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CONFIRMATION OF NELSON A. ROCKEFELLER AS VICE PRESIDENT OF THE UNITED STATES

DECEMBER 17, 1974.—Referred to the House Calendar and ordered to be printed

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

REPORT

together with

SUPPLEMENTAL, DISSENTING, AND SEPARATE VIEWS

[To accompany H. Res. 1511]

The Committee on the Judiciary, to whom was referred the nomination by the President of Nelson A. Rockefeller, of the State of New York, to be Vice President of the United States (H. Doc. No. 93-257), 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 Nelson A. Rockefeller, of the State of New York, to be Vice President of the United States.

THE NOMINATION AND THE CONSTITUTION

In 1965 the Congress recommended, and in 1967 the States ratified the Twenty-fifth Amendment to the United States Constitution. Section 2 of that Amendment provides:

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

Pursuant to that Constitutional provision, the House of Representatives received from President Ford on August 20, 1974 the nomination of Nelson A. Rockefeller of New York to be Vice President. On the same date, August 20, the House referred the nomination for consideration to the Committee on the Judiciary.

The nomination, and its consideration by the Congress, constitutes the second implementation of the Twenty-fifth Amendment. Once

before, following the resignation of Spiro Agnew in 1973, the Congress was called upon to confirm the nomination of a man to be Vice President. The nomination of Mr. Rockefeller, however, is the first to be made by a President himself appointed pursuant to provisions of the Twenty-fifth Amendment, rather than elected under the terms of Article II, Section 1.

PROCEDURES

The Rules of the House of Representatives and the Rules of Procedure of the Committee were the operative rules governing the inquiry into Nelson Rockefeller's qualifications and fitness to be Vice President. In addition, however, the Committee met early in its inquiry to adopt additional procedures to structure its consideration.

It was decided that as in the case of the Ford nomination in 1973, hearings would be before the full Committee.

At the time it adopted its additional procedures, the Committee also voted to have the Chairman select one of the seven standing subcommittees to inspect the data and information gathered by the Federal Bureau of Investigation in the course of its investigation of the nominee. After that subcommittee read and reviewed those records, it reported to the full Committee in two executive sessions. After those briefings, and beginning prior to the commencement of hearings, the FBI data and information were available for inspection by all Members of the Committee.

HEARINGS

Immediately after the submission of the President's nomination, the Committee assembled a very able and responsible team of staff lawyers and investigators who traveled extensively in New York State and elsewhere. Here in Washington, every agency of the Federal government was contacted and a request went out for all files in agency possession relating to the nominee.

The results of the Committee's thorough investigative efforts were made available to the Committee on a continuing basis before and during the hearings.

In addition, as indicated above, all Members of the Committee had access to, and were briefed on the information accumulated by the Federal Bureau of Investigation. Moreover, the staff of the Joint Committee on Internal Revenue Taxation, working with Judiciary Committee lawyers, conducted an independent audit of Mr. Rockefeller's income tax returns for the period covering the last seven years. Gift tax returns were reviewed for a longer period. All of this additional material was likewise made available to the Members.

Another team of Committee lawyers, with the assistance and full resources of the Library of Congress, developed thorough analyses of the nominee's public record and positions on critical issues of public policy.

At all times during its investigation, the Committee was sensitive to the nominee's personal civil liberties and also tried to avoid unnecessary or irrelevant invasions of Mr. Rockefeller's personal and family privacy. In order to protect against unauthorized use or disclosure of its investigative data, the Committee voted to deem its information

executive session material and authorized its use only by Members during the hearing process.

The hearings commenced on November 21 and included nine days and several evening sessions of testimony from two dozen different witnesses. The Vice President-designate was the Committee's first witness on November 21, and returned on November 22 and December 5, 1974.

In addition to Mr. Rockefeller, the Committee heard from Members of Congress, including Minority Leader, Honorable John J. Rhodes, and from a number of witnesses representing all perspectives of American political and social life.

The Committee also received testimony from the nominee's brother, Laurance, from Dr. William Ronan, from A. Russell Ash and, in order to receive a complete description and analysis of the Rockefeller family holdings, from J. Richardson Dilworth of Rockefeller Family & Associates. Mr. Dilworth presented a complete breakdown of the family investments and commented at length on testimony which had been presented to the Committee by Professors G. William Domhoff and Charles Schwartz.

A complete witness list follows:

November 21 : Nelson A. Rockefeller.

November 22 : Nelson A. Rockefeller.

November 25 :

Dr. Ethel D. Allen, Vice Chairman, Council of 100—An Organization of Black Republicans; Accompanied by Mr. H. Floyd Britton.

Colonel Curtis B. Dall, Chairman of the Board, Liberty Lobby.

Ronald B. Dear, Executive Director, American Conservative Union.

Hon. Arthur O. Eve, Assemblyman, State of New York.

Jeanne Mirer, National Treasurer, National Lawyers Guild.

Dr. Ada B. Ryan, National Right to Life Committee, Inc.

November 26 :

James Ingram, Attica Brothers Legal Defense; Accompanied by Haywood Burns, Esq. and Mariano Dalou Gonzalez.

Dr. Maurice A. Dawkins, Director, O.I.C. Government Relations Service.

Lyndon LaRouche, National Chairman, U.S. Labor Party.

C. Edward Lawrerson, National Executive Director, National Association for Justice.

Rev. Kenneth E. Lee, President, Washington Christian Action Council.

Joseph L. Ruth, Jr., Vice President, Americans for Democratic Action.

November 27 :

Hon. Bella Abzug, (D-N.Y.).

Hon. John J. Rhodes, (R-Ariz.); Accompanied by Hon. Howard W. Robison, (R-N.Y.).

Hon. John Anderson, (R-Ill.).

December 2 :

Professor G. William Domhoff and Professor Charles L. Schwartz.

December 3:

J. Richardson Dilworth.

A. Russell Ash.

December 4:

Laurance S. Rockefeller.

Dr. William J. Ronan.

December 5: Nelson A. Rockefeller.

In addition, the Committee received written testimony for its record from numerous other individuals and groups.

SCOPE OF THE COMMITTEE INVESTIGATION

To prepare and inform the thirty-eight members of the Committee adequately, the fact gathering and investigative staff work was basically divided into two separate operations which followed the operational outline utilized in the investigation and fact gathering process developed for the confirmation process of Gerald Ford to be Vice President.

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 Public Record of Nelson A. Rockefeller 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 report discussed the views expressed and the positions taken by the nominee on the following crucial areas: economic affairs—e.g., consumer protection, Federal budget policy, and labor relations; education and public welfare—e.g., aging, crime and law enforcement, and higher education; environment and natural resources—e.g., pollution control, fuels and energy, and wilderness preservation; foreign policy and national defense—e.g., People's Republic of China, Latin America, arms control and disarmament, and military overseas commitments; general government—e.g., campaign and election reform, Federalism, Watergate and impeachment, and women's rights. (This was a 296-page compilation. The table of contents is reproduced hereto, attached in an appendix to show its scope and coverage.)

(b) The complete, unbridged collection of the Public Papers of Governor Nelson Rockefeller, published by the State of New York, which included: messages to the state legislature; veto messages; memoranda on approved legislative bills; pardons, proclamations and addresses.

(c) Computer printout of New York Times articles with references to Nelson A. Rockefeller from 1969 to present.

(d) All periodical articles concerning Nelson Rockefeller from 1930 to present.

(e) Selected clippings from various newspapers throughout the country concerning Nelson Rockefeller, including The New York Times, The Washington Post, Los Angeles Times, Newsday, Christian Science Monitor and the Washington Star-News.

(f) Selected editorials and columns from August 20, 1974, to present.

(g) Scholarly articles on Rockefeller ownership and control in the

200 largest nonfinancial corporations from 1929 to 1963; and the modular report. "The Rockefeller Financial Group," by James C. Knowles, an expert in econometrics with the International Labor Organization of the United Nations.

(h) Rockefeller genealogy in chart form, tracing Rockefeller family lineage from 1810 to 1974.

(i) A history and analysis of the organization and function of the President's Foreign Intelligence Advisory Board, and Rockefeller's role on the board, as prepared by the Committee staff.

(j) A comprehensive history of all statements and entries in the Congressional Record from 1927 to date concerning Nelson A Rockefeller was fashioned by Committee staff members who reviewed all 47 years of the Record. The material was separated by subject matter and placed in binders to facilitate research on all issues.

(k) Volume of essays, "Governing New York: The Rockefeller Years," published by the Academy of Political Science, May 1974.

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 his possibility.

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.

(a) *Tax reform.*—This special analysis packet consisted of an investigation of Governor Rockefeller's views and position on tax reform: an in-depth summary and analysis of tax proposals in Governor Rockefeller's annual budget message as compared with actual tax legislation enacted; and an assessment of tax reform legislation enacted through the efforts of Governor Rockefeller in New York State.

(b) *Nelson Rockefeller and Latin America.*—This specially prepared investigative packet of materials discussed the following: The 1969 Rockefeller Mission to Latin America; Rockefeller's various roles in connection with the mission; Nelson Rockefeller and the activities of the AIA (American International Association for Economic and Social Development) and IBEC, (International Basic Economy Corporation); a special report of the interests and activities of these two Rockefeller entities of Latin American archeological and cultural treasures.

(c) *Attica and executive actions.*—This analysis, prepared for the Members of the Committee by the staff, detailed virtually every aspect of the Attica Prison tragedy and its relationship to Governor Nelson Rockefeller; the positions taken by the nominee during the prison rebellion; a background study of the uprising; the Attica siege; an evaluation of the performance of Governor Rockefeller as reported in the official New York State Attica Commission document; the controversy over Rockefeller's actions.

(d) *The financial affairs of Nelson Rockefeller, members of his family and certain investments.*—This special packet contained a detailed investigative report on the following areas: the Rockefeller family and Associates; Rockefeller Brothers Fund; Organizations in

which the Rockefeller family had holdings, multiple directorates and stockholdings, and nominee accounts; brief critique of "The Rockefeller Financial Group," by James C. Knowles; and instances of possible conflict between the United States government and major oil companies in the Middle East.

(e) *Selected Issues and Positions of Nelson A. Rockefeller.*—A compilation of reports to the Committee prepared for publication by the Congressional Research Service, which included a thorough discussion of the following topics: Rockefeller's views and positions taken as a nominee regarding ethical standards and responsibilities as a public servant; his views on ethics in government; political and campaign reform; Watergate and impeachment; Presidential transcripts and the pardon of former President Richard Nixon. Also discussed in detail: the views of the nominee regarding reform of the judicial system in New York State; the Albany South Mall Project; civil liberties, law enforcement and criminal justice; and the nominee's position on Executive-Legislative relations in the Federal government. (This was a 130-page Committee Print. This table of contents is reproduced hereto, attached to the appendix to show scope and coverage.)

In addition, during the weeks preceding the hearings, this unit of the Committee staff responded to all special requests from Members on the Committee for issue materials or background information on the nominee.

All of the above material was supplemented by access to the Rockefeller Family Archives located in New York City.

The second unit was established to pursue its inquiry into the personal affairs of Nelson A. Rockefeller as they bore on his qualifications and fitness to hold high office.

Summaries of the Committee's investigations follow:

GIFTS AND LOANS

Mr. Rockefeller furnished the Committee with copies of his Federal gift tax returns for the years 1967 through the second quarter of 1974. In response to a request from the Chairman, he also furnished the Committee with copies of his gift tax returns for the years 1957 through 1966; the third quarter of 1974; and supplemental schedules of other gifts and loans he has made in the past 17 years. The Committee staff, assisted by staff members of the Joint Committee on Internal Revenue taxation, the General Accounting Office and the Library of Congress devoted a considerable portion of its investigation to this area.

