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	NAYS—9	
Abourezk	Hart, Phillip A.	McGovern
Biden	Hatfield	Nelson
Clark	Mansfield	Weicker
	NOT VOTING—4	
Allen	Gravel	McGee
Bayh		

So the conference report was agreed to. Mr. McCLELLAN. Mr. President, I move reconsideration of the vote by which the conference report was adopted.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, under the order entered during the closed session, the Senate will now go into executive session, with a vote to occur on the nomination of Mr. Stevens at 1 p.m. The time is to be equally divided between Mr. EASTLAND and Mr. HRUSKA.

Upon the disposition of that vote on the Stevens nomination, the Senate will proceed to the consideration of the Public Works conference report, and the 30 minutes' time limit has been cut to 5 minutes, to be equally divided between Mr. BAKER and Mr. RANDOLPH. Upon the disposition of the conference report on the Public Works bill, the Senate, by unanimous consent, will take up the extension of the tax cut conference report.

Mr. McCLELLAN. Mr. President, I wish to announce, out of deference to the leadership's programs, that at the proper time, I shall move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 49, 53, 75, 83, 98, and 101. I shall withhold that motion for the present.

Mr. TUNNEY. Will the Senator yield to me?

Mr. McCLELLAN. I yield.

Mr. TUNNEY. I wish to ask my distinguished colleague from Arkansas if he proposes to offer that motion at any time between now and the consideration of the Public Works appropriation bill.

Mr. McCLELLAN. I say to the Senator that I shall not offer it without giving him prior notice of it. I am trying to work it the best way I can with the leadership.

Mr. TUNNEY. Yes.

Mr. McCLELLAN. As I advised the Senator a few moments ago in the presence of the leadership, I would want to offer such a motion.

Mr. TUNNEY. I want to be present when the Senator makes that motion, because I should like to object to concurrence in amendment No. 75 to H.R. 9861. I should like to have a separate vote on that, because I intend to offer an amendment.

Mr. McCLELLAN. As I tried to advise the Senator a while ago, I assure him I am not going to try to take advantage, but I shall want to bring it up.

ORDER TO PROCEED TO CONSIDERATION OF TAX CONFERENCE REPORT UPON DISPOSITION OF PUBLIC WORKS CONFERENCE REPORT

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition

of the conference report on public works, the Senate then turn to consideration of the tax conference report.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

NOMINATION OF JOHN PAUL STEVENS TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The assistant legislative clerk read the nomination of John Paul Stevens, of Illinois, to be an Associate Justice of the Supreme Court of the United States.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. EASTLAND. Mr. President, I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, until he was nominated to the Supreme Court by President Ford, I must say, frankly, that I had never heard of Judge John Paul Stevens.

During the past month, however, I have read a great deal about him, and I like the way he handled himself during his testimony before the Committee on the Judiciary.

Judging only from my reading and from his testimony, I am not able to determine just where Judge Stevens is on the philosophical spectrum. Perhaps this is just as well. He appears to be a jurist dedicated to equality under the law, and one dedicated to the belief that ours is a government of laws and not of men.

During the hearings on his nomination before the Senate Judiciary Committee, he proved he is not a man to be pushed around, even to advance his own confirmation.

One member of the committee raised the issue of "reverse discrimination," saying that courts have recognized that simply striking down discriminatory laws is not enough. The Senator said the courts have frequently gone beyond that to require affirmative action, like school busing, to remedy the effects of long patterns of discrimination.

The questioning Senator wanted to know if Mr. Stevens, now a judge on the Seventh Circuit Court of Appeals in Chicago, was "sufficiently concerned" to feel that judicial action of that kind was necessary.

Judge Stevens told him that in many cases affirmative action by the courts is necessary, but he added that, "these things really depend on the facts in a particular situation."

Judge Stevens then emphasized that he did not want to give the impression that, "I would place certain litigants in a favored class. I would not."

The questioning Senator, dissatisfied with Judge Stevens' position, said, "If you want the record to read simply that you are going to apply the law equally to all citizens, then that's the way it will have to stand." To which Judge Stevens replied, "I would be proud to have the record stand that way."

Most Americans, I feel, would agree with Judge Stevens that the law should be applied equally to all citizens. Certainly, that would be the view of the Senator from Virginia.

Mr. President, in a thoughtful editorial, the Richmond Times-Dispatch has reviewed Judge Stevens' testimony before the Judiciary Committee and has found it "especially impressive."

The Times-Dispatch applauds Judge Stevens' repudiation of the imposition of preferential treatment by force of law—the heart of such discredited social programs as forced busing and mandatory employment quotas.

And the Times-Dispatch finds "reassuring" Judge Stevens' commitment to the concept of judicial restraint, based on his insistence that "Federal judges have no right to substitute their own views for constitutional principles—and the Supreme Court has no authority to legislate, establish policy or alter the Constitution."

The publisher of the Richmond Times-Dispatch is Mr. David Tennant Bryan. Mr. Edward Grimsley is editor of the editorial page.

I ask unanimous consent that the Richmond Times-Dispatch editorial, "Stevens' Views . . .", be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Richmond Times-Dispatch, Dec. 11, 1975]

STEVENS' VIEWS . . .

Judge John Paul Stevens, President Ford's nominee for the United States Supreme Court, has been widely and effusively praised as a jurist of exceptional professional ability, admirable judicial temperament and unwavering integrity. From his testimony before the Senate Judiciary Committee, it appears that Stevens truly deserves the high compliments that have come from his enthusiastic admirers.

