

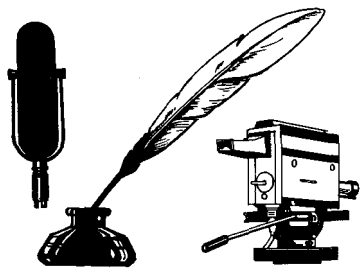
The original documents are located in Box D9, folder “Ford Press Releases - Supreme Court, 1970” of the Ford Congressional Papers: Press Secretary and Speech File at the Gerald R. Ford Presidential Library.

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**CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER**

**NEWS
RELEASE**

--FOR IMMEDIATE RELEASE--
April 10, 1970

A Statement by Rep. Gerald R. Ford, R-Mich., Republican Leader, U.S. House of Reps.

The U.S. Senate's refusal to confirm G. Harrold Carswell of Florida as a justice of the Supreme Court was a slap in the face to the South.

I think it is only logical to conclude--as President Nixon has done--that Judge Carswell was rejected because he is both a Southerner and a strict constructionist. The same must be said about Judge Clement Haynsworth of South Carolina before him.

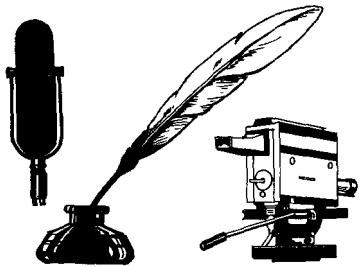
The truth is that a hatchet job was done on both of these men by U.S. senators who find the judicial philosophies of Judges Carswell and Haynsworth greatly at variance with their own thinking.

Because they found it impossible to accept the idea of placing a strict constructionist Southerner on the Supreme Court, these senators mounted the most vicious attacks on Judges Haynsworth and Carswell that one could possibly imagine.

That these opponents of conservative philosophy were successful in their attacks does not redound to their credit. Rather, the rejection of Judge Carswell, coming immediately after the Senate's refusal to approve Judge Haynsworth, simply proves to the South and the rest of the Nation that certain wilful men have used the Senate's advise and consent powers to keep strict constructionist Southerners off the highest court in the land.

The President is absolutely right in categorizing the Carswell rejection as he has. And he has rightly concluded that the South should not be subjected to any further humiliation at the hands of Senate liberals.

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CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

**NEWS
RELEASE**

--FOR IMMEDIATE RELEASE--
April 24, 1970

Statement by Rep. Gerald R. Ford, R-Mich., Republican Leader, U.S. House of Reps.

Rules Committee Chairman William M. Colmer has decided not to program the Wyman Resolution during the 60-day period allotted by the House Judiciary Committee to an investigation of Justice Douglas.

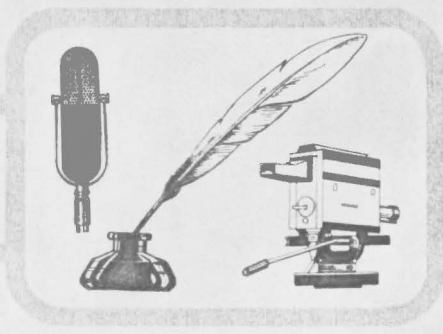
I have met with Judiciary's Senior Republican William M. McCulloch and Judiciary Chairman Emanuel Celler and they have assured me that their investigation will be full and fair and will be undertaken without delay.

On the basis of their personal assurances to me, I will abide by the decision of the Rules Committee chairman.

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CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

**NEWS
RELEASE**

--FOR IMMEDIATE RELEASE--
April 27, 1970

A Statement by Rep. Gerald R. Ford, R-Mich., Republican Leader, U.S. House of Reps.

Justice Douglas' action in disqualifying himself from participation in censorship cases involving Barney Rossett, president of Evergreen Review and of Grove Press, is a tacit admission that he should have disqualified himself in the libel case in which publisher Ralph Ginzburg was the defendant.

The Douglas disqualifications announced Monday also indicate the extent to which Justice Douglas' off-the-bench activities have diminished his usefulness on the Supreme Court.

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CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

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Congress of the United States
Office of the Minority Leader
House of Representatives
Washington, D.C. 20515

July 29, 1970

The Honorable Emanuel Celler
Chairman
Committee on the Judiciary
House of Representatives
2137 Rayburn House Office Building
Washington, D. C.

