
(Nos. 73 CC 5, 74 CC 4 cons.—Respondent censured.)

In re CIRCUIT JUDGE GEORGE KAYE of the Eleventh Judicial Circuit, Respondent.

Order entered July 12, 1974.—Order denying motion for reconsideration and modification entered September 4, 1974.

SYLLABUS

On November 19, 1973 and on May 7, 1974, the Judicial Inquiry Board filed multi-count complaints with the Courts Commission, each complaint charging the respondent with willful misconduct in office, conduct that is prejudicial to the administration of justice and conduct that brings the judicial office into disrepute. The complaints were consolidated for hearing before the Courts Commission.

In summary form, Complaint No. 73 CC 5 alleged in Count I that the respondent raised a defendant's bond in a criminal matter because the defendant did not replace his attorney with one suggested by the respondent, and that the respondent interfered with the attorney-client relationship. Count II alleged that the respondent refused to sign two decrees in an attempt to influence a course of conduct by the attorneys of record. Count III alleged that the respondent attempted to usurp the power of the chief judge by promulgating certain administrative orders. Count IV alleged that the respondent acted in a discourteous, intemperate and abusive manner toward the chief judge, attorneys, witnesses, etc.

In summary form, Complaint No. 74 CC 4 alleged in Count I that the respondent solicited a $300 contribution to the county law library fund from counsel to convene a special jury in a civil matter and that he deposited the $300 check, drawn by one of the attorneys in the civil matter, in his personal bank account. Count II alleged that the respondent failed to disclose on an application for appointment to an associate judgeship that he was arrested for disorderly conduct in 1952, and that he was a plaintiff in a civil case in 1954.

Held: Respondent censured.

William J. Scott, Attorney General, of Springfield, for Judicial Inquiry Board.

Jack A. Brunnenmeyer, of Peoria, for respondent.

Before the COURTS COMMISSION: SCHAEFER, J., chairman, and EBERSPACHER, STAMOS, DUNNE and FORBES, JJ., commissioners. ALL CONCUR.

ORDER

The respondent in this case is 44 years old. He was admitted to the bar in 1957. After his admission, he was an employee of several law firms in Chicago. He was active in bar association affairs and served as a member of the Board of Governors of the Illinois State Bar Association. He has had broad experience in trial and appellate practice, and has written extensively in legal publications. He decided he wanted to become a judge, and he applied for appointment as an associate judge in Cook County and also in the Third and Eleventh Judicial

Circuits. Appointments as associate judge are made by the circuit judges of the circuit and the respondent was not appointed. He moved to Paxton, Illinois, in Ford County in the Eleventh Judicial Circuit, and when a vacancy occurred in the office of resident circuit judge of that county, he was appointed by the Supreme Court to fill that vacancy. Two complaints were filed against the respondent—No. 73 CC 5 and No. 74 CC 4. They were consolidated by the Commission.

The evidence shows that for many years preceding the appointment of the respondent as resident circuit judge of Ford County, judicial administration in that county had been extremely lax. Civil jury cases had been allowed to remain pending for many years, and although the statute requires annual accountings in probate matters, in many instances several years had passed without any accounting. A custom had arisen of disposing of some criminal cases by a procedure, not authorized by statute, known as "bond forfeiture." As described by the witnesses, the procedure operated this way: after a criminal case had been instituted an agreement would be reached between the State's Attorney and the attorney for the defendant as to an appropriate monetary penalty to be imposed. The defendant would then be present in court at a hearing at which the bond for his appearance would be set at the amount that had been agreed upon as an appropriate penalty. The case would then be continued for an hour or so. When it was called again, the defendant, pursuant to the agreement, would not appear. His bond would then be forfeited and the criminal case would be stricken off the docket with leave to reinstate. The supposed advantage to the defendant was that there would be no record of conviction. For many years, however, the statute has made it a criminal offense for a defendant admitted to bail to willfully fail to appear. Ill. Rev. Stat. 1971, ch. 38, par. 32—10.

Complaint No. 73 CC 5 consists of three counts. We shall consider first the charge made in Count II of this Complaint, because of the bearing which the testimony offered in support of this charge has upon other charges included in that complaint.

