

11-15-1973

Hearings in the House of Representatives on Vice Presidential Nominee Gerald Ford

Committee on the Judiciary. House Representatives. United States.

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CONFIRMATION OF GERALD R. FORD AS VICE PRESIDENT OF THE UNITED STATES

DECEMBER 4, 1973.—Referred to the House Calendar and ordered to be printed.

Mr. RODINO, from the Committee on the Judiciary,
submitted the following

REPORT

together with

SEPARATE, SUPPLEMENTAL AND DISSENTING VIEWS

[To accompany H. Res. 735]

The Committee on the Judiciary, to whom was referred the nomination by the President of Gerald R. Ford, of the State of Michigan, to be Vice President of the United States (H. Doc. No. 93-164), having considered the same, reports favorably thereon and recommends that the House adopt the following resolution:

Resolved, That the House of Representatives confirm the nomination of Gerald R. Ford, of the State of Michigan, to be Vice President of the United States.

THE NOMINATION AND THE CONSTITUTION

The nomination of Representative Ford, Minority Leader of the House of Representatives, to be Vice President of the United States, was announced by the President on October 12, 1973. The nomination was received by the House on October 13, 1973, and referred for consideration to the full Committee on the Judiciary.

This nomination and its consideration by both Houses of Congress constitute the first implementation of Section 2 of the Twenty-fifth Amendment to the Constitution of the United States (certified February 23, 1967):

Section 2. Whenever there is a vacancy in the Office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

HEARINGS

Hearings into the nomination were commenced on Thursday, November 15, 1973, with the first witness before the Committee, the Vice

President-Designate, Gerald R. Ford. This hearing on November 15 consumed four hours and fifteen minutes of opening remarks and general questioning by all members of the Committee.

Representative Ford returned on Friday, November 16, 1973, for an additional six hours and twenty-eight minutes of general examination. Questions addressed to the nominee covered a broad range of public issues, with searching inquiry made into Representative Ford's views regarding the role of Congress, the separation of powers, the proper authority of the Executive branch, the use of Executive privilege, the energy crisis, civil rights, and general matters of foreign and domestic policy.

Although the House of Representatives began its Thanksgiving recess at the close of business on the 15th of November, the full Committee remained in Washington and the hearings continued into a second week.

On Monday, November 19, 1973, the Committee met for seven hours and thirty-eight minutes and received testimony from :

Hon. Edward P. Boland (D-Mass.).

Hon. Michael J. Harrington (D-Mass.).

Clarence Mitchell, Director, Washington Bureau, National Association for the Advancement of Colored People.

Joseph L. Rauh, Jr., Americans for Democratic Action; Accompanied by Ms. Lynn Pearle, Legislative Representative of ADA.

On Tuesday, November 20, 1973, the Committee held an Executive Session to receive testimony from :

Dr. Arnold Hutschnecker.

Alice Weston Showalter.

Mr. Robert N. Winter-Berger.

This session lasted four hours and fifty minutes. A motion was subsequently passed by the Committee to make public and print the complete proceedings of the Executive Session.

Further public hearings were held on this date—Tuesday, November 20. In a rare evening session which did not conclude until 12:10 a.m., testimony was received from :

William O. Bittman, Esq.

Benton L. Becker, Esq.

James Larson, President, National Lawyers Guild.

Arthur A. Fletcher, President, Arthur A. Fletcher and Associates, Inc.

The evening session lasted four hours and fifty-five minutes. A total of nine hours and forty-five minutes of testimony was received on November 20.

Representative Ford returned for further questioning on Wednesday, November 21, in a session lasting four hours and fifty-five minutes.

The hearings concluded on Monday, November 26, 1973, with an additional three hours and thirty-three minutes of questioning of Representative Ford.

In all, the hearings consumed thirty-six hours and thirty-four minutes of which nineteen hours and eleven minutes consisted of questions addressed by the Committee to the nominee.

SCOPE OF THE COMMITTEE INVESTIGATION

The Committee and its staff began preparing for these historic hearings immediately upon receipt of the President's communication nominating Mr. Ford.

Arrangements were immediately made to use the full facilities of the Library of Congress Congressional Research Service. The Chairman also made arrangements to utilize highly specialized personnel from other committees of the House of Representatives and additional investigative and audit personnel were obtained from the General Accounting Office.

Judiciary Committee staff personnel were at all times detailed to supervise the overall investigation.

To adequately prepare and inform the thirty-eight members of the Committee, who were, in effect, the investigative arm of the House of Representatives acting on behalf of the citizens of our country, the **fact gathering and investigative staff work** was basically divided into two separate operations.

One unit was established to collect, categorize and generally make manageable all of the information available on the public life of the nominee.

The following materials were collected and made available to all members of the Committee:

(a) Analysis of the philosophy and voting record of Representative Gerald Ford prepared by the Congressional Research Service of the Library of Congress for use by the Committee on Rules and Administration of the Senate and the House Committee on the Judiciary. (This was a 144-page compilation. The table of contents is reproduced in an appendix attached hereto to show its scope and coverage.)

(b) The complete voting record of Representative Gerald Ford from 1949 to date.

(c) A compilation of special interest group ratings of Representative Gerald Ford's voting record.

(d) The Congress Project Profile on Representative Ford.

(e) Computer printout of *New York Times* articles and references to Gerald Ford from 1969 to date. Selected clippings from *New York Times* from 1969 to date.

(f) All periodical articles concerning Representative Ford from 1949 to date.

(g) Selected clippings from various newspapers throughout the country concerning Representative Ford, including the Grand Rapids Press.

(h) Selected editorials and columns from October 12, 1973, to date.

(i) Selections from past campaign literature.

(j) Weekly newsletters mailed to constituents from 1969 to date.

(k) A complete history of all statements and entries in the *Congressional Record* from 1949 to date by or concerning Representative Ford was fashioned by Committee staff members who reviewed all twenty-four years of the *Record*. This material was

separated by subject matter and placed in binders to facilitate research on all issues. (The outline of subject matters is similarly reproduced in an appendix attached hereto show its scope and coverage.)

One basic and underlying assumption historically inherent in the selection of any Vice President is that the person selected may succeed to the Presidency of the United States. The Committee, its members and staff, throughout the investigation and hearings, were mindful of this truth.

Therefore, in addition to the above outlined materials, special in depth reports were prepared and distributed to all members of the Committee on subject areas transcending partisanship or party philosophy, and reflecting on greater areas of constitutional interest and conflict.

These reports contained detailed information on the following:

- (a) General biographical data on the nominee.
- (b) The views of Representative Gerald Ford gleaned from public sources on Official Propriety and Sense of Purpose.
- (c) Fair Campaign Practices and Election Ethics.
- (d) Presidential Powers and Responsibilities.
- (e) Justice and the Law.
- (f) Civil Rights.
- (g) Representative Ford and the Justice Douglas Impeachment Attempt.

Not one public day nor one issue nor one vote nor one public statement of the Vice President-Designate went unexamined by the Committee staff in the course of its research.

In addition, during the weeks preceding the hearings, all special requests for issue materials or background information were researched and provided to each member of the Committee making such a request.

The second unit set up pursuant to the Committee's work was established to pursue an inquiry into the personal affairs of Gerald Ford as they bore on his qualifications and fitness to hold high office.

Immediately following the October 13 nomination of Representative Ford to fill the Office of Vice President, the Chairman directed the Committee staff to begin one of the most thorough and comprehensive inquiries ever undertaken by a congressional committee. Before the investigation was completed it involved more than twenty-five members of the Committee staff, plus additional specialists loaned to the Committee for purposes of this inquiry.

The Committee's investigation led to over one hundred formal interviews in fourteen States; the examination of countless public and private documents; independent audits of the nominee's personal finances; and an exhaustive review of all identifiable contributors to the nominee's various campaign committees for the past twenty years. The investigation also included a sweeping inquiry into the nominee's relations with every agency and department of the Federal Government, and an exhaustive review of the recipient of every Government contract of over \$50,000 in the nominee's congressional district in recent years.

In addition, the Committee's efforts were supplemented by information developed by the Internal Revenue Service, General Accounting

Office, Library of Congress, and the Federal Bureau of Investigation.

All materials generated by this phase of the investigation were available to all members of the Committee during the hearings.

Summaries of portions of the Committee's investigation follow.

Tax Returns

Mr. Ford made available to the Committee copies of his tax returns for the period 1965-1972. In addition, Mr. Ford made available a report on audit changes for the past six years which was completed by the Internal Revenue Service. Additionally, he requested that the Commissioner of the Internal Revenue Service make available to the Joint Committee on Internal Revenue Taxation information reflecting the scope of the Internal Revenue Service audit, the issues raised in the audit, and the results. At Mr. Ford's request this material, in the form of a 13-page memorandum, was made available to the Committee.

At the direction of the Committee, staff of the Joint Committee on Internal Revenue Taxation, on loan to the Committee on the Judiciary, also conducted an independent audit of the nominee's income tax returns, net worth, honoraria received, salary and other income, as well as bank accounts maintained by Mr. Ford and other members of his family. The results of these independent audits and summaries of the voluminous financial information were reviewed in detail by the Committee, and no information prejudicial to the nominee was noted.

Medical Records

At the Committee's request, Mr. Ford authorized the Attending Physician of the Congress to make available to the Committee all medical records relating to him which were in the Physician's possession. Additionally, with Mr. Ford's cooperation, the Committee obtained and examined all medical records in the possession of the insurance carrier for Mr. Ford's medical and hospitalization insurance. The Committee also examined all medical deductions listed on Mr. Ford's income tax records for the past six years and with Mr. Ford's cooperation, contacted additional medical practitioners listed thereon to obtain all records in their possession relating to Mr. Ford's health. The Committee concluded that Mr. Ford is in apparent excellent health.

Campaign Finances

The Committee reviewed all the reports and statements Congressmen Ford and his political committees were required by law to file with the Clerk of the House of Representatives and with Michigan officials. These reports were available for Mr. Ford's campaigns from 1954 to 1972. A more extensive analysis of the 1970 and 1972 campaigns was completed and the results follow.

For his 1970 campaign, Congressman Ford had five campaign committees raising funds on his behalf. They were: D.C. Committee for Gerald R. Ford; Veterans for Ford; Latvians for Ford; Greek-American Committee for Ford; and Ford for Congress. Each of these committees was analyzed to the extent possible to determine whether there were any improprieties or illegalities connected with this campaign.

At this time the Federal Corrupt Practices Act of 1925 required reports of receipts and expenditures from candidates for Federal elective office and from political committees attempting to influence the

election of candidates in two or more states. Within the framework of that Act, Congressman Ford appears to have filed all reports required by its provisions. Michigan election law requires the filing of statements by candidates and political committees with the Clerk of the County where the filer resides and with the Secretary of State. Congressman Ford and the committees supporting him submitted data required by Michigan law and nothing unlawful was apparent from a review of such reports.

For Congressman Ford's 1972 campaign, public documents indicate that there were three Michigan committees and one D.C. based committee raising money on his behalf. They were as follows: Latvians for Ford; Friends of Jerry Ford Committee; Ford for Congress Committee; and Committee to Re-Elect Jerry Ford. Information concerning these committees was closely examined and particular attention was given to the D.C. Committee to Re-Elect Jerry Ford which raised almost \$50,000 and transferred in excess of \$38,000 to the Michigan Ford for Congress Committee prior to April 7, 1972, the date on which the Federal Elections Campaign Act of 1971 became effective. This new Act established a system for periodic disclosure of all campaign receipts and expenditures. Mr. Ford and his committees appear to have complied with the requirements of the new law.

With regard to both Congressman Ford's 1970 and 1972 campaigns, questions were raised as a result of statements appearing in newspaper article and a book published in 1972. These questions were fully investigated and disposed of to the Committee's satisfaction.

Review of agency files and Government contracts

As part of the Committee's investigation of Vice President-Designate Gerald R. Ford, the Committee requested and received from the following agencies "any and all records, correspondence, memoranda, papers, or other documents, including, but not limited to, notes or memoranda of all telephone conversations or meetings between Representative Gerald R. Ford, members of his staff, or persons purporting to act on behalf of, or at the behest of, Mr. Ford and [agency] from January 1, 1970, to the present."

1. Labor.
2. Housing and Urban Development.
3. Treasury.
4. Internal Revenue Service.
5. Federal Communications Commission.
6. National Labor Relations Board.
7. Securities and Exchange Commission.
8. Small Business Administration.
9. Cost of Living Council.
10. Civil Aeronautics Board.
11. Agriculture.
12. Commerce.
13. Federal Power Commission.
14. Interstate Commerce Commission.
15. Environmental Protection Agency.

16. Food and Drug Administration.
17. Interior.
18. Agency for International Development.
19. Defense.
20. Federal Trade Commission.
21. General Services Administration.
22. Transportation.
23. U.S. Customs Service.

The material provided was analyzed to determine whether any unusual or apparently improper correspondence or transactions occurred. Also, names of individuals, associations and companies mentioned in correspondence for each agency were listed and checked against (1) the list of contributors who gave over \$300 to the Kent County Republican Committee, and (2) the lists of contributors to Mr. Ford's fund raising committees.

The Committee's review of the material received from the above agencies uncovered no improper correspondence or other transactions which emanated from or on behalf of Congressman Ford.

In addition, the Committee compared a list of senior officers of major Government contractors to (1) lists of campaign contributors to Mr. Ford for the years 1970 and 1972, (2) lists of contributors to President Nixon's Re-Election Committee who resided in Mr. Ford's congressional district, and (3) a list of contributors who gave in excess of \$300 to the Kent County Republican Committee, a county in Mr. Ford's district. The purpose was to identify any individual whose company received major Government contracts and who has contributed to any of Mr. Ford's re-election committees.

The agencies whose contracts were reviewed for the period June 1, 1970, to June 30, 1973, were the :

1. Department of Defense.
2. General Services Administration.
3. Department of Transportation.
4. Department of Housing and Urban Development.
5. Environmental Protection Agency.
6. Department of Health, Education, and Welfare.