Dear Mr. Chairman:

Upon learning from news reporters that you or your Special Subcommittee had, last Friday, removed the confidential classification from the Report dated June 20, 1970 and made it generally available to press and public, I availed myself of a copy.

I am deeply concerned both by its contents and by the fact that I was never officially advised of the unwarranted threat and attack it contains upon me and other Members who have pressed for a thorough and objective investigation of Associate Justice William O. Douglas, as is their right and duty. I refer particularly to the last three paragraphs of Judge Rifkind's letter.

While I am aware that the document in question is largely the work of a few members of your staff, it bears the imprimatur of the Special Subcommittee and the names of all five of its Members. Moreover, it is my understanding that it was distributed to the full Committee on the Judiciary at its Executive Session on June 24 last, without any advance opportunity for the Members to read it and with little or no discussion of its contents except as they related to a 60-day extension of time for the staff "investigation." It was also promptly leaked to the press. (See copy of Los Angeles Times report of June 25 and AP report of June 27, attached.)

I am shocked, Mr. Chairman, that my position on this question could be so misstated and my relations with your Special Subcommittee so misrepresented. Indeed it is difficult to tell from this document whether the Special Subcommittee staff has been engaged in investigating the behavior of Justice Douglas or the behavior of the Minority Leader of the House of Representatives, and more than 100 other Members of both political parties. I have always admired the courteous consideration of the Dean of the House for his colleagues, and have been particularly appreciative of our personal friendship and working relationship.



Knowing of your dedication to fairness and facts, whatever your own previously held opinions, may I cite some of the errors and flaws in this Report to which I take particular exception:

(1) Page 2, paragraph 4, states that "although H. Res. 920 does not contain a statement of charges, it encompasses all the charges made by Mr. Ford in his speech to the House." This may be the opinion of the drafter of H. Res. 920 but it is not mine. Mr. Jacobs' Resolution of Impeachment (a word which curiously does not appear on the cover of this Report) clearly excludes any misbehavior which is unconnected with judicial office or which is not construed to be a high crime or misdemeanor in the Constitutional sense. The careful wording of Mr. Jacobs' resolution resolves in a single phrase the historic and continuing debate over the "good behavior" provision of Article III, section 1, to which you yourself referred in your letter to me of May 15, 1970. As is well known, my position is that the Constitution sets "good behavior" as a separate, additional, and more exacting standard for the Federal Judiciary. This argument is central to my April 15 speech and it is neither "encompassed" by Mr. Jacobs' resolution nor entertained by the authors of this Report.

(2) I am particularly disturbed, Mr. Chairman, that in relating my response of May 20, 1970 to your request of May 15 for my views on the foregoing subject, the authors of this Report deliberately omitted my first three paragraphs -- which are fully responsive to your question -- and included only my last two paragraphs which, standing alone, appear to be evasive and argumentative. Here and in other instances the Report seemingly seeks to portray me and other Members urging thorough investigation of Justice Douglas as being uncooperative and contributing little to the Special Subcommittee. In my opinion, it is the duty of an investigating staff to ferret out facts for the benefit of the Members of the House of Representatives, and not the duty of the Members to feed evidence to the staff. Nevertheless, I have endeavored to provide you and your Special Subcommittee with certain investigative leads which were not disclosed in my April 15 speech, or which subsequently came to my attention. It is disheartening to have my communications with you edited and twisted in this staff document, while the attorneys for the accused and for Mr. Albert Parvin have their letters reproduced in full. It must be equally disheartening to Mr. Wyman to be singled out for failure to respond to your request when the most important paragraphs of my response were deleted and his excellent letter of May 6 was omitted entirely. In light of the general tone of this document I seriously question whether it would be advisable for any Member to turn any information over to this staff. (I append hereto a complete copy of my May 20 letter with the deleted paragraphs marked.)

(3) Page 4 of the Report, after acknowledging numerous resolutions by Mr. Wyman and other Members were referred to the Committee on Rules, states as follows: "Inasmuch as the charges against Associate Justice Douglas in H. Res. 922 and the related resolutions, challenge the same activities and conduct that were criticized by Representative Ford in his speech, the Special Subcommittee on H. Res. 920 has included Mr. Wyman's charges in its investigation."