Stevens was especially impressive in his exchange Tuesday with Massachusetts Sen. Edward Kennedy, who attempted to lead the nominee into an endorsement of the despicable doctrine of "reverse discrimination." Kennedy noted that in civil rights areas many federal courts have considered it inadequate simply to invalidate discriminatory laws and have gone on to require affirmative action, such as the compulsory busing of school children, to offset the effects of discrimination. Was Judge Stevens "sufficiently concerned" about minority groups, asked Kennedy, to consider affirmative action necessary?

Stevens replied that some affirmative action decisions may be justified but that "these things really depend on the facts in a particular situation." He emphasized that he did not wish to convey the impression that he "would place certain litigants in a favored class. I would not."

Obviously perturbed by Stevens' answer, Kennedy huffed:

"If you want the record to read simply that you are going to apply the law equally to all citizens, then that's the way it will have to stand."

"I would be proud," replied Stevens, "to have the record stand that way."

It was an encouraging and highly commendable answer. Indeed, it was so *right*, so consonant with the elementary principles of justice, that it really should not be considered unusual enough to note. Unfortunately, however, it is a fact, as Kennedy said, that many federal judges, including some who have served—and who do serve—on the Supreme Court often scoff at the principle of equality before the law and embrace the argument that members of groups discriminated against in the past are now entitled to preferential rights of others. They insist, in other words, that two wrongs do make a right. Busing, designed to achieve racial integration in public schools through *force*, and employment quota systems, which deny some workers equal employment opportunities, are two manifestations of this philosophy. And the deplorable situation in Boston, discussed below, is a specific example of its effects.

Stevens expressed other reassuring views in his appearance before the Senate committee. It is the function of the Supreme Court, he said, to decide specific cases, not to "search for issues or regard itself as a commission to reform the law." Federal judges have no right to substitute their own views for constitutional principles, he insisted, and the Supreme Court has no authority to legislate, establish policy or alter the Constitution.

To liberal activists who believe that the Constitution should be bent to fit whatever sociological concepts might be popular at a given moment, Stevens' views on the role of the Supreme Court must be distressing. He does not talk like a man who would follow the flag of every seemingly noble cause that marched onto the scene. But to those people who believe the integrity of the Constitution must be preserved, who favor the rule of law over the rule of men, who consider the principle of separation of powers to be one of the great strengths of the American system of government, Judge Stevens' statements to the Senate committee have been heartening. The nation should benefit from the addition of such a man to the Supreme Court.

Mr. EASTLAND. Mr. President, the Committee on the Judiciary has gone fully into Judge Stevens' background and his qualifications. The vote in the committee was unanimous that he be confirmed. I think he would be a worthy addition to our Supreme Court. In fact, I think he would make a great Justice. I hope that he will be unanimously confirmed.

Mr. McCLELLAN. Mr. President, will the Senator yield to me?

Mr. EASTLAND. I yield.

Mr. McCLELLAN. Mr. President, at the opening of the hearings of the Committee on the Judiciary on the nomination of Judge John Paul Stevens to be an Associate Justice of the Supreme Court, I expressed my belief that there are three basic questions pertaining to the qualifications of a nominee to that high office that must be answered in the affirmative in order to justify confirmation.

First, does the nominee have personal integrity?

Second, does he have professional competence?

And third, does he have an abiding fidelity to the Constitution?

At that time, I also stated that I entertained no expectations whatsoever that there would be any discoveries or developments during the course of the Judiciary Committee hearings that would demonstrate that Judge Stevens lacked

any one of these fundamental qualifications. I am pleased to now state that the opinion I expressed was fully warranted.

A careful examination by the Judiciary Committee of Judge Stevens' private, as well as his public, records has revealed that Judge Stevens is indeed a man of honor and integrity.

His distinguished legal career prior to his elevation to the bench and the decisions he has rendered since beginning his judicial career show him to be a truly capable and competent lawyer and judge. Rarely does a Senate Committee hear such praise of a nominee as that bestowed on him by Attorney General Levi. In referring to Judge Stevens' judicial career, the Attorney General stated:

His opinions, in my view, are gems of perfection. He is a craftsman of the highest order. He has a built-in direction system about how a judge should approach a problem—fairly, squarely, succinctly. His opinions are a joy to read.

Finally, those same opinions, together with his responses to the questions posed by the members of the Judiciary Committee, reveal that Judge Stevens does indeed have a deep understanding and appreciation of the Constitution, its place in our system of Government, and, perhaps even more importantly, the proper role of the Supreme Court in interpreting the Constitution.

During his confirmation hearings, I asked Judge Stevens to respond to several questions concerning these matters. His answers to those questions are—to me—extremely significant. For they are clearly indicative of a man who possesses a strong and abiding fidelity to the Constitution. I think that they will indicate the same to anyone else who will read them. For that reason, I ask unanimous consent to insert in the RECORD immediately following these remarks the full text of those questions and Judge Stevens' responses thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See Exhibit 1).

Mr. McCLELLAN. Mr. President, Judge Stevens has shown himself to possess those three basic qualities that I regard as indispensable for a member of the U.S. Supreme Court. I am pleased to vote for his confirmation.