The staff conducted interviews with many gift and loan recipients; charts were prepared for the Committee's use; and legal research was conducted relating to these transactions. The Committee was furnished a number of legal opinions regarding the legality of these loans. The Committee also reviewed information gathered from the income tax returns of certain gift and loan recipients. The importance of this area of inquiry was reflected by the Committee in the extensive questioning of Mr. Rockefeller and other witnesses regarding the purpose, propriety, and legality of many of these transactions.

PUBLICATION OF BOOK BY VICTOR LASKY

At the direction of the Committee, its staff members conducted numerous interviews and an extensive investigation to determine the involvement of Mr. Rockefeller in the publication of a book entitled "Arthur J. Goldberg: The Old and the New" authored by Victor J. Lasky. This book was published during the 1970 gubernatorial campaign and was critical of Mr. Rockefeller's opponent, former U.S. Supreme Court Justice Arthur J. Goldberg. The Committee summoned a number of witnesses who were involved in this transaction and questioned Mr. Rockefeller at length concerning his role in the publication of this book. Mr. Rockefeller acknowledged to the Committee his role in this undertaking. He stated that the book was a mistake and he should not have become involved in the matter. During the Committee hearings he extended an apology to Justice Goldberg and others regarding the publication of the book. The Committee's concern over Mr. Rockefeller's role in this transaction was expressed in its extensive questioning of Mr. Rockefeller during the hearings.

PUBLICATION OF ADDITIONAL BOOKS

The Committee also investigated reports that Mr. Rockefeller played a role in the publication of other books. The books involved were: *The Real Rockefeller* by Frank Gervasi; *Nelson Rockefeller: A Political Biography* by James Desmond; *Barry Goldwater: A Political Indictment* by Edward Paul Matter III; *Governing New York: The Rockefeller Years* edited by Robert H. Connery and Gerald Benjamin; and *Connally: The Adventures of Big Bad John* by Charles Ashman.

The Committee found no evidence that Nelson Rockefeller or any of his agents or associates provided any financial support for the books authored by Messrs. Ashman, Gervasi, or Matter. Governor Rockefeller did provide some financial support for the "campaign biography" written by the late James Desmond, and his staff provided materials and participated in the promotion of it. However, the Committee found no evidence that Mr. Desmond received any money from Governor Rockefeller for writing the book.

The volume of essays entitled "Governing New York: The Rockefeller Years," edited by Professors Connery and Benjamin, was published by the Academy of Political Science in May, 1974. The Academy is a nonprofit organization that undertakes scholarly research in the fields of political science, economics and public law. Mr. Rockefeller has been a member of the Academy since 1973. The Committee determined that Nelson Rockefeller and other members of his family had made gifts to the Academy in 1970, 1971, 1972, and 1973. These gifts were specifically intended to assist the Academy in partially defraying the cost of a comprehensive study of the New York State Government and a book on foreign policy published in 1973. No evidence was found that the gifts were conditioned upon the publication of a volume like the "Rockefeller Years."

THE 1970 GRANT OF CLEMENCY TO L. JUDSON MORHOUSE

At the direction of the Committee, its staff investigated in detail Nelson A. Rockefeller's 1970 grant of clemency to former New York

State Republican Committee Chairman, L. Judson Morhouse. Interviews were conducted with each person known to have had any role in the preparation, submission and approval of Mr. Morhouse's application for clemency.

The four physicians who submitted affidavits in support of the application for a grant of clemency and who attested to Mr. Morhouse's deteriorating physical condition were questioned at length about the facts upon which they based their conclusions. The three doctors who served as members of the independent panel and who concurred with the finding that Mr. Morhouse's health would be placed in jeopardy by incarceration were also questioned in detail about their role in this matter.

Each member of then Governor Rockefeller's staff who reviewed and researched Mr. Morhouse's application for a commutation of sentence was interviewed about his knowledge of, and role in, the reviewing process. Moreover, persons who assisted and represented Mr. Morhouse in preparing and assembling the application and the supportive documents were queried to determine their recollection of this matter.

The Committee's concern about this matter was reflected in its detailed questioning of Mr. Rockefeller on this issue. In addition, the Chairman and the General Counsel of the Committee submitted to Mr. Rockefeller written questions concerning the Morhouse clemency. The written questions and responses have been made a part of the hearing record.

WATERGATE AND RELATED INQUIRIES

An inquiry was made by the Committee with the Office of the Watergate Special Prosecution Force to determine whether the Special Prosecutor, in the course of his investigation, had uncovered any information bearing on Nelson A. Rockefeller's qualifications to be Vice President of the United States. Former Special Prosecutor Leon Jaworski, in a letter forwarded to the Committee Chairman on September 24, 1974, recited all the information received by his office pertaining to Mr. Rockefeller.

Similarly, the Committee received from the Senate Select Committee on Presidential Activities, in response to its request, a computer print-out containing information compiled during its hearings and investigations concerning Nelson Rockefeller.

The February 28, 1973 transcript of a conversation between former President Nixon and John Dean revealed a discussion in which Mr. Rockefeller's name was mentioned with regard to his alleged knowledge of wiretaps that had been placed on staff members of the National Security Council and certain newspapermen. In order to determine whether Mr. Rockefeller knew of the existence of the wiretaps, contacts were made on several persons believed to have information on that issue. The Committee heard testimony on the issue from A. Russell Ash. In addition, the Committee inquired of Secretary of State Kissinger of his knowledge, if any, of Mr. Rockefeller's awareness of the existence of the wiretaps. The Committee received from Secretary Kissinger a written response that has been made a part of the permanent hearing record.

REVIEW OF AGENCY FILES

The Committee requested from the following agencies of the U.S. Government "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 Nelson A. Rockefeller, members of his staff, or persons purporting to act on behalf of or at the behest of, Mr. Rockefeller and (agency) from January 1 1970 to the present":

1. Agency for International Development
2. Agriculture
3. Central Intelligence Agency
4. Civil Aeronautics Board
5. Commerce
6. Cost of Living Council
7. Defense
8. Environmental Protection Agency
9. Federal Aviation Administration
10. Federal Energy Administration
11. Federal Communications Commission
12. Federal Power Commission
13. Federal Reserve Board
14. Federal Trade Commission
15. Food and Drug Administration
16. General Accounting Office
17. General Service Administration
18. Health, Education, and Welfare
19. Housing and Urban Development
20. Interior
21. Internal Revenue Service
22. Interstate Commerce Commission
23. Justice
24. Labor
25. National Labor Relations Board
26. National Science Foundation
27. Office of Management and Budget
28. Securities and Exchange Commission
29. Small Business Administration
30. State Department
31. Tariff Commission
32. Transportation
33. Treasury
34. U.S. Customs Service
35. U.S. Information Agency

The Committee received replies from all the agencies contacted except the Department of Justice. The material received was analyzed by the staff to determine whether any unusual correspondence or transaction were referred to within. All of the material received was summarized and served as the basis for certain questions directed to Mr. Rockefeller by Committee members during the hearings.

TAX RETURNS AND OTHER FINANCIAL RECORDS

Mr. Rockefeller furnished the Committee copies of his federal, state, city and foreign income tax returns for the years 1967 through 1973. He also furnished the Committee with income tax returns for various trusts established for the benefit of his wife, and himself; schedules of securities held in trust; trust documents; and supporting financial record. Additionally, he also made available to the Committee copies of a summary of audit changes in his Federal income tax returns for the past five years.

This material was reviewed by the Committee staff and by the staff of the Joint Committee on Internal Revenue Taxation at the direction of its Chairman.

The staff of the Joint Committee presented to the members of this Committee a sixty-nine page report on its examination of these tax returns and financial records. The report was supplemented by a briefing of the Committee members by those staff members of the Joint Committee who were directly involved in its preparation. The material contained in this report served as the basis for many questions asked of Mr. Rockefeller and other witnesses during the Committee hearings.

POLITICAL CONTRIBUTIONS

Mr. Rockefeller provided the Committee with a report of all political contributions he has made from 1957 through the present. He also furnished the Committee with copies of the reports his political campaign committees filed under New York State law since 1966. The Committee examined these contributions, as well as contributions made to the nominee's political campaigns by members of his family. The Committee also reviewed reports of political contributions compiled by independent groups in its review of this subject area and used the information developed in this area in connection with other lines of inquiry. Committee members raised specific questions during the hearings regarding political contributions Mr. Rockefeller has made over the years, as well as those he has received in his own political campaigns.

ADDITIONAL INVESTIGATIONS

In addition to those portions of the Committee's inquiry mentioned above, the Committee through its staff and members, reviewed a great deal of additional information relating to Mr. Rockefeller. This included information regarding the financial holdings of Mr. Rockefeller and his wife; information relating to various Rockefeller trusts; and information concerning Rockefeller University, Rockefeller Foundation, Rockefeller Brothers Fund, and Rockefeller Center, Inc. The Committee also conducted an extensive investigation of the Commission on Critical Choices for Americans and the Third Century Corporation which funds the Commission.

With Mr. Rockefeller's permission, the Committee met with his personal physician, Dr. W. Kenneth Riland, and was furnished copies of Mr. Rockefeller's medical records. In addition, the Committee reviewed reports and information relating to Mr. Rockefeller's role in the construction of the Albany South Mall; his involvement with the International Basic Economy Corporation; and his role in the planning of the Hudson River Expressway. The Committee also

reviewed the records of the Fair Campaign Practices Committee to investigate any complaints filed against Mr. Rockefeller in his previous campaigns for elective office, and conducted interviews with those individuals who have held positions of responsibility in Mr. Rockefeller's past campaigns.

The Committee also reviewed reports relating to Mr. Rockefeller's 1969 Latin American mission and lists of foreign awards and gifts received by Mr. Rockefeller. The Committee investigated reports relating to a political advertisement placed in connection with a previous campaign by Mr. Rockefeller for the Presidency, material relating to financial transactions of Robert B. Anderson, the awarding of certain state contracts, and many other additional matters brought to the attention of the Committee during its three month investigation. Where applicable, questions regarding the results of these investigations were asked of Mr. Rockefeller and other witnesses during the Committee's hearings.

CONCLUSION

On Thursday, December 12, 1974, the Committee met pursuant to notice to consider its recommendation regarding the nomination.

Following agreement to a motion to permit broadcast and photographic coverage of the proceeding, Mr. Smith of New York offered a motion to recommend to the House adoption of a Resolution confirming the nominee. After several hours of debate, and on the basis of its nine day hearing record and exhaustive investigation, the Committee—by roll call vote with a quorum present—voted twenty-six to twelve to agree to the motion of Mr. Smith.

It should be noted, however, that not every Member of the Committee who voted in the affirmative, and consequently, not every Member of the Committee subscribing to this Report, finds himself in agreement with the totality of Mr. Rockefeller's record or with all aspects of his general philosophy of government. Some Members who voted in the affirmative specifically announced certain reservations during debate in Committee.

Looking at the total record, however, the Committee finds Nelson A. Rockefeller fit and qualified to be Vice President, and believes his nomination merits confirmation pursuant to the Twenty-fifth Amendment.

Nothing in the Committee's hearing record or in its investigative files was found to disqualify Mr. Rockefeller from service. On the contrary, the evidence warrants an endorsement of his capacity and fitness to serve as Vice President.

APPENDIX I

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SUPPLEMENTAL VIEWS OF MR. McCLORY AND MR. SMITH (NEW YORK)

In submitting supplemental views we feel that the Majority Report does not adequately review the substantial record of public service and experience of the Vice Presidential nominee, Nelson A. Rockefeller. In addition, we feel impelled to recall portions of the history of the 25th Amendment to the Constitution in order to overcome the efforts of some Members who would frustrate the essential intent and purpose of his part of the Constitution.