Count II is as follows:

"1. On May 14, 1973, Respondent refused to sign a decree in *Stratton v. Stratton*, presented by James R. Blunk, an attorney of record, until Mr. Blunk furnished Respondent with a copy of a deposition given by Mr. Blunk concerning the matters contained in Count I hereof.

2. Respondent willfully and improperly abused his judicial office in an attempt to influence Mr. Blunk.

3. On May 14, 1973, Respondent refused to sign a decree in *Lynn v. Lynn*, 73-D-40, presented by Sidney H. Dilks, an attorney of record, because of statements made by Mr. Dilks which appeared in the press concerning Respondent.

4. Respondent willfully and improperly abused his judicial office in an attempt to influence Mr. Dilks."

Both the Attorney General and the attorney for the respondent agree that disposition of the charges made in Count II depends upon an appraisal of the credibility of the witnesses. What is involved is the action of the respondent in delaying the signing of one divorce decree presented to him by attorney Blunk, and another presented by attorney Dilks. It is charged that the signing of the Blunk decree was delayed because the respondent was endeavoring to use this tactic as a method of obtaining from attorney Blunk a copy of a deposition which Blunk had given in the State's Attorney's office with respect to the criminal case which is the subject of Count I of the present Inquiry Board Complaint against the respondent. The other divorce case was filed by attorney Dilks, and the charge is that the signing of the decree was delayed by the respondent "in an attempt to

influence" Dilks, apparently with respect to statements made to the press by Dilks concerning the respondent. What the respondent sought to achieve is not stated. The statement made to the press by Dilks criticized the respondent on the ground that a sentence, which he imposed for a sexual crime, was much too severe. Dilks admitted at the hearing before the Commission that when he made his sharply critical remarks, he was unaware of the circumstances of the crime for which the sentence was imposed, and knew nothing of the past criminal record of the offender.

The attorneys responsible for these charges acted in concert in connection with their divorce decrees. Their credibility is to be discounted sharply by their deep-seated animosity toward the respondent, which from their conduct, their testimony and their demeanor on the witness stand, appears to have reached obsessive proportions. Before the respondent was appointed resident circuit judge, Elmer H. Flesner, State's Attorney of Ford County, had sought that appointment, and Blunk was desirous of succeeding as State's Attorney. This did not occur, since the respondent was appointed circuit judge and the State's Attorney was not. As to Dilks, his ill will and vindictiveness toward the respondent stemmed from the fact that he was required by the respondent to file accounts in estates which he had held pending for many years and from the fact that, in his view, the insistence of the respondent upon compliance with the statute would cost him $7,000 in income tax.

The Commission has concluded that the charges against the respondent contained in Count II of the Complaint were not established by clear and convincing evidence. Apart from the serious questions as to the credibility of Blunk and Dilks, it does not appear that there was inordinate delay in either divorce case, and in one of them important revisions had to be made in the proposed decree before it was signed.

Count I is as follows:

"1. Respondent was the presiding judge in *People of the State of Illinois* v. *Plotzker, et al.*, 72-Y-137 through 139. Defendant Plotzker retained a lawyer from Bloomington, Illinois, Harold M. Jennings, to represent him.

2. Respondent sought to have this lawyer replaced by a lawyer with offices in Paxton, Illinois. Respondent made telephone calls, without informing defendant's lawyer, to the State's Attorney, Elmer H. Flesner, and a Paxton lawyer, James R. Blunk, in an effort to have the Bloomington lawyer, Mr. Jennings, replaced. Respondent discussed the pending case with both Mr. Flesner and Mr. Blunk. When the defendant did not substitute attorneys, Respondent raised defendant's bond from $3,000 to $10,000 without a motion from the State's Attorney.

3. Respondent raised the defendant's bond in reprisal for the defendant's failure to substitute attorneys.

4. Respondent improperly interfered with the attorney/client relationship of Mr. Jennings and the defendant."

The case of *People v. Plotzker* involved the son of an employee in the Cook County judicial system who was arrested, together with other persons, in Ford County and charged with illegal possession of marijuana and other controlled substances. Harold W. Sullivan, a judge of the circuit court of Cook County, spoke to both the presiding judge of the Eleventh Judicial Circuit and to the respondent concerning the matter, apparently with reference to the recommendation of an attorney to represent the defendant.