QUESTIONS POSED TO JUDGE STEVENS BY SENATOR McCLELLAN

Senator McCLELLAN. As a member of the Court, would you feel free to take the text of the Constitution and particularly such broad phrases as "due process" and "unreasonable search and seizure"—just as illustrations—and read into it your personal philosophy, be your philosophy either liberal or conservative?

Judge STEVENS. Neither as a Member of the Court of Appeals nor as a Member of the Supreme Court, would I feel free to construe the broad phrases of the Constitution on the basis of my own personal philosophy. To the best of my ability, I will continue in every case to subordinate my personal predilections to my understanding of the law applicable to the case before me.

Senator McCLELLAN. Do you believe that a member of the Court should disregard the intent of the framers of the Constitution in giving interpretation to its meaning and in its application in order to achieve a result that he thinks might be desirable in, or for, our modern-day society?

Judge STEVENS. It is never appropriate for a judge interpreting the Constitution, or indeed interpreting a statute, to disregard the intent of its authors to the extent that such intent can be fairly ascertained.

Senator McCLELLAN. To phrase it another way, if you believe that a particular interpretation or construction in keeping with the intent of the framers of the Constitution would not get the results that you felt were more desirable and advantageous for our modern-day society, which factor would be most persuasive with you in arriving at your decision—the intent of the framers of the Constitution or that which would be most desirable or advantageous in our modern-day society?

Judge STEVENS. There have been occasions during my work on the Court of Appeals when I have decided cases contrary to my own views as to what would be most advantageous or desirable in our modern day society. A judge must do so if he is to be faithful to his office. I will continue to follow the law even if it does not accord with my own ideas about sound policy.

Senator McCLELLAN. One former Associate Justice of the Supreme Court has said:

"In interpreting the Bill of Rights, I willingly go as far as a liberal construction of the language takes me, but I simply cannot in good conscience give a meaning to words which they have never been thought to have, and which they certainly do not have in common with ordinary usage.

"I will not distort the words of the [Fourth] amendment in order to 'keep the Constitution up to date' or to bring it into harmony with the times; it was never meant that this Court have such power, which in effect would make us a continuously functioning constitutional convention." (Mr. Justice Black in *Katz v. United States* 389 U.S. 347, 373 (1967)).

May I most respectfully ask, do you share this philosophy? Would you be willing to give a new interpretation, not previously thought of, to change the impact of the Constitution simply to try to "keep the Constitution up to date" or to bring it into "harmony with the times"?

Judge STEVENS. In the process of construing the Constitution or an act of Congress, a judge should not give the words used in such a document a meaning other than the meaning fairly intended by its authors. It is not a proper judicial function to amend either the Constitution or the statutes enacted pursuant thereto.

Senator McCLELLAN. In *Mapp v. Ohio*, 367 U.S. 643, 686 (1961), Mr. Justice Harlan stated:

"I am bound to say that what has been done is not likely to promote respect either for the Court's adjudicatory process or for the stability of its decisions."

He further said:

"I regret that I find so unwise in principle and so inexpedient in policy a decision motivated by the high purpose of increasing respect for constitutional rights. But in the last analysis I think this Court can increase respect for the Constitution only if it rigidly respects the limitation which the Constitution places upon it, and respects as well the principles inherent in its own processes. In the present case I think we exceed both, and that our voice becomes only a voice of power, not of reason."

There is one school of thought today that holds that the Supreme Court, whenever it feels that the Constitution as written or as it has been interpreted is not adequate to deal with today's social conditions, ought to give it a different interpretation to "get it into the mainstream" of modern society. Do you believe that the Court or a member thereof, under the Constitution, has the power or duty to do that?

Judge STEVENS. The fact that a Justice of the Supreme Court feels that a particular constitutional provision is not adequate to

deal with today's social conditions is not a sufficient basis for placing a construction on that document which is not warranted by its language or by the course of decisions interpreting it.

Mr. EASTLAND. Does anybody else have a statement?

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. EASTLAND. Yes, I yield.

Mr. STEVENSON. Mr. President, I do not recall a nomination to high office in recent years so widely acclaimed as that of John Paul Stevens to be Associate Justice of the Supreme Court.

The response to this nomination is remarkable in these days of public cynicism—and the more so because it is fully deserved.

From his undergraduate days as a member of Phi Beta Kappa, to his law school days as a Law Review editor, through his professional career as a law clerk to Justice Rutledge, as practitioner, scholar, teacher and jurist, Judge Stevens has earned the respect and good will of all who know him—so much so that his nomination to the Supreme Court seems not so much a stroke of good fortune as a logical next step in his career.

That career reflects an intellectual discipline and capacity of a high order. It is unblemished by so much as one doubt about his character.

In his exercise of judicial authority, Justice Stevens is not doctrinaire or adventurous. He is a Judge. His record on the bench indicates that he sees it as his duty to apply the law, and not to make it.

This nomination would be widely acclaimed at any time. It is a most propitious nomination today.

A large, empty space exists in the Court. John Paul Stevens can fill it.

I urge the Senate to confirm the nomination of John Paul Stevens to serve as an Associate Justice of the Supreme Court.

Mr. EASTLAND. Mr. President, I yield to the distinguished senior Senator from Illinois.

Mr. PERCY. Mr. President, I wish first to express deep appreciation to the members of the Committee on the Judiciary, to its distinguished chairman (Mr. EASTLAND), and to the ranking minority member (Mr. HRUSKA). In an expeditious manner consistent with thoroughness they have conducted hearings and processed the nomination of John Paul Stevens and are now placing it before this body for our decision. The committee has performed, once again, a great service to the Nation.