In considering the confirmation of Nelson A. Rockefeller as Vice President of the United States, we are applying the 25th Amendment to the Constitution for the second time in this Congress—the only times this Amendment has been utilized in our history.

It should be recalled that the 25th Amendment was approved by the Congress in 1965—and ratified by the people through their State Legislatures—in 1967.

INTENT AND PURPOSE OF THE 25TH AMENDMENT

This recent Amendment to our Constitution was intended to fill two obvious gaps in our basic law—namely, and foremost—the subject of Presidential disability when the President either (a) voluntarily, or (b) involuntarily, is unable to continue to serve.

The other part—Section 2 of the 25th Amendment—was designed to provide a method for filling the office of Vice President whenever a vacancy in that office should occur. This is the only part of the Amendment with which we are concerned at this time.

Section 2 consists of one sentence in the following unmistakable language:

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.

Just as we are expected to interpret the original Constitution consistent with the intent of the framers, so in our application of the 25th Amendment; we may look for guidance to the debates and committee reports which preceded the final votes of approval in the House and in the other body.

Confirmation could be frustrated indefinitely by some who would like to defer action until after the 94th Congress convenes. This effort also contemplates reopening of the entire investigation of the nominee and his family—and perhaps others.

The debates in the Senate disclose that former Senator Bass of Tennessee, apprehended that a Congress controlled by a different party than that of the President might be induced to delay confirmation—and thus keep open the chance for operation of the succession law—

which could permit the accession to the Presidency of the Speaker of the House.

He proposed that the word "immediately" should be included so as to accelerate Congressional confirmation of a Vice Presidential nominee.

This proposal was rejected in the other body following the argument of Senator Bayh of Indiana who contended that "there was no need for a time requirement in Section 2." According to the Congressional Record reporting the debate, both Senators Bayh and Ervin felt that the House and Senate would "exercise intelligence and patriotism in a time of crisis." 111 Cong. Rec. 3279 (1965).

Some others are urging that we should not apply the provisions of the 25th Amendment at all—that we should develop some new constitutional and legislative machinery so that we could have a special election for Vice President. This presumably could result in the election of a Vice President of a party different from that of the President—a position completely inconsistent with the 12th Amendment to the Constitution adopted in 1804, which assured that we would have a President and Vice President of the same political party.

Still others aver that in the confirmation of Mr. Rockefeller as Vice President they should serve merely as surrogates of their constituencies—and that the Vice President-designate appears not to be the choice of those whom they represent.

Let us emphasize that that is not the test. It was never intended that the Vice President named in accordance with the 25th Amendment should be of the same political party as the House Member in order that he or she might vote to confirm the nominee. Nor was it intended that the Vice President should be compatible with the Member's individual political views—or that the nominee should be one with whom he or she can work in harmony. It is necessary only that the Vice President should be compatible with the President who nominates him—and one with whom the President can work—harmoniously.

Having prefaced our remarks with that explanation of the purpose and intent of the 25th Amendment in filling the office of the Vice President—let us hasten to add that the Congress should not blindly or subserviently confirm whomever the President decides to nominate. The Congress must determine that the nominee is a person of integrity, ability, and experience who is dedicated to the welfare of his country.

Indeed, in the exercise of our prerogatives of confirmation, we have fulfilled our roles responsibly—and thoroughly—if not expeditiously.

In the following paragraphs we have set forth some of the reasons why we believe that Nelson A. Rockefeller should be confirmed overwhelmingly by the affirmative votes of this House.

THE PRESIDENT-DESIGNATE POSSESSES EXCELLENT PERSONAL ATTRIBUTES

Nelson Rockefeller is a man of honor—of unquestioned integrity—of innate honesty. By almost any standard Nelson Rockefeller is one of the most highly respected and honored citizens of our time.

We have known Nelson Rockefeller perhaps longer than any other Members of this body. We met on the campus of Dartmouth College in New Hampshire more than 45 years ago.

Since his graduation in 1930 with Phi Beta Kappa honors Nelson Rockefeller has been one of the most celebrated and beloved alumni of Dartmouth College. He has been generous not only with his money but also with his time and talents to benefit this small private college in the mountains of New Hampshire.

When Nelson Rockefeller describes the moral and Christian ethics of his family, we can attest first-hand to his qualities of hard work, perseverance, courage, generosity—and love of his State, his Nation, his family—and his fellow man.

The testimony and documentary material furnished to the Committee provide convincing evidence that our personal appraisal is shared by virtually all who are acquainted with Nelson Rockefeller, the man.

THE VICE PRESIDENT-DESIGNATE'S QUALIFICATIONS

Having satisfied itself of the Vice President-designate's basic honesty and integrity, the Committee was required to determine that Mr. Rockefeller possessed the qualifications entitling him to serve in the high national office to which he has been nominated. The investigation has shown that, after 40 years of experience in government at all levels, Nelson A. Rockefeller is exceptionally well-qualified to serve in the Vice-Presidency.

His 21 years of service on the Westchester County Board of Health gave him an in-depth working knowledge of the problems and potentials of local government.

At the state level, the Vice President-designate holds a distinguished reputation as one of the country's most dynamic Governors. Elected Governor four times by the eighteen million people of New York State, proof of his expertise in state government was eloquently presented to the Committee by our Colleague, the Gentlelady from New York (Mrs. Chisholm) in a part of her statement, as follows:

As I look back on the years that I served in the New York State Assembly while Mr. Rockefeller was Governor, I can recall a Governor who maintained as his standard a policy of complete openness and fairness . . . Under his leadership, our state of New York established a great number of "firsts," which I cite:

- the development of the largest public university system in the world, which grew from 41 campuses and 38,000 students to 72 campuses and 232,000 full-time students and community colleges from 13 to 38

- the initiation of the nation's largest state medical care program for the needy under Medicaid creation

- an increase by nearly 50 percent, the number of Blacks and Puerto Ricans holding state jobs

- initiation of increased worker benefits in the form of 5 minimum wage increases, 5 workmen's compensation increases and New York's first minimum wage law

- The appointment of more women to top policy-making positions in state government than any other governor in New York's history, and the creation of an affirmative action program for female employment

We are living in critical and uncertain times. The call and

need for strong, fair and experienced leadership in this Nation is greater than ever before. Accordingly, this is not a time for petty partisanship—but rather a time for national unity.

In addition, Mr. Rockefeller's record as Governor of New York shows outstanding achievements in providing improved transportation services, health care, protection of the environment, promotion of the arts, and accomplishments in many other areas which are fully documented in the record of the Committee's investigation.

Mr. Rockefeller cited as a key to his faith in our Federal system the return to local governments of 62 percent of every dollar of state taxes collected while he served as Governor.

At the national level, Mr. Rockefeller has demonstrated his ability in a wide range of governmental posts—from his Chairmanship of President Eisenhower's Committee on the Organization of the Executive Branch of the Federal Government to his crucial role in organizing the Department of Health, Education, and Welfare as its first Undersecretary.

At the international level, Mr. Rockefeller has served five Presidents of both parties in behalf of many aspects of the foreign policy of the United States. As Coordinator of Inter-American Affairs under President Franklin D. Roosevelt, later as Assistant Secretary of State for American Republic Affairs, and on subsequent diplomatic assignments, the Vice President-designate has amply demonstrated his mastery of the skills necessary for the development of an effective foreign policy.

Finally, in the area of inter-governmental affairs, Nelson Rockefeller's four years of service on President Johnson's Advisory Committee on Inter-Governmental Relations are indicative of his expertise in this increasingly important field of national policy.

In summary, the Committee's exhaustive investigation of Nelson Rockefeller's extensive record of public service provides convincing evidence that he is uniquely well qualified as the right man to serve our country as Vice President at this time. Nelson Rockefeller qualifies under the 25th Amendment as a national leader of exceptional intelligence and admirable dimension.

COMMITTEE ISSUES

In the light of the extensive hearings conducted by our Committee, we may inquire whether any evidence casts doubt upon Nelson Rockefeller's fidelity to these basic qualities. Questions were raised by some. We wish to comment on those most frequently noted—the Goldberg book, Rockefeller wealth, and gifts and loans to public officials.

The Arthur Goldberg biography comes closest to a departure from Nelson Rockefeller's high standards of forthrightness. He is most unhappy about this episode. He has reviewed the entire incident carefully and has concluded, as we do, that it was a mistake—a mistake for which he has apologized.

However, there was nothing dishonest—or dishonorable in approving the book. It was not used in Governor Rockefeller's campaign for reelection in 1970 partly because at least one of his supporters felt that "it was Democratic propaganda." (Hearings, p. 73). We have

read the book. It was revealing. It was critical. But portions of it were laudatory of Arthur Goldberg. It was in no respect libelous. It was unexciting and not very memorable. It is no surprise that the nominee's recollection of it was scant at first. And when the nominee conducted his own investigation and made public the results, he was attacked as evasive and dishonest. In fact, his conduct before the Committee revealed the very opposite. The objective observer will discern how strained the arguments were against the nominee on this issue.

What the book incident reveals is the thoroughness of the investigation conducted by our Committee staff, by the F.B.I., the I.R.S., the Joint Committee on Internal Revenue, and other individuals and agencies.

In our opinion, no person aspiring to public office has ever undergone the searching investigation and scrutiny that Nelson Rockefeller has experienced. The Committee has explored the personal and public life of Mr. Rockefeller, and has gone into great detail insofar as Mr. Rockefeller's private financial affairs are concerned.

What the record establishes convincingly is that Mr. Rockefeller has never utilized his public office for any personal or family financial gain. Nor is there any evidence that through gifts or loans or other financial support of family or friends or even political figures has he sought to enhance his own or his family's economic interests.

This whole inquiry into the financial affairs of Nelson A. Rockefeller and the information revealed by the family financial advisor, J. Richardson Dilworth, establishes beyond a shadow of a doubt that in no single instance has Nelson A. Rockefeller, either directly or indirectly, by any official or private decision, as a public official, benefited financially either himself or any member of his family or any institution with which he or his family is affiliated.

To the extent that any contrary view might be expressed, there is no tangible or evidentiary support. Any such contrary view is founded solely upon suspicion, inference, or innuendo.

The charges that personal or family economic interests might be utilized to advance some kind of concerted scheme to enhance and combine the Rockefeller family's economic and political power can only be denominated as a myth. The myth seems to have been conceived by some from the far left, as well as others from the far right.

In raising suspicions and in arousing curiosity, an appeal has been made to the prejudices of those who regard wealth in itself as an evil thing.

They question whether a man may be wealthy and at the same time honest, honorable, and empathetic. While satisfying their curiosity they seem unwilling to acknowledge that the great myth of a vast network of Rockefeller wealth and political power was effectively exploded. Only the suspicions and prejudices, the inferences and innuendoes persist—in some minds. Having found the man qualified, some would deny him office because of his status.

THE COMMITTEE'S EXTENSIVE INVESTIGATION SUPPORTS THE VICE PRESIDENT-DESIGNATE

The facts uncovered by the Committee as they apply to our interpretation of Section 2 of the 25th Amendment show Mr. Rockefeller to be

exceptionally well qualified to serve as Vice President. Our Chairman has presided over an extensive and entirely appropriate investigation. If the pace at which our Committee moved seemed at times to be too slow, and the extent of the inquiry too extensive, it must be conceded nevertheless that we have utilized all of the services and agencies available to our Committee for its inquiry. We have acted responsibly—and the Chairman has provided reasonable protection of the rights of privacy of members of the family of Nelson A. Rockefeller and of their individual affairs which were in no way related to Nelson A. Rockefeller himself.