The Committee limited its review of Government contracts to those in excess of \$50,000. Although there were a number of companies in Mr. Ford's district who had obtained Government contracts and whose offices contributed varying amounts to Mr. Ford's re-election committees, the Committee found no improprieties during its review.

The Allegations of Robert N. Winter-Berger

The book, "The Washington Pay-Off," and an affidavit dated October 24, 1973, both authored by Robert N. Winter-Berger, contained several allegations that tended to severely discredit the Vice Presidential nominee.

Numerous contacts were made by the Committee in an effort to determine the truthfulness of Mr. Winter-Berger's charges. The Committee obtained copies of several affidavits from persons mentioned in either the book or the affidavit or who had special knowledge of the incidents described in either account. Moreover, the Committee questioned at length and with great care Mr. Winter-Berger, affording him an opportunity to offer any and all materials that in any way

might be construed to support his charges. Very little documentation was forthcoming.

The Committee meticulously reviewed all relevant documents, Mr. Winter-Berger's testimony, the testimony of Alice Weston, Dr. Arnold Hutschnecker and Representative Ford and the statements of all persons contacted by the Committee before evaluating the veracity of Mr. Winter-Berger's testimony.

Having reviewed the charges made by Mr. Winter-Berger, the Committee found no credible evidence to sustain these allegations.

Bar Association Records

The Committee contacted the Grand Rapids Bar Association, State Bar of Michigan, State Bar of Michigan Grievance Board, and the American Bar Association and obtained all records in their possession relating to the nominee. The records were all favorable to Mr. Ford.

State and Local Law Enforcement Agencies

The Committee contacted the Chief of Police, Grand Rapids, Michigan; Director, Michigan Department of State Police; and Sheriff, Kent County, Michigan; and obtained all records in their possession relating to the nominee. Nothing of prejudice to Mr. Ford was contained in any of the files obtained.

Law Practice

The Committee's investigation disclosed that from 1941 to 1959 Gerald Ford maintained affiliations with law firms in Grand Rapids, Michigan. His initial association was with the firm of Ford and Buchen and the law firm of Butterfield, Amberg, Law & Buchen. Congressman Ford continued as a member of the firm until his resignation on April 1, 1959.

Information concerning the nature and extent of Mr. Ford's law practice was supplied the Committee by former law partners of Congressman Ford. Contact was made and interviews were conducted with his former partners. Additionally, the Committee reviewed the partnership agreements of the firm from 1948 to 1959.

A listing of the corporate clients represented by the firm while Mr. Ford was a partner and after his withdrawal was thoroughly examined for possible conflict of interest arrangements. The firm's members were checked against the lists of donors to Representative Ford's various campaign committees and the local Republican Party Campaign Committee, as were the names of the officers of the companies represented by the law firm. Special inquiry was made into the law firm's immigration practice as well as its representation of clients before Federal regulatory agencies.

An analysis of Mr. Ford's income derived from his practice of law was made for the years 1964 to 1972. Additionally, the Committee contacted each client represented by Mr. Ford during this period and obtained from each a verification of the amount paid and the services rendered.

Old Kent Bank and Trust Co.

On January 10, 1968, Congressman Ford was elected to the Board of Directors of the Old Kent Bank and Trust Co. of Grand Rapids,

Michigan, where he served until February 26, 1968, when he resigned. The Committee interviewed Richard M. Gillett, Board Chairman of the Bank, as well as officers of other Grand Rapids banks regarding Mr. Ford's relationship with the bank.

The Committee also examined the files of the Securities and Exchange Commission and the Federal Reserve Board to determine whether Mr. Ford intervened at any time on behalf of the bank. Additionally, the names of the officers and directors of the bank were checked against the lists of contributors to Mr. Ford's campaign committees and the Kent County Republican Committee. The Committee found no evidence of any impropriety in Mr. Ford's relationship with the Old Kent Bank and Trust Co.

Ford Paint and Varnish Company

The Committee interviewed Richard Ford, brother of Congressman Ford, and President of the Ford Paint and Varnish Company of Grand Rapids, Michigan. Additionally, the Committee examined all correspondence between Mr. Ford and his brother relating to the paint business. In addition, the officers and directors of the Standard Detroit Paint Company, the owner since 1968 of the controlling interest in Ford Paint and Varnish, were compared with the list of contributors to Representative Ford's campaign committees. The Committee found nothing improper in Mr. Ford's relationship with the company.

Douglas Impeachment

In 1969, Mr. Ford launched a private staff investigation to determine Associate Justice William O. Douglas' fitness to retain his seat on the Supreme Court. The Committee explored Mr. Ford's involvement in the Douglas impeachment effort by contacting several individuals reportedly associated with Mr. Ford during this period. Initially, contact was made with the Detroit, Michigan, law firm of Dykema, Wheat Goodnow and Trigg who had supplied Mr. Ford with a lengthy memorandum on the Douglas matter. The Committee's inquiry focused on the reason why the firm assisted Mr. Ford, the amount of firm time expended on the development of the memorandum and the amount and source of compensation received by the firm for their efforts.

Former White House aide Clark Mollenhoff was contacted on two separate occasions and questioned as to White House involvement in the Douglas fitness investigation. Benton L. Becker, an attorney hired by Congressman Joe D. Waggoner, but who admittedly represented Mr. Ford in coordinating the Douglas investigation, testified before the Committee as to his role in the Douglas matter. Attorney William O. Bittman also appeared before the Committee and recited his recollection of various contacts with Mr. Becker who purported to represent Mr. Ford and others in the Douglas investigation.

The Committee also contacted former staff members of the House Committee on the Judiciary who had worked on the Special Subcommittee established to conduct the Douglas investigation. The Special Subcommittee's files were retrieved from the Archives and all relevant material was carefully reviewed. The files of both Representative Ford and Mr. Becker relating to the Douglas issue were thoroughly examined by the Committee.

Associate Justice William O. Douglas' attorney during the period in question, Simon Rifkind, related his recollection of Mr. Ford's role in the Douglas inquiry.

Warren Commission

In December of 1963, Representative Gerald Ford was appointed by President Johnson to the Warren Commission. In order to obtain a perspective on Mr. Ford's conduct while a member of the Commission, the Committee interviewed former Chief Justice Warren and Chief Counsel of the Commission, J. Lee Rankin.

Further contacts were made and interviews conducted with three former members of Representative Ford's congressional staff:

John R. Stiles; Francis X. Fallon, Jr.; and John H. Ray. These three individuals worked with Mr. Ford during the period he was a member of the Warren Commission and during the time Mr. Ford published an article in *Life* magazine and co-authored a book entitled "Portrait of the Assassin." Inquiries were made to determine the length of their employment, nature of their duties, the amount and source of their compensation, and their participation in income derived from the marketing of the publications.

Interviews were also conducted with former *Life* personnel regarding Mr. Ford's role in authoring the article for *Life*, the circumstances surrounding the development of the *Life* article and subsequent book, the amount of money received by Ford for the authoring of the article, and whether any classified Commission documents had been made available to unauthorized persons prior to the public release of the Commission Report. The Committee, in addition, reviewed copies of correspondence and memoranda relating to the Ford magazine article. At the request of the Committee, the publishing house of Simon and Schuster supplied copies of all correspondence, contracts and memoranda relating to the publication of "Portrait of the Assassin," co-authored by Congressman Ford and John Stiles. The information obtained through these efforts was the basis of extensive questioning of Mr. Ford by Committee members.

Rospatch Corporation

On June 16, 1964, Representative Gerald Ford was elected to the Board of Directors of the Rospatch Corporation of Grand Rapids, Michigan. Mr. Ford currently serves on the Board although he has stated his intention to resign upon being confirmed as Vice President.

The Rospatch Corporation and its subsidiaries are engaged in three major areas of operation: (1) the manufacturing of printed labels for the textile and garment industries; (2) flexible packaging production; and (3) the manufacturing of imprinting machinery used in industrial laundry facilities.

During the Committee investigation, William Chaille, Chairman of the Board and Chief Executive Officer; Richard Brush, President; and Thomas C. Bloodgood, Secretary-Treasurer, were interviewed to determine the nature of the corporation's business and the degree to which Representative Ford participated in the affairs of the company. Copies of all correspondence between officers of the Rospatch Corporation and Congressman Ford were reviewed together with all records indicating the amount of compensation and travel reimbursements paid by Rospatch to Representative Ford. A scrutiny of Ros-

patch and its subsidiaries was made to identify the extent to which the company did business with the United States Government.

Exhaustive checks were made to ascertain the veracity of allegations charging Rospatch had received preferential treatment in its business transactions due to Mr. Ford's membership on the Board of Directors. The Committee determined that no such preferential treatment was obtained.

The minutes of each Board of Directors meeting since 1964 were examined to compare Mr. Ford's reported income from Rospatch with his actual attendance at Board meetings and to review any possible conflicts of interest on Mr. Ford's part. Finally, the lists of contributors to Congressman Ford's campaign committees were compared with the names of the officers and directors of Rospatch and its subsidiaries. The Committee determined there was no impropriety on the part of Mr. Ford in his relations with Rospatch.

Honoraria

With the cooperation of Mr. Ford, the Committee examined copies of the Statement of Financial Interests filed with the House Committee on Standards of Official Conduct by Mr. Ford for 1971 and 1972. Auditors on loan to the Committee examined the honoraria received by Mr. Ford and checked this information against income tax records. Amounts were confirmed with the sources of the honoraria in many cases. From records maintained by Mr. Ford's accountant, similar checks were made on honoraria received from 1967-1970. No discrepancies were found in any of these filings or records.

Printing Expenses

An examination was conducted of the financial records of the Minority Printing Clerk pertaining to Mr. Ford's account and the Minority Leadership account. The records examined covered the period from January, 1969, through September, 1973. The examination included scheduling by month of the expenses incurred, classification of expenses, and a complete analysis of who paid the printing bills. The Committee concluded there was nothing improper in the handling of these accounts.

Payroll Accounts

The Committee conducted an exhaustive inquiry into the payroll journal records of Mr. Ford's congressional staff and the staff of the Minority Leader. The Committee examined, scheduled and analyzed all records on file in the appropriate congressional offices for the period January, 1970, through September, 1973. Additional records were reviewed and analyzed with respect to certain employees for the past twenty-five years. The records were also reviewed and thoroughly analyzed by additional professional staff on loan to the Committee for purposes of this inquiry. The Committee concluded there was nothing improper in Mr. Ford's payroll accounts.

Additional Investigation

In addition to those portions of the inquiry outlined above, the Committee, through its staff and members, reviewed all complaints filed with the Fair Campaign Practices Committee since 1960 and determined that none were filed in connection with any of Mr. Ford's campaigns. Additionally, all private bills introduced by Mr. Ford

since 1949 were reviewed and the beneficiaries were checked against lists of contributors to Mr. Ford's various campaign committees for the past twenty years. The Committee concluded there were no improprieties in this area.

FBI Report

An investigation of the nominee was conducted by the Federal Bureau of Investigation. The exhaustive investigation comprises over 1,700 pages of "raw data" and involved more than 350 Special F.B.I. Agents, 33 field offices and over 1,000 personal interviews.

The Chairman of the Committee on the Judiciary had originally requested that every Member of the Committee have access to all the information gathered and compiled by the F.B.I. on Congressman Ford since it is the duty and constitutional obligation of the full Committee on the Judiciary to make a judgment and recommendation to the House of Representatives concerning his fitness and qualifications to be Vice President of the United States.

After several meetings with members of the Committee and representatives of the Department of Justice, an agreement was reluctantly reached in the interest of expediting the confirmation process whereby the "raw data" would be made available only to the Chairman plus three Democratic members of the Committee selected by him and the ranking Republican plus three Republicans of the Committee selected by him. These eight members in turn would advise other members of the Committee of any questionable material relating to the nominee. The Committee members who reviewed the report are as follows:

Chairman—Peter W. Rodino, Jr. (D-N.J.).

Robert W. Kastenmeier—(D-Wis.).

George E. Danielson—(D-Calif.).

Edward Mezvinsky—(D-Iowa).

Ranking Republican—Edward Hutchinson (R-Mich.).

Robert McClory—(R-Ill.).

Tom Railsback—(R-Ill.).

David W. Dennis—(R-Ind.).

These members have assured the Committee that they have personally reviewed the F.B.I. Report and that there is nothing contained therein which would give reason to seriously doubt or question Congressman Gerald R. Ford's fitness and qualifications to be Vice President of the United States. The Committee is advised that the F.B.I. Report confirms the reputation that Congressman Ford has enjoyed among his House colleagues, that he is a man of honor and principle.

CONCLUSION

On Thursday, November 29, 1973, the Committee having completed an exhaustive investigation directed by its own staff, having availed itself of all other official investigative sources, having exchanged information with the Senate Committee on Rules and Administration and having completed six days of hearings brought the matter of the nomination to a vote.

On a roll call vote with a quorum present, the Committee voted, with twenty-nine in favor, eight opposed, and one voting present, to recommend to the House of Representatives that Mr. Ford's nomination be confirmed.

The Committee had investigated and questioned the nominee's public and private life to a degree far beyond that of any person holding public office in America today. At all times, however, it took great pains to maintain the security and confidentiality of its records so as to scrupulously protect Mr. Ford's personal and civil liberties. The Committee and its staff believes it has been particularly successful in achieving this goal.

It should be particularly noted, also, that the nominee cooperated in every possible way, responded to every request, and made himself and his records totally available to the Committee and its investigating staff.

Finally, not every member of the Committee subscribing to this Report finds himself in complete agreement with the totality of Mr. Ford's voting record, or even with all aspects of his general philosophy of government. Some, though by no means all, are disturbed with elements of his voting record in the area of civil rights and human rights.

But looking at the total record, the Committee finds Mr. Ford fit and qualified to hold the high office for which he has been nominated pursuant to the Twenty-fifth Amendment.

In this regard, the Committee found guidance in the legislative history of the Amendment itself. It is significant that both the House and Senate Reports which accompanied the recommendation for the Amendment in 1965 contain an identical paragraph, which reads thusly:

It is without contest that the procedure for the selection of a Vice President must contemplate the assurance of a person who is compatible with the President. The importance of this compatibility is recognized in the modern practice of both major political parties in according the Presidential candidate a major voice in choosing his running subject to convention approval. This proposal would permit the President to choose his Vice President subject to congressional approval. In this way the country would be assured of a Vice President of the same political party as the President, someone who would presumably work in harmony with the basic policies of the President.