I also express my appreciation to my distinguished colleague from Illinois (Mr. STEVENSON) for once again, in a non-partisan sense, working closely with me to see that we from the State of Illinois do everything we conceivably can to present to the distinguished members of the Committee on the Judiciary men and women of the bar of the highest caliber, who shall be judged, not by their partisan relationships but for their integrity, their decency, their judicial temperament, their intelligence, and their scholarship.

I am privileged and honored to address the Senate today on John Paul Stevens,

whose name is before this body today for consideration to be an Associate Justice of the Supreme Court of the United States.

It was just over 5 years ago that John Paul Stevens' name was before us when he was a nominee for the Seventh Circuit Court of Appeals, and I am as confident now as I was then that John Paul Stevens is eminently well qualified for the position for which he has now been nominated. He has clearly demonstrated that he possesses the integrity, the intellect and the temperament so necessary for a Justice of the Supreme Court. He has written over 200 opinions since 1970, all of which are available for review by Members of the Senate. When I suggested John Paul Stevens to the President 5 years ago, he was considered a "lawyer's lawyer." Today he is considered a "judge's judge." If confirmed, he will prove himself worthy of the President's confidence and, I believe, will distinguish himself in the tradition of his two immediate predecessors, William Douglas and Louis Brandeis.

The selection of John Paul Stevens to fill this vacancy on the Supreme Court was made with one criterion in mind—competence. He was not selected because he reflects a particular political or judicial point of view. I believe Attorney General Edward Levi aptly described the nomination of Judge Stevens when he referred to it as a "commitment to excellence."

For the record, I wish to note the highlights of Judge Stevens long and distinguished legal career. He is a 1941 Phi Beta Kappa graduate of the University of Chicago. After 4 years in the U.S. Navy, he entered Northwestern University School of Law in 1945. He graduated first in his class 2 years later, in 1947, with the highest record of academic achievement in the university's history. After graduation he served for 2 years as law clerk to Mr. Justice Wiley Rutledge of the U.S. Supreme Court. In 1948 he returned to Chicago to join the firm of Poppenhusen, Johnston, Thompson & Raymond, where he remained until 1951, when he came back to Washington to serve as Associate Counsel of the Judiciary Subcommittee on the Study of Monopoly Power in the House of Representatives. A year later he returned to private practice in Chicago and was a founding partner in the firm of Rothschild, Stevens, Barry & Myers, where he stayed until 1970, when he was appointed to the Seventh Circuit Court of Appeals. During the years he was engaged in private practice, he also authored numerous articles on antitrust law for legal and other journals, and lectured at both Northwestern and the University of Chicago law schools.

As President Ford has said, the nomination of a Supreme Court Justice is "one of the most important decisions a President has to make." Equally important is the Senate's responsibility to advise and consent on such a nomination. The individual we confirm for this vacancy will participate in deliberations and will render decisions on some of the most complex and crucial issues in the history of the Court. And, those decisions will af-

fect the lives of generations of Americans. There is no question that the action we take will affect profoundly the course of this Nation's highest court. After carefully and critically examining Judge Stevens' record and judicial philosophy to determine his fitness to serve the Judiciary Committee, by a vote of 15 to 0 recommending his approval. I wish once again to express today my deep affection and respect for John Paul Stevens. I have known him for 38 years and I have no doubt that he is magnificently prepared to render distinguished service on the Supreme Court of the United States.

I hope and fully expect our vote today will be a unanimous one.

The ACTING PRESIDENT pro tempore. The time of the Senator from Mississippi has expired.

The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, I rise to indicate my fullest support for the nomination of Judge John Paul Stevens to be an Associate Justice of the U.S. Supreme Court.

President Ford is to be congratulated for this excellent selection to the High Court. Judge Stevens' record as a scholar, practicing lawyer, and U.S. circuit court judge indicate that he is eminently qualified for this position.

Judge Stevens was born in Chicago, Ill., on April 20, 1920. He graduated from the University of Chicago—A.B. 1941—and the Northwestern University School of Law—J.D. 1947—where he was co-editor of the Law Review. His academic record was outstanding, both at Chicago where he was Phi Beta Kappa and at Northwestern where he was graduated magna cum laude and first in his class. From 1942 to 1945, Judge Stevens served in the U.S. Navy and was decorated with the Bronze Star Medal.

Following his graduation from law school, Judge Stevens was law clerk to Supreme Court Justice Wiley Rutledge. He then entered private practice, specializing primarily in litigation, antitrust law and commercial law matters, first with the firm of Poppenhusen, Johnston, Thompson & Raymond in Chicago from 1948 until 1951, and again from January 1952 to June 1952, and later as a partner in the firm of Rothschild, Stevens, Barry & Myers in Chicago from 1952 until his appointment to the Seventh Circuit Court of Appeals.

In 1951, Judge Stevens served as associate counsel to the Subcommittee on the Study of Monopoly Power of the Committee on the Judiciary of the U.S. House of Representatives. From 1953 to 1955 he was a member of the Attorney General's National Committee to Study the Antitrust Laws.

From 1952 to 1956, Judge Stevens taught part time, first at Northwestern University Law School and then at the University of Chicago Law School, teaching antitrust law and related courses. He was admitted to the Illinois bar in 1949 and to the U.S. Supreme Court in 1954. While in private practice, Judge Stevens authored numerous articles on antitrust matters.