CONCLUSION

We are celebrating this year the 200th anniversary of the first elected representative body in the history of our Nation—the First Continental Congress, which convened in Philadelphia in September 1774. The biographies of those honored 56 Representatives from 12 of the 13 original Colonies, who were the forebears of the United States Congress, were described by Deputy Governor John Penn as the “ablest and wealthiest men in America.” George Washington, our first President, was certainly among the wealthiest of our citizens when he became President some 15 years later.

Men of wealth have occupied positions of great power and influence in our Nation since that time to the present. Names like Harriman, Kennedy, Lehman, Roosevelt, Rockefeller, and many others, connote great wealth. However, in terms of public service, they belie any charge of using public office to enhance their personal wealth.

If we view the record of public service and confine our attention to the true, albeit voluminous, facts surrounding the life and experiences of the Vice President-designate, the conclusion is inescapable: Nelson A. Rockefeller represents the type of nominee contemplated by the Congress and the people in the adoption of the 25th Amendment to the Constitution. In addition, he is truly one of the great public figures of our day—knowledgeable, experienced and dedicated, fully qualified to fill the high office of Vice President.

ROBERT MCCLORY.
HENRY P. SMITH III.

DISSENTING VIEWS OF MR. KASTENMEIER, MR. EDWARDS, MR. CONYERS, MR. EILBERG, MR. WADDIE, MR. SARBANES, MR. DRINAN, MS. HOLTZMAN, MR. OWENS AND MR. MEZVINSKY

We respectfully dissent from the resolution of the Committee confirming the nomination of Nelson A. Rockefeller to be Vice President of the United States pursuant to the provisions of the Twenty-fifth Amendment of the Constitution.

Section 2 of the Twenty-fifth Amendment provides:

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.

Under the Twenty-fifth Amendment, the responsibilities and the duties of the President and of the Congress are of equal importance in selecting a Vice President. The President has the power and responsibility to nominate an individual to fill a vacancy in the Office of the Vice President. The Congress has the equally significant power and duty to carefully scrutinize the President's nomination, not only to determine the nominee's fitness to serve as Vice President but, more significantly, the nominee's fitness to serve as President of the United States.

The legislative history of the Twenty-fifth Amendment clearly supports the proposition that in exercising their independent judgment, the President and Congress are acting as surrogates of all the electorate. Each Member of the House must be mindful of the fact that he or she is acting in the place of nearly 500,000 citizens.

We have approached our decision with special care. Our responsibilities have been difficult because of the unusual circumstances that gave rise to the vacancy in the Office of the Vice President. In addition, it can safely be said that no one ever contemplated that the Office of Vice President would be vacant twice in one year. Furthermore, no one contemplated the Congress would be in the position of voting on a nominee for Vice President who was nominated by a President who was himself a product of the confirmation process. The instant case is further exacerbated by the fact that President Ford was appointed by a man forced to resign the Presidency in the face of certain impeachment, removal from office, and prosecution for his commission of flagrant high crimes and misdemeanors. President Ford, himself, succeeded to the Vice Presidency after Vice President Agnew was forced to resign because of crimes he had committed while holding the Nation's second highest office. The loss of confidence in our governing institutions caused by the gross misconduct of our last elected President and Vice President requires that Congress be most careful and exacting in exercising its responsibility under the Twenty-fifth Amendment.

The nominee before us is an extremely wealthy man. He and his family may have more economic resources and power than any other family in this country. Their financial influence extends to significant areas of our economy as wide-ranging as petroleum companies, banks, airlines, and many other areas. The direct financial holdings of the nominee and his family exceed \$1.4 billion and they represent private economic power unparalleled in this country today. This vast economic power, if joined with the political power of a Vice President, or President, threatens to nullify the basic principle that public power shall function to curb and restrain private economic power. We have reached the conclusion that, because of this threat, the Congress should not permit the merger of this great private economic power with the enormous political power of the Executive Branch of our national government.

A basic principle of our economic system is that citizens are free to accumulate significant amounts of economic wealth and power if they are able to do so. We permit this because our government, through the enforcement of antitrust laws and the actions of regulatory agencies, will check and control this private wealth and power when necessary to protect the public interest. The separation of private economic power from public power is basic to the operation of our society. The confirmation of Nelson A. Rockefeller as Vice President would breach this safeguard.

The people of this nation may believe it appropriate to merge vast economic power with enormous political power. We believe, however, that a decision of such fundamental magnitude must be made by the people, themselves, in a direct election, rather than by Congress. Most Members of this Committee demonstrated during the course of the hearings an awareness of the problems associated with the nominee's wealth. We firmly believe a majority of the Committee is making a grievous mistake in disregarding the implications of this merger of such power and wealth.

We do not view as a solution the nominee's proposal that securities he owns be placed in a "blind trust." Indeed, the nominee and many Members of the Committee stated that they thought that a blind trust would be merely a gesture of good faith. The financial interests of Nelson A. Rockefeller and members of his family are of such magnitude that a blind trust would be illusory. The conflicts of interest between the public interest and the Rockefeller family interests are inherent in the confirmation of Nelson A. Rockefeller. They are too great for us to be able to point to the proposed blind trust and say with confidence "This is enough; we have solved the problem." A blind trust will not satisfy the majority of the American people and it should not. Avoiding conflicts of interest requires avoiding even the appearance of a conflict of interest, an appearance the nominee cannot avoid. As the United States Supreme Court has stated in relation to conflict of interest laws, such statutes are "directed not only at dishonor, but also at conduct that tempts dishonor. This broad proscription embodies a recognition of the fact that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government." *United States v. Mississippi Valley Generating Co.*, 364 U.S. 520, 549 (1961).

The willingness of Mr. Rockefeller to use his great wealth, if for nothing more, to ingratiate himself with public officials is reflected by his gifts and loans to public employees and state and national political leaders. The record shows that in recent years Mr. Rockefeller has made gifts and loans of approximately \$2 million to such officials. The recipients of these gifts and loans include the New York State Superintendent of Banking, the Commissioner of the Department of Environmental Conservation, the Commissioner of Housing and Community Renewal, the New York State Commissioner of Taxation and Finance who later became Chairman of the State Housing Finance Agency, the President of the New York State Urban Development Corporation, the Chairman of the New York and New Jersey Port Authority, the presiding judge of the New York State Court of Claims, the Assistant to the President for National Security Affairs, and other public and political figures. Certainly, Mr. Rockefeller should have known that his practice of giving loans and gifts would raise serious questions concerning the ability of such officials to render independent judgment.

Mr. Rockefeller has explained that these gifts and loans were made out of friendship and for compassionate reasons to persons in need of money. We have examined the facts and are unable to agree with his statement. The gifts were made to relatively well-off individuals with the result that they became wealthier. At worst, many of these gifts and loans may constitute criminal offenses under the laws of New York. At best, they were totally inappropriate and call into serious question Mr. Rockefeller's judgment in ethical matters which are of such great concern in government today. We cannot condone this pattern of conduct.

The role of Mr. Rockefeller in the publication and financing of a book which was critical of his political opponent in the 1970 New York gubernatorial election raises serious questions concerning his candor before this Committee and further highlights the possibility of the abuse of wealth for political gain. Specifically, we do not believe the claim that the book was viewed by the nominee, his brother, or any other party to the transaction as a commercial enterprise. We are forced to conclude that it was part of a political campaign strategy and that the roundabout financing involving the use of nominees and agents constituted questionable campaign ethics.

Mr. Rockefeller's role in this transaction and his subsequent explanations and reconstructions is only one area in which he appeared to lack candor before this committee. Some of us have concluded that he was evasive in his answers on a number of other occasions during the Committee hearings. Answers to questions asked by members of this Committee were not always given in a manner which could inspire confidence in their completeness and accuracy.

There are other problems with this nomination in our opinion. The nominee's approval of certain covert activities by the Central Intelligence Agency as a "necessary resource of this country" and his partial defense of the Federal Bureau of Investigation's "dirty tricks" operations directed at various political groups is disturbingly similar to the mentality which led to Watergate. His views on foreign policy lead us to conclude that he has not learned crucial lessons from this nation's tragic involvement in the Vietnam war. The nominee's vagueness concerning the need to actively enforce existing antitrust

laws indicates an insensitivity to the dangers of economic concentration. His actions, and the explanations for them, in connection with the Attica massacre, his acceptance of tens of millions of dollars from members of his family to achieve his political desires, and the commutation of the sentence of L. Judson Morhouse, his political patron, raise additional serious questions about his judgment and his fitness to be Vice President.

For the above mentioned reasons, we cannot agree that Nelson A. Rockefeller should be confirmed by the Congress as Vice President under the provisions of the Twenty-fifth Amendment.

ROBERT W. KASTENMEIER.

DON EDWARDS.

JOHN CONYERS.

JOSHUA EILBERG.

JEROME R. WALDIE.

PAUL S. SARBANES.

ROBERT F. DRINAN.

ELIZABETH HOLTZMAN.

WAYNE OWENS.

EDWARD MEZVINSKY.

ADDITIONAL DISSENTING VIEWS OF ROBERT W. KASTENMEIER

For the second time in a little more than a year, this Committee is being asked to vote to confirm a Vice President selected by the President under the provisions of the 25th Amendment. This situation is particularly unique, however, in that we have a nominee selected by a President who was himself placed on the Presidential succession ladder through the provisions of the 25th Amendment. We have learned through our first experience with the 25th Amendment that Vice Presidential nominees must be judged as we would judge a prospective President. Thus, the burden placed on this Committee and this Congress through the 25th Amendment is a great one.

We must serve as the voice of the people. We must act as surrogates for the people in determining who can best guide us through the difficult times facing this country. More than any other action we may take, our consideration of this nomination, like our consideration of its predecessor nomination, will determine, in part, the course this nation will travel.

The Judiciary Committee conducted an exhaustive investigation into the record of Nelson Rockefeller. Like every other member of this Committee, I have weighed the testimony and the record carefully in considering this nomination. That Nelson Rockefeller is well qualified on the basis of his past government service and record to become Vice President is obviously indisputable. Further, it is clear that he meets the Constitutional requirements for this office. However, it is my firm belief that the 25th Amendment places an obligation on us to go beyond his curriculum vitae in our examination of this nominee.

We are all aware that the criteria for our judgment is ill-defined. Lacking the normal barometer for judging a Vice Presidential or Presidential candidate—namely a public election—we are, thus, left with our own individual judgment and our own personally defined criteria. In this regard, we must view, with the broadest application of discretion, Mr. Rockefeller's record and make a judgment as to whether we approve of his policies.

Judging the testimony and the record, then, in that light, I have cast my vote against confirmation of this nominee for several reasons.

First, I find far too many instances where Nelson Rockefeller's judgment must be called into question. One must question the propriety of the substantial gifts and loans made by Mr. Rockefeller to public officials. That he would seek to be a patron to public officials, who should be bound by public trust and the public interest, is of great concern to me.

The entire incident surrounding the Lasky book on Justice Goldberg and the Governor's secret involvement in that incident, is greatly disturbing—particularly what I regard as a lack of candor on his part and that of his brother.

Mr. Rockefeller's judgment with regard to Attica raises grave doubts about this nominee. These are only a few examples, but added to the many others I find in the record, they severely weaken Mr. Rockefeller's ability to command the public confidence and trust which a Vice President, or President, must have to function effectively.

Secondly, there is the entire matter surrounding the implications of the Rockefeller personal and family fortune—for I find the two to be inseparable. A review of their holdings indicates that they maintain a sizable personal influence in virtually every important aspect of American life—energy, transportation, banking, insurance, electronics and computers, metals, communications, chemicals, forestry and paper manufacturing, real estate, retail sales, pharmaceuticals, investment management and construction and farm equipment manufacture. While this is an accurate catalog of the personal manifestations of their wealth, it does not nearly reflect the total sphere of influence which this family, through a marriage of interlocking directorates with other wealthy families and individuals, has built into an unrivaled financial and political empire which permeates our entire system.

