

WOMEN'S LEGAL DEFENSE FUND,
Washington, D.C.

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee,
Washington, D.C.

STATEMENT OF OPPOSITION TO THE NOMINATION OF JUDGE JOHN PAUL STEVENS TO
THE SUPREME COURT OF THE UNITED STATES

The Women's Legal Defense Fund, a non-profit, tax exempt corporation organized in 1971 to secure equal rights for women by providing volunteer legal representation in sex discrimination cases, whose membership includes both attorneys and lay persons, wishes to state that we oppose the nomination of Judge John Paul Stevens to the vacant Supreme Court seat for the following reasons:

1. Judge Stevens' comment that race discrimination is a "more important" issue than sex discrimination shows a blatant insensitivity to discrimination against women.

2. His statement that he would never rule sex as a suspect classification, such sex-based discrimination to be subjected to the strictest scrutiny by the Supreme Court, reveals a predisposition to rule adversely in cases which women bring under the Equal Protection Clause of the 14th Amendment to the Constitution.

3. His self-admitted lack of knowledge of the legal implications of the Equal Rights Amendment to the Constitution is appalling in light of the Supreme Court's function of understanding and interpreting the Constitution of the United States; and surprising in light of the opinion which he wrote in *Dyer v. Blair*¹ upholding a state of Illinois procedural rule change which effectively defeated the Equal Rights Amendment in Illinois.²

4. His decision in *Sprogis v. United Airlines*³ shows that Judge Stevens based his opinion in that case on preconceived notions of women rather than the regulations arising under Title VII of the Civil Rights Act of 1964 (as amended in 1972) dealing with sexual equality, and in fact, misinterpreted Title VII. His opinions in both *Doc v. Bellin Memorial Hospital*⁴ and *Cohen v. Illinois Institute of Technology*⁵ which denied that there was any state action present, prevented the female plaintiffs in those cases from ever reaching the central issue involved—sex based discrimination.

For the above reasons, the Women's Legal Defense Fund urges you to re-examine the credentials of Judge Stevens as to his fitness to serve on the Supreme Court and further urges you to vote "no" on his nomination.

NAN ARON,
President.

BERGER, NEWMARK & FENCHEL,
Chicago, Ill., December 2, 1975.

Re Hon. John Paul Stevens.

Hon. JAMES EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: It is my understanding that several years ago, when Judge Stevens' nomination for his present judicial office was being considered by the United States Senate, Mr. Leslie G. Behrend, of Barrington, Illinois, wrote to the Senate Committee on the Judiciary with relation to an arbitration award which had been made by John Paul Stevens, as arbitrator, when he was an attorney practicing in Chicago. I only learned of that letter subsequent to its receipt by the committee.

I represented Mr. Behrend in relation to that award (but only subsequent to its entry). The arbitration proceeding was administered by the American Arbitration Association (Chicago office) and was designated No. 51 10 0010 67-C, Leslie G. Behrend and Robert G. Woods. The proceeding involved an accounting, between ex-partners, as to the management consultant business they had operated.

¹ 390 F. Supp. 1291 (7th Cir. 1975).

² The ERA had been approved by a simple majority vote in the Senate; the rule change required a 3/4 vote of the legislature.

³ 444 F. 2d 1194 (7th Cir. 1971).

⁴ 479 F. 2d 756 (7th Cir. 1973).

⁵ 74-1930 (7th Cir. October 28, 1975).

Subsequent to entry of an award in favor of Mr. Woods, Mr. Behrend's then attorney made a motion, in the companion court action between Woods and Behrend, to vacate the arbitration award. That motion was denied and the award was affirmed. That action was in the Circuit Court of Lake County, Illinois, and was designated John Robert Woods vs. Leslie C. Behrend, No. 67 C 1337.

After the court's denial of his motion to vacate the award Mr. Behrend engaged this firm and I undertook to represent him regarding the above arbitration award and court action. I filed a motion under Section 68.3 of the Illinois Civil Practice Act for reconsideration of the court's prior orders and for vacation of the award and for other relief. The main thrust of the motion was that the partnership agreement specifically put the partnership on a cash basis while the award was predicated at least in part, on an accrual accounting basis. Neither in my motion, nor otherwise, did I raise any question as to the arbitrator's integrity or competence. The award was vacated by Judge Minard E. Hulse on January 30, 1969 and the cause was remanded to the arbitrator, or his successor, with directions relating to various accounting points (including a cash basis accounting as to three contracts in issue). The court order in no way raised any question as to the arbitrator's integrity or competency. Nor was any such question in any way involved either in the arbitration proceeding or in the court action.

I have known John Paul Stevens since about 1952 and have participated in litigation in which he was also serving as attorney. His conduct and demeanor has always been above reproach, his exceptional legal ability manifest.

At the time that Attorney Stevens' nomination to the Court of Appeals was under consideration, I wrote a letter similar to this one to the then Senate Judiciary Committee. I wrote that letter, and I write this one, to lay at rest any charge or intimation of any impropriety on the part of the arbitrator, John Paul Stevens, in his rendition of the above referred to award.

In my opinion Judge Stevens will make an outstanding member of the Supreme Court of the United States.

Respectfully submitted,

HARRY D. LAVERY.

BAR ASSOCIATION OF THE SEVENTH FEDERAL CIRCUIT.

Chicago, Ill., December 8, 1975.

HON. JAMES O. EASTLAND,
Senate Judiciary Committee, U.S. Senate,
Washington, D.C.

MY DEAR SENATOR EASTLAND: It is my great pleasure to submit to you, for your consideration and that of other Committee members, and for inclusion in the record of confirmation hearings of the Senate Judiciary Committee being held on the nomination of Circuit Judge John Paul Stevens to the Supreme Court, true copies of a resolution unanimously adopted by the Board of Governors of the Bar Association of the Seventh Federal Circuit, at its meeting on December 6, 1975, in Chicago, Illinois.

Sincerely,

WILLIAM M. EVANS,
President.

Enclosure.

RESOLUTION

Whereas, President Ford has nominated John Paul Stevens, Circuit Judge, U.S. Court of Appeals for the Seventh Circuit, to fill a vacancy in the U.S. Supreme Court; and

Whereas, the U.S. Senate Judiciary Committee is about to hold hearings on the confirmation of that appointment; and

Whereas, Supreme Court Justice designate Stevens is uniformly recognized by the Bar and Bench alike, in both the Seventh Federal Judiciary Circuit and elsewhere, to be highly qualified to serve on our highest Court by reason of demonstrated fairness, integrity and high intellect; and

Whereas, after an excellent college and law school record interspersed with distinguished service in the Armed Forces, John Paul Stevens has demonstrated in a career of nearly three decades as law clerk, scholar, counsel to a Congress-