Before the case was called in Ford County, the State's Attorney of that county, Elmer H. Flesner, and the attorney who was recommended by the presiding judge of the Eleventh Circuit, Harold M. Jennings, had

apparently agreed that the defendant need not appear and that the case would be disposed of by the bond forfeiture method. The respondent had not been notified of that agreement, and when the defendant failed to appear, the respondent increased his bail from $3,000 to $10,000.

It appears from the record that the respondent would have preferred that defendant Plotzker be represented by attorney Blunk. His interest in the matter appears to have sprung from the fact that Judge Sullivan had spoken to him about it, and also due to the fact that attorney Blunk had been appointed in numerous cases to represent indigent prisoners and the respondent believed that it was only fair that he be allowed to represent this defendant who was able to pay a fee for the services of an attorney. The charge that the respondent increased the defendant's bond in reprisal for the defendant's failure to substitute attorneys was not established by clear and convincing evidence, and the representation of the defendant by Mr. Jennings was not interfered with. Mr. Jennings continued to represent the defendant until the matter was concluded.

For want of clear and convincing proof, Count I was dismissed at the conclusion of the Board's case.

Count III is as follows:

"1. Respondent issued administrative orders, attached hereto as Exhibits A, B and C, which exceeded his power as presiding judge of the General and Associate Division of Ford County, Illinois and has failed to cooperate with the Chief Judge of the Eleventh Judicial Circuit in administering Respondent's judicial responsibilities.

2. Respondent attempted to usurp the authority of the Circuit Judges of the Eleventh Judicial Circuit, and the Chief Judge by establishing and promulgating such administrative orders.

3. Respondent attempted to usurp the authority and duties of the Chief Judge of the Eleventh Judicial Circuit by establishing and promulgating such administrative orders."

Count III deals entirely with administrative matters which, in the opinion of the Commission, are beyond its jurisdiction and beyond the jurisdiction of the Judicial Inquiry Board. Section 16 of article VI of the Constitution of 1970 vests in the Supreme Court of the State "[g]eneral administrative and supervisory authority over all courts." The same section provides: "The Supreme Court shall appoint an administrative director and staff who shall serve at its pleasure, to assist the Chief Justice in his duties." Section 7 of article VI provides for the selection in each circuit of a chief judge who shall have general administrative authority over his court.

A specific chain of command with respect to judicial administration is thus provided in the Constitution. There is no suggestion in this case that any of the administrative difficulties to which Count III refers had been brought to the attention of the court administrator or of the Supreme Court. In the opinion of the Commission, the Constitution contemplates that with respect to matters of court administration, there is no room for action on the part of the Courts Commission or of the Judicial Inquiry Board except upon formal complaint of the court administrator or the Supreme Court. For these reasons Count III was dismissed at the conclusion of the Board's case.

Count IV of the Complaint consists of the following three paragraphs:

"1. Respondent has repeatedly acted in an intemperate, arbitrary and abusive manner toward lawyers who appear before him, and in particular Messrs. Blunk and Dilks and the State's Attorney of Ford County.

2. Respondent has acted in an intemperate and

abusive manner toward the Chief Judge of the Eleventh Judicial Circuit.

3. Respondent has been discourteous and inconsiderate to witnesses and litigants in his courtroom."

The Commission finds that the charge made in paragraph 1 of Count IV has not been established by clear and convincing evidence. As had been stated, the Commission entertains grave doubt as to the credibility of the three lawyers named in that paragraph.

For reasons already stated, the Commission is of the opinion that the charge contained in paragraph 2 of Count IV is beyond its jurisdiction and beyond the jurisdiction of the Judicial Inquiry Board.