With this nomination, we face the possibility of merging this tremendous economic power with the greatest political power held in this country. The scope of this private authority raises the serious question of whether or not Mr. Rockefeller, as President, would be able to distinguish between the private interest and the public good. The range of decisions which a President is daily called upon to make is so expansive and fundamental to the Republic's safe conduct that we cannot permit even the suggestion that there is a conflict between personal and public interest in the office of the President.

The current wave of public cynicism rests, in part, on the not unfounded belief that the special interests and private concerns hold the counsel of the powerful, and that the interests of the people must wait in line while the influential have their say. The strength of our government is drawn from the depth of its popular support. Never has the public confidence been more shallow and shaken than in these last few years. No matter how judiciously and honorably arrived at, every decision that a President Rockefeller would make would influence his and his family fortune. Even the most carefully considered decision would raise the spectre of conflict of interest in the increasingly skeptical eyes of the public.

I am particularly concerned about this area because the nominee has not responded adequately to it in his Committee testimony. There seems to be both a lack of understanding on his part of the widespread suspicion that great wealth raises, and a certain arrogance of power that this issue of conflict could ever, indeed, apply to him. Mr. Rockefeller's promise to put his holdings in blind trust is hardly adequate. For, when the scope of the Rockefeller wealth is understood, one would have to be blind not to see it. It permeates every corner of American life from Main Street to Wall Street. Mr. Rockefeller could hardly hide it from himself, let alone from the huge bureaucracy which historically is always in tune to the President's interests.

In all candor, I must admit that I find no specific instance of any conspiracy on Mr. Rockefeller's part to advance his economic position at the expense of those he would publicly serve. Yet, the perception of such self-interest motivations will exist in the public mind.

The public views the Rockefeller fortune with a jaundiced eye for other important reasons. Nelson Rockefeller, while a decent and honorable man, represents the inherent inequities in our system. The family wealth is synonymous with all that is exploitative in the economic system of our nation. It represents a system and a body of laws that have been so designed over the years as to enhance the power of the powerful, increase the wealth of the wealthy, and perpetuate the influence of the influential.

Our experience of the last couple of years has placed an obligation on us to do everything we possibly can to renew public confidence and trust in government. This nomination can only further shake that confidence and erode that trust.

Finally, I am greatly concerned with the Governor's view of the role of the military in American life and with his apparent total willingness to tolerate what I consider to be "dirty tricks" as a necessary tool of government at home and abroad.

Mr. Rockefeller has a record of longstanding and continuing support of almost every manifestation of American military power. He was an ardent supporter of American involvement in the Southeast Asian war, and continues to this very day to support American financial assistance to the corrupt dictatorship of General Thieu. He has a long record of endorsement of almost every demand the U.S. military establishment has made on the resources of this nation.

But, particularly disturbing to me is Mr. Rockefeller's view of what I consider totally illegitimate government activities in foreign countries and here at home. The record shows that Governor Rockefeller believes that the continuance of CIA covert operations into the internal affairs of foreign nations is a legitimate expression of American foreign policy. It also reveals the nominee's apparent insensitivity to the necessity of protecting the basic human and constitutional rights of American citizens, particularly when they are endangered by official government actions such as the FBI COINTELPRO operations, or those subversive White House activities for which this Committee recommended articles of impeachment against former President Nixon.

We have had quite enough experience with the type of outlook that says anything can be justified in the name of national security. Our rights have been trampled upon and the sovereignty of foreign nations has been violated. Our reputation at home and abroad has been severely tarnished. In my view, we must exercise the greatest care to make certain that the kind of philosophy that caused our recent national trauma is not perpetuated. I fear, however, that this is the philosophy of Nelson Rockefeller, and I must reject it.

I hold no personal animus toward Nelson Rockefeller. It seems apparent that he will be confirmed by the House, notwithstanding my own views, and I wish him well in his prospective new position. However, for the above reasons, I cannot in good conscience support this nomination.

On a separate, but related matter, it seems appropriate to consider our experience in the last year with the 25th Amendment. There is a valid concern that the 25th Amendment has not served the nation well. It has produced, first, a President who was not elected directly by the people, and now it will result, with the confirmation of Governor

Rockefeller, in having the two highest positions in our land held by individuals who have not been chosen by a popular vote. While the chances of our present situation occurring again may be dismissed as improbable, we must remember that we did not seriously contemplate our current situation at the time of consideration of the 25th Amendment by the Congress a mere nine years ago.

The Constitutional Convention of 1787 rejected proposals for the election or appointment of the President by the Congress, and the principle of popular election of our President and Vice President has met the test of time. Yet, we are today involved in a process which is a serious departure from that cherished and firmly established principle of our representative government.

The implications of this procedure, which deprives our citizens of their right to choose directly those individuals who seek to lead our nation, is sufficiently troublesome that a re-examination of the manner by which a vacancy in the office of Vice President is to be filled, if indeed it should be filled, is warranted.

ROBERT W. KASTENMEIER.

ADDITIONAL DISSENTING VIEWS OF MR. WALDIE

Members act solely and uniquely on behalf of their constituents when they vote on a nominee proposed under the 25th Amendment. There are probably only two instances when I believe a Member should reflect his constituency's desire when it might be contrary to his own conscience. This instance is one, and the vote required of a Member when an election for President is thrown into the House of Representatives is the other. In such instances, the Member acts on behalf of his individual constituents and in their stead in a function peculiar to them, the exercise of their vote for President.

Thus, Members must search their constituencies to determine if there exists therein a majority vote for Nelson Rockefeller. Such a vote, in my view, does not exist in the 14th District of California.

Members confront in Mr. Rockefeller's nomination another basic decision. The wealth of Mr. Rockefeller and that of his family is the greatest accumulation of private fortune and private power in the United States. Mr. Rockefeller seeks to join that private power with the public power of the Presidency. If he is permitted to succeed in that effort, his will be the greatest accumulation of power, private and public, ever permitted in America.

Perhaps such an accumulation of power would not create any risks to America. Perhaps Mr. Rockefeller would exercise that power responsibly and benevolently—for the public interest rather than his private interest.

His record, however, does little to reassure in this instance.

As Governor of New York, Mr. Rockefeller joined his enormous fortune with high political office. The record shows he and his family spent an incredible \$20 million to obtain and retain that high office. The record shows he made gifts in excess of a million dollars to political cronies and office holders to assist his political career. The record shows he used his private wealth to publish a dubious political attack, anonymously, on a political opponent.

The record to which I allude was obtained under compulsion from the nominee. The acts were always done covertly and were only admitted pursuant to official investigation and even then, were misrepresented, evaded and denied.

Perhaps even this sorry public record of evasion and deceit before Congressional Committees, of using his private wealth to enhance his political power should be tolerated and should not disqualify him from the Presidency.

But if such be the decision it should be made by the American people at the polls and not by the American Congress ratifying an appointment of a Vice President made by a President who was also appointed.

JEROME R. WALDIE.

SEPARATE VIEWS OF HON. GEORGE E. DANIELSON OF CALIFORNIA

In preparing and filing separate views on the matter of the confirmation of the nomination of Nelson A. Rockefeller to be Vice President of the United States of America, I wish to state that I do not dissent from and do not dispute the accuracy of the description of the investigation conducted by the Committee on the Judiciary as set forth in the Majority Report of the Committee. I adopt the history and description of the scope of the inquiry as set forth in the Majority Report.

My dissent goes only to the last paragraph of the "Conclusion" of that Report. However, I do criticize the Report by pointing out a deficiency that runs throughout its pages in that the scope of the investigation is set forth in good detail, but there are few, if any, findings of fact. The usual pattern is that a subject of investigation is carefully described, there is no finding of fact, and the item is closed with an irrelevant statement such as:

The importance of this area of inquiry was reflected by the Committee in the extensive questioning of Mr. Rockefeller and other witnesses regarding . . . these transactions.

Without more, the reader of the Report is left in eternal doubt as to what facts were found.

THE STANDARDS TO BE APPLIED

In selecting a Vice President under the 25th Amendment, the threshold questions must be:

What are the powers and duties of the President?; and

What are the powers and duties of both Houses of Congress?

Stated otherwise, these questions can be:

Under the 25th Amendment, what standards must the President apply in nominating, and what standards must both Houses of Congress apply in confirming, a Vice President?

The standards in selecting a Vice President must be those which would be applied in selecting a President, for the only practical significance of the Vice President is the potential that he may one day succeed to office as President—a potential which has been realized in one-sixth of all cases.

Clearly, under the 25th Amendment, the powers and duties of the President, on the one hand, and the powers and duties of both Houses of Congress, on the other, are co-equal. The President has the power and duty to nominate and both Houses of Congress have the power and duty to confirm, or not to confirm.

The selection of a Vice President under the 25th Amendment is a substitute for, and departure from, our standard procedure of election

by the people. Both the President in nominating, and the Congress in confirming, are acting in fiduciary capacities as trustees for the people of the fundamental power of government election. Government being the highest public trust, they must be held to the highest standards; they are conducting the people's business, not their own.

The American people, under our Constitution, have the right to elect whomever they choose as President and as Vice President. Since our government is based upon the consent of the governed, the people can give their consent to being governed by whomever they may elect.

Under the 25th Amendment, however, the people have no direct opportunity to express their own will, and it is the duty of the President and of both Houses of Congress, serving as trustees for the people, to exercise their highest discretion and best judgment in selecting a Vice President.

Under the 25th Amendment, the President has a right to nominate a Vice President with whom he is personally, politically, and philosophically compatible. The President has the right to follow, or to disregard, political parties and political alignments.

The President also has duties. He must nominate someone who is qualified by competence, experience, and public respect to discharge fully the powers and duties of the office of the President. He must nominate someone who is free from such disqualifying impediments as would make it difficult or impossible for both Houses of the Congress to confirm him.

Both Houses of Congress also have duties under the 25th Amendment. They must recognize the right of the President to select a compatible Vice President. They must be willing to disregard political parties and political alignments. The more solemn duties of the Congress under the 25th Amendment, however, are not passive. It is the duty of the Congress fully to exercise its power and responsibility, which is coequal with that of the President. The Congress must not be a rubber stamp. It must exercise faithfully and diligently its power to confirm or not to confirm the President's nominee. And here the Congress must exercise great care. While the people can elect whomever they choose as their President and Vice President, the people, in doing so, are conducting their own business. Under the 25th Amendment the Houses of Congress are not conducting their own business—they are conducting the public's business.

Both the President and both Houses of Congress must proceed with all reasonable speed so that there will be no unconscionable delay in filling the vacancy.

The mandate of the 25th Amendment is that both Houses of Congress must *confirm* the nomination of the Vice President. The duty of confirmation must not be confused with the power and duty of advice and consent under Article II, the Executive Power Article. Advice and consent, under Article II, is a limitation on the President's power to appoint ambassador, public ministers and consuls, judges of the supreme court, and other ordinal officers of the United States, most of which, if not all, can be removed from office by the President or by other means short of constitutional process.

The 25th Amendment provides for the selection of a cardinal officer, the Vice President, who, once he enters office, can be removed only by expiration of term, by death, by resignation or by impeach-

ment. And he stands but one breath removed from being the President himself.

The term "consent," as in advise and consent, simply means to give assent or approval, to agree to. It implies more than "to suffer," but, I submit, less than "to confirm."

The word "confirm," however, means to strengthen, corroborate, substantiate, validate, authenticate, and ratify.

THE STANDARDS AND NELSON A. ROCKEFELLER

How do these standards apply to the nomination of Nelson A. Rockefeller?