APPENDIX 1

BIOGRAPHICAL MATERIAL: REPRESENTATIVE GERALD R. FORD, FIFTH CONGRESSIONAL DISTRICT OF MICHIGAN

Birth: Known to his friends as "Jerry," Congressman Ford was born July 14, 1913, at Omaha, Nebraska, but spent his childhood in Grand Rapids, Michigan.

Congressional service: In November, 1972, he was re-elected to his thirteenth consecutive term as a Member of Congress, having served since January 3, 1949.

Chosen Minority Leader of the House of Representatives at the opening of the 89th Congress January 4, 1965. He served as a member of the Republican Leadership in Congress since January, 1963; was chairman of the Republican Conference of the House during the 88th Congress (1963-64) and has been a member of the House Republican Policy Committee for over nine years.

During his first term, was named to the House Public Works Committee. In 1951, was assigned to the Appropriations Committee where he served on the Army Civil Functions Subcommittee and the Emergency Agency Subcommittee. During the 83rd and 84th Congresses, was a member of the Subcommittees on Foreign Operations and the Department of Defense and was on the Army Panel, serving as Panel chairman in the 83rd Congress. During the 85th Congress, was appointed to the Select Committee on Astronautics and Space Exploration. Remained a member of both the Defense and Foreign Operations Subcommittees of the House Appropriations Committee throughout the 85th, 86th 87th and 88th Congresses. Was senior Republican on the Defense Subcommittee before becoming Minority Leader.

Has maintained an attendance record of over 90% throughout his 24-year tenure.

Education: Was graduated from the former South High School in Grand Rapids. Later earned a B.A. degree in 1935 from the University of Michigan where he was a member of Michigamua, top senior honor. Received his law degree from Yale University Law School in 1941. Admitted to the Michigan State Bar (1941) and has been admitted to practice before the United States Supreme Court.

In 1965, was awarded the honorary degree of Doctor of Laws by Michigan State University and Albion, Aquinas and Spring Arbor Colleges; in 1968 by Buena Vista and Grove City Colleges; in 1972 by Belmont Abbey (N.C.) College; and in 1973 by Aquinas College and Western Michigan University. Received a Doctor of Public Administration degree from American International College in 1968.

Sports: Won all-city and all-state football honors in Grand Rapids during high school. While earning three varsity letters, was a member of the University of Michigan's undefeated national championship teams of 1932 and 1933, and was named Michigan's most valuable player in 1934, playing center.

On New Year's Day, 1935, participated in the Shrine East-West Crippled Children's benefit classic in San Francisco. That August, played in the All-Star game against the Bears in Chicago. While a Yale law student, was assistant varsity football coach.

In 1959, was selected by "Sports Illustrated" to receive its Silver Anniversary All-American Award as one of the 25 football players in the preceding quarter century who had contributed most to their fellow citizens.

In 1972, was awarded the National Football Foundation's gold medal for close association with the game.

Military service: In 1942, entered the U.S. Navy, serving 47 months on active duty during World War II. Participated in 3rd and 5th Fleet carrier operations aboard the aircraft carrier U.S.S. *Monterey* (CVL-26) for two years. Following shore duty with the Naval Aviation Training Program, was released to inactive duty with rank of Lieutenant Commander in January, 1946.

Post WW-II Civilian Life: Returning to Grand Rapids, resumed law practice. Received the Grand Rapids JayCees Distinguished Service Award in 1948 for work in various community projects. The following year was named one of "America's Ten Outstanding Young Men" by the U.S. Junior Chamber of Commerce, receiving its Distinguished Service Award.

Family: On October 15, 1948, married Elizabeth Bloomer of Grand Rapids. The Fords have four children: Michael Gerald (born March 15, 1950); John Gardner (March 16, 1952); Steven Meigs (May 19, 1956); and Susan Elizabeth (July 6, 1957).

Congressman Ford is a member of Grace Episcopal Church, Grand Rapids. He maintains active membership in the American Legion, Veterans of Foreign Wars and AMVETS and is a 33rd Degree Mason.

Further Honors: In November, 1963, was named by President Lyndon Johnson to the Warren Commission. Author (with John R. Stiles) of the book, "Portrait of the Assassin" (1965).

Served as permanent chairman of the 1968 and 1972 Republican National Conventions. Since becoming Minority House Leader, has delivered some 200 speeches annually throughout the country.

Visited The People's Republic of China in late June and early July 1972 on behalf of the President.

Lauded as a "Congressman's Congressman" by the American Political Science Association when it conferred on him its Distinguished Congressional Service Award in 1961. Was presented the George Washington Award by the American Good Government Society in May 1966.

Chosen by the American Academy of Achievement to receive the Golden Plate Award as one of fifty "giants of accomplishment," presented during the Academy's 10th annual Salute to Excellence in June, 1971.

Selected to receive the AMVETS Silver Helmet Award, that group's highest recognition of Congressional service, at ceremonies in Washington in April, 1971.

Elections: In the 1948 primary, Gerald Ford defeated the incumbent and went on to win his first term that November as Representative of Michigan's Fifth Congressional District. The district was then com-

posed of Kent and Ottawa Counties. Due to reapportionment, which became effective with the 1964 election (for the following term), Ottawa was replaced by Ionia County. Another reapportionment slightly altered the district beginning with the 1972 election.

In the 1972 election, Ford received the highest vote total of any candidate in the area comprising the Fifth Congressional District.

5TH DISTRICT CONGRESSIONAL ELECTION RESULTS

	Ford	Opponents	Ford majority	Winning percentage
Election year:				
1948 (Kent/Ottawa).....	74, 191	48, 422	27, 219	60.5
1950.....	72, 165	36, 303	27, 932	66.7
1952.....	109, 897	55, 910	54, 660	66.2
1954.....	81, 702	47, 453	34, 249	63.3
1956.....	120, 349	58, 899	61, 450	67.1
1958.....	88, 157	50, 203	37, 954	63.7
1960.....	131, 461	65, 233	66, 228	66.8
1962.....	109, 746	54, 044	55, 702	67.0
1964 (Kent, Ionia).....	101, 810	64, 488	37, 322	61.2
1966.....	92, 794	42, 700	50, 094	68.5
1968.....	105, 085	62, 219	42, 866	62.8
1970.....	88, 208	55, 337	32, 871	61.4
1972.....	131, 174	81, 573	49, 601	61.7

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DISSENTING VIEWS OF HON. ROBERT W. KASTENMEIER

As members of the House Committee on the Judiciary, we are asked to vote for or against the confirmation of Gerald R. Ford as Vice President of the United States without any prior precedent under the 25th Amendment to guide us in evaluating the standards by which this nominee should be judged. Should narrowly construed requirements which merely satisfy the constitutional qualifications or fitness for the office of Vice President be the criteria upon which we should base our decisions? Under usual conditions, perhaps this would suffice. However, because of the extraordinary circumstances surrounding the present Administration, I think such criteria are insufficient.

First, there is a question of propriety in dealing with the nomination at this time. We are being asked to move expeditiously in confirming the nominee of a President who is not now enjoying the support of the people in the exercise of his office. The 25th Amendment, jurisdictionally, deals with the replacement of a Vice President. But, it also deals with presidential disability. In a real sense, the President has a form of disability insofar as he is clearly under a cloud, unprecedented in the history of the Republic and seriously undermining his ability to govern. Under such circumstances, one could argue that this nomination is a tainted appointment and that the cloud must first be removed through the completion of an inquiry into impeachment charges against the President. Either charges must be brought or the President exculpated. Then, and only then, can we proceed with treating this nomination as one which has been properly put forward. Accepting this position, we are, consequently, faced with an unprecedented dilemma.

Second, there is the question of what standards we must apply to this nominee. Since the 25th Amendment contains no criteria to be used by the Congress, the Congress itself, must define such standards.

In another time, a more serene time, when the President has a Congress controlled by his own party, the President might have the right to expect to have his way in choosing a Vice President, and the selection of a party loyalist might be adequate. However, because of the extraordinary circumstances surrounding the present Administration, I cannot be as sanguine as is the majority of the majority of the Committee in believing that narrowly construed requirements which merely satisfy the constitutional qualifications and fitness for the office of the Vice Presidency are sufficient criteria for judging this nominee. Nor do I believe that pro forma approval should be granted in this instance, as is the case with other officers nominated by the President.

As colleagues, we know Gerald Ford to be a man who possesses many characteristics that are highly regarded—party loyalty, consistency and regularity. He is hard-working and well liked, and was ranked high on the list of prospective Vice Presidential nominees by his Republican colleagues. Further, as one of several Committee mem-

bers who had access to the FBI investigative report on Gerald Ford, I believe him to be an honest man.

However, it is not enough to test only the character and general reputation of this man. Since the Vice President is one of the two national officers elected by the people, we, as members of the Judiciary Committee, must act as surrogates on behalf of the people in our consideration of this nomination and impose a standard much more sweeping than the usual presidential criteria applied for executive appointments.

In my view, it is appropriate to ask whether, under existing circumstances, Mr. Ford will be suitable to serve as President of the United States, selected not through the process of a popular election, but as a result of an arbitrary presidential appointment. We must remember that if we approve this nomination and, in the event of a vacancy, Mr. Ford succeeds to the presidency, we will no longer have access to him. We cannot judge, after the fact, whether we want him to serve in that position. He will be cloaked in executive privilege, separation of powers, and the trappings of the Presidency which have caused us such grief in recent years.

Consequently, we must seriously examine this nominee in light of his competence to serve, if called upon, as President and, in this respect, this nomination is a disturbing one.

Given this time in history, this month, this year, and drawing upon the expressions of the will of the American people, I do not believe they want an approximate replica of Richard Nixon whose questionable moral and ethical philosophy have brought us to the crisis today. In colloquy with Committee members, Mr. Ford was given ample opportunity to distinguish himself from the views of the President, and he could not do so. On the contrary, he was rather emphatic in his support of the President. In fact, it is particularly disturbing that Mr. Ford seemingly could not understand why members of the Committee would even seek a clear definition of his own personal philosophy, policies and goals for governing this nation. Rather, he continually reverted to his positions of support for the President. This is consistent with the exercise of his role as minority leader of the House—devout, faithful and loyal adherence to the policies and philosophy of the President. Is this sort of leadership sufficient demonstration of an ability to lead and govern this country as its chief executive?

Much is said about the legislative history of the 25th Amendment calling for the views of a Vice Presidential nominee to harmonize with those of the President. But, given the application of the 25th Amendment at this time, it is more important that this nominee harmonize more with the Congress and the public at large. This is a reasonable request to make of the President in his consideration of a nominee. Instead, the President chose to serve his own interests.

I can accept a nominee who holds political views and a political philosophy which I do not share and, further, accept the proposition that the Republican Party should not lose its right to the White House. But, at a time when the President suffers a great crisis of confidence, I cannot accept the nomination of a man who defines leader-

ship as his ability to follow and remain slavishly loyal to a President whose moral authority to govern has diminished to unacceptable levels. This nomination falls far short of what the American people expect from their national leaders and I am, consequently, constrained to vote against reporting this nomination to the House.

ROBERT W. KASTENMEIER.

DISSENTING VIEWS OF HON. DON EDWARDS, DEMOCRAT, OF CALIFORNIA

The decision on whether to vote with and concur in the majority view of the Committee on the Judiciary to confirm the nomination of Gerald R. Ford as Vice President is a difficult and important task. Scant guidance is provided by the legislative history of Section 2 of the Twenty-fifth Amendment to the Constitution of the United States as to the precise role of Congress in this historic process. The meaning of the Twenty-fifth Amendment to the Constitution, which requires Congress to confirm the nomination to fill the vacancy in the Vice Presidency, was the topic of a great deal of discussion during our recently concluded hearings. The members of the Committee on the Judiciary agree substantially that the President has a right to have a person in the second highest office of the United States who is generally compatible, is of the same political party and is capable of working in harmony with the basic policies of the President.

The members of the Committee sought guidance as to their proper role from the nominee himself, from the many and varied public and congressional witnesses who sought to comment on the nomination of Gerald Ford and from research materials provided by the staff of the Committee and the staff of the Library of Congress. I have come to the conclusion that the House of Representatives, since this is the only confirmation process in which the Constitution provides it participate, has in this instance a heavy responsibility to the electorate of the country. I believe that each Member has an affirmative duty to go beyond the basic constitutional requirements, the basic honesty of the nominee and attempt to establish the moral, intellectual and philosophical fitness of the nominee, to potentially fill the Office of the President of the United States. We are not merely an investigative agency seeking to find any past actions that might have the appearance of a scandal. It has been argued that the role of the Congress in the confirmation process is to reflect the electorate as it was in November, 1972. Polls presently indicate a growing dissatisfaction with the state of affairs in this country, particularly with many constitutional attitudes posited in the present Administration. The faith of many generations in the Presidency as the symbol of integrity and justice is at stake. The new Vice President must be a man whose philosophy is commensurate with the moral and philosophical beliefs of the majority of the country, not as of November, 1972, but as of today.

I listened intently through six full days of hearings that scrutinized the life of Gerald R. Ford. I read and digested thousands of pages of information on his positions on the major issues confronting our society today. My decision is based on grave misgivings and reservations that have developed as the record of Mr. Ford's life, political and personal, has unfolded before the members of the Committee on the Judiciary during the hearing process.

In my view, the person that fills the Office of Vice President must display a deep understanding of the human problems that face all of the people of our country. The society that we live in is a multi-racial society and the needs of these diverse groups certainly have to be evaluated in the context of society as a whole. There are some basic human needs and desires that take preeminence over the short-term needs and desires of a political constituency. Mr. Ford as the Minority Leader worked vigorously to restrict or otherwise weaken major legislation over the years that would have provided for equal voting rights, fair housing and equal education for all the citizens of this country. This voting pattern represents a dismal record on human and civil rights and a lack of sensitivity to the basic necessity of a fair and equitable social structure. Nor does this attitude represent the true human compassion that the majority of citizens exhibit when called upon to respond to human needs.