This poses first a question of jurisdiction, since H. Res. 920 (Mr. Jacobs' Resolution of Impeachment) is all that has definitely been referred to the Committee on the Judiciary. But beyond the jurisdictional question the quoted statement is simply untrue. There are very considerable differences of scope, emphasis, and specifics, between the activities of Justice Douglas cited in the premises of H. Res. 922 (Mr. Wyman et al) and my report on the conduct of Justice Douglas which I made to the House on April 15. Much appears in H. Res. 922 that is not mentioned in my speech and vice versa. Both the Wyman resolution and the text of my April 15 speech are appended to this printed Report. They were independently developed and the staff's efforts to treat them as redundant is in my judgment a serious misrepresentation of both.

(4) Pages 2, 3, and 4 of the Report presume and purport to summarize in five categories my April 15 "charges" against Justice Douglas. In fact, my April 15 speech was not intended as a formal presentation of "charges" but, as I stated in preface, as a report to the House of my personal and independent inquiry into the law of impeachment and the behavior of Mr. Justice Douglas. It was my hope that a bipartisan Select Committee should investigate all the facts and allegations about Mr. Justice Douglas, of which I had reported only those which to me appeared most serious, significant and worthy of further inquiry.

Although I never reduced my own speech to specific "charges," whoever did so in this Report grossly distorted my position both by phraseology and by the omission of my important qualifications, and most of all by completely ignoring my basic "charge" -- that Justice Douglas' behavior has been less than good, and that this brings the Supreme Court and the entire judicial process into disrepute.

Of the five "charges" to which your staff has reduced my April 15 speech one (E) relating to the Center for the Study of Democratic Institutions cannot be fairly construed as a "charge" at all. It is necessary to inquire into the Center because of its close relationship with the Albert Parvin Foundation while Justice Douglas was associated with and advising both. This



becomes relevant to Justice Douglas' practicing law and the propriety of his extra-judicial moonlighting, but constitutes no separate "charge" or criticism of the Center.

My other "charges" are summarized as (A), (B), (C), and (D), with increasing misrepresentation. In charge (B) the Report utterly ignores the careful qualifications I stated regarding the First Amendment rights of free speech and free press. In charge (C) the Report includes the irrelevant fact that a caricature of President Nixon appears in Evergreen magazine, but makes no mention of my straightforward concession that it is within the bounds of "legitimate political parody."

The portfolio of erotic photographs in Evergreen magazine, copies of which presumably are available to the Subcommittee staff, are described blandly as "nude photographs that are characterized by Mr. Ford as 'hard core pornography.'" As you know, Mr. Chairman, several of these photographs portray sexual perversion between male and female nudes. The least an objective summarizer should have done was describe them in my own words. The Report, on the contrary, suggests to anyone unacquainted with Evergreen magazine that I am a prude who objects to artistic photographs and a partisan insensed by irreverent cartoons of President Nixon -- precisely contrary to clear statements in my speech.

Charge (D) represents the most significant distortion of my speech. In a total of ten paragraphs the Report presumes to summarize four "charges" from data which I presented to the House by way of preface to what I termed prima facie evidence "far more grave." This "far more grave" portion consumed almost one-fourth of my total text. And all this is compressed in the Report to five paragraphs under charge (D). There it is not only inadequately but inexcusably presented to misread my meaning.

I could cite several examples of this but the worst is found on page 3 of the Report, as follows: "These associations (with Albert Parvin, alleged international gamblers, and the Albert Parvin Foundation) allegedly resulted in practicing law in violation of Section 454, Title 28, U. S. Code, Practice of Law by Justices and Judges." I am unable to fathom the meaning of this sentence but my speech contains no such contention.

(5) The account of the Special Subcommittee's treatment of information which I personally supplied concerning former employees and officials of the Parvin-Dohrmann Company is related in two separate sections of the Report with the result that my cooperation is concealed and minimized. On page 25, it is stated that my Legislative Assistant, Robert T. Hartmann, supplied your staff with the names of six former employees. In

fact, upon my instructions Mr. Hartmann on May 20 supplied your staff with seven names, one of whom was the "former" official of the Albert Parvin Company" mentioned on page 15. Prior to this I had personally given this information to Members of the Special Subcommittee and my Assistant handed your staff investigators a Xerox copy of my original handwritten notes. Incredibly, the Report claims that "the Subcommittee independently received" the information concerning the seventh prospective witness referred to on page 15.