In 1970, Judge Stevens was appointed to The Seventh Circuit Court of Appeals. During his 5-years service on that bench, Judge Stevens authored over 200 opinions, an unusually high number of them in analytically difficult areas of the law. This body of judicial work has been characterized as consistently excellent and often brilliant.

Mr. President, I have examined a goodly number of those decisions and of articles which Judge Stevens has published. I am extremely impressed with his grasp of the law and his clarity of expression. I should note that Attorney General Levi, who has long been familiar with the nominee's work, testifying before the Judiciary Committee, characterized Judge Stevens' legal decisions as "gems of perfection" and a "joy to read."

During the 3-day hearings on this nomination last week before the Judiciary Committee, Mr. Warren Christopher, representing the American Bar Association, summed up that organization's evaluation of Judge Stevens as follows:

Based upon our investigation, a restudy of our Committee's evaluation in 1970, an examination of his judicial opinions, and a personal interview with him, our committee is unanimously of the opinion that Judge Stevens meets high standards of professional competence, judicial temperament and integrity, and that is our committee's highest evaluation. To our committee this means that from the standpoint of professional qualification Judge Stevens is one of the best persons available for appointment to the Supreme Court of the United States.

Mr. President, I ask unanimous consent that the full text of the letter submitted by the ABA be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. HRUSKA. Senators STEVENSON and PERCY were equally lavish in their praise for the nominee. Characterizing his judicial philosophy Senator STEVENSON noted:

Judge Stevens is not doctrinaire or judicially adventurous. He is a judge. His record on the bench indicated that he sees it as his duty to apply the law and not to make it.

During the course of the hearings Judge Stevens proved to be totally forthright and frank in presenting his personal history and his judicial philosophy.

In his testimony it became readily apparent that the nominee's superb knowledge of the complicated facets of the law was balanced by his obvious concern for the rights of all people. In response to a question from the committee regarding the rights of individuals who had suffered discrimination, Judge Stevens, evidencing wise judicial philosophy, stated that he would be "proud" to have the record reflect that he intended to apply the law equally to every citizen.

Included in the massive bulk of material which the committee examined in the course of processing this nomination were the nominee's Federal and State tax returns for the past 10 years, a list of all the clients of his former law firm for 3 years before he went on the bench, all of his published judicial opinions and writings, all places of residence and

employment since graduation from law school, all instances in which he recused himself while on the bench, all income received and assets acquired by the nominee and members of his family since he became a judge, all relevant medical reports and doctors' statements regarding his health, and, finally, a "full field" FBI investigation. In short, the committee thoroughly examined every relevant facet of the nominee's personal, financial, medical, and professional life.

After careful consideration of the aforementioned material and testimony received at the hearings, the Judiciary Committee met in executive session last week and unanimously approved this nomination.

Mr. President, it was hoped that, given the outstanding record which this nominee has amassed during his career and the favorable action which has been taken by the Judiciary Committee, the Senate would act speedily to confirm this nomination. It is gratifying that this has come about. I do not believe that I need to belabor the point that the Supreme Court is greatly in need of the services of a ninth member. A number of important cases were put over last term for reargument this year.

Among those cases now pending are those involving the issue of the death penalty, the rights of aliens to obtain medical benefits and Federal employment, the applicability of the Fair Labor Standards Act to certain State employees and the question of whether the courts of this country have jurisdiction to examine the actions of foreign governments. These important questions which have long been unanswered by the high court have potential and profound impact on the entire nation and should be quickly resolved.

Mr. President, for me personally this nomination represents a milestone. During my tenure on the Judiciary Committee three of its present members have been involved in the confirmation hearings of all of the present members of the Supreme Court. This milestone is shared by the distinguished senior Senator from Arkansas (Mr. McCLELLAN) and the distinguished senior Senator from Mississippi (Mr. EASTLAND) who has been chairman of that committee during all of this period and myself.

Mr. President, it is with pleasure that I recommend this nominee to the Senate. My pleasure in making this recommendation, however, is greatly heightened by the fact that Judge Stevens so abundantly possesses and has consistently demonstrated the qualities and attributes required by a member of the Supreme Court. I am confident that he will prove himself to be an outstanding member of that Court.

EXHIBIT 1

AMERICAN BAR ASSOCIATION,
Chicago, Ill., December 8, 1975.

HON. JAMES O. EASTLAND,
Chairman, Senate Committee on the Judiciary, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is submitted in response to your invitation to the Standing Committee on Federal Judiciary of the American Bar Association to submit its opinion regarding Honorable John Paul Stevens of Illinois who has been nominated

to be an Associate Justice of the Supreme Court of the United States.

Our Committee is of the opinion, based upon the investigation described below, that Judge Stevens meets high standards of professional competence, judicial temperament and integrity—the Committee's highest evaluation for potential nominees for the Supreme Court. To the Committee, this means that from the viewpoint of professional qualifications, Judge Stevens is one of the best persons available for appointment to the Supreme Court. It should be noted that the Committee does not attempt to comment on political or ideological matters.

Our Committee investigated Judge Stevens' qualifications in 1970 when he was appointed to the United States Court of Appeals for the Seventh Circuit and we then reported that Judge Stevens was Well Qualified for appointment to that judicial position. Our Committee's current inquiry regarding Judge Stevens included the following:

(I) Surveys of Judge Stevens' opinions were made for our Committee by practicing attorneys and by professors of law.