In 1970, Mr. Ford again demonstrated a lack of sensitivity in his attitude toward the rule of law and the independence of the Judiciary by his conduct in the attempted impeachment of Justice William O. Douglas. Shortly after the rejection of Clement Haynesworth as a Supreme Court Justice, Mr. Ford took the Floor of the House on April 15, 1970, to deliver a scathing attack on Justice William O. Douglas. In his speech he alleged improprieties on and off the bench, involving money that Justice Douglas had been paid by the Parvin Foundation and an article that Justice Douglas had written which appeared in a magazine of questionable taste. Mr. Ford, it was developed by questions at the hearing, during this period solicited and received, unconfirmed and uncorroborated information from the files of the Department of Justice—the same Department of Justice that was singled out for comment for non-cooperation with the official inquiry into the same matters by Chairman Celler when he issued the Special Subcommittee's report. Mr. Ford did not let it be known that he had received such assistance nor did he offer to share the fruits of this poisoned tree with the Special Subcommittee. The situation points again to a lack of perspective with regard to the uniform application of rules. The Department of Justice is not a Republican data bank to be used for partisan retaliatory purposes. I am bothered that Mr. Ford would have played such a questionable role in the attempted impeachment of a Federal officer. The politicization of government agencies is highly undesirable. They must exist to dispense evenhanded justice for all citizens.

Questioning at the hearings highlighted an example of Mr. Ford's difficulty in distinguishing between his duty to a position of responsibility and using a position for personal gain. Mr. Ford was appointed by President Johnson to be a member of the Warren Commission investigating the circumstances surrounding the assassination of President Kennedy. After serving for the duration of the Commission, Gerald Ford subsequently published an article for *Life* magazine and coauthored a book, "Portrait of the Assassin," both of which dealt with the information collected and the conclusions drawn by the Warren Commission. He was the only member of the Commission to do so and thereby profit from the information that was related behind closed doors. Certain passages in the first chapter of the book contained

information that is still classified "Top Secret" and retained in the Archives of the United States. Mr. Ford's only explanation was that he regretted the oversight on his part of having used classified documents in his book, remarking that he thought they would have been made public and the material was overclassified. This nonchalance on being confronted with the same type of prima facie violation for which Dr. Daniel Ellsberg faced a jury was somewhat dismaying.

In this past year the country has become particularly aware of the damaging appearance of misconduct that can be imparted to a person who surrounds himself with people who, themselves, participate in questionable activities. The entire "Watergate" matter has focussed the attention of the American public on the importance of having the ability to judge the character of one's assistants and employees. We heard lengthy testimony from William O. Bittman, Esq. and Benton Becker, Esq. on allegations that Mr. Becker, while representing Mr. Ford and others, suggested possible assistance from his clients if Mr. Bittman's client would be able to furnish information concerning Justice Douglas and the Parvin Foundation. While I am not implying that Mr. Ford was aware of the overtures Mr. Becker made to Mr. Bittman, it does not reflect well for Mr. Ford to surround himself with people who assume more authority than they are given.

Throughout the hearings, I believe Mr. Ford responded almost entirely with commendable frankness and candor. This speaks well for Mr. Ford in a day when we are finding that simple straight forward candor is a missing quality in Government. But candor and frankness are simply not enough.

It is at this precise point in the unfolding of the history of the present Administration that the President could have reached into the heart of the great Republican Party and provided a nominee who, while compatible with Republican philosophy and views, would inspire and motivate the Nation to respect for human and civil rights, to truth within Government and in its dealings with all our citizens.

I must vote no, and urge my colleagues to do the same, to return this nomination to the President and ask for another who will supply the qualities of leadership so vitally necessary to our continued search for excellence, compassion and warmth of spirit.

DON EDWARDS.

DISSENTING VIEWS OF REPRESENTATIVE JOHN CONYERS, JR.

The nomination of Gerald Ford was delivered to the House on October 13, 1973, and referred to the Committee on the Judiciary. At that time the committee had pending before it a resolution to impeach the President of the United States for high crimes and misdemeanors. Since then 15 additional resolutions calling for his censure without prejudice to impeachment were introduced and referred to the committee on the Judiciary more than two weeks prior to the commencement of the Ford confirmation hearings. It is significant to note that during the 92d Congress the committee had also received a resolution of impeachment against the same President.

With the momentous tasks of both impeachment and confirmation before it the Committee on the Judiciary had three alternatives. It could defer consideration of the Ford nomination and proceed ahead with its impeachment inquiry or it could consider both the nomination and the impeachment questions simultaneously as was suggested by the nominee himself. And finally it could delay the impeachment inquiry and consider the nomination first. Why did the House of Representatives proceed first with the confirmation hearings? That decision reflected an utter failure to grasp the real issue before us: Whether it is more detrimental to the country to endure with a blight on the presidency or to have a vacancy in the office of the vice presidency. In my view, the most important issue confronting us today is the need to resolve the crisis surrounding the presidency.

If this nomination is confirmed, the Congress would then, for the first time in our history, set the stage for the possibility of having both an unelected President and an unelected Vice President. If this should occur, the people will have been effectively disenfranchised by a President who was subsequently impeached for subverting the electoral process and then aided by an unwitting Congress which failed to guard that electoral process and inadvertently played host to its further subversion.

The legislative history of the 25th Amendment instructs us that the most important reason for its passage was not to fill vacancies in the Vice Presidency but to provide a constitutional mechanism to meet the possibility of a disability in the office of the Presidency. Filling a vacancy in the Vice Presidency was only a secondary consideration and many members supported amendments in the House to strike out section 2 of the 25th Amendment, which provides for the Presidential nomination of a Vice President. To replace a Vice President under existing circumstances is far more detrimental to the country than to have no Vice President at all.

The Committee on the Judiciary has expedited this nomination citing nonexistent authority in the 25th Amendment. The real reason, of course, was to allay fears that any delay would appear to constitute

partisanship on the part of the Democratically controlled Congress. On its face, the 25th Amendment does not require the Congress to act upon a Vice Presidential nomination within any specified time. In fact, language which would have required Congress to act "immediately" was rejected during consideration of the amendment. Similarly, time limitations requiring the President and the Congress to act within a specified number of days were rejected as unnecessary. Senator Bayh, one of the principal sponsors of the 25th Amendment, in testimony presented before this Committee in 1964 shed some light on this question when he said:

I feel as far as time limitation(s) . . . it would be better to leave them out and trust the President and Congress to use good judgment as to what would be reasonable.

This statement is a clear indication that Congress has the flexibility to determine in its good judgment the circumstances under which it will or will not act upon a nomination. Although the possibility of dual vacancies in the Presidency and the Vice Presidency due to impeachment was not a consideration during the passage of the 25th Amendment, the Congress realized in its inscrutable wisdom—just as the framers of the Constitution realized—that the test of an effective law is whether it can meet the exigencies of its time. Certainly in this case the 25th Amendment provides us with the necessary flexibility to insure that the right of the people to elect their President is not infringed.

Those who have urged the committee and the Congress to expedite the confirmation process do not perceive that what this country needs most urgently under existing circumstances, where the President may be impeached, is not an appointed Vice President, but a special election law which would provide us with the necessary authority to give the people the opportunity to elect their President. This is the most non-partisan action which the Congress could possibly take at this time since it would dispel any thoughts that the Democratically controlled Congress is deferring the consideration of the Vice-Presidential nomination in order to bring into effect provisions of the Presidential Succession Act of 1947, which would elevate the Speaker of the House to the Presidency.

A number of legislative proposals have been introduced in the Congress to provide for a special election in the event of dual vacancies in the Presidency and the Vice Presidency. This country has been without a Vice President on 16 occasions amounting to 36 years or almost 20 percent of our history. During 155 years of our history from 1772 until 1947, with the passage of the last Presidential Succession Act; the laws of the United States provided for a special election in the event of dual vacancies in the office of President and Vice President.

The decision to proceed with this nomination, then, was made despite the fact that neither the Constitution nor reason required us to do so especially in light of the mounting evidence against the President which made his impeachment or resignation from office a more than likely occurrence. A possibility noted by members of the committee during the course of the hearings. By November 15, the Committee on the Judiciary has received over 124,000 communications calling for impeachment, more mail than it has ever received on a single subject.

At the time of the filing of this report that figure is now in excess of 191,000 letters or telegrams.

What criteria should a Member of Congress, voting on the confirmation of a nominee to the Vice Presidency use in deciding how to vote. The President of the United States has gratuitously told us what he thought the criteria should be: The nominee has suggested a standard: the distinguished chairman of this committee and any number of members have also suggested different tests.

In the course of the hearings distinctions were made between the responsibilities that attend a Vice Presidential confirmation as opposed to the responsibilities connected with a Senate vote to give "advice and consent." There was repeated discussion about the surrogate nature of this vote. Emphasis was repeatedly made about the surrogate nature of this vote. Although ultimately each Member is entitled to his own view on the subject, I argue that a Member of Congress has an obligation to vote against a nominee solely on the grounds that the nominee holds views or has a philosophy which, if he brought to that high office, would in the Representative's judgment be unsatisfactory or harmful to the Nation as a whole. This test, this exercise of judgment ought to prevail, notwithstanding any political mandate expressed in recent elections or even in what the polls may currently reflect, for each Member is elected to represent his constituency and to vote in the national interest. Unfortunately, for some this means that they must, under this definition of their responsibilities in office, function more than human polling devices reacting automatically to the latest soundings, real or imagined, in their districts or States.

In the instant case Mr. Ford's overview on life as reflected in his political attitude and specifically in his voting record leaves no alternative in these times but to oppose his nomination. Nothing then could be more absurd than to label opposition to the nominee based on his legislative record as partisan.

It is my view that the voting record which reveals the underlying philosophy of the nominee in the great areas of civil rights and human rights indicates continuing insensitivity to the critical needs of the American people, and that, therefore, his confirmation as Vice President would be detrimental to the country. The policies of this administration as supported by the nominee, particularly in the area of civil rights, have threatened the progress which this country has witnessed since the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. The nominee has found it easy to go along with administration policies because they are the kind that he has supported throughout his congressional career in opposing civil rights legislation.

During my nine years in the Congress, I have had the disheartening opportunity to become fully familiar with the position of Gerald Ford on the critical issues confronting this country. On the issues of civil rights and human rights, the nominee and I have never found ourselves supporting the same goals. I know his record well and I did not have to participate in six days of hearings to be any further enlightened. The nominee's position on these issues have not changed and from his testimony during the course of our hearings, he had made it plain that he does not intend to change. Although some members of the committee expressed optimism over this prospect that in the light

of past vice presidents and Presidents who have changed their views when they have assumed the responsibility of a higher office, I cannot support this or any other nominee based on so faint a hope.

Since the nominee was elected in 1949, there has been no single issue confronting the Congress more critical to the welfare of the United States than securing equality under the Constitution for all people. Later in his career as minority leader, he was in a unique position to lend leadership to this issue which unquestionably should transcend partisan politics and political expediency. However, despite the fact that he is a northern representative without the constituent pressures that exist elsewhere, he refused to lend his support to civil rights legislation for which some of his Republican colleagues vigorously supported.

There has been convincing testimony to the effect that the nominee's record is one of seeking to gut every major piece of civil rights legislation during the critical and precipitous stages before the final vote. Then, when it became apparent that efforts to stop this legislation were futile, the nominee would cast his vote for final passage. Votes on final passage are not very instructive, as every Congressman knows, and can be cited deceptively to bolster a poor civil rights record as some members of this committee attempted to do in defense of the nominee. During the committee's hearings, Congresswoman Barbara Jordan most appropriately characterized the nominee's civil rights voting record as trying to stall a train as long as possible and jumping on when the train is moving and there is nothing left to do.

Although the nominee's civil rights record is apparent not only to me, but to just about everyone in the Congress; he attempted to defend it as being a good record. Indeed the nominee can point with pride to only two instances in which he supported civil rights related legislation out of the numerous proposals that have come before the Congress—the Anti-Poll Tax Amendment of 1949 and the Philadelphia Plan.

In the area of human rights—housing, education, medical care, legal services, and labor—the nominee has displayed no less a disregard for the true critical needs of the majority of the citizens of this country. His record shows that he has consistently opposed programs which would provide assistance in helping to solve the problems of disadvantaged people. He has opposed food stamps, legal services, child care, minimum wages, education, medicare, the Office of Economic Opportunity, public housing, public works programs and rent subsidies. These programs are critical to the majority of the people of my district, both black and white, who have not been fortunate enough to be among the favored people of this administration.

The nominee has proven beyond a doubt that he is a loyal supporter of the President with few ideas of his own. There is no reason to believe, by virtue of the testimony that he presented before this committee, that he has any intention of prodding this administration to enforce the civil rights laws or be more sensitive to human rights. The administration's record has been poor and the confirmation of Gerald Ford as Vice President paints, in my mind, a very bleak picture for both civil rights and human rights in the ensuing years.

During his congressional career, the nominee has been recognized for fiercely partisan loyalties to the President and to his party. While

I find nothing wrong with having strong loyalties, there is an extreme to which they can be carried as evidenced by the unfolding disclosures of criminal activity spawned in the administration in the name of loyalty and national security. The nominee's partisanship on several occasions, particularly in the case of his impeachment investigation of Justice William O. Douglas, his work on the Warren Commission, and his role in the unconstitutional exclusion of Adam Clayton Powell¹ from the House, reached extremes which, I believe, made his views dangerous to the Congress. In my view, these examples are more characteristic of the inner man than they are of isolated outbursts of petty partisanship.

In the case of Justice Douglas, I find that Gerald Ford attempted to secure the impeachment of a liberal Supreme Court justice in, what can only be characterized as, a crude attempt to gain revenge for the defeat of the nominations to the Supreme Court of G. Harold Carswell and Clement F. Haynsworth only months before in the Senate. Both nominees were justifiably defeated based on, among other things, their civil rights records which, in many respects, rival that of Gerald Ford.

