

Chief Justice Warren Burger has said—

The legal profession has failed to discipline errant lawyers. For the last 20 years, at least, the disciplining of lawyers has been almost nonexistent. The public feels the pain but does not know what caused it or what to do about it.

We believe most sincerely that the prescription to cure that pain and many others is before this Senate Judiciary Committee at this moment, rejection of the President's proffered candidate and the institution of a democratic selection of a member of the governed in his stead.

For over 300 years the black citizens of this Nation have been treated as if they were inferior and that they, therefore, must take inferior roles in society.

For 200 of those years the vast majority of the population has been propagandized into believing that lawyers were best qualified to be judges, legislators, and so forth the implications being that the vast majority of the citizenry are inferior to the lawyers and therefore incapable of taking care of their own destiny.

The first of these two myths has finally been discredited by an enlightened black people, fighting for their rights.

Let the selection of a nonlawyer Associate Justice of the Supreme Court signify the beginning of the end of the second myth.

Senator BURDICK. Thank you.

Senator THURMOND. Mr. Ferran, as I understand the thrust of your statement here is that you prefer for a lawyer not to be appointed. Is that right?

Mr. FERRAN. That is correct, essentially, except that I might add that that really, in essence, is only 10 percent of it and that the citizen, the governed, have been excluded from the whole judiciary and, therefore, it is 200 years overdue that one layman be represented, not only on the Supreme Court judiciary, but even in the whole of the Federal judiciary because at this very moment all the positions of power in this country of authority are in the hands, incidentally, probably of lawyers, and if a person has a grievance with a lawyer, which happens very often, he has nowhere to go but to lawyers, and for that very simple reason, I believe that 90 percent of the thrust of my argument is simply for the cause of justice to have an individual and not have to go to someone who may have a bias.

Senator THURMOND. I know of no requirement that a man or a woman appointee to the Supreme Court be a lawyer. Most of the States have requirements of that kind, but I do not know of any such requirement for the U.S. Supreme Court. But how would it suit you to appoint a person who has a legal mind, with a layman's heart?

Mr. FERRAN. Senator Thurmond, I believe that out of 200 million people, there are many thousands that would qualify to be on the Supreme Court. At the moment, right now and for almost 200 years, the Supreme Court has been one dimensional. It has been trained, the individuals on the Supreme Court have been trained to know what the law is. The most important thing that the layman wants is justice, which is what the law should be, and I don't believe one group, that the limited resources of one group, specifically lawyers, can be taxed indefinitely to acquire justice for the vast majority of the people. It hasn't happened.

At this very moment there are many hundreds and, perhaps, thousands of people who are, to use the term used by our younger generation "ripped off" who have nowhere to go because the bar associations, the appellate divisions of the Supreme Court, the attorney generals, are all lawyers and they are all decidedly playing the same game.

This is the case in New York State, and I have no reason to believe that it is not the case in any other State of the Union.

As I showed in my testimony, the lawyers of the Supreme Court have exempted themselves from the law, from criminal prosecution. I have talked to the State Republican chairman, and he says this is prob-

ably unconstitutional, and, yet, at the same time here is the attorney general of New York State with this discriminatory law against the citizens of New York State and doing nothing about it. If a citizen goes in and says, I have a problem with a lawyer, he sends him to the district attorney or someplace else. He will not prosecute, but against a doctor or another professional, glad to.

Senator THURMOND. You understand the Senate only acts upon the nominations that are sent to us by the President, so the solution to your problem seems to me would be to contact the President before he makes an appointment.

Mr. FERRAN. We have contacted the President before this appointment and, of course, it didn't do much good, obviously.

Senator THURMOND. Thank you very much.

Mr. FERRAN. Thank you very much, sir.

Senator THURMOND. Our next and last witness is Mr. Robert J. Smith, of Michigan City, Ind.

Mr. Smith, there is a rollcall vote on the Senate floor. If I leave, you will understand that we will take a brief recess. I am a pretty fast walker.

#### **TESTIMONY OF ROBERT J. SMITH, MICHIGAN CITY, IND.**

Mr. SMITH. For the record, my name is Robert J. Smith.

Senator THURMOND. I am informed that you have a lot of material here that you would like to have considered. It will be received for the committee's files.

Mr. SMITH. Thank you, sir. My name is Robert J. Smith. I reside at 1106 Lakeshore Drive, Michigan City, Ind.

I wish to state that I am relatively poorly prepared for this hearing today for several reasons. One, Judge Stevens was a surprise nominee. His name did not appear in any of our periodicals. I was not apprised that Judge Stevens was to be considered the nominee until he appeared on TV on December 1.

I have an additional problem in that all of my case files, to which I would normally refer, are packed up because we are facing a momentary move from our home, and I do not have access to them.

I have suggested to the committee by telegram that they bring in all Smith case files from the appellate court and, perhaps, from the district court, so that they could be incorporated into the record by reference.

Let me also preface my remarks by saying I am a proud American. I am solidly conservative, one who deeply reveres the Constitution of the United States. I am not a member of any group, although I have been labeled by my political enemies as a political pariah, one who is to be totally denied due process of law and all constitutional rights. Judge Stevens is one of these enemies, and one who has used his high office as judge of the seventh circuit to aid his fellow conspirators by placing a political mark of Cain upon me. And Mr. Stevens, even more so, must bear the greater responsibility by reason of his highest office. Because of his eminent position, he could have and he should have, as a just judge, stopped the 15-year reign of terror that I and my blind wife have suffered under.