(II) All of the members of the Seventh Circuit Court of Appeals were interviewed. In addition, the Chief Judge of each of the District Courts within the Seventh Circuit was interviewed as were a number of other federal and state court judges within the Seventh Circuit.

(III) More than fifty lawyers within the Seventh Circuit who are in active practice and who would be most likely to be familiar with Judge Stevens' reputation and work were interviewed.

(IV) A number of judges and lawyers outside the Seventh Circuit were interviewed.

(V) The dean or members of the faculties of law schools in the Seventh Circuit who were most likely to know or be familiar with Judge Stevens' work were interviewed. In addition, deans and workers of law in law schools outside the Seventh Circuit were interviewed.

(VI) A member of our Committee interviewed Judge Stevens.

PROFESSIONAL BACKGROUND

Judge Stevens has a distinguished record as a student, a practicing lawyer, and as a judge. He received his B.A. from the University of Chicago in 1941, graduating Phi Beta Kappa. Following service in the Navy, he attended Northwestern School of Law, where he received a J.D. in 1947. He was first in his law school class, co-editor of the Law Review, and a member of the Order of the Coif. After graduating, he served as a law clerk for one year to Mr. Justice Rutledge on the United States Supreme Court.

From September 1948 to March 1951, Judge Stevens was associated with the law firm of Poppenhuisen, Johnston, Thompson and Raymond (now Jenner & Block) in Chicago. Then, from March 1951 to January 1952, he was Associate Counsel to the Subcommittee on the Study of Monopoly Power of the Committee on the Judiciary of the United States House of Representatives in Washington, D.C. Thereafter, he organized and became a member of the firm of Rothschild, Stevens and Barry when it was formed on July 1, 1952, and remained with that firm until appointed to be a judge for the United States Court of Appeals for the Seventh Circuit in 1970.

While a practicing attorney, Judge Stevens engaged in general civil practice and gained extensive experience in litigation and anti-trust law. During his years of practice, Judge Stevens was a part-time member of the faculty of Northwestern University Law School (1952-1954) and the University of Chicago Law School (1955-1956), teaching courses in Trade Regulation. Prior to going on the bench, Judge Stevens authored a number of published articles concerning the

antitrust laws and was a member of the Attorney General's Committee to Study Antitrust Laws in 1952.

In his practicing years, Judge Stevens was active in the bar associations, serving as chairman of several committees of the Chicago Bar Association and as a member of the Association's Board of Managers; he also served on a committee of the American Bar Association. Had Judge Stevens remained in practice, he would have become, in 1972, the President of the Chicago Bar Association.

The year before Judge Stevens was appointed to the federal bench, he served as general counsel to the Special Commission appointed by the Supreme Court of Illinois to investigate the integrity of the judgment of the Court in *People v. Isaacs*. He acted as the Commission's counsel during the hearings that thereafter ensued in connection with that inquiry, as a result of which two Justices of the Illinois Supreme Court resigned.

I. Survey of Judge Stevens' opinions

Judge Stevens has authored approximately 215 opinions since he went on the federal bench in 1970. All of these opinions were examined for our Committee by a group of practicing attorneys. In addition, six professors at the Harvard Law School each read 30-85 of Judge Stevens' opinions. Both the practicing lawyers and the academicians expressed admiration for the outstanding quality of Judge Stevens' opinions.

Judge Stevens' opinions cover almost every field of federal law, including civil rights, criminal law, securities law, tax law, antitrust law, labor law, patent law, administrative law and federal procedure and jurisdiction.

The opinions are of consistently high quality in each of the substantive areas of law involved. Several of the law school professors who evaluated Judge Stevens' opinions noted the excellence of particular opinions dealing with legal subjects in which they are expert. One professor characterized an opinion on federal jurisdiction as a "model of analysis"; one observed that Judge Stevens' opinions in complicated statutory interpretation cases are "excellent", and sometimes "brilliant"; an antitrust teacher pointed to "very thoughtful, sound and creative" antitrust opinions by Judge Stevens; and another professor called attention to "very good" tax opinions. This consistent excellence in opinions ranging over a broad spectrum of substantive areas indicates that Judge Stevens would be highly qualified to deal with the many complex issues which reach the Supreme Court.

Overall, Judge Stevens' opinions are well written, highly analytical, closely researched, and meticulously prepared. They reflect very high degrees of scholarship, discipline, open mindedness, and a studied effort to do justice to all parties within the framework of the law.

II. Judges in the Seventh Circuit

Judge Stevens has been unanimously endorsed by all of his colleagues on the Seventh Circuit to sit on the United States Supreme Court; several of his colleagues described him as one of the best Circuit Judges in the United States. The judges of the Seventh Circuit, in evaluating him, have used such terms as "spectacular", "outstanding", "excellent", and "tops."

Our Committee also interviewed other federal district judges in the Seventh Circuit and state court judges in the Circuit. All of the judges interviewed expressed professional praise and admiration for Judge Stevens, his ability, and his integrity. It is noteworthy that the federal district judges in the Seventh Circuit know him not only by reading his opinions but as the judge of the Seventh Circuit often designated to make presentations to all the judges of the Seventh

Circuit at their conferences concerning recent landmark decisions.