The nominee made several allegations of wrong-doing against Justice Douglas, all of which were found to have no merit by a special Subcommittee of the Judiciary during its investigation of Justice Douglas in 1970. The nominee's investigation of Justice Douglas revealed more about the personality of the nominee than it did about Justice Douglas. The allegations made by the nominee were made with no basis in fact and at least some of the evidence was developed with the assistance of the Justice Department—a clear indication that the nominee has a questionable respect for the separation of powers so deeply rooted in the Constitution.

Regarding his tenure on the Warren Commission, I find that Gerald Ford violated the informal compact commission members claim to have existed not to publish any documents regarding the commission's investigation independent of their final report. In June, 1965, the nominee published *Portrait of an Assassin* for personal profit using materials contained in the commission's report in addition to documents which are still classified "top secret." No other commission member has ever published any document relating to his experience or work on the investigation into the assassination of President Kennedy. Although this does not constitute a serious violation of the law, it does represent a disregard for principles of ethics which should be of highest priority to a man who aspires to the Vice Presidency.

Additionally, regarding his work on the commission, I find sufficient evidence to conclude that the nominee was one of the most partisan members of the commission as evidenced by his attempt to have two professional staff members, both of whom served the commission with distinction, removed because of views that they had expressed before joining the commission with regard to the House Un-American Activities Committee.

A disturbing aspect of Gerald Ford's career is his close association with lobbyists, some of whom have played key roles in his last two reelection campaigns. Additionally, during the hearings the nominee admitted making a serious mistake in associating, for more than three years, with a lobbyist who has made serious allegations against him.

Although I would not condemn Gerald Ford for the kind of people he chooses to associate with, I am deeply concerned with his judgment in this respect should he become President and be in the position to shape the Federal Government in the image of his associates.

During his confirmation hearing, the nominee was closely assisted by William C. Cramer, a former Congressman and arch foe of civil rights legislation during his career. Mr. Cramer has been at the center of several controversies involving illegal political activity in Florida. The record of the committee's hearing shows that the nominee stated that he "would have no hesitancy to recommend his (William C. Cramer) appointment to any job in the administration." I am not prejudging either Mr. Cramer or the nominee. However, I do wish the record to clearly show that I have strong reservations with respect to the kind of people the nominee may bring into public office if he is confirmed.

FBI Report

One of my most strenuous objections to the confirmation of Gerald Ford is based upon the decision of the Department of Justice to release its 1,700 page FBI report to only eight members of this committee. It is my opinion that every member of the committee who wished to read this report should have had access to it in order to intelligently vote on the nomination before us. During the course of the hearings, I continuously emphasized the necessity for me, in particular, to have access to the FBI report. The Chairman, on the second day of our hearings, requested it from the Justice Department on my behalf, but was refused. Although the Chairman made every effort to secure access to this report for all committee members, and specifically for myself, I strongly believe that the committee should have issued a subpoena for this document. In fairness, I wish to note that the nominee supported complete access to the FBI report to all members of the committee.

Without having seen the FBI report, I can reach no conclusions as to its contents or completeness since I am unable to determine whether the FBI carefully sifted all of the relevant evidence, whether each investigator thrust himself into the inner sanctums of Gerald Ford's personal transactions during his career, and whether they thoroughly followed up all leads bearing on serious allegations made against the nominee during the course of our hearings. I cannot rest my faith as to these issues upon the evaluations of this report made by some of my colleagues. Although I fully respect their opinions, I have the duty and the responsibility, to myself and to my constituents, to see and evaluate all of the evidence adduced for these confirmation hearings by the F.B.I. and other sources and attach to it my own independent conclusions. Without this evidence, I can reach no conclusions with respect to allegations made during the course of our hearings impugning the integrity of Gerald Ford. And I cannot give the nominee the benefit of any presumptions which is what, in effect, my colleagues, who voted to recommend his confirmation by the House, have undoubtedly done.

Finally, the confirmation of Gerald Ford as vice president may be unconstitutional under the emoluments clause of the constitution (article 1, section 6, clause 2). That section provides:

No Senator or Representative shall, during the time for which he is elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; . . .

On October 24, 1973, during the current term of the nominee, Public Law 93-136, which increased retirement annuity benefits of Federal employees including the Vice President, became law. This legislation appears to be an emolument consistent with the meaning of the Constitution and therefore raises serious questions as to whether the nominee is eligible to assume the Vice Presidency. Legal precedents on this question are meager and substantial disagreement as to the definition of certain terms within the amendment, critical to this issue, exists in the legal community. This issue was not considered during the course of the committee's hearings which I believe to be a serious deficiency in the record since this issue alone could disqualify Gerald Ford for the Vice Presidency, notwithstanding any decision made by the 93rd Congress.

JOHN CONYERS, JR.



SEPARATE AND DISSENTING VIEWS OF CONGRESSMAN JEROME R. WALDIE ON THE CONFIRMATION OF GERALD R. FORD

In deciding that my responsibility as a Member of Congress under the 25th Amendment will be best fulfilled by casting my vote against the confirmation of Gerald Ford as Vice-President, I do so expressing no reservations as to the honesty of the nominee or his personal integrity. Indeed, those attributes are superior and clearly demonstrated in Gerald Ford's case. And it is depressingly true that attributes of honesty and personal integrity have been too rarely discernible in appointees of President Nixon in the past and their presence in this nominee makes them even more compelling than would normally be the case.

But we, as 535 Members of Congress, are exercising a unique and important responsibility under the 25th Amendment. We are performing a function heretofore reserved for the American people at a Presidential election. We are, in fact, selecting a President though his immediate title and duties are those of Vice-President. We would be doing such if in fact the Presidency was discernibly secure and succession was remote. We are particularly doing so when the Presidency is insecure and succession is probable, not possible, as is the instant case.

I believe there are no clearly defined limits dictating the bounds to our discretion in confirming or rejecting Gerald Ford. The primary standard to be met is the conviction in each of our minds that Gerald Ford would perform the enormous and the unique responsibilities of the Presidency capably and effectively.

That responsibility in this era is a particularly difficult one. When succession to the Nixon Presidency occurs, the person succeeding will confront a shambles that has never been equalled in any previous Presidential succession. Nixon will have left the Executive Branch machinery in complete chaos and disarray; the confidence of the people that normally is willingly and earnestly extended to a Presidential successor will be absent and not transferrable with ease to Nixon's successor. The domestic problems of America have been so neglected and mishandled that their severity will try the most able and competent of successors. The foreign affairs of America continue to be fragile and dangerous and their stability will be dependent on the succession of a person skillful and experienced in foreign affairs.

In short, the times are unique in every way. We are performing a responsibility normally performed by the American people at the polling booth. We are exercising that duty at a time when the individual elected will confront the most awesome and difficult of problems and dangers.

Would Gerald Ford be able to competently and effectively restore stability to a shattered Executive Branch; confront the awesome domestic problems of inflation, energy, rationing, unemployment, civil

disorder, and need for racial reconciliation; maintain stability in our foreign policy; and obtain the necessary confidence of the People to accomplish those tasks?

I believe he cannot meet those demanding criteria. I believe, though he remains a model of a decent and honest man, he has not demonstrated in either his past record or his present attitudes the capacity required to govern this nation at this time. That does not reflect on Gerald Ford. Few people would meet such standards. But those people do exist and can be considered. I name only a few as illustrative of the type of Republican nominee we should be considering: Richardson, Scranton or Rockefeller.

The most compelling evidence of this "lack of capacity" to govern this nation is demonstrated in the account of his effort to impeach Justice Douglas of the U.S. Supreme Court.

That effort demonstrates Gerald Ford's adherence to the philosophy of the Nixon administration that has been most damaging to America, namely, his lack of sensitivity to and respect for the rule of law.

Even as the Nixon administration has time and time again acted in accord with a contempt for the applicability of the rule of law to the President or to his associates, so did Gerald Ford in his attempt to impeach Douglas.

Even as the Nixon administration has time and time again sought to use the instruments of justice for narrow political objectives so did Gerald Ford in his attempt to impeach Douglas.

Even as the Nixon Administration has treated the Separation of Powers Doctrine with contempt when that Doctrine interfered with any of its goals, so did Gerald Ford in his attempt to impeach Douglas.

Even as the Nixon Administration has sought to compromise the independence of the Judicial Branch, so did Gerald Ford in his attempt to impeach Douglas.

In examining the role of Gerald Ford in the attempted impeachment of Douglas, the conclusion is inescapable that he acted as a handmaiden for the Nixon Administration; that his motivation in advocating impeachment of Douglas had little to do with an honest belief that Douglas in fact had committed impeachable offenses.

Gerald Ford "surfaced" on the Douglas impeachment a short time after the Senate rejected Judge Haynsworth as a Nixon nominee to the Supreme Court. Though the precise time is in dispute because of Gerald Ford's inability to specifically recollect, there seems little doubt that Ford called Attorney General Mitchell shortly thereafter and asked that "the full resources of the Department of Justice" be placed at his disposal to impeach Douglas. Mitchell willingly complied and within a few days, as he had promised, sent his assistant, Will Wilson, to Ford's office. Wilson provided Ford with unsubstantiated data allegedly concerning Douglas' association with criminal elements. It is admitted by Ford that the information was provided secretly and anonymously by Wilson and that the role of the Department of Justice in this sordid exercise was purposefully concealed and only came to light during examination of the nominee in the recent confirmation hearings. It is not clear, but it seems probable that the information provided was from FBI confidential files.

Ford used this data precisely as provided down to the last error in his April 15, 1970, speech setting forth the reasons he was seeking the impeachment of Douglas.

But, it is of interest that this speech was not delivered for a number of months after the data was provided by the Department of Justice. The reason for the delay from December of 1969 to April 15 of 1970 was apparent: Mr. Carswell was then being considered by the Senate for confirmation to the Supreme Court. It is reasonable to believe Ford held up his further action against Douglas at the request of President Nixon who believed it might result in jeopardizing Carswell. But when Carswell was rejected by the Senate on April 8, Ford immediately delivered his April 15 speech demanding in retaliation the impeachment of Douglas.

Ford, then, used the Department of Justice for political purposes in secretly seeking and obtaining confidential information to politically attack a United States Supreme Court justice.

He used the impeachment process, not to seek impeachment, but to pressure the Senate to confirm Carswell, in the first instance, and retaliate against the Senate for the rejection of Haynsworth, in the last instance.

He timed his actions in this entire incident in response to the direction of the White House in order to meet the political needs of the President.

All this has a too familiar ring. We have had enough of abuse of the rule of law; we have had enough of attempts to politicize the instruments of justice in this land.

Gerald Ford has demonstrated a willingness to justify the means he uses by the ends he sought in the Douglas matter.

He exhibits an unacceptable lack of sensitivity to or belief in the rule of law.

He does not deserve confirmation.

JEROME R. WALDIE.

SEPARATE VIEWS OF REPRESENTATIVE JOHN F. SEIBERLING

This is a troublesome nomination. We have it before us for no other reason than that the previous occupant of the office resigned upon being convicted of a felony, in consequence of which millions of Americans who had listened for years to the former Vice President's partisan speeches and moralistic lectures now feel betrayed and millions more have become utterly cynical about the political process.

Unfortunately, that is but a small facet of the unprecedented crisis of leadership facing this nation. The public's faith in the moral integrity of the President has been shattered, and the actions of the President have cast grave doubt on his own fidelity to the rule of law and the principles of the Constitution. At a time of serious economic crisis, in the wake of the nation's divisive involvement in its longest war, the Presidency has been crippled as a source of effective leadership and national reunification.

I do not question the right of the President, under the 25th Amendment, to nominate a member of his own party. Nor do I think that the Congress should reject the nominee for partisan reasons or solely because his political philosophy differs from that of the Congressional majority. But surely the members of Congress, acting here as substitutes for the voters of the nation, have a right, indeed a duty, to exercise their best judgment as to whether the nomination will serve the most urgent needs of the country.

At this point in our national life, we desperately need as Vice President someone who is eminently capable of assuming, if need be, the burdens of the Presidency and who, in that role, can restore the faith of the nation in the integrity, ability, impartiality and compassion of its top leaders. Against these standards, the nomination of Gerald R. Ford is disappointing and leaves many doubts and unanswered questions.

Happily, there appears to be no significant doubt as to Mr. Ford's personal honesty. He was open and candid in responding to the Committee's requests for information and in answering Members' questions. This is not to say that all of his answers on policy matters were responsive or that he did not at times evade issues.

Unhappily, by his own candid admission, Mr. Ford makes a distinction between personal honesty and official honesty. In response to a question as to whether the President should ever lie to Congress or to the American people, Mr. Ford stated that it might be necessary, in extraordinary circumstances, for the President to "blur" the truth or authorize a "temporary lie."

Equally disturbing is the fact that, in his reference to the Watergate episode, which he repeatedly criticized as "stupid," Mr. Ford never indicated any concern over the moral or ethical breakdown which Watergate represents and which is really its most serious aspect. At

the very least, this raises a question as to possible insensitivity on his part to the ethical requirements of our political system.

Mr. Ford is obviously a person of considerable ability as a politician and legislator, or he would not have been chosen or retained as the Minority Leader in the House for many years. He has the respect of both Republican and Democratic colleagues. Unquestionably his background would be of immense benefit in working with Congress, should he become President. Equally beneficial would be his evident openness and accessibility to Members of Congress, a practice which he pledged to continue as Vice President and if he should become President.

Unfortunately, Mr. Ford has had no significant executive experience. His public life has been limited to the House of Representatives. This could prove to be a serious deficiency if he were to be elevated to the Presidency in these times of crisis. Similarly, his actual experience in diplomatic or international affairs is quite limited.

The kind of leadership required of a House Minority Leader is certainly not comparable to that required of a President. Mr. Ford's role as Minority Leader seems to have been primarily one of parliamentary maneuvering and acting as liaison with the White House—that is, executing basic policy decisions, not making them.

In the area of partisanship, we reach one of Mr. Ford's most serious drawbacks. His entire political career appears to have been one of aggressive partisanship, particularly since he became Minority Leader. While this is a normal aspect of political life, certainly there are many outstanding Republican leaders, both in and out of Congress, who have a far less partisan record and image than Gerald Ford and who, therefore, could, if confirmed as Vice President, far better commence the work of restoring national unity.