The investigation and his own public record clearly establish that he has many high qualifications which tend to support confirmation. He is highly intelligent, unusually well informed, he seems to have the best of motivations—the desire to serve his country. He also has a record of 35 years of public service and could provide the kind of counsel and leadership which is so badly needed in our administration today. Also, he has the attributes of presence, persuasiveness, and political charm.

And then, of course, there is the other side of the coin. I shall not comment on Attica and the Goldberg book, which are covered in the Majority and Minority Reports. But there is the massive, real, and present, and actual conflict of interest. After careful study I am convinced that the conflict of interest posed by Mr. Rockefeller's wealth is so great, so all pervasive, that it defies solution. There is no way within the capabilities of mortal man in which it can be avoided, disposed of, neutralized or otherwise remedied. The blind trust proposed by Mr. Rockefeller is a commendable effort to solve this problem but it can have no practical value in that regard.

The conflict of interest presented by the Rockefeller wealth is congenital and permanent. We can only acknowledge that it is real and present, unsolvable, and then decide whether we are to confirm despite the conflict. It is a matter which each Member of the Congress must decide according to his own best judgment and his own conscience.

Worst of all, in my opinion, are the soft loans and gifts—which are described in the Majority and Minority Reports. Most, if not all, of these were to public officials. The transactions closely skirted a New York law which prohibited them. They totalled about \$1,982,975, of which only \$88,089 was ever repaid. \$1,679,886 was outright gifts or forgiven loans, and \$215,000 remains outstanding as a balance due. Mr. Rockefeller testified that these gifts and loans were made with "no strings attached" and no intention to influence anyone.

Can we reasonably ignore the fact that many Americans will tend to believe that there must have been some connection, somehow, between these gifts and soft loans, and political or governmental favor?

At a time when the loss of public confidence in government is a primary national concern, can we ignore the fact that a confirmation in the face of these facts will further alienate an already disaffected public and aggravate the unrest which burdens our national well being?

Can we ignore the fact that the history of mankind illustrates that wealth, badly used, can and does corrupt, and that a gift to a public

servant oft blurs the lines of loyalty and allegiance so that the recipient's sense of public trust is dulled?

I can not!

I realize that what I say and do here will probably not affect the confirmation of Nelson Rockefeller. But I hope that it will emphasize the problem as I see it and thereby serve as a guide to the future conduct of our public officials.

GEORGE E. DANIELSON.

ADDITIONAL DISSENTING VIEWS OF CONGRESSMAN ROBERT F. DRINAN

I oppose the nomination of Nelson A. Rockefeller because, in my judgment, the moral objectives of America would not be advanced if a man with the background and priorities of Nelson Rockefeller became the President of the United States.

Under the 25th Amendment it is my right and duty to be a surrogate or substitute for the electorate of my own congressional district and of America.

It is surely anomalous that the Congress apparently is about to confirm as Vice-President a man who has been rejected by the leaders of his own party in the past and whose appointment today would not win a majority of the voters in America. The Harris Poll taken during the period of November 1st through 5th indicates that the American people disapprove of the appointment of Mr. Rockefeller by a margin of 43 to 39. In addition, the American people feel that there is an inherent conflict in the enormous wealth possessed by Mr. Rockefeller and his duties as Vice President or President. The Harris Poll indicates by a 47 to 34 plurality that the people of America are persuaded that the nominee's financial holdings and investments will create a conflict of interest.

In addition, it appears that the Congress is about to accept a lower moral standard for the second highest office in the land than would be approved by the American electorate. The Harris Poll indicates that by a margin of 54 to 28, the American people feel that the gifts made by Mr. Rockefeller to public officials totalling some \$3 million were morally and ethically wrong.

I cannot believe that the authors of the 25th Amendment ever contemplated that the 535 members of the House and Senate would confirm the appointment of a man whose conduct in a serious matter was disapproved by the American people. Furthermore, I cannot find anything in the legislative history of the 25th Amendment which suggests that the Congress has the right to foist a nominee on the American people when the people themselves have made it clear that they do not want this person to be their unelected Vice-President and possibly their President.

WHY I FIND MR. ROCKEFELLER'S MORAL PRIORITIES INADEQUATE

Aside from the dangers and potential conflicts of interest stemming from Mr. Rockefeller's enormous wealth, I find his priorities and his positions inadequate on several major issues. Among these issues are the following:

(1) During and after the Watergate scandal, Mr. Rockefeller seldom, if ever, condemned the ethics of the individuals involved or the inadequacies of the political system which permitted such conduct to go undetected by the public. In response to a question I raised about

this matter during the public hearings, Mr. Rockefeller arranged to have delivered to me the text of several press interviews and statements which he made during the months of Watergate. Contrary to what he indicated publicly to me about the contents of these statements, I found them vague, inadequate and unresponsive to the moral and ethical dilemmas posed by the events surrounding Watergate.

Mr. Rockefeller called the pardon of Mr. Nixon "an act of courage and compassion." In response to a question as to whether or not he thought that President Nixon should have offered money to Mr. Ehrlichman and Mr. Haldeman on the occasion of their departure from the Administration, Mr. Rockefeller was ambiguous and equivocal.

Mr. Rockefeller is on record stating that the President of the United States must set the moral tone of the nation. It is my judgment, however, that Mr. Rockefeller has failed to demonstrate his capacity to exercise such moral leadership by reason of his silence concerning the Watergate scandal and his public approval of President Ford's pardon of Richard Nixon, an act which outraged a large majority of the American people.

(2) Mr. Rockefeller appears to advocate, or at least defend, the principles of foreign policy which involved the United States in the Vietnam War. Mr. Rockefeller, under direct questioning, stated that if he were presiding over the Senate as Vice-President, he would vote in favor of \$1 billion in military assistance for the administration of President Thieu in South Vietnam. He made that statement despite the fact that this massive sum of money would, in effect, be perpetuating a war and a corrupt administration in South Vietnam.

On a related issue, Mr. Rockefeller, despite the peace plan which he made a part of his presidential campaign in 1968, approved the bombing of Haiphong Harbor in 1972.

On the important question of amnesty for those who refused to serve in the war in Vietnam, Mr. Rockefeller has made no statement of any substance or consequence.

(3) Mr. Rockefeller was questioned on several occasions concerning his attitude towards covert activities by the CIA. On every occasion Mr. Rockefeller was equivocal and ambiguous. In effect he stated that he would approve of covert activities carried out by the CIA, presumably on the assumption that a congressional committee had some oversight of these activities. At no time did Mr. Rockefeller face up to the contempt for America which is generated in many nations by the activities of the CIA. In addition, he embraced the erroneous and indeed pernicious moral principle that covert activities by the CIA should be permitted since other nations engage in such conduct.

(4) Mr. Rockefeller was similarly vague and equivocal concerning the activities of the FBI in counter-intelligence or counter-disruption. A recent report of the Department of Justice characterized the "Cointelpro" activities of the FBI over a period of fifteen years as "abhorrent in a free society. Mr. Rockefeller apparently felt that the FBI could and should indulge in such disruptive activities if it had the President's permission and if in the judgment of the FBI, events or circumstances warranted such activities.

(5) Mr. Rockefeller has never said anything very specific concerning the reform of state and federal laws regulating campaign spending. It may be significant that during the fifteen years in which Mr.

Rockefeller was Governor of New York, no law limiting personal contributions to campaigns was enacted. Attempts were made, but no modernization of the law occurred until June, 1974.

In a publication of the Citizens' Research Foundation, based in Princeton, New Jersey, it is revealed that Nelson Rockefeller and the members of his family have spent more money on his behalf than any other family in American history to obtain and hold public office. These sums are, in all candor, staggering. In 1970, for example, the Rockefeller campaign spent \$6,985,455. Of this, \$4,391,000 came from members of the Rockefeller family.

The figures were similar in the gubernatorial election of 1966 in which the Rockefeller campaign spent \$4,896,656, \$3,554,000 from the Rockefeller family.

Spending by the Rockefeller family in the unsuccessful presidential campaigns of 1964 and 1968 was equally astounding. A total of \$5,228,550 was spent in 1964. It is not entirely clear how much of this total came from the Rockefeller family, but it would seem likely that the same proportion came from that source as in the presidential campaign of 1968. In this second campaign it is estimated by the Citizens' Research Foundation that about \$6.5 million of the \$8.0 million spent came from the members of the Rockefeller family.

Since reporting requirements in the years in question were far less stringent than they are now, it is not possible to obtain definitive figures, nor is it feasible to determine what violations, if any, might have been committed.

I, for one, find it inappropriate and incongruous that any individual or any family would utilize such vast wealth to secure and retain a political office. Members of the Rockefeller family have sought to answer this contention by stating that it is difficult, if not impossible, for people whose name is Rockefeller to obtain funds for a political campaign. Such a response does little justice to the desire of the American electorate to see to it that all candidates participate on an equal basis in the political process. The use of such massive personal family finances threatens the underlying principles of democratic government by the majority by placing a preponderance of power into the hands of a select few.

(6) No one can deny that the reform of the federal tax structure is essential if a just and compassionate society is to emerge. The entire record of the Rockefeller hearings is devoid of any commitment by the nominee to eliminate loopholes and improve the federal tax structure. By immense deductions, amounting in one year to \$1,500,000, Mr. Rockefeller has been able to diminish very substantially his own federal income tax liability. In 1970, for example, on an income of nearly \$2.5 million, he paid virtually no federal income tax.

When questioned about this matter, the nominee habitually stated that his transactions were in compliance with the law. At no time, however, in the area of taxation did the nominee appear to be sensitive to the fact that there are shocking inequities in the tax law which permit the wealthy to pay proportionately less than middle-income Americans.

On the question of the revision of the tax structure which permits American oil companies to pay very small taxes to the federal government, the nominee was similarly silent or ambiguous.

In response to a question concerning the nominee's views as to the redistribution of income in America among the very rich and the very poor, Mr. Rockefeller, with total insensitivity to the question, alleged without any evidence that the disparity between the affluent and the indigent was narrowing.

Tax reform is possibly the most urgent domestic priority now confronting the Congress and the country. I simply cannot vote for a person as Vice-President, and possibly as President who, having taken advantage of all of the tax shelters available to the wealthy, has apparently no position on tax reform except that he is content with the status quo.

(7) Mr. Rockefeller has been extraordinarily vague concerning the utility and enforcement of existing anti-trust laws. As a member of a family with over one billion dollars in assets, he controls a fortune that permeates the increasingly monopolistic world of conglomerates and multi-national corporations. Unfortunately, Mr. Rockefeller appears to understand very little about the dangers of the vast concentration of economic power in massive corporate entities. Indeed, there appears to be no evidence that Mr. Rockefeller appreciates the point behind the lawsuit recently brought by the Federal Trade Commission against giants in the oil industry. This is most surprising since \$300 million of the aggregate Rockefeller family holdings is concentrated in three of the world's largest oil companies—Exxon, Mobil, and Standard Oil of California.

It is clear that one of the major causes of inflation is the lack of competition among those companies in the oil industry and other major industries that fix prices, drive out competition, and monopolize the marketplace. Senator Gaylord Nelson in voting against Mr. Rockefeller on December 10, 1974 stated that his principal reason was the nominee's insensitivity to the evils of economic concentration. Senator Nelson said on the Senate Floor that "giantism . . . threatens freedom in all of its form. In my judgment those who do not perceive the danger and speak boldly about it are not qualified to lead the country, however fine and decent they may be as human beings."

NELSON ROCKEFELLER DOES NOT ENJOY THE CONFIDENCE OF THE AMERICAN PEOPLE

No president can really govern unless he has the confidence of the American people. The usual way to acquire that confidence is to go through the presidential election process. I find it difficult to construe the 25th Amendment to justify an affirmative vote in the Congress on a nominee who does not enjoy the confidence of the electorate.