III. Lawyers

Most of the lawyers interviewed practice in and around Chicago where Judge Stevens is best known. Those interviewed included a wide spectrum of lawyers, among them lawyers who represent minority groups, labor unions, large corporations, plaintiffs and defendants in personal injury work, and persons charged with crimes. Some were United States Attorneys and others were engaged in civil rights cases. Without exception, the lawyers describe Judge Stevens as being fair-minded and compassionate, as having perception of legal and factual issues, and as having judicial temperament. All praise his legal ability. Our Committee received no adverse opinion about Judge Stevens in connection with any of its inquiries from practicing lawyers although some of them have had cases decided against them by the Judge.

IV. Deans and professors of law

Our Committee spoke to either the deans or members of the faculty of the major law schools in the Chicago area and to deans and professors on faculties throughout the country who might know Judge Stevens or his work. Many of those we spoke to knew Judge Stevens personally because of his past service as a law school lecturer on the antitrust laws. All those interviewed spoke in high terms concerning Judge Stevens' accomplishments, ability, and integrity, and all indicate that he has excellent qualifications for appointment to the Supreme Court.

V. Judges and lawyers outside the Seventh Circuit

While Judge Stevens is not so well known outside the Seventh Circuit, a number of judges and lawyers contacted by the Committee either know him or are familiar with his work. The uniform reaction of those who have a basis for opinion is highly favorable. It is undoubted that Judge Stevens has made an affirmative impression on those who have become acquainted with him or his work.

VI. Interview with Judge Stevens

Judge Stevens was interviewed by a member of our Committee. Judge Stevens is a modest, friendly and even-tempered man, devoted to his family, the law, and to judicial excellence. He is thorough and fair-minded, and looks to his new position, if confirmed, with dedication, humility and enthusiasm.

During the course of inquiries concerning Judge Stevens, the Committee learned that in 1974 he underwent open heart surgery. During our interview with Judge Stevens, he was asked about his physical condition. He reported that he had made a complete recovery from his heart surgery and that he is in excellent health. His Seventh Circuit colleagues confirm that he has enjoyed a full recovery, that his health appears excellent, and that he carries a normal workload. Judge Stevens gives every appearance of being alert, vigorous, and without physical impediment. (We also understand that Judge Stevens has cooperated fully with Administration officials in enabling them to obtain a medical evaluation of his physical condition.) Based upon the information supplied to us by Judge Stevens and his colleagues, we believe that he has the health and stamina necessary to discharge the duties of a Justice of the Supreme Court.

In the personal interview with Judge Stevens, our Committee inquired about his financial holdings and off-bench activities. While he was a practicing lawyer, Judge Stevens served as a director or officer of several companies but he resigned all such positions when he was appointed to the bench in 1970. He has held no such position since he has been a member of the United States Court of Appeals for the Seventh Circuit.

Judge Stevens has filed statements of interest required of him as a federal judge and he advises us that his answers to questions concerning possible conflict of interest were all negative. He also states that he has sold most of his securities during the time he has served as a circuit judge.

Four speeches given by Judge Stevens subsequent to the time he became a sitting judge have been examined and none of them expresses an opinion on matters that were either before Judge Stevens or might come before him as a sitting judge.

CONCLUSION

During the course of our investigation (which was necessarily compressed into a relatively short period of time), our Committee attempted to inquire into all facets of Judge Stevens' career which would be relevant from a professional standpoint. Based upon this inquiry, a restudy of our Committee's 1970 report concerning Judge Stevens, the examination of his judicial opinions, and a personal interview with him, our Committee is unanimously of the view that Judge Stevens meets high standards of professional competence, judicial temperament and integrity—the Committee's highest evaluation. To repeat, this means to the Committee that from the viewpoint of professional qualifications, Judge Stevens is one of the best persons available for appointment to the Supreme Court.

This report is being filed at the commencement of the Committee's hearings. We will, as a matter of routine, review our report at the conclusion of the hearings and notify the Committee if any circumstance has developed to require a modification of our views.

Respectfully submitted,

WARREN CHRISTOPHER,
Chairman.

Mr. TUNNEY. Mr. President, the Judiciary Committee has favorably reported the nomination of Judge John Paul Stevens to be an Associate Justice of the Supreme Court of the United States. I voted for the nominee in committee, and I shall do so again now that the nomination is before the entire Senate.

The Constitution imposes a heavy responsibility on the U.S. Senate to advise and consent to any nominee to the Supreme Court. I view this duty with the utmost gravity; consequently, I have undertaken a most careful examination of the qualifications of Judge Stevens. The testimony presented at the hearings of the Judiciary Committee, in which I participated, as well as the opinions, FBI reports, financial statements, income tax returns, medical records, and former client list of Judge Stevens were made available to the committee before it took action. I believe that the cooperation of Judge Stevens with the committee in providing this data has been extremely beneficial to the evaluation process, and I hope that this complete disclosure of relevant information will establish a pattern to be followed during future confirmation proceedings.

As a result of extensive review of the available materials, I have concluded that John Paul Stevens is undeniably qualified to serve on the Supreme Court. He comes before the Senate with the highest recommendation from the American Bar Association. Both his opinions and his responses to questioning by members of the Judiciary Committee show impressive recall and understanding of Supreme Court decisions and the role of the judiciary.

During his 5 years as a member of the Court of Appeals for the Seventh Circuit, he has demonstrated his judicial fitness and temperament. His professional qualifications are unquestioned by those who have had contact with Judge Stevens or have studied his remarkable record of accomplishment. His personal integrity, as reflected in his financial statements and income tax returns, is of the highest order.