Mr. Ford's partisan reflexes led him in 1970 to make a savage attack on Supreme Court Justice William O. Douglas. Especially disturbing was Mr. Ford's use of the Department of Justice to supply him surreptitiously with information and (as it turned out) misinformation for his highly partisan attack. His action in displaying nude magazine photographs before the Committee and the television cameras during a discussion of his charges of impropriety by Justice Douglas was itself an act of impropriety which was uncalled for and revealed a disturbing insensitivity as to the level of conduct the public has a right to expect from a nominee for the Vice Presidency.

Also disturbing was Mr. Ford's characterization of liberal Democrats as "dangerous to our way of life." As Vice President or President desiring to bridge the divisions in our national life, Mr. Ford would have to go to unaccustomed lengths to overcome his past image of intense partisanship and to demonstrate that he does, in fact, accept the legitimacy of diverse political beliefs and peaceful dissent.

In terms of compassion and concern for human needs, Mr. Ford's record is a mixed one. On legislation to protect minorities and poor people, it is weak indeed. He professed to feel strongly about the need to reorder our national priorities and stated he had voted for every increase in Social Security payments. Yet he has also voted for every defense authorization and appropriations bill and resisted efforts to cut such bills on the floor of the House. Mr. Ford declined to indicate that he had learned any basic lessons from our tragic and costly in-

volvement in the war in Vietnam and said he still does not think the objectives of that involvement were wrong. He did concede that in the future we should be "very restrained in the commitment of any U.S. military personnel for a combat purpose." While this is highly commendable, it must also be read against his recent opposition to the War Powers Act and his efforts to prevent the overriding of the President's veto of that Act.

What all this adds up to is that, despite the evident talents and good personal qualities found in Mr. Ford, there appear to be serious uncertainties as to his ability to fulfill some of the most urgent requirements of the office for which he has been nominated.

Unfortunately, the 25th Amendment provides no procedure for the Congress to seek out or test alternative candidates for the Vice Presidency. The procedure provided is supposed to be a substitute for a national election, yet, unlike an election, there are no alternative choices. Since there is no other choice and the nominee is an esteemed colleague of those who are voting on his nomination, the 25th Amendment presents us with a "stacked deck."

The instant proceeding has already brought out sufficient flaws in the 25th Amendment to justify a new search for a better way to handle the problem of Presidential succession. Such a search should include consideration as to whether it is necessary even to have a Vice President, since, except as a replacement for the President, it is an unnecessary office.

However, at the moment the House has no choice but to vote for or against the nomination of Gerald R. Ford to be Vice President of the United States. The motion presented to the Committee was to recommend that the House approve the nomination. I was concerned that a vote for the motion could be construed as supporting the nomination, something I was not prepared to do. However, a vote against the motion could be construed as an effort to prevent the House from voting on the nomination, something I was also not prepared to do. Accordingly, I voted "present."

I will cast my vote in the House in light of the considerations outlined above and after further careful reflection as to what action seems to be in the best interests of the country.

JOHN F. SEIBERLING.

SUPPLEMENTAL VIEWS OF CONGRESSMAN ROBERT F. DRINAN

The 25th Amendment confers upon members of the House of Representatives a power unique in all of American history. The members of the House are mandated to conduct an election in which the House is a virtual partner with the President in the approval of a Vice President. The President's designation of Congressman Gerald Ford as Vice President raises no presumption that the Congress should confirm him. The rights of the House under the 25th Amendment are similar to the rights which the House has under the 12th Amendment to the Constitution which empowers the House to conduct an election in the event that the electors after a Presidential election do not present a candidate for President with a majority of the votes of the electors:

In my view, the 25th Amendment, by including the House of Representatives among those who will share in the appointment of a Vice President, intends that the members of the House reflect the viewpoints of their constituencies in their vote for or against confirmation of a President's nominee for the office of Vice President.

Senator Birch Bayh, the principal architect of the 25th Amendment, stated well the purpose of this amendment during debate on this question on February 19, 1965. Senator Bayh stated that:

. . . by combining both Presidential and Congressional action we were doing two things. We were guaranteeing that the President would have a man with whom he could work. *We were also guaranteeing to the people the right to make that decision.*" [Emphasis supplied.]

The framers of the 25th Amendment did not intend to exclude consideration of the political ideology of the nominee, nor did they think that Members of Congress should be required to set aside partisan differences of viewpoints as irrelevant or immaterial. Indeed, the history of the amendment demonstrates that the requirement of separate approval by each branch of government means that the mere appointment by the President was not to be as inexorably determinative and as narrowly assailable as would be the case in appointing, for instance, a Secretary of Commerce.

Representative Seymour Halpern, in discussing Section 2 of the Constitutional Amendment at the time of its adoption, stated: "Section 2 also provides that the people, indirectly, through their chosen representatives, shall have a proper voice in the process." Then-Representative and now Senator Mathias described the confirmation process as "an election by the Members of Congress" and "the nearest thing to a full-fledged national election." Similarly, Representative Fuqua, who testified before the Judiciary Committee, stated quite clearly: ". . . [T]here is provided in Section 2 the possibility that Congress does have the right—whether they exercise this right or not—to confirm the nominee of the President. If we want to be a rubber stamp, that is our priv-

ilege, but we do have the right not to be a rubber stamp." Herein lies the unique role of the House in the confirmation process.

While the Senate gives its "advice and consent" to the nomination and appointment of officers and Judges, the 25th Amendment provides that the President shall nominate a Vice President who takes office upon confirmation by a majority vote of both Houses. The distinction lies in the difference between the "advice and consent" function and the "confirmation" function. At least one proposed amendment (H.J. Res. 143), introduced by Congressman Shriver of Kansas, provided that in the event of a vacancy, the President shall appoint a Vice President with the advice and consent of the Houses of Congress. The Language, which had the support of the New York State Bar Association, was not accepted. It is clear that the two processes are distinct and that the confirmation process is necessarily more comprehensive. The confirmation process is at the very least, the process of voting on the nominee of the President. Voting invokes by connotation all the elements of free choice and democratic principles upon which our Constitution is based. The Congress by its nature has delegated power and that power is representative of, if not derived from, the competing interests in our society. The Congress represents the interests of business, labor, agricultural, civic, patriotic and welfare groups, to name but a few. It is nowhere else in our government required that these interests satisfy themselves with the competence only, and that the ideology of, the Vice President. Indeed, if Congress were to pass only on the "competence" of Gerald Ford, and his ability to get along with the President, it would have no function different from that of the Executive.

Senator Bayh stated at the time of the adoption of the amendment, "The President already has the power to nominate many executive officers and the Senate of the United States has the power to ratify, to confirm, to advise and consent, or not to, and we are giving him the same power in bringing in the House of Representatives as the most populous and most representative power of the Congress. These shall have the final power of election after the President has nominated the Vice President." Then-Attorney General Katzenbach in his prepared testimony before the House Judiciary Committee, stated that "Participation by Congress should help to ensure that the person selected would be broadly acceptable to the people of the nation."

The 25th Amendment sets up a procedure where for the first time the Vice President is not elected, but rather the choice is in the hands of the President. It was surely not the intent of this Amendment that democratic principles be abrogated, but instead the confirmation process must be thought to be as election-like as possible to preserve these democratic principles. As Representative Halpern stated, "Section 2 also provides that the people, indirectly, through their chosen representatives, shall have a proper voice in the process."

I believe that the people have a right to choose the Vice President by means of an election in the House of Representatives. The House of Representatives can best represent the wishes of the people, and, accordingly, is the proper body to have such an election of a Vice President upon the nomination by a President.

As the surrogate of the 476,000 people of the Fourth Congressional District of Massachusetts I deem it my right and duty to vote against the confirmation of Gerald Ford. Three reasons justify in my judg-

ment this decision: one, the priorities of Mr. Ford are neither mine nor those of my constituents; two, Mr. Ford's attempted impeachment of Mr. Justice Douglas in 1970 leaves unresolved fundamental questions about Congressman Ford's attitudes towards American institutions of government; three, Mr. Ford's ambiguous position with respect to secrecy in government is unacceptable.

I. CONGRESSMAN FORD'S LEGISLATIVE PRIORITIES

Congressman Ford opposed the creation of the food stamp program in 1957, the establishment of the Office of Economic Opportunity's anti-poverty program in 1964 and the creation of the Medicare Program for the elderly in 1965.

Congressman Ford voted against Federal aid to public schools in 1965 and 1969. He voted against rent subsidy programs in 1965, against model cities' funds in 1967 and against the Child Care Conference Report in 1971.

Congressman Ford has an equally negative record on environmental issues. He opposed Federal aid to states to prevent water pollution in 1956 and 1960 and opposed efforts to strengthen the Federal Water Pollution Control Act of 1972. The League of Conservation Voters gave Mr. Ford a 23 percent rating in 1972 and a 17 percent rating in 1971.

The only area in which Congressman Ford has consistently supported generous Federal spending is that of the military. He has always opposed even modest efforts to diminish military spending.

In the area of civil rights the legislative priorities of Congressman Ford differ almost totally from everything that I know concerning the way in which my constituents view questions of civil rights. In 1965 Mr. Ford voted to mangle the Voting Rights Act. In 1966 he voted to delete fair housing provisions from a proposed law. If the position of Mr. Ford had been supported by Congress the voting rights law and the fair housing legislation would be substantially ineffective at this time.

Congressman Ford has consistently voted in favor of any proposed law which would prevent pupil transportation to accomplish desegregation or to reduce racial imbalance. On October 10, 1973 Mr. Ford voted to deny the citizens of the largely black District of Columbia the right to vote for their own mayor.

It would be encouraging to think that Mr. Ford as Vice President or President might alter his position and be more responsive to civil rights. This was, of course, the pattern of Lyndon Johnson who as a Senator from Texas felt politically constrained to vote against civil rights legislation. In Mr. Ford's congressional district, however, the number of blacks through all of his 25 years as a member of Congress has ranged from 7 to 12 percent. From personal questioning of Mr. Ford on this point in the Judiciary Committee hearings I cannot unfortunately report that there is any indication that he would take a more affirmative attitude towards civil rights legislation if he were not a Congressman from Grand Rapids, Michigan.

In the area of civil liberties the priorities of Mr. Ford do not appear to be reconcilable with mine or with those of the citizens of my congressional district. Mr. Ford has frequently criticized anti-war demonstrators and praised Federal law enforcement officials for

their handling of the 1971 May Day demonstrators,—even though the 12,000 convictions obtained by the police on that on that occasion were set aside by the Federal courts in Washington. Mr. Ford has voiced support for preventive detention and for legal provisions to cut off Federal aid to any disruptive college students receiving such assistance.

On the right to migrate Congressman Ford is also unsatisfactory. He is opposed to the Jackson-Vanik-Mills amendment which would give to Russia the status of a most favored nation only if that country allowed Soviet Jews and other Russian citizens to migrate according to their desires to other nations.

In view of the fact that I vote as a surrogate or a representative of my constituents I feel that it is clear that I cannot cast a ballot for a man with the legislative and political priorities which Congressman Ford has demonstrated with remarkable consistency since he came to the Congress in 1948.

II. CONGRESSMAN FORD'S ATTEMPT TO IMPEACH JUSTICE DOUGLAS

The speech which Congressman Ford gave on April 15, 1970 on the floor of the House seems to be inconsistent with the carefulness and consistency which characterize all his other actions. It seems strange and shocking to have the Minority Leader of the House of Representatives try to associate Justice Douglas with gamblers and with "revolutionaries". Substantial evidence emerged in the hearings before the Judiciary Committee that it was the Department of Justice that furnished the allegations which Congressman Ford repeated about Justice Douglas. Congressman Ford has conceded that he spoke to the then Attorney General Mr. John Mitchell about his desire to move for impeachment of Justice Douglas. Mr. Mitchell directed Mr. Will Wilson, then Deputy Attorney General, to bring to Congressman Ford allegations about Justice Douglas which Mr. Ford reiterated with little or no critical evaluation.

Some may contend that Congressman Ford may simply have made a mistake of judgment in this matter. Since, however, Mr. Ford in effect assaulted the independence of the Judiciary by his attempts at impeachment his conduct with respect to this matter must in my judgment be deemed to be a most serious disqualification for the office to which he has been nominated.

III. SECRECY IN GOVERNMENT

If there is any one reason for the alienation of the American people from those who govern them it is the pervasiveness of secrecy in a government which has as its most fundamental dogma that it must govern by the people and of the people and for the people.

Gerald Ford was one of the 14 members of Congress who was informed of the 3630 B-52 raids conducted clandestinely over Cambodia during the 14 months prior to April 30, 1970. On that day President Nixon announced the ground invasion of Cambodia by U.S. forces. After the super secret bombing became accidentally known in July, 1973, Congressman Ford confirmed that he had been briefed about the bombing. Under questioning by me in the House Judiciary Committee hearing Congressman Ford denied anything wrong in his complicity with the government in keeping from the Congress and from the peo-

ple of the United States the fact that the United States had bombed a neutral country without the knowledge or consent of the Congress. I indicated to Mr. Ford in the confirmation hearings that in my judgment what he was defending was in fact an impeachable offense. Mr. Ford sought to justify the clandestine bombing by the assertion that Cambodia was a sanctuary from which supplies were being made available to North Vietnamese troops in South Vietnam.

In my judgment Congressman Ford's defense of this indefensible secret bombing in Cambodia raises the most serious questions about whether he has any commitment to open up the Federal government to the people of America.

On other related questions Mr. Ford is also unsatisfactory. He would not agree that every member of Congress has the right to know the amount of the budget of the CIA.

Unfortunately Mr. Ford may properly be accused of playing partisan politics with the issue of secrecy in government. On June 18, 1966, he stated, "It is President Johnson's war, because the President plays everything too close to the vest. He has an unhealthy passion for secrecy."

On April 3, 1963 Congressman Ford opposed the Executive privilege which in recent times he has justified. On that date he stated that:

To maintain that the executive has the right to keep to itself information specifically sought by the representatives of the very people the executive is supposed to serve is to espouse some power akin to the divine right of kings. . . . Congress cannot help but conclude that executive privilege is most often used in opposition to the public interest.