As to the third paragraph of Count IV, the Commission finds that it has not been established by clear and convincing evidence. On the contrary, numerous attorneys who had tried cases before the respondent in counties other than Ford County, as well as court reporters and State and local police officers who had observed trials in his court, testified that the respondent was courteous, considerate and diligent in the performance of his judicial duties. When these attorneys who had tried cases before the respondent appeared before the Commission and testified in his favor, it was already known to all of them that the respondent would not continue in judicial office after December of 1974 when his appointment as resident circuit judge of Ford County would terminate.

Complaint No. 74 CC 4 consisted of two counts. Count I is as follows:

"1. On or about January 3, 1973, Respondent conducted a pre-trial conference in *Main* v. *Dairy Credit Corporation*, Ford County Circuit Court Case No. 64-10659.

2. At such conference, Respondent solicited a

contribution for the Ford County Law Library Fund from counsel for defendants in the amount of Three Hundred Dollars ($300.00) to assure that a special jury would be convened on March 5, 1973 in the above-mentioned case.

3. On January 3, 1973, check No. 1250, in the amount of Three Hundred Dollars ($300.00), drawn by Harold A. Baker on the account of Hatch, Corazza, Baker & Jensen at the First National Bank of Rantoul, Illinois, was transmitted to Respondent made payable to the Ford County Law Library Fund.

4. On February 3, 1973, Respondent deposited said $300 check to his personal bank account.

5. On March 5, 1973, a special jury was convened to hear the case mentioned in paragraph 1 hereof."

The respondent admitted the allegations of paragraph 1, but denied those of paragraph 2. He admitted the allegations of paragraphs 3 and 4, but alleged that the check in question was drawn for the purpose of purchasing certain books from him for the Ford County Law Library. The respondent denied that the convening of the jury as alleged in paragraphs 1 and 5 of Count I was of any consequence.

What occurred, as shown by the evidence, is that shortly after his appointment as circuit judge, the respondent and Elmer H. Flesner, State's Attorney of Ford County, discussed the fact that the Ford County Law Library did not contain the reports of the Supreme Court of the United States. The respondent owned a complete set of the "Lawyer's Edition" of those reports published by the Lawyers Co-Operative Publishing Company. The State's Attorney commented that those reports, and particularly the most recent of them, were needed in the county law library. The possibility of purchasing the respondent's books for the Ford County Law Library was discussed, and the State's Attorney

admitted on cross-examination that he "may have" spoken to a member of the county board about their purchase.

In January of 1973, a jury was convened in Ford County. The first case on the call was *Main v. Dairy Credit Corp.*, which had been pending since 1964. At the pre-trial conference on this case, it appeared that the attorneys were not ready to go to trial. There was discussion concerning the cost of convening a special venire if the case was not tried before the jury that had already been summoned. Attorney Harold A. Baker, who represented the defendants, flatly denied that the respondent had solicited the donation of any funds to Ford County or its law library to assure that a special venire would be convened on March 5, 1973. In fact, no special venire was ever convened. The trial of the case was commenced before the regular January 1973 jury panel, and it was settled during the course of the trial. During the pre-trial conference, a check in the sum of $300 drawn by attorney Baker on the account of his law firm and made payable to the Ford County Law Library Fund was delivered to the respondent. Thereafter, on February 3, 1973, the respondent endorsed that check with a typed endorsement, "Ford County Law Library Fund (Sup. Ct. Dig. etc.)," and deposited it in his personal bank account.

The respondent testified that he had called a law book salesman to ascertain the price of used volumes of Lawyer's Edition Second and of the Supreme Court Digest. The salesman advised him that one-half of the original price of each new volume was what used volumes sold for. The check in the sum of $300 very closely approximated that amount. The volumes sold to the Ford County Library by the respondent contain recent decisions of the Supreme Court of the United States which are reported in 375 U.S. through 400 U.S. The cases reported in those volumes are critically

important to lawyers working in the field of criminal procedure. The Commission is fully satisfied that the volumes in question were worth at least $300 and probably more.

It appears the Ford County Law Library Fund was established in August of 1972. At the time of the hearing before the Commission in June of 1974, it contained approximately $495. The statute provides (Ill. Rev. Stat. 1971, ch. 81, par. 81) that disbursements from the fund "shall be by the County Treasurer on order of a majority of the judges of the circuit court of such county * * *." Since the respondent was the only circuit judge in Ford County, disbursements from the fund were to be made by the treasurer on his order.

