

**Law Student Research Council v. Wadmond, 401 U.S. 154 (1971)**

By a vote of five-to-four, the U.S. Supreme Court held as valid a New York Bar rule requiring an applicant to provide proof that “he believes in the form of the government of the United States and is loyal to such a government.” Specifically, the Court held that a series of questions asked by the New York Bar did not violate an applicant’s First Amendment rights. These questions asked whether the applicant had ever been a member of a group that advocated overthrow of a sitting government and whether the applicant could affirm loyalty to support the Constitution of the U.S. “without any mental reservation” (*Law Student Research Council* at 165).

Justice Potter Stewart authored the majority opinion. His opinion repeatedly emphasized the fact that the petitioners cannot show where someone was denied admittance to the bar because of answers to the required questions. The Court went on to accept an extremely narrow interpretation of the New York rule, as offered by the respondent. In evaluating the specific questions at issue, the Court stated that consistent with *Scales v. United States*, 367 U.S. 203 (1961), individuals advocating upheaval of the government may be punished. With regards to the constitutional loyalty question, Justice Stewart argued that it is no different from the oath required of U.S. civil servants.

More broadly, the Court did appear sympathetic to a system completely void of initial screening. As Justice Stewart noted, however, “the choice between systems [...] rests with the legislatures and other policymaking bodies of the individual states. New York has made its choice. To disturb it would be beyond the power of this Court” (*Law Student Research Council* at 167).

Three justices wrote separately in this case. Justice John M. Harlan authored a brief concurrence noting that the key to his joining of the majority opinion was, as specified by the majority opinion, the lack of evidence to support opinion-based discrimination against individual bar applicants.

Justice Hugo L. Black dissented and argued that the questions posed by the New York Bar risked allowing other lawyers to screen out their potential competition. Such deprivation is tantamount to taking property from an individual and should be rejected. Justice Black also argued that the decision violated precedent set by several previous decisions of the Court.

Justice Thurgood Marshall, in a separate dissent, disapproved of the narrow interpretation of the New York Bar rule. He argued that extensive previous investigatory activity of applicants by the New York Bar undermined the likelihood that the narrow interpretation would be maintained.

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*See Also:*

*Scales v. United States, Yates v. U.S., Speiser v. Randall, Bond v. Floyd*

**Further Reading:**

Burrell-Jones, Brendalyn. "Bar Applicants: Are Their Lives Open Books?" *The Journal of the Legal Profession* 21: 153-164 (1996-1997).

Fieman, Colin A. "A Relic of McCarthyism: Question 21 of the Application for Admission to the New York Bar." *Buffalo Law Review* 42: 47-76 (Winter 1994).