Senator Birch Bayh, in the course of the enactment of the 25th amendment, stated that:

We are bringing in the House of Representatives as the most populist and most representative power of the Congress. These (members) shall have the final power of election after the President has nominated a Vice President.

I deem it my right and my duty, both because of my own convictions and priorities as well as those of my constituents, to cast a no vote in the election in the House of Representatives with respect to the nominee named by the President. I do it with reluctance but also with certainty that I have fulfilled my duty in a process under the 25th amendment which then Congressman now Senator Mathias stated was designed to be the nearest thing to a full-fledged national election.

I vote against the President's nominee because the people of this country in November 1972 made it clear that they wanted a continuation of the priorities of a Democratically controlled Congress. Mr. Ford does not stand for those priorities or objectives. Consequently I vote against his nomination since this is not the man that I want to see as President of the United States. A President can and should shape public policy in a way that no other single American is able to do. I do not want to see America shaped according to the positions on defense policy, domestic problems, civil rights and governmental secrecy which Congressman Ford has followed over the past 20 years.

DISSENTING VIEWS OF CONGRESSMAN CHARLES B. RANGEL

I respectfully dissent from the resolution of the Committee recommending the confirmation of Gerald R. Ford to be Vice President of the United States under the provisions of the 25th Amendment to the Constitution of the United States for the following reasons.

It is my opinion that the Committee proceeded with undue haste to consider the nomination of Gerald Ford at a time when the President who nominated him is under the cloud of impeachment proceedings initiated against him because of a variety of specific charges arising out of what has come to be known as the "Watergate" investigation.

It is my belief that a President whose conduct has been such as to bring forth resolutions of impeachment or of inquiry into the question of impeachment from more than one hundred members of the House should be disabled from naming his successor under the 25th Amendment. Until the cloud of suspicion of Presidential culpability in impeachable offenses has been either confirmed or removed, how can the American people, or we as the representatives of the people in this body, have confidence in the selection process prescribed by the 25th Amendment? We have been faced with a situation in which suspicion of the President is so profound and widespread that the national media has printed speculation that the very selection of Gerald Ford is part of a deal preparatory to the President's resignation from office.

Not on the basis of such speculation, but as a result of my own analysis of the President's loss of credibility with the American people because of the mounting evidence of his complicity in criminal activity, I have argued during the hearings that the Committee, in considering the nomination of Gerald Ford before proceeding with the inquiry into the question of the impeachment of the President, had misplaced its priorities. My position has not been based only upon my conviction that the impeachment inquiry is the highest priority for the Committee, but also on my belief that before examining the qualifications and fitness of Gerald Ford, the Committee should know whether it is in fact considering the confirmation of the next President of the United States.

Whether by impeachment or resignation, it is becoming increasingly likely that President Nixon will be leaving the Presidency before the end of his term. Thus the question I and each member of the Committee on the Judiciary have been faced with as we considered the qualifications and fitness of the nominee has been should Gerald Ford be the next President of the United States? The answer demanded by the record compiled by Mr. Ford during his career of unrelieved mediocrity and by the evidence presented before the Committee of his anti-civil rights, anti-human voting record, his willing participation in an effort to deny representation to the people of my community through denial of a seat in the House to its duly-elected representative,

his unprincipled, unwarranted attacks upon Supreme Court Justice William Douglas, his extreme partisanship as Minority Leader, and his demonstrated lack of effective Congressional leadership, is a resounding no.

I also find that for the same reasons, Gerald Ford is not qualified to be Vice President of the United States. The history of this nation is that Vice Presidents have succeeded to the Presidency by reason of Presidential death or disability 8 times. The Vice President, it has become a cliché to state, stands but one heartbeat away from the Presidency. Yet we continue to apply different standards for the selection of a Vice President than we do for a President of the United States. Events of the last seventeen months show that we do this at our national peril. The selection by both major political parties of men who were forced to resign as nominee and occupant of this office reveal the deficiency in our manner of selection even when that selection is made in the crucible of our national political conventions. When the selection of a replacement under the 25th Amendment is removed from the testing pressures of the political process and is made by a President whose first choice for the job has been forced to resign from the office because of conviction of a criminal act, and when five hundred and thirty-five members of the Congress are asked to substitute their collective judgment for that of the electorate, we must take special care to apply the highest possible criteria to the nominee.

I do not believe this has been done. Members of both the House and Senate, have expressed their satisfaction and acceptance of the nomination of Gerald Ford to fill the vacant Vice Presidency on the ground that his experience, knowledge of the Congress and above all his unswerving, unquestioning loyalty to the President, make him superbly qualified to fill the Vice Presidential role. Members of the Committee have reflected this viewpoint and in some instances have declared a searching inquiry of Mr. Ford's record and philosophy irrelevant to the confirmation process, insisting that Mr. Ford's proven personal honesty and loyalty to the President alone sufficiently qualify him to be Vice President of the United States. I cannot agree. Under the 25th Amendment we in the Congress must be concerned with every question which bears on the qualification of Gerald Ford to be Vice President, and we must apply the most stringent criteria of all and not vote to confirm him unless we believe he can and should become the next President of the United States.

Mr. Ford's Negative Civil Rights Voting Record

Gerald Ford should not be confirmed because he has consistently opposed the passage of legislation to guarantee civil and constitutional rights to minority citizens.

The forceful, eloquent testimony of Clarence Mitchell, Director of the Washington Bureau of the National Association for the Advancement of Colored People, presented persuasive evidence that Gerald Ford has tried to weaken every significant piece of civil rights legislation considered by the House of Representatives in the last decade.

There has been no single issue before the Congress that has been more critical to the well-being of our nation than the securing of equality under the Constitution for all Americans. The test of domestic national leadership has been the ability of our Presidents to respond to the social revolution which has swept this country. Presidents Eisenhower, Kennedy, and Johnson responded to this test with landmark

civil rights legislation and strong executive action to secure the civil rights of minority citizens. President Nixon has failed this test and in the five years he has been President his policies have succeeded in blunting the national movement for equality. Mr. Ford's record has been the same as Mr. Nixon's.

Americans for Democratic Action presented the following analysis of Gerald Ford's civil rights voting record:

Voted to weaken Fair Employment Practices bill, February 22, 1950.

Voted to weaken unemployment compensation law, August 16, 1950.

Voted to cripple Voting Rights Act of 1965, July 9, 1965.

Voted against bringing 1966 Civil Rights Act to floor, July 25, 1966.

Voted to recommit 1966 Civil Rights Act to delete fair housing provision, August 9, 1966.

Voted to nullify Title VI of 1964 Civil Rights Act as applied to aid to elementary and secondary education, October 6, 1966.

Led fight to gut Voting Rights Act of 1965, December 11, 1969.

Voted to gut EEOC bill, September 16, 1971.

Voted against busing to achieve racial integration in schools, April 7, 1971; November 4, 1971, March 8, 1972; August 17, 1972.

This record indicates a negative philosophy and attitude toward equal opportunity for minorities in our society. At a time when the people of this nation call out for a healer, a leader who can end polarization of racial and ethnic groups and bring us together as President Nixon falsely promised to do, Gerald Ford promises only further divisiveness and attempts to turn back the clock on the progress we have made towards full equality for all citizens.

Mr. Ford's Insensitivity to the Needs of the Disadvantaged

In the area of human needs, Gerald Ford has shown himself to be equally insensitive to the cries of those unable to help themselves. His record, as summarized for the Committee by the ADA, shows that he has consistently opposed programs which would provide assistance in helping to solve the problems of disadvantaged people. In a dismal history of insensitivity, Mr. Ford has shown himself opposed to food stamps, legal services, child care, minimum wages, education, medicare, public housing, public works programs, and rent subsidies. This voting record, which would have denied programs vital to the welfare of my Congressional District and to millions of disadvantaged Americans, reads like a litany of neglect:

Voted against public housing, June 29, 1949; May 10, 1950; May 4, 1951; March 21, 1952; April 2, 1954; July 29, 1955; May 21, 1959; June 22, 1960.

Voted against increasing funds for hospital construction, May 26, 1953; June 25, 1970.

Voted against establishing national food stamp program, August 21, 1957.

Voted for weakening unemployment compensation law, May 1, 1958.

Voted against aid-to-education bill, August 30, 1960.

Voted against public works programs, May 4, 1960; August 29, 1962; April 10, 1963; April 22, 1971; July 19, 1972.

Voted to cripple food stamp legislation, April 8, 1964; June 8, 1967.

Voted against Economic Opportunity Act of 1964; August 8, 1964.

Voted against funds for elementary and secondary education, March 26, 1965; July 31, 1969.

Voted against Medicare, April 8, 1965.

Voted to kill rent subsidy program, June 30, 1965; May 10, 1966.

Voted to reduce OEO funds, July 22, 1965; November 15, 1967.

Voted to delete Model Cities funds, May 17, 1967.

Voted to turn OEO over to states, December 12, 1969.

Voted against providing unemployment compensation to farm workers, July 23, 1970.

Voted against child care conference report, December 7, 1971.

Voted against increasing education appropriation, April 7, 1971; June 15, 1972.

Voted to reduce Labor-HEW appropriation, June 26, 1973.

Confirmation of Gerald Ford would serve to perpetuate the kind of leadership that favors the powerful at the expense of the weak, the rich at the expense of the poor, the able at the expense of the disabled. It is a leadership of arrogance which seeks only to perpetuate the status quo. The accomplishments of the past show that we can do better.

Mr. Ford's Extreme Partisanship: The Attempts to Remove Adam Clayton Powell and Justice William O. Douglas

The only instances of Gerald Ford's independent leadership that can be found from an examination of his twenty-five years in the House reflect the extremes of intemperate partisanship to which he is apparently prone. His role in the unconstitutional exclusion of Adam Clayton Powell from the House and his impeachment investigation of Justice Douglas are episodes which in themselves indicate that Mr. Ford should not be confirmed as Vice President. By leading the fight to deny Congressman Powell the seat in the House that he had held with distinction for some 24 years, Mr. Ford effectively disenfranchised an entire community despite the fact that its representative had been convicted of no crime and no charges had been lodged against him in the House. In the case of Justice Douglas, Gerald Ford used the impeachment process for purely partisan political ends in an unfounded attempt to gain revenge for the Nixon administration, which had suffered the defeat of the nominations to the Supreme Court of F. Clement Haynsworth and G. Harold Carswell only months before in the Senate.

It has been truthfully said that Gerald Ford's investigation of Justice Douglas revealed more about Gerald Ford than it did about Justice Douglas. The wild innuendos, allegations, and circumstantial inferences introduced by Mr. Ford could not legitimately be characterized as evidence and never were raised, despite Mr. Ford's strenuous efforts, to the level of serious charges. Although Mr. Ford was aided in this exercise by cue cards provided by the Department of Justice, he was unable to sustain one of his allegations of wrongdoing against Justice Douglas. What Mr. Ford did succeed in was showing himself to be a man who as Minority Leader of the House has been willing to do the President's bidding regardless of principle and regardless of the separation of powers so deeply rooted in the Constitution.

The FBI Report

Despite the detailed recitation in the majority report of the methodology used by the Committee staff to investigate Mr. Ford, all members of the Committee did not have an equal opportunity to examine the collected material. The background investigation conducted by the Federal Bureau of Investigation was made available only to a selected number of members—the Chairman, the Ranking Republican, three Democrats and three Republicans. I was not selected to view the FBI report and thus did not have access to its contents except as those contents were interpreted by those members who had the opportunity to read the report.

The restriction of the FBI report to a selected eight members of the Committee, in addition to offending the principle of the equality of each member of the House of Representatives, denied me and twenty-nine other members of the Committee the opportunity to see the best evidence available on the allegedly exhaustive FBI investigation of Mr. Ford.

I strongly oppose the precedent we have established in allowing the Department of Justice to dictate to a Committee of the House of Representatives which of its members shall have access to evidence related to a legitimate Congressional investigation. During the hearings I urged that the FBI report and all other relevant evidence be subpoenaed by the Committee and made available to all of the members. The failure to issue a subpoena to obtain this information denied the majority of the Committee access to the results of the most complete investigation conducted into Mr. Ford's background. Those of us who did not see the report have not been able to assess all of the evidence, and I cannot responsibly join in the resolution to confirm Mr. Ford because I have been denied the opportunity to review evidence which has a direct bearing on Mr. Ford's fitness for the high office of Vice President.

Conclusion

My participation as a member of the Committee on the Judiciary in the confirmation hearings has served to strengthen my conviction that Gerald Ford should not be confirmed by the House of Representatives as Vice President of the United States. The nation is presently in a state of crisis of Presidential leadership unparalleled in our history. This crisis, unanticipated by the framers of the 25th Amendment, places a special burden upon us as we decide whether Gerald Ford should be confirmed.

Our system is based most fundamentally upon the consent of the governed. It cannot, and should not, operate in a climate of widespread distrust of our national leadership. As the national legislative body closest to the people, the House of Representatives has a special responsibility and obligation to restore the faith of the people in our national leadership. Do we do this by confirming Gerald Ford? I think not. If we accept the Committee's recommendation and confirm the President's chosen carbon copy, we will be willing parties to the continuation of the morally bankrupt leadership of the last five years.

We can do better than this. The people demand better. I urge the House of Representatives to reject the nomination of Gerald R. Ford, of the State of Michigan, to be Vice President of the United States.

Respectfully,

CHARLES B. RANGEL.

DISSENTING VIEWS OF REPRESENTATIVE BARBARA JORDAN

At issue is whether each Member of this House will consent to the nomination of Gerald Ford to be Vice President of the United States. Pursuant to Section 2 of the Twenty-fifth Amendment the President has discharged his duties—he nominated a Vice President. Duty is now ours. We may either confirm or reject the nominee. We are engaged in a constitutional process of filling a vacancy in the Office of the Vice Presidency.

We are not voting on Gerald Ford's voting record as a Congressman from Grand Rapids. We are not voting on Gerald Ford's campaign finance practices. We are not voting on Gerald Ford's views of judicial behavior. Our constitutional duty is to vote on a Vice Presidential nominee. Thus, we have a mandate to vote on Gerald Ford for what he is likely to do as Vice President.

