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CONGRESSIONAL RECORD THE SENATE

Statement of Lawyers Committee

On Supreme Court Nominations

September 29, 1968

(Underlines added)

The Lawyers Committee on Supreme Court Nominations today issued the attached statement urging the Senate to act promptly on the merits of the Supreme Court nominations pending before it. The Committee was formed September 12, 1968, and its membership comprises 162 lawyers from 49 states and the District of Columbia. The committee opposes the use of the filibuster or other obstructive techniques to frustrate the appointive process. It also opposes the use of that procedure for indiscriminate attacks on the Supreme Court.

Included among this broadly representative group of lawyers are seven past presidents of the American Bar Association, many past and present officers of state bar associations and 22 law school deans. A list of the members is attached. The statement represents the personal views of the members of the Committee, and does not reflect the views of any institution with which they may be affiliated.

Inquiries may be directed to Jefferson B. Fordham, Dean of the University of Pennsylvania Law School.

Statement

The Lawyers Committee on Supreme Court Nominations respectfully urges the Senators opposed to the pending nominees to put their views to the test of a vote on the merits.

Over three months ago, the President submitted to the Senate for its advice and consent a nomination for Chief Justice of the United States. The nominee was questioned extensively before the Senate Judiciary Committee. A detailed record was compiled. Last week, a majority of the Senate Judiciary Committee reported out the nomination favorably. The sole question now before the Senate should be the qualification and

fitness of the nominee for the position of Chief Justice.

No one would deny the need for careful consideration by the Senate of the qualification of nominees to the highest court in the land. Nor is there any doubt that some period of debate and deliberation for that purpose is appropriate. But just as surely, the Senate has a duty not only to explore the issues but also to render a decision either granting or withholding its consent to the nominations.

If the pending nominations do not win the support of a majority of the Senate, they will fall. If they do win such support, they deserve the Senate's consent. Nothing would more poorly serve our constitutional system than for the nominations to have earned the approval of the Senate majority, but to be thwarted because the majority is denied a chance to vote.

Senators have never before employed a filibuster against a Supreme Court nomination. Indeed, prior Supreme Court appointments have seldom been debated more than 8 days. Whatever the merits of the filibuster as a device to defeat disliked legislation, its use to frustrate a judicial appointment creates a dangerous precedent with important implications for the very structure of our Government.

Senators concerned about whether the courts have correctly applied the Constitution ought not to ignore their own constitutional duties. We therefore urge that after a reasonable time for debate the nominations be voted up or down on their merits.

Members:

Brent M. Abel, San Francisco, CA

Stephen Ailes, Washington, DC

George E. Allen, Richmond VA

J. Garner Anthony, Honolulu, Hawaii

Charles E. Ares, Dean, University of Arizona, College of Law

Walter P. Armstrong, Jr., Memphis, TN

H. Thomas Austern, Washington, DC

William H. Avery, Chicago, IL

Joseph A. Ball, Long Beach, CA

Frederick A. Ballard, Washington, DC

E. Clinton Bamberger, Jr. Baltimore, MD

Edward L. Barrett, Jr., Dean, School of Law, University of California, Davis

Marvin Berger, New York, NY

Robert A. Bicks, New York, NY

Peter W. Billings, Salt Lake City, UT

Hugo L. Black Jr., Miami, FL

Bruce Bromley, New York, NY

John K. Brubaker, Anchorage, AK

John G. Buchanan, Pittsburgh, PA

Stimson Bullitt, Seattle, WA

Cecil E. Burney, Corpus Christi, TX

Floyd W. Burns, Indianapolis, IN

John D. Carbine, Rutland, VT

James D. Carpenter, Newark, NJ

W. Graham Claytor, Jr., Washington, DC

Harry B. Cohen, Omaha, NE

Roger G. Connor, Anchorage, AK

Jerome A. Cooper, Birmingham, AL

Homer D. Crotty, Los Angeles, CA

Lloyd N. Cutler, Washington, DC

George R. Currie, Madison, WI

Robert E. Dahl, Grafton, ND

Norris Darrell, New York, NY

Richard M. Davis, Denver, CO

Ted J. Davis, Oklahoma City, OK

Arthur Dean, New York, NY

Eli Whitney Debevoise, New York, NY

James C. Dezendorf, Portland, OR

Richard C. Dinkeispiel, San Francisco, CA

Edward Griffith Dodson, Jr., Roanoke, VA

Peter Dorsey, Minneapolis, MN

James M. Douglas, St. Louis, MO

John Draper, Oklahoma City, OK

Robert F. Drinan, Dean, Boston College Law School

E. Charles Eichenbaum, Little Rock, AR

H. Vernon Eney, Baltimore, MD

James E. Faust, Salt Lake City, UT

Sidney S. Feinberg, Minneapolis, MN

James D. Fellers, Oklahoma City, OK

John Shaw Field, Reno, NV

Walter T. Fisher, Chicago, IL

Jefferson B. Fordham, Dean, University of Pennsylvania Law School

J.W. Foster, Professor, University of Wisconsin Law School

Cody Fowler, Tampa, FL

George O. Freeman, Jr., Richmond, VA

Arthur J. Freund, St. Louis, MO

G.M. Fuller, Oklahoma City, OK

Charles O. Galvin, Dean, Southern Methodist University Law School

John J. Gibbons, Newark, NJ

Terrell L. Glenn, Columbia, SC

John Raeburn Green, St. Louis, MO

George P. Guy, Cheyenne, WY

Edward C. Halbach, Jr., Dean, University of California School of Law

Milton Handler, New York, NJ

John L. Hannaford, St. Paul, MN

William Burnett Harvey, Dean, Indiana University Law School

Patrick W. Healey, Lincoln, NE

Luther L. Hill, Jr., Des Moines, IA

Joseph G. Hodges, Denver, CO

John V. Hunter, Raleigh, NC

Leon Jaworski, Houston, TX

Herbert Johnson, Atlanta, GA

Paul Johnstson, Birmingham, AL

Charles W. Joiner, Dean, Wayne State University School of Law

Donald F. Keefe, New Haven, CT

Robert H. Kennedy, Cleveland, OH

Spencer Kimball, Dean, University of Wisconsin School of Law

Rufus King, Washington, DC

Duane W. Krohnke, New York, NY

Edward W. Kuhn, Memphis, TN

James A. Lake, Sr., Professor, University of Nebraska Law College

John H. Lashly, St. Louis, MO

Robert A. Leflar, Professor, University of Arkansas

Morris I. Leibman, Chicago, IL

Walter Leichter, Union City, NJ

Thomas B. Lemann, New Orleans, LA

Neil Leonard, Boston, MA

Arthur J. Levy, Providence, RI

James K. Logan, Lawrence, KN

Arthur Mag, Kansas City, MO

Ross L. Malone, New York, NY

Bayless A. Manning, Dean, Stanford University School of Law

Horace S. Manges, New York, NY

Orleon S. Marden, New York, NY

Burke Marshall, Armonk, NY

David F. Maxwell, Philadelphia, PA

Richard C. Maxwell, Dean, UCLA Law School

W. William McCalpin, St. Louis, MO

Don G. McCormick, Carlsbad, NM

Robert B. McKay, Dean, New York University Law School

Robert W. Meserve, Boston, MA

Lester W. Miller, Jr., Anchorage, AK

Vernon X. Miller, Dean, Catholic University of America School of Law

Joseph Millimet, Manchester, NH

R.W. Nashtoll, Portland, OR

Phil C. Neal, Dean, University of Chicago Law School

Russell D. Niles, New York, NY

Robert A. Nitschke, Detroit, MI

Gilbert Nurick, Harrisburg, PA

Louis F. Oberdorfer, Washington, DC

Joseph O Meara, Emeritus Dean, Notre Dame University School of Law

William H. Orrick, Jr. San Francisco, CA

Revius O. Ortique, New Orleans, LA

Ross H. Oviatt, Watertown, SD

James Dickson Phillips, Dean, University of North Carolina School of Law

Samuel R. Pierce, Jr., New York, NY

Louis H. Pollack, Dean, Yale Law School

Thomas W. Pomeroy, Jr., Pittsburgh, PA

William Poole, Wilmington, DE

Robert H. Reno, Concord, NH

Robert R. Richardson, Atlanta, GA

Simon H. Rifkind, New York, NY

John D. Robb, Jr., Carlsbad, NM

Herschel H. Rose, Fairmont, WV

Samuel I. Rosenman, New York, NY

Oscar M. Ruebhausen, New York, NY

Terry Sanford, Raleigh, NC

Whitney North Seymour, New York, NY

Francis M. Shea, Washington, DC

Jerome J. Shestack, Philadelphia, PA

Herbert D. Sledd, Lexington, KY

William A. Sloan, Albuquerque, NM

Jerry V. Smith, Lewiston, ID

Kendrick Smith, Butte, MT

William B. Spann, Atlanta, GA

Robert G. Sproul, Jr., San Francisco, CA

Robert G. Storey, Dallas, TX

John A. Sutro, San Francisco, CA

Seth Taft, Cleveland, OH

Paul A. Tamburello, Pittsfield, MA

Samuel D. Thurman, Dean, University of Utah Law School

Maynard J. Toll, Los Angeles, CA

Howard J. Triencns, Chicago, IL

Jerry Tubb, Oklahoma City, OK

William Tucker, Dean, Cornell Law School

Lehan K. Tunks, Dean, Univeristy of Washington Law School

Calvin H. Udall, Phoenix, AZ

Lewis H. Van Dusen, Jr., Philadelphia, PA

David H. Vernon, Dean, University of Iowa School of Law

Robinson Verrill, Portland, OR

Robert L. Wald, Washington, DC

William F. Walsh, Houston, TX

Willam O. Warren, Dean, Columbia University School of Law

Bethuel M. Webster, New York, NY

Herbert Wechsler, Professor, Columbia University School of Law

T. Girard Wharton, Newark, NJ

Thomas W. Wiley, Phoenix, AZ

Edward Bennett Williams, Washington, DC

Charles Alan Wright, Professor, University of Texas

Wilson W. Wyatt, Louisville, KY

David W. Tandell, Burlington, VT

John H. Yauch, Newark, NJ