The check should have been turned over by the respondent to the county treasurer, and it should not have been deposited in the respondent's personal bank account. This is true even though the respondent was legally authorized to direct the expenditure of the money in the county law library fund for the purchase of books. In the opinion of the Commission, his conduct in this transaction is not justified by the fact that the purchase of the respondent's books by the county had been discussed with the State's Attorney who apparently saw nothing wrong with the transaction or by the fact that the books in question were badly needed and were not overpriced.

The conduct of those who participated in this transaction suggests that the wealthy litigant who is able to pay can obtain advantages and special considerations not available to others. We find that the respondent's conduct has brought the judicial office into disrepute.

It is difficult to determine an appropriate sanction, for it is clear upon this record that the suggestion for the $300 payment did not originate with the respondent, and that his conduct was not motivated by any venal or corrupt purposes, but rather by a desire to expedite the disposition of a case which should have been disposed of

long before he became a judge. After careful consideration of the record, the Commission is of the opinion that the respondent should be, and is hereby censured for conduct which has brought the judicial office into disrepute.

Count II of Complaint No. 74 CC 4 is as follows:

"1. Respondent filed an application for appointment to the office of Associate Judge of the 11th Judicial Circuit on September 22, 1971.

2. Such application required Respondent to state whether he had been interviewed by an investigative, prosecuting or law enforcement authority and whether he had been a party or otherwise personally involved in legal proceedings of any kind.

3. Respondent's verified application failed to state that he had been arrested by the Chicago Police Department for disorderly conduct on June 26, 1952, Cook County Case 52-MC-156916; and, that Respondent was plaintiff in a case filed on May 24, 1954, Cook County Case 54-S-8377, which remained pending until 1960."

The respondent's answer admitted the allegations of paragraph 1 of Count II, but neither admitted nor denied the allegations of paragraph 2. With respect to paragraph 3, the respondent denied that these allegations constituted "misconduct in office or conduct done while in office which is prejudicial to the administration of justice, or conduct while in office which brings the judicial office into disrepute."

The limitations upon the jurisdiction of the Judicial Inquiry Board are clearly stated in section 15(c) of article VI of the Constitution:

"The Board shall be convened permanently, with authority to conduct investigations, receive or initiate complaints concerning a Judge or Associate Judge, and file complaints with the Courts Commission. The Board shall not file a complaint unless five members

believe that a reasonable basis exists (1) to charge the Judge or Associate Judge with willful misconduct in office, persistent failure to perform his duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute, or (2) to charge that the Judge or Associate Judge is physically or mentally unable to perform his duties."

Those same limitations upon the jurisdiction of this Commission are stated in section 15(e) of article VI of the Constitution:

"° ° ° The Commission shall have authority after notice and public hearing, (1) to remove from office, suspend without pay, censure or reprimand a Judge or Associate Judge for willful misconduct in office, persistent failure to perform his duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute, or (2) to suspend, with or without pay, or retire a Judge or Associate Judge who is physically or mentally unable to perform his duties."

The reasons for these jurisdictional limitations are stated in the report of the Constitutional Convention's Committee on the Judiciary:

"Of major importance is the requirement that a complaint filed by the Inquiry Board be based upon a determination that a reasonable basis exists that the judge or magistrate has violated the standards noted, namely willful misconduct in office, persistent failure to perform his duties, conduct prejudicial to the administration of justice, or other conduct which brings the judicial office into disrepute. If a complaint is based upon physical or mental disability, the reasonable basis must relate to inability to discharge duties. The specification of standards is intended to prevent or minimize a 14th Amendment due process challenge that the provisions are void for vagueness, and to eliminate a discretion in the Inquiry Board to

file complaints on hasty, ill advised, or inadequate premises. By compelling the Inquiry Board to focus upon the standards and the existence of evidence relating to those standards, it is believed that the Board will become neither accusatorial nor inquisitorial in an improper manner. These provisions are especially important for the guidance of the lay members of the Board whose experience in matters of this kind will be more limited than the judicial and lawyer members. Indeed the Committee envisions the informal resolution of many complaints by understandings reached with the judge or magistrate which are adequately remedial and where there will be no cause to proceed to a formal complaint. In these, as in other instances, the standards will be both helpful and necessary." VI Proceedings, Sixth Illinois Constitutional Convention, pp. 870-871.