That confidence has been eroded by disclosures in the congressional hearings on Mr. Rockefeller's confirmation that the nominee may have in fact violated the criminal laws of the State of New York. Mr. Rockefeller obviously knew that he could not give gifts to employees of New York State while they remained on the State payroll. In an obvious attempt to circumvent the law, loans were made while the recipients were on the State payroll, interest on the loans was not collected, none of the principal was repaid, and the loans were forgiven shortly after the recipient left the payroll of the State of New York.

The gifts to Dr. Ronan, which total the incredible sum of \$625,000, may or may not be illegal, but they certainly raise unsettling questions. In the post-Watergate world these questions may prevent Mr.

Rockefeller from ever possessing that confidence of the American people, without which he cannot possibly provide that moral leadership which is so desperately needed.

Mr. Rockefeller has promised that, if confirmed as Vice-President, he will stop his practice of making gifts or loans to public employees. He has qualified this commitment, however, by stating that he reserves the right to give "nominal" loans or gifts. When questioned in hearings of the House Judiciary Committee as to the meaning of "nominal," he stated that nominal meant a "few hundred" dollars.

In all candor, the superficial explanations offered by the nominee during the hearings with respect to his gifts and loans simply cannot bring him credibility or the confidence of the American people. After all, Mr. Rockefeller has given subsidies to the present American Secretary of State, and, in New York State, to the Chairman of the Transportation Authority, the Superintendent of Banks, the head of Environmental Affairs, the Commissioner of Housing and Community Renewal, the Chief of Urban Development, the Commissioner of Taxation and Finance, the Presiding Judge of the State Court of Claims, and a dozen members of his own office. It is not impossible that investigations of a civil or criminal character will be initiated with respect to these loans and gifts. In my judgment, it is not fair to the American people to approve a nominee for the second highest post in the nation whose past political practices are so dubiously ethical and legal that he must agree to forego these practices if he is confirmed as a federal official.

A CONFLICT OF INTEREST THAT CAN NEITHER BE EXCUSED NOR ERADICATED

Mr. Nelson Rockefeller was pressured and persuaded to have his attorneys prepare a document described as a "blind trust." The fact of the matter is, however, that the document presented to the Committee will have little if any effect in insulating Mr. Rockefeller from the organization known as the Rockefeller Family and Associates. This organization manages the assets of 84 living descendants of the Rockefeller family. Nine of the top executives of this group sit on approximately 40 corporate boards which manage some \$70 billion in assets. Members of the Rockefeller family as well as their employees sought to minimize the effect which the Rockefeller fortune might have on the political judgments of Nelson Rockefeller. Although Laurance Rockefeller and Mr. Jay Richardson Dilworth, the Chief Executive Officer of Rockefeller Family and Associates, purported to describe fully the management of the Rockefeller assets, they failed to provide the Committee with a comprehensive description of the process of decision-making or an explanation of the influence of the family's interlocking corporate directorships. No information was forthcoming without the most vigorous pressure being brought to bear. Claims of privacy were raised in the face of the obvious truth that the Congress and the country have a right and a duty to penetrate the secrecy that protects giant corporations, massive trusts, and financial institutions from public scrutiny.

I regret to say that in my judgment the House Judiciary Committee did not receive adequate information on present and potential conflicts of interest that may affect the judgment of Mr. Rockefeller.

Requests for further witnesses by members of the Committee were not honored. Requests for investigation into the impact of the interlocking corporate directorships were set aside. Mr. Rockefeller's invisible and massive network of alliances, now virtually immune to ordinary accountability, were not subjected to that unique examination required for a unique case.

It is inconsistent and even hypocritical for the Congress to shrink back from Mr. Rockefeller's obvious and massive conflict of interest when only two weeks ago President Ford signed a law barring Supreme Court and all Federal judges from sitting in cases involving corporations in which they own even a single share of stock.

THE HOUSE OF REPRESENTATIVES IS AN EQUAL PARTNER UNDER THE 25TH AMENDMENT IN SELECTING A VICE PRESIDENT

On February 19, 1965 Senator Birch Bayh, one of the original architects of the 25th Amendment, stated the purpose of this Amendment during debate in these words:

... 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.

Senator Bayh also stated during the debate on the 25th Amendment that we are "bringing in the House of Representatives as the most populist and most representative power of the Congress".

I find it difficult to understand how members of the House of Representatives can vote in favor of this nominee when the majority of the American people who, as noted above, were given the right under the 25th Amendment to make the decision do not favor the nominee proposed by the President.

The House of Representatives has an equal partnership in the nomination of a Vice President under the 25th Amendment. There is no presumption running in favor of the President's nominee. This is particularly true when the mandate of the November, 1972 Presidential election evanesced with the resignation in disgrace of the President and the Vice President who obtained that mandate. Moreover, in the congressional elections of 1974, the American people displayed their strong desire for new leadership at the national level. We cannot in good conscience ignore that most recent expression of the popular will in casting our votes on this important nomination.

I vote against Nelson Rockefeller today because I do not want a man with his priorities and moral insensitivity to be the President of the United States. I voted against Nelson Rockefeller because the 25th Amendment, in the words of then Congressman, now Senator Mathias, is designed to be "the nearest thing to a full-fledged national election." In a national election Nelson Rockefeller would not be elected by the people of America.

The citizens of my congressional district and a majority of the American people share my disagreement with Mr. Rockefeller's views on many fundamental issues of public policy. Moreover, a large segment of the American public feels that Mr. Rockefeller acted unethically in making substantial gifts to public officials in the state of New York. Finally, Mr. Rockefeller's vast fortune creates an actual or

potential conflict of interest with his public responsibilities to the extent that he may never win the confidence of the American people.

I believe that the Committee's vote in favor of confirmation came on the basis of inadequate investigation and with inadequate regard for the will of the electorate. In our democracy, the House of Representatives remains the people's closest link to their government. I hope that the members of the full House will meet their responsibilities under the 25th Amendment by carrying out the will of the people in casting their votes on the confirmation of Nelson Rockefeller.

ROBERT F. DRINAN.

SUPPLEMENTAL DISSENTING VIEWS OF ELIZABETH HOLTZMAN

I cannot support the confirmation, by Congress, of Nelson A. Rockefeller for Vice President. Although the nominee is a person of enthusiasm, optimism, and energy, those qualities are not a substitute for the integrity, moral leadership and respect for the rule of law that this country must have from a man who may possibly hold the office of President of the United States.

I. SUBSTITUTING POLITICAL EXPEDIENCY FOR MORAL LEADERSHIP

Mr. Rockefeller recognized that "No. 1, and perhaps foremost, [the President] should be the moral leader of this country." (House Hearings, p. 116) Yet, Mr. Rockefeller himself has abandoned moral leadership to the demands of political expediency.

A. *Watergate*

Although the Saturday Night Massacre (the firing of Archibald Cox in 1973) caused a national outcry against President Nixon's attempt to obstruct the Watergate prosecutions, Nelson Rockefeller, just three days later, insisted that Richard Nixon was "doing a great job" on the domestic front. (Judiciary Committee, "Selected Issues," p. 114.)

When President Nixon was compelled to comply with a federal court order in October 1973 to turn over the tapes, Nelson Rockefeller said he may have "surrendered principle" by obeying a court order. (Jud. Comm., "Selected Issues", p. 116). When President Ford pardoned Richard Nixon, without obtaining a confession of guilt, without creating a full record of Richard Nixon's misconduct, and in contravention of his implied assurances to the Senate Nelson Rockefeller called that pardon "an act of conscience." (Jud. Comm., "Selected Issues," p. 36).

B. *Attica*

Nelson Rockefeller, in one of his few candid moments before our Committee, confessed that the reason he did not go to Attica to consult with his own observers was that he would be seen on "the world television cameras" as "the man who failed in this thing." A man who is more concerned about his TV image than about trying to prevent death (and ultimately 10 hostages and 29 prisoners were killed at Attica) is not qualified in my judgment to assume the moral leadership of this country.

C. *Interfaith Hospital*

Governor Rockefeller admitted that he kept Interfaith Hospital in Queens, New York, open to the public (and eligible for state certification) despite repeated official reports to him that the hospital was a hazard to human life and should under state law be closed. The reports

noted that the food "wasn't fit to feed an animal;" that "there doesn't appear to be any effort made to prolong the life of the patients;" that "(Interfaith) is a detriment to the public to be in operation." It is not a coincidence that the head of that hospital was an ardent Nixon supporter, who was pardoned by Richard Nixon for income tax evasion.¹ In my judgment, a man who would keep open a hospital unfit for the care of patients in order to help a political friend ought not to be confirmed as Vice President.

D. Chile

Nelson Rockefeller was a member of the President's Foreign Intelligence Advisory Board, which has the responsibility for making recommendations about the management and effectiveness of CIA operations. What did Nelson Rockefeller do when the news broke this fall about covert CIA actions which led to the overthrow of the Allende government? Did he call William Colby, the director of the CIA, to get the details of CIA activities; did he call William Colby to express concern over the torture of people by the new junta? He called William Colby only to learn whether he really used the word "destabilization." A man who is concerned with semantics when confronted with enormous abuses of power and human rights should not, in my judgment, be confirmed as Vice President.

II. EVASIVENESS

A. Issues

Because we in the Congress must substitute our judgment of Nelson Rockefeller for that which would otherwise be made by the American people in an election, we are entitled to know his views. I am deeply disturbed, therefore, that Mr. Rockefeller evaded or refused to answer question after question on major areas of public policy.

With regard to Presidential power, he refused to say specifically what his policies would be on executive privilege, the pardoning power, wiretapping and the use of the FBI to stifle dissent. He would not make a firm commitment not to establish a plumbers operation and hedged about lying to the Congress and the public. He refused to comment on Richard Nixon's lying to the American public about the Cambodia bombing, passing it off as a "loaded" question.

On economic policy, he refused to take a clear position with regard to antitrust enforcement, excess profits taxes, wage and price controls, oil depletion allowance and foreign tax credits for multinational corporations. He refused to say whether he would favor a reordering of government priorities away from defense spending and toward human needs. He refused even to comment on President Ford's proposed cuts in food stamps, Medicaid and Medicare assistance to the elderly.

Six members of our Committee tried to find out from Mr. Rockefeller whether he approved of CIA actions against the Allende government in Chile. Why did Mr. Rockefeller refuse to answer each time? Why would Mr. Rockefeller not make a commitment about United States recognition of the Palestine Liberation Organization?

¹ This person, Dr. Thomas Matthews, was also convicted of 71 counts of grand larceny for stealing Medicaid money available to Interfaith because of state certification. The reports to Mr. Rockefeller noted bad fiscal records. Mr. Rockefeller told the House Committee that Dr. Matthews was "brilliant" and "dynamic."

Why did he not even say whether he saw a danger in massive Arab investments in the United States?

Our constituents are entitled to clear statements on these matters from Nelson Rockefeller. His refusal to provide such answers, in my opinion, speaks strongly against his confirmation.

B. Other Matters

Nelson Rockefeller refused to provide the Committee with a complete list of gifts above a nominal value that he made to non-relatives when he was Governor of the State of New York. Mr. Rockefeller's brothers refused to give information about gifts they made to public officials, limiting their answers only to gifts made while the persons were actually in office. (As we have seen, Mr. Rockefeller often made his gifts immediately before or after a person held public office.)

III. CAVALIER ATTITUDE TOWARD THE TRUTH

The House Judiciary Committee was told stories that even the most gullible person would have difficulty swallowing. These stories reflected a cavalier attitude toward the truth by the nominee and his closest associates. A few examples:

A. The Goldberg Book

The disclosure of this "dirty trick" prompted the inherently incredible story that the financing of the book was an "investment" instead of a campaign contribution. Under oath, Laurance Rockefeller swore that he was "absolutely certain" that he had agreed to put up the money for the book as a business venture (Sen Hearings, p. 896). Under careful questioning, however, Laurance Rockefeller conceded that he had no recollection of having been told that the book was to be a commercial enterprise or that he was going to invest in it. (House Hearings, pp. 929-30) He admitted that the investment story was a mere hypothesis and assumption.