The Report takes two pages to describe the alleged difficulties encountered at the Department of Justice with respect to its investigative file on this key prospective witness. Neither is any credit given me for arranging, at your request and that of Mr. McCulloch, your June 9 conference with the Attorney General which I understand helped to resolve this problem. There is no doubt in my mind that this individual, and others, must be questioned under oath in the course of any complete investigation.

Now, Mr. Chairman, may I comment briefly upon certain questions of law and procedure which, after reading the Report, leave me puzzled to say the least. On page 1 the Report states that "thus far all potential witnesses have been cooperative" so no subpoenas have been necessary. By what legal logic does the staff reach this extraordinary conclusion? How can the appearance of cooperativeness ensure that the potential witness is telling the truth, much less the whole truth. The truly "uncooperative" witness probably would plead self-incrimination and provide no information whatsoever. The purpose of the subpoena power in Congressional and other investigations is to produce testimony under oath and subject to the penalties of perjury. I cannot perceive how you can conduct a meaningful investigation, "neither witch-hunt nor whitewash" as promised, without obtaining sworn testimony and the production of private records other than those conveniently volunteered by the accused and his associates.

The Report barely mentions on page 10 the expert and thoughtful letter which Mr. Wyman sent you on May 6 concerning proper investigative procedure. On page 12 the Report notes but does not detail an 11-page submission on June 1 by Judge Rifkind, attorney for the accused, entitled "Role of Counsel and Related Procedural Matters." Without questioning the right and duty of counsel to attempt any and every advantage for his client, Justice Douglas, I must respectfully inquire whether Judge Rifkind's unchallenged memorandum has been accepted by the Subcommittee and is currently guiding the staff investigation. Obviously Mr. Wyman's suggestions are not.

It seems to me that both submissions should have been included in this Report and should now be made available promptly to all Members of the House, together with the procedural guidelines which the Special Subcommittee is in fact observing.

Particularly disturbing is the apparently inadvertent disclosure on page 50 of the Report in the next to the last paragraph of Judge Rifkind's letter, wherein he states:

"We have responded, at this point, to all allegations made with some degree of particularity. Since the gentlemen who made the charges have not yet accepted the subcommittee's invitation to produce by May 8, 1970, evidence to support their allegations, there may remain one or two charges insufficiently defined to make an answer possible."

How did the attorney for the accused on May 18 know (1) that the subcommittee had invited other Members of Congress to submit evidence to support their allegations by May 8 and (2) whether they had or had not replied to this invitation?

Clearly, here is tacit admission of improper communication between the attorney for the accused and the staff of the Special Subcommittee with respect to internal communications among Members of the House of Representatives. This paragraph also indicates a future expectation on the part of Judge Rifkind that he will be advised of the contents of communications by Members of the House to the Chairman of the Subcommittee concerning charges against his client.

The adversary proceeding of a formal impeachment trial by the Senate clearly permits the accused and/or his counsel to be advised of the charges against him. When such charges are still unformulated and unappraised by the whole House or even by the Full Committee on the Judiciary no such right exists. Counsel for the accused does not sit in the Grand Jury Room. If any such procedure is being pursued by the Special Subcommittee, or clandestinely by the staff, the result can only be a sweeping whitewash of every allegation as it appears.

In summary, this Report clearly demonstrates that while the demand for a full investigation of the conduct of Justice Douglas has truly been a bipartisan effort, the normal safeguards of the two-party system are not functioning in the staff investigation undertaken by the Special Subcommittee. Those Members who have publicly gone on record for a full investigation into the conduct of Justice Douglas are not, obviously, properly represented at the staff level in this investigation. They are not, it seems, represented at all.

From cover sheet to its final sentence before the Chronology on page 26, the staff Report betrays a basic and persistent distortion of the true

role of a House committee investigation in the Constitutional process of impeachment. It states:

"Hopefully, during this period (60 days), the Subcommittee will receive all the information it needs for a final assessment of the validity of the charges against Associate Justice William O. Douglas."

The function of the subcommittee is not to make a final assessment. It is to present all the available and relevant facts and evidence to the Members of the full committee, in the first instance; and to the Members of the House of Representatives in the final instance. Only the House as a whole has the power of impeachment, and even this is not a final assessment.