Neither in the language of the Constitution, nor in the committee's explanation can we find any grant of authority to the Judicial Inquiry Board to conduct an investigation into matters that took place before a judge assumed judicial office. Nor can we find any constitutional authority conferred upon this Commission to impose sanctions with respect to the conduct of a judge which occurred prior to his assumption of judicial office.

None of the conduct which is described in Count II took place after the respondent assumed judicial office, and that count is therefore dismissed for want of jurisdiction.

Pursuant to the authority vested in the Commission, under section 15(e) of article VI of the Constitution, it is ordered that the respondent, George Kaye, is hereby censured for conduct which has brought the judicial office into disrepute.

Respondent censured.

SUPPLEMENTAL ORDER ON DENIAL OF MOTION FOR RECONSIDERATION AND MODIFICATION

In this case the Judicial Inquiry Board has filed a "Motion for Rehearing and Modification of Order," and a brief in support thereof. The motion is directed to that portion of the Commission's order which stated:

> "Neither in the language of the Constitution, nor in the committee's explanation can we find any grant of authority to the Judicial Inquiry Board to conduct an investigation into matters that took place before a judge assumed judicial office. Nor can we find any constitutional authority conferred upon this Commission to impose sanctions with respect to the conduct of a judge which occurred prior to his assumption of judicial office."

The Inquiry Board has challenged the soundness of the Commission's ruling. In its brief it quotes the provisions of sections 15(c) and 15(e) which state in identical terms the authority of the Judicial Inquiry Board and of the Courts Commission. Section 15(e) provides:

> "* * * The Commission shall have authority after notice and public hearing, (1) to remove from office, suspend without pay, censure or reprimand a Judge or Associate Judge for willful misconduct in office, persistent failure to perform his duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute, or (2) to suspend, with or without pay, or retire a Judge or Associate Judge who is physically or mentally unable to perform his duties."

The Board concedes that all of the matters enumerated refer to conduct that occurs during a judge's term of office with the exception of the reference to "other conduct that is prejudicial to the administration of justice

or that brings the judicial office into disrepute." With respect to the italicized phrase, the Inquiry Board argues:

> "What does the foregoing language say with reference to the specific issue? It says the Board has authority to conduct investigations concerning a Judge and file complaints with the Courts Commission if five members believe that a reasonable basis exists to charge the Judge with conduct that brings the judicial office into disrepute. It says the Commission has authority to impose sanctions as to a judge whose conduct has brought the judicial office into disrepute. It does *not* say 'provided such conduct has occurred after the Judge assumed office.' It does *not* say that neither the Board nor the Commission 'shall have authority or jurisdiction as to conduct which brings the judicial office into disrepute if such conduct occurred before the Judge assumed office'. The Board does not believe that such constructions are necessarily implied from the express language used. Indeed, the Board believes that such constructions frustrate the object to be attained and the evil to be remedied through these sections of the Constitution. In sum, there is neither an express nor a necessarily implied limitation in the [C]onstitution as to the Board's or Commission's jurisdiction to deal with a Judge's conduct before he assumed office which becomes known after he assumes office and brings the judicial office into disrepute. This being so, it is not necessary to resort to the record of constitutional proceedings to determine what the language of the Constitution means with respect to the matter at issue. In any event, a careful reading of that portion of the proceedings quoted in the Commission's order of July 12, 1974, does not result in the discovery of express language or a necessarily implied intent that the Board and Commission lack authority to deal with alleged misconduct prior to assumption of office if such

conduct comes to light after such assumption and is of a nature which brings the judicial office into disrepute."