Mr. Dilworth, the Director of Rockefeller Family and Associates, to minimize the issue of conflict of interest, swore that the Rockefellers "are totally uninterested in controlling anything." (House Hearings, p 775). Yet he had to retract his statement and admit that the Rockefellers did want to control and, in fact, controlled certain companies. (The extent of his admission was unfortunately limited by the availability of information to the Committee).

Nelson Rockefeller made the extraordinary—and frankly unbelievable—claim that, because he would take the Constitutional oath of office "there would be no conflicts of interest." Yet, for example, clearly any decision he would make affecting oil companies—in which he owns millions of dollars of stock—would present a conflict.

B. Loans and Gifts

Perhaps the most remarkable stories involved Nelson Rockefeller's explanations of the gifts and loans he had made. First, the nominee maintained persistently that the gifts were made for compassionate reasons: the recipients' "pressing family obligations" or need for retirement funds. Aside from the fact that the Committee could not in any instance verify the "pressing family obligations" leading to a particular gift or loan, it is important to note the pattern they form. New York State public authorities were responsible for billions of dollars worth of construction during Nelson Rockefeller's tenure as

Governor. Leaving out persons who served on Mr. Rockefeller's personal staff and persons who held important positions in the state Republican party, every public official who received a gift or loan from Nelson Rockefeller served on one of these construction authorities.² How is it that Nelson Rockefeller's compassion was extended only to persons who wield enormous political or economic power, power to reward landowners, insurance brokers, banks, attorneys, legislators, contractors and labor unions? (Is it not odd that only these persons—not the Commissioners of Mental Hygiene or Education, for example—had “pressing family obligations” during Nelson Rockefeller's 15 years of tenure as Governor?)

In addition, Nelson Rockefeller maintained under oath that he actually expected to be repaid for his loans to public officials. He seems compelled to make this statement in order to persuade us of the legality of these loans. However, it is hard to accept his story when we have seen that only 1 out of 10 public officials to whom he made loans ever made repayment of any kind, whereas all but one of the 26 persons who never held public office repaid their loans in whole or in part. The improbability is compounded when we realize that Mr. Rockefeller, at least in the case of Mr. Ronan, (who got loans of \$550,000) never even inquired as to whether repayment was possible.

C. L. Judson Morhouse

Mr. Morhouse, N. Y. Republican State Chairman, received a \$100,000 cash “contribution” in 1959 from racetrack promoters.

Nelson Rockefeller maintained that as soon as he found out about the “contribution” he ordered it returned. He was so certain of his action that he recounted in vivid detail the dinner occasion at which he learned of the “contribution”, including who was present (the Attorney General and Lt. Governor), where they were sitting, and what he said. When confronted with evidence that contradicted the date of this transaction, Rockefeller glibly changed his testimony. The new version presents some problems. It conflicts with Mr. Morhouse's version. More important, neither the Lieutenant Governor nor the Attorney General were present at the new event.

Mr. Rockefeller's 1970 pardon of Judson Morhouse is also surrounded by curious circumstances: the apparent back-dating of affidavits received from Morhouse's doctors, the participation of the Governor's counsel in preparing those affidavits, the use of state planes, troopers and vehicles to transport “independent” doctors to examine Morhouse, and the fact that only one out of three of the “independent” panel of doctors, which Mr. Rockefeller sent to examine Morhouse, actually saw him. With regard to this last matter, the nominee contradicted himself, testifying that he had not known that only one of the three doctors had examined Morhouse. (House Hearings, p. 245), but answering a written question by saying that he had. (House Hearings, p. 1198).

The contradictory testimony and the unexplained circumstances in connection with the Morhouse case should prevent the confirmation of Mr. Rockefeller.

² For example, William J. Ronan was the only Chairman of the Metropolitan Transportation Authority; Edward J. Logue was the only President of the Urban Development Corporation; James A. Gaynor and Joseph Murphy were the only Chairmen of the State Housing Finance Agency during Mr. Rockefeller's tenure as Governor.

IV. CONFLICT OF INTEREST

I share the view that the founding fathers reflected when they wrote this Constitution, namely, a profound and abiding skepticism of power. One issue in this confirmation is the amalgam of Nelson Rockefeller's economic power—the reaches of which we have still not fully explored in this Committee's investigation—with political power. I share the skepticism that the founders would have felt, in making a decision as a surrogate for the people, as to whether a disinterested judgment could be made by somebody whose family and who himself has such vast interests in the oil companies, on decisions respecting oil prices, or rollback of oil prices, decisions respecting foreign policy in the Middle East, decisions respecting antitrust policies. The issue is also ultimately whether the public would be able to believe in the disinterestedness of his judgment should he become President.

We have seen in our experience on this Committee too much of a cavalier attitude towards power by those who have held it, and too little respect for the values of moral leadership and conscience. I cannot compromise my belief that we must have people in the Executive Branch in whom the country can have complete confidence. I, therefore, cannot support this nomination.

ELIZABETH HOLTZMAN.

SUPPLEMENTAL DISSENTING VIEWS OF MR. MEZVINSKY

In addition to the foregoing views in which several of my colleagues and I concur, I believe that the importance of this decision requires that I expand on the factors underlying my opposition to the nomination of Nelson Rockefeller for Vice President.

During our hearings, Mr. Rockefeller proved himself an agreeable man and we heard a great deal about his experience and ability.

However, I sense that among the primary factors fueling the demands for speed in approving Mr. Rockefeller have been the continued deterioration of our nation's economy, the hoard of other serious problems facing the nation and the world, and the growing belief that President Ford needs and deserves every possible assistance in meeting the demands and responsibilities which have accidentally fallen to him.

Another often heard argument—one I hear repeatedly from respected friends—for confirming President Ford's choice is fundamentally a pragmatic one: that Nelson Rockefeller is probably the best nominee the President is likely to choose.

But if Congress were to confirm Nelson Rockefeller simply on the basis of either of these prevalent beliefs. I believe we'd be doing it for the wrong reasons. It would be wrong as surely as it would be improper to reject the nomination simply because he is a man of wealth, or because some polls indicate that the majority of the people oppose his confirmation, or because he is a Republican and the Congress is predominantly Democratic.

The 41st Vice President must be an individual who can inspire trust and assist in the formidable task of restoring credibility to government. I have studied the facts before us and borne the weight of one man called upon to judge another, and I have concluded that Nelson Rockefeller is not that individual.

He would be denied the essential credibility by the glaring and inescapable conflicts of interest which would plague him and the nation were he to become Vice President or President.

Such conflicts would arise whenever his and his family's billion-dollar-plus financial interests intersected the broad discretionary powers of the President. I do not suggest that as Vice President Mr. Rockefeller would use high office to advance that wealth. However, the unavoidable appearance of conflict is a fundamental hazard in the proposed melding of economic and political power. The unprecedented extent of those conflicts would give rise to another smoldering suspicion in a society already all too skeptical of its government. This confidence-eroding suspicion would be fanned each time a Rockefeller political decision touch upon any of the wide-ranging Rockefeller financial interests.

The potential collision of Rockefeller interests and presidential power, and its resultant sustenance for public cynicism, create a dilemma that demanded the attention of the Committee.

In grappling with the problem of conflicts of interest I believe specific examples can be of assistance.

In 1972, Laurance Rockefeller, Nelson's brother and the largest stockholder in Eastern Airlines, protested to then-President Nixon a decision by the Civil Aeronautics Board prohibiting a proposed merger between Eastern and Caribair Airlines. Subsequent to the Rockefeller protest, Nixon exercised his presidential authority, reversed the CAB ruling, and allowed the merger.

During our hearings, I questioned Laurance about this matter in terms of how he would have dealt with the White House had his brother been its tenant. Both the nominee's brother and I readily agreed that he would continue to have the right to express his views to the President. However, recognizing the conflict, Laurance said he would not have contacted the President because doing so could carry with it the appearance of wrongdoing. His response indicated to me a sensitivity to the inherent conflict of interest problem, that is, the threat of generating additional suspicions among an already wary citizenry. Further, Laurance said he assumed that were Nelson Rockefeller the President he would "disqualify" himself on matters such as the Eastern case.

If that assumption—which seems logical—is correct, one must wonder whether as President, Nelson Rockefeller would feel compelled to disqualify himself on all matters which involved the oil industry (where his family's financial interests surpass \$300 million); or avoid participation in the recently brought antitrust suit against AT&T (in which the family owns more than \$5 million in stock); or in any matters affecting the banking industry (where family assets are \$12 million).

Were he to disqualify himself on all matters where conflict raised its ugly head, he would be hopelessly hamstrung. And yet, to exercise discretionary powers in areas affecting his and his family's economic interests would automatically erode public confidence in any such decision.

Customarily, of course, we try to insulate government officials from such conflicts. But, in this case the very extent of the conflicts eliminate the options of blind trust and divestiture which have seemed appropriate in cases of other wealthy men chosen for appointive governmental posts.

Mr. Rockefeller has suggested that we overrate the extent of these conflicts because he tells us nearly all decisions affecting the financial interests would be made by bureaucrats in the regulatory agencies. Not only does this proposition underrate the powers of the President, it also ignores the mark a President or Vice President makes throughout the government.

The men and women who make up what we call the bureaucracy are aware of Rockefeller interests. That knowledge alone could create an environment where discretion loses some of its objectivity and close decisions are called in favor of the boss. Congress will invite such tendencies if we condone the conflicts by ignoring them and implicitly suggest that "what is good for the Rockefellers is good for America."

I believe this would be a grave mistake and have concluded that Mr. Rockefeller's inherent conflicts of interest are incompatible with the office of the Vice President.

Another key factor in my decision to oppose confirmation is what I consider Mr. Rockefeller's insensitivity to some of the major concerns of this nation. This insensitivity translates into a disqualifying impediment because it affects areas of crucial concern in a society recuperating from the Watergate nightmare and facing mounting problems all around.

Mr. Rockefeller's testimony before the Committee indicated that he is unaware of the growing concerns about increasing corporate dominance and its corroding effect on our free enterprise system. He told our Committee that prior to the hearings he had never grasped the depth of the people's concern about the conflicts of interest problems. Not until repeated questioning did he seem to recognize the appearance of impropriety in his lavish use of Rockefeller largesse.

I ask my colleagues in the House whether their constituents would have such difficulty. I think not; they are probably acutely aware of such problems. They instinctively see the questionable ethics involved in the Goldberg book and its round-about financing and are unable to ignore the implications of substantial loans and gifts to public officials and state and national political leaders.

During our hearings, I waited for an indication that Mr. Rockefeller was sensitive to these problems, aware of the people's concerns.

Instead, I saw him react to public pressures and bow to public demands.

I believe this is most pertinent because no one knows better than members of the House of Representatives—who have witnessed the Agnew resignation, the Saturday Night Massacre, and the impeachment investigation and resultant resignation of Richard Nixon—the importance of restoring faith in our government.

To do so, we need leaders with the courage and sensitivity to lead the nation to higher demands of our public officials, our government and our society. The too prevalent occurrence of a politician belatedly reacting and bowing to public demands is simply not enough.

If our government is to play its essential role in facing the crucial problems confronting the nation, it must have the confidence of the people.

The problems which I have outlined have led me to the conclusion that Nelson Rockefeller's confirmation as Vice President would erode, rather than enhance, the public's trust and faith in government.

EDWARD MEZVINSKY.