The intellectual capability of Judge Stevens is unchallenged. He has written more than 200 opinions as a member of the court of appeals. Those opinions, according to legal scholars who studied them in depth, illustrate the soundness of his reasoning, and his legal essays reveal a clarity and precision which highlights his competence. Beyond this, his writings indicate a depth of comprehension of antitrust matters which will prove of tremendous value in the future as the legal system is required to cope with our extremely complicated economic structure.

As chairman of the Subcommittee on Constitutional Rights of the Judiciary Committee, I have been dedicated to the task of assuring that the fundamental rights guaranteed to all citizens by the Constitution shall be preserved. Necessary to this endeavor is the full extension of such rights to groups in our society who traditionally have not enjoyed their benefits. In this regard, Judge Stevens, in his opinions in *Sprogis v. United Airlines, Inc.* (444 F. 2d 1194, 7th Cir. 1971) and *Doe v. Bellin Memorial Hospital* (479 F. 2d 756, 7th Cir. 1974) developed what can be construed as insensitivity to the struggle by women for full equality. In addition, his statements in the hearings on the equal rights amendment concern me because he seemed unfamiliar with both recent case law on equal protection of women under the 14th amendment, and the considerable public discussion justifying the need for a constitutional amendment.

When Justice Douglas resigned, I called on the President to nominate someone of his distinction and stature. In my view, several women were well qualified for the nomination, and it is certainly true that women are underrepresented on Federal and State courts at all levels. The President did not choose a woman, and after careful review of this nominee's record on women's issues, I must conclude that he is fair although not conspicuously compassionate about the needs of a majority of our population.

I fervently hope that he will retain, during his tenure on the Court, the memory of the two great Justices who have preceded him in this seat, Mr. Justice Brandeis and Mr. Justice Douglas, and that he will strive, with sensitivity and compassion, as they so gallantly did, to preserve and protect inviolate the fundamental rights of all Americans.

The ACTING PRESIDENT pro tempore. All time has expired.

Under the previous order, the hour of 1 p.m. having arrived, the Senate will now proceed to vote on the nomination of Mr. John P. Stevens to be an Associate Justice of the U.S. Supreme Court.

The question is, Will the Senate advise

and consent to the nomination of John P. Stevens to be an Associate Justice of the U.S. Supreme Court? The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH) is necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 603 Ex.]

YEAS—98

Abourezk	Gravel	Moss
Baker	Griffin	Muskie
Bartlett	Hansen	Nelson
Beall	Hart, Gary	Nunn
Bellmon	Hart, Philip A.	Packwood
Bentsen	Hartke	Pastore
Biden	Haskell	Pearson
Brock	Hatfield	Pell
Brooke	Hathaway	Percy
Buckley	Helms	Proxmire
Bumpers	Hollings	Randolph
Burdick	Hruska	Ribicoff
Byrd,	Huddleston	Roth
Harry F., Jr.	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott, Hugh
Cannon	Jackson	Scott,
Case	Javits	William L.
Chiles	Johnston	Sparkman
Church	Kennedy	Stafford
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Magnumson	Stone
Dole	Mansfield	Symington
Domenici	Mathias	Taft
Durkin	McClellan	Talmadge
Eagleton	McCiure	Thurmond
Eastland	McGee	Tower
Fannin	McGovern	Tunney
Fong	McIntyre	Weiaker
Ford	Metcaif	Williams
Garn	Mondale	Young
Glenn	Montoya	
Goldwater	Morgan	

NAYS—0

NOT VOTING—2

Allen

Bayh

The ACTING PRESIDENT pro tempore. On this vote the yeas are 98, the nays are 0. The nomination is confirmed.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will return to legislative session.

The Senate resumed the consideration of legislative business.

SENATE JOINT RESOLUTION 153— EXTENDING THE FILING DATE OF THE 1976 JOINT ECONOMIC COM- MITTEE REPORT

Mr. MANSFIELD. Mr. President, I send to the desk a joint resolution and ask for its immediate consideration. I do so on behalf of the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. President, I offer this resolution at the request of the White House. It would permit the President to delay for 6 days his submission of his 1976 Economic Report as required under the Employment

Act of 1946. The resolution would also authorize a corresponding delay in the report of the Joint Economic Committee on the President's report. The resolution has been agreed to by the chairman of the Joint Economic Committee and is agreeable to the minority.

The ACTING PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The joint resolution (S.J. Res. 153) was read the first time by title, and the second time at length, as follows:

SENATE JOINT RESOLUTION 153

EXTENDING THE FILING DATE OF THE 1976 JOINT ECONOMIC COMMITTEE REPORT

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022(a)), the President shall transmit the 1976 Economic Report to the Congress not later than January 26, 1976, and (b) notwithstanding the provisions of clause (3) of section 5(b) of such Act (15 U.S.C. 1024(b)), the Joint Economic Committee shall file its report on the President's 1976 Economic Report with the Senate and the House of Representatives not later than March 19, 1976.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 153) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT OF 1975—CONFERENCE RE- PORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 5247, which will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. The time on this conference report is limited to 5 minutes, to be equally divided and controlled by the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Tennessee (Mr. BAKER).

The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, the able Senator from New Mexico (Mr. MONTOYA) serves as chairman of the Subcommittee on Economic Development of the Senate Public Works Committee. It is my desire that in the handling of the conference report, the time be turned to the disposition of the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BAKER. Will the Senator yield for a brief moment?