The purpose of the framers of the Constitution in spelling out specific limitations upon the authority of the Inquiry Board was stated in the Report of the Judiciary Committee of the Constitutional Convention:

"The specification of standards is intended to prevent or minimize a 14th Amendment due process challenge that the provisions are void for vagueness, and to eliminate a discretion in the Inquiry Board to file complaints on hasty, ill advised, or inadequate premises. By compelling the Inquiry Board to focus upon the standards and the existence of evidence relating to those standards, it is believed that the Board will become neither accusatorial nor inquisitorial in an improper manner. These provisions are especially important for the guidance of the lay members of the Board whose experience in matters of this kind will be more limited than the judicial and lawyer members. Indeed the Committee envisions the informal resolution of many complaints by understandings reached with the judge or magistrate which are adequately remedial and where there will be no cause to proceed to a formal complaint. In these, as in other instances, the standards will be both helpful and necessary."

After careful reconsideration, the Commission adheres to the position stated in its original order in this case. That position was that the plain language of the Constitution limits the jurisdiction of the Commission and the Judicial Inquiry Board to matters that occur while a judge holds judicial office. Of the standards specified in the Constitution, the only one that could by any possible stretch be thought to apply to conduct before a man becomes a judge is "conduct that tends to bring the judicial office into disrepute." Conduct that

occurred before a man became a judge may bring the man into disrepute, but it can hardly be said to bring the judicial office into disrepute.

The conclusion that flows from the plain meaning of the words of section 15 of article VI is supported by other provisions of the Constitution. Section 11 of article VI, for example, provides the qualifications for judicial office. It is rather elementary constitutional law when the Constitution prescribes the qualifications for public office the General Assembly may not add to those qualifications. In 1914, in *People ex rel. Hoyne v. McCormick*, the constitutional position was summarized this way:

> "It may be true that many persons having the constitutional qualifications are wholly unfit to discharge the duties of many offices within the State, but if the legislature possesses the power to vary the constitutional qualifications for office by adding new requirements or imposing additional limitations, then eligibility to office and freedom of elections depend, not upon constitutional guaranties, but upon legislative forbearance. If the legislature may alter the constitutional requirements its power is unlimited, and only such persons may be elected to office as the legislature may permit. In our judgment, when the constitution undertakes to prescribe qualifications for office its declaration is conclusive of the whole matter, whether in affirmative or in negative form." 261 Ill. 413, 423.

That position has been adhered to in subsequent cases. See, *e.g.*, *People ex rel. Nachman v. Carpentier* (1964), 30 Ill. 2d 475.

Section 11 of article VI of the Constitution provides that no person shall be eligible to be a judge or associate judge unless he is a citizen, an attorney, and a resident of the district from which he is elected. Section 13 of article VI specifies that judges shall devote full time to judicial duties and shall not practice law, hold a position of

profit, hold office in any governmental unit or in a political party. That section also states: "The Supreme Court shall adopt rules of conduct for Judges and Associate Judges."

Section 1 of article XIII states the grounds for disqualification for public office, including judicial office: "A person convicted of a felony, bribery, perjury or other infamous crimes shall be ineligible to hold an office created by this Constitution. Eligibility may be restored as provided by law." Section 2 of article XIII also requires the filing of "Statements of Economic Interests," and provides that failure to file "shall result in ineligibility for, or forfeiture of, office."

Under settled doctrines of constitutional law, the General Assembly can neither add to nor detract from these grounds of qualification and of disqualification for judicial office. We see no reason to hold that this Commission or the Judicial Inquiry Board has that power. We must therefore reject the Inquiry Board's contention that the Constitution "says the Board has authority to conduct investigations concerning a Judge and file complaints with the Commission if five members believe that a reasonable basis exists to charge the Judge with conduct that brings the judicial office into disrepute." In advancing this contention, the Board apparently overlooked the provisions of the Constitution that have been referred to, and so it thought that unless the Commission had the authority to impose discipline, there would be no way to get rid of a judge who was convicted of a felony or disbarred for conduct that occurred before he became a judge. That is clearly not the case. A judge must be an attorney, and conviction of a felony or of bribery, perjury or other infamous crimes renders a judge ineligible to hold office.

The motion for reconsideration and modification is denied.

Motion denied.