Members have before them the results of six days of exhaustive hearings. In addition, the House Committee on the Judiciary had the benefit of the results of at least two independent investigations into the private affairs of Gerald Ford. Mr. Ford's twenty-five years of public service was intensely scrutinized by myself and other members of the Committee. I personally attended all hearing sessions, and perused a massive amount of information pertaining to Mr. Ford's background. In addition, my own personal staff developed supplementary information.

As the result of this arduous process, including the direct testimony elicited from Mr. Ford by the Committee, I have come to the following conclusion concerning Mr. Ford.

Mr. Ford believes the Federal Government has a limited role in assisting the poor, the ill-educated and the dispossessed, to achieve equality in our society.

Mr. Ford fervently believes that the first priority facing this country today is inadequate funding of national security and defense related programs. In testimony before the Senate Committee on Rules and Administration the following colloquy took place:

Senator PELL. I was wondering if you would give us a little view of your priorities, because this is again, a cause of disagreement.

Mr. FORD. I really feel, Senator Pell, that the number one priority in the very controversial world we live in today is inadequate funding for our national security.

Mr. Ford reiterated his position before the Judiciary Committee:

Mr. FORD. I believe that we have to make positive before anything else an adequate funding of our national security needs.

Mr. Ford's commitment to national security programs will be to the detriment of human resource related programs.

Mr. Ford has not been an innovative or imaginative Congressman, and as such, cannot be expected to contribute independent judgment to this Administration.

Mr. Ford can be expected to work towards weakening civil rights bills as they move through the legislative process.

Mr. Ford will acquiesce to federal departments which fail to affirmatively enforce existing civil rights statutes.

For these reasons it is my considered judgment the current paralysis of government will not be relieved nor the American people's confidence in their government be restored by Mr. Ford's tenure as Vice President. I do not believe Gerald Ford can provide the forth-right leadership the American people are demanding of their elected representatives.

The confirmation of a Vice President requires more of each House and Senate Member than the usual advise and consent function of the Senate. We must delve beyond the basic requirements of the nominee pertaining to age, citizenship and residence. To stop there belies the responsibilities each Member must exercise in the absence of a national election. The Vice Presidency is a constitutionally elected office. It is not an appointive office. As such, the constitution does not require the Congress to submit to mere formality and approve the nominee for the sake of the President.

The American people are demanding men and women of the highest quality as their leaders. It is my judgment Gerald Ford will not fulfill their demands.

BARBARA JORDAN.

DISSENTING VIEWS OF MS. ELIZABETH HOLTZMAN

I cannot in good conscience recommend that this House confirm Gerald R. Ford as Vice President of the United States. First, the Judiciary Committee's investigation remains incomplete in two critical respects: the constitutionality of Mr. Ford's taking office and certain unresolved conflicts in his testimony. Second, despite Mr. Ford's personal affability and the rectitude of his personal finances, he does not meet the high standards which, under the 25th Amendment, we are bound to apply to his nomination.

The Constitutional Impediment

Article I, Section 6 of the Constitution prohibits a Representative, during his term, from appointment to "any civil Office under the Authority of the United States . . . the emoluments whereof shall have been increased during such time." In this term Congress has passed Public Law 93-136, which increased the civil service retirement benefits for the Vice President. There is little question that this increased benefit constitutes an "emolument."

Unfortunately, this Committee did not adequately explore whether this emolument is a bar to Mr. Ford's assuming office when confirmed. No witnesses were heard on this question, and no legal memoranda were available to the Committee when it disposed of this question.

Yet, the question is a serious one. The constitutional debates and the policy of the emoluments clause would indicate that it applies to an appointed vice president. I have attached an analysis prepared by a Professor at the Yale Law School indicating that the confirmation of Gerald Ford as Vice President might well run afoul of Article I, Section 6.

This House has an obligation to assure that whoever is confirmed does not serve under a constitutional cloud. At this stage of the proceedings no such assurance can be given. Clearly, if remedial legislation is needed to perfect the confirmation, it ought to be enacted now.

The Unresolved Conflicts in Mr. Ford's Testimony

A second and equally important unresolved problem concerns Mr. Ford's statements about his role in the effort, which some have alleged was initiated and coordinated by the White House, to halt the investigation into certain aspects of the Watergate affair by the House Banking and Currency Committee in late summer and fall of 1972. In his Senate testimony, the nominee admitted having organized two meetings for Banking and Currency Committee Republicans to "discuss" the investigation, but he firmly denied acting to halt the investigation at the behest of the White House.

Indeed, Mr. Ford broadly and explicitly denied having discussed the matter of the investigation with any White House official during the entire period that the proposed investigation was an issue in the House. See page 284 of typed Senate Transcript.)

On the last day of his testimony before the House, however, Mr. Ford for the first time made sworn statements which indicated that he had indeed discussed the matter of the Patman investigation with Mr. Timmons, a White House liaison officer. (See pages 706-707 of House typed transcript.)

Mr. Ford's House testimony therefore calls into question his testimony before the Senate. Because this testimony came at the very end of the hearings, it was impossible to pursue further the nature and content of the "general" discussions Mr. Ford then recalled, and to resolve the contradiction with earlier testimony. To do so before the nominee is confirmed is imperative, because at a time when the American people are clamoring for absolute candor from their national leaders, the House would do a disservice both to them and to the nominee by leaving unresolved in the record a disturbing and serious contradiction about a matter bearing directly on Mr. Ford's fitness for the Vice Presidency.

I am therefore constrained to recommend that action on the confirmation be postponed until this problem and the constitutional questions are answered.

Obligations under the 25th Amendment

By requiring Congress to act as the surrogate of the American people, the 25th Amendment places a heavy burden on the Members of this House. Under any circumstances, we must scrutinize a nominee for Vice President in light of his fitness for the Presidency. In these times, however, when the nation is enfeebled by the public's loss of faith in its leaders, and when, thus enfeebled, we are nearly overwhelmed by the most serious conjunction of domestic and foreign policy problems we have faced in many years, we must insist that the person we confirm as Vice President can, if he becomes President, recapture public confidence and give us honest, compassionate, imaginative and outstanding leadership.

Mr. Ford does not meet this test.

The Secret Bombing of Cambodia

Unfortunately, he cannot claim truly high marks for candor. Knowing full well that Mr. Nixon had lied to the American people about the secret bombing of Cambodia, Mr. Ford nonetheless gave his personal assurance on the floor of the House in 1970 that Mr. Nixon had never deceived the Congress or the public. Should we accept as a potential President a man who shrugs off as "political license" his own failure to be candid with his colleagues and the public, and who affirmatively defends, as Mr. Ford did during our hearings, the right of a President to lie?

The Banking and Currency Committee Investigation

The nominee's judgment also comes into question when we examine his leadership role in killing the House Banking Committee's Watergate investigation before the 1972 presidential election. The Committee's staff had uncovered evidence that illegal campaign funds had been used to finance the Watergate break-in and that high White House officials were implicated in the affair. Mr. Ford admits that he helped block the investigation.

But, the nominee's further admission that he did not bother to check the accuracy of these explosive allegations before helping to squelch the investigation is very disturbing. It indicates an inclination to place partisan loyalty above electoral fair play. It also reveals a lack of commitment to seeing the truth disclosed if it turns out to be politically embarrassing.

Secret Campaign Contributions

This lack of commitment is also revealed in the nominee's handling of his campaign contributions. In both his 1970 and 1972 congressional campaigns, Gerald Ford collected nearly half his funds from undisclosed sources. It is unfortunate that Mr. Ford permitted such secrecy, for he now cannot assure the American people that he was not the beneficiary of illegal campaign contributions or that these secret contributions were not made in return for political favors.

Are Liberal Democrats Dangerous?

To lead this divided nation, a President must rise above narrow ideological suspicions and demonstrate a receptivity to the broad spectrum of concerns of the American people. In personal correspondence, Gerald Ford has written that "the liberal democratic viewpoint" is "dangerous to our way of life." This attitude gives little confidence in Mr. Ford's ability to unify and lead this country since it reflects a profound disrespect for a substantial segment of American political opinion.

The Douglas Impeachment

Mr. Ford's actions in his effort to impeach Justice William O. Douglas gives little indication that he understands the need for an independent, non-political administration of justice. He was willing to use rank, uncorroborated (and, as it later turned out, false) rumors supplied to him secretly and inexcusably by the Justice Department for the partisan political purpose of unseating a liberal Supreme Court Justice. This action exemplifies the kind of subversion of the independence of our institutions of justice that has marred the Administration of Richard Nixon. It is a disheartening blemish to find on the record of the man who may replace him.

The Public Record

Finally, the nominee's stand on public issues does not demonstrate an ability to grapple imaginatively with the complex issues facing us today. It is difficult to see that Mr. Ford even begins to understand the energy crisis when he continues to oppose subsidies to mass transit and argues of higher oil prices. In opposing increases in aid to education, Model Cities and rent subsidies, he displays a failure to comprehend the problems of an urbanized America. His attempts to weaken minimum wage legislation, his resistance to legislation aiding Soviet Jews, his failure to support social security increases, and his attempts to cripple much of the landmark civil rights legislation of the last fifteen years all demonstrate a lack of compassion for the human problems confronting our society.

Having opposed all efforts to limit or end our involvement in Indochina and having consistently opposed all attempts to cut intolerable waste from the defense budget, Mr. Ford is not likely to preside over

the realistic reordering of priorities America needs to regain her confidence and spirit.

Conclusion

Mr. Ford's 25 years in the House are barren of creative and independent legislative initiatives on matters of substantive policy. Instead, he has been content to work as a loyal servant of Republican Administrations. At a time when the country is desperately searching for leadership, we should not confirm a man whose record gives no convincing indication that he can either restore the people's faith in their leaders or ameliorate the difficult problems confronting them.

We should therefore refuse to confirm Gerald R. Ford as Vice President of the United States.

ELIZABETH HOLTZMAN.

APPENDIX

MEMORANDUM ON THE IMPLICATIONS OF THE EMOLUMENT CLAUSE FOR THE CONFIRMATION OF GERALD R. FORD AS VICE PRESIDENT

(By Professor Barbara Underwood, Yale Law School)

The nomination of Congressman Gerald Ford as Vice President of the United States is barred by Article I, Section 6 of the Constitution, at least unless steps are taken to remedy the difficulty. That clause provides:

No Senators or Representatives shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the emoluments whereof having been increased during such time; . . .

The Congress increased the emoluments of the Vice Presidency in Public Law 93-136 which became effective on October 24, 1973. Accordingly the clause quoted above on its face bars Congressman Ford, and every other Congressman or Senator, from being appointed to that office during his or her present term in the legislature. It may be that the constitutional prohibition can be avoided by legislative action repealing the increase in benefits; after such a repeal, it is arguable, though not clear, that the office of the Vice Presidency would not be one whose emoluments have been increased during the present term.¹

First, a Vice President selected in the manner set forth in the 25th Amendment is "appointed" within the meaning of the clause. The primary purpose of the clause was to preserve the independence of the legislature; the term "separation of powers" was invoked in the debates. The Framers sought to avoid the risk that Congressman or Senators might tailor their votes to the President's wishes, in an effort to obtain desirable appointments for themselves. That risk obviously has no application to an office which is filled by election, as the Vice President ordinarily is. Now that the Vice President may be selected by the President rather than by the electorate, however, the office becomes a prize within the power of the Executive to confer, presenting precisely the same threat to legislative independence as any other appointed office.

It is true that the 25th Amendment provides that the President shall "nominate" rather than "appoint" the Vice President, subject to confirmation of the nominee by a majority of both Houses of Congress.

¹ Literally, of course, it would be the case that the emolument had been first increased and then decreased. It seems fair to characterize that sequence of events, however, as an absence of needed change but in the absence of legislative action repealing the increase in benefits, the constitutional bar is plainly applicable.

Nevertheless, the President's role in this process is precisely the same as his role in the selection of ambassadors, and other officers who are universally regarded as "appointed": the President makes the initial selection, and that selection is subject to legislative approval. While the President's selections must be confirmed by a majority of both Houses in the case of the Vice President, and by two-thirds of the Senate in the case of other officers, that difference does not change the character of the President's role in the selection process.

Second, the Vice Presidency is a "civil office" within the meaning of the clause. If the clause said simply "any Office under the Authority of the United States" there could be no question about its application to the office of the Vice President. "Any Office" is the term used in the second part of Article I, Section 6; that part bars Members of Congress from holding "any Office under the United States" while they are also serving in Congress. That prohibition surely applies to the Vice Presidency and the Presidency, as well as to any other office.

But while the bar on simultaneous service extends to "any Office", the bar on subsequent service in a new or improved office extends only to "any civil Office." The problem, then, is to determine the purpose and meaning of that limitation. The legislative history of the clause makes it quite clear that the limitation was designed to exclude military officers. The clause represented a compromise. Some participants in the debates wanted to bar legislators from "any Office", and to make the bar absolute for a fixed period of time after the end of the legislator's term. Others wanted no bar at all, for fear that it would deprive the nation of the services of its most qualified leaders, at some critical time. The result was a limited bar, leaving legislators free to take any military office at all, because the new nation's military needs were given the highest priority; the clause also left legislators free to take any non-military office, so long as that office was not either newly created or newly enriched.

No contrary conclusion is suggested by the use of the term "civil Officers" in Article II, Section 4. That clause provides for impeachment and conviction of "the President, Vice President, and all civil Officers of the United States." The enumeration of the President and the Vice President was arguably redundant even at the time that it was written, and made simply to avoid ambiguity. Alternatively it is likely that the term "civil Officers" connoted to the Framers one who held an appointed rather than an elective office. For purposes of the impeachment clause, it was one thing to provide a method by which Congress could remove an appointed officer, and another matter, worthy of explicit statement, to authorize Congress to remove an officer who had been selected by the electoral process. Accordingly the term "civil Officer" may not have included the Vice President at a time when he could not be appointed. But if a Vice President who is appointed is thereby brought squarely within even this limited reading of the original understanding of the term.