The final assessment of the validity of the charges is made in the Senate sitting as a court of impeachment. From this there is no appeal. The preliminary assessment required of the House as a whole is whether the charges and preliminary showing of evidence are of sufficient gravity to warrant a formal trial in the interests of both the public and of the accused.

The concluding sentence and the whole tenor of this Report seem to envisage the Special Subcommittee's investigation as the start of a series of judicial proceedings and appeals, with adversary rules applicable all the way -- at least to the benefit of the accused. Thus, an appeal may be taken from the Special Subcommittee to the Full Committee and then to the whole House. Under this curious concept, the United States Senate would become the Supreme Court of impeachment. Much as this role might please some in the other body, it is not at all the Constitutional concept.

In impeachment, the Senate is the sole court, original and final, judge and jury. The role of the House at no time becomes judicial in character; it is investigator, grand jury and (if it votes to impeach) prosecutor at the bar of the Senate. This is clearly established by the Constitution and by all the precedents. Significantly, it is totally ignored in the final phrase of Judge Rifkind's letter to the Chairman of the Special Subcommittee:

"I very much appreciate the opportunity you have given us to expose the lack of merit in the allegations and to vindicate the reputation of Mr. Justice Douglas."

In conclusion, Mr. Chairman, may I express the hope that your staff Report -- the confidential nature of which is explicable only on the basis of its bias -- does not reflect the attitude of your Special Subcommittee or of yourself.

No one knows better than I the legislative workload which still burdens the Committee on the Judiciary. It was for this reason, rather than any lack of confidence in your thoroughness or fairness, that I openly favored a bipartisan Select Committee with an independent investigative staff to undertake this important and wide-ranging inquiry. It was for the same reason that I requested that those Members who favored the Select Committee alternative be permitted staff representation to augment your regular staff and to ensure that their rights and their viewpoints would be protected and properly presented. Clearly, they are not.

I gave my informal agreement to a 60-day time extension for your investigation because no responsible Member of the House, on a Constitutional question of this moment, would wish to act in haste or in the absence of every available element of testimony and evidence. But I have grave reservations whether this will ever be obtained under the cursory and one-sided procedures revealed by this staff Report.

As I previously advised you (in the portions of my letter deleted from the Report) I am not only continuing my personal search for relevant information but am obtaining authoritative legal opinions both in response to your specific requests and otherwise, which I shall make available to the House at the proper time. In the interim I most respectfully renew my request for access to the information being amassed by your Special Subcommittee, adequate staff representation, public hearings and the inclusion of all pertinent documentary materials in the public report of the committee.

While I anticipate that you may not be disposed to change your position on some of my requests, I respectfully submit that as a minimum I be supplied with every item of information and copies of all communications between the Special Subcommittee and the Accused and his Counsel, Judge Rifkind, and be given the courtesy of an opportunity to respond to such communications prior to their inclusion in a printed document or their consideration by the Members of the Special Subcommittee or the full Committee on the Judiciary.

I also respectfully request that this letter be made available as soon as practicable to all Members of the Special Subcommittee with the suggestion that they reexamine the June 20 staff Report in the light of my comments. I must also ask that all my correspondence with you in this matter be made available to the Members of the Special Subcommittee in full context and not in part or in paraphrase. I would think this courtesy should apply to similar communications from other Members.

Please be assured of my continuing and warm personal respect and regard.

Sincerely,

Gerald R. Ford, M. C.

Enclosures

cc to: The Honorable William M. McCulloch

Congress of the United States
Office of the Minority Leader
House of Representatives
Washington, D.C. 20515

May 20, 1970

The Honorable Emanuel Celler
Chairman, Committee on the Judiciary
U. S. House of Representatives

Dear Mr. Chairman:

Thank you for your letter of May 15, requesting my views on the meaning of the "good behaviour" clause of Article III, Section 1 of the Constitution with reference to impeachments of members of the Federal Judiciary.

I am indeed aware that this question has been vigorously debated throughout our history. My own review of the background of impeachments and my views on "good behaviour", supported by some distinguished opinion in the other body on the occasion of the last impeachment trial, occupy perhaps one-third of my April 15 speech to the House. A marked copy is enclosed.

I am also aware that Judge Rifkind, who is retained by Associate Justice Douglas, has taken public exception to a single sentence from my argument, which states not so much my personal opinion as what I believe to be a fair summary of the few precedents. Judge Rifkind has branded this "a subversive notion" and I am happy to have your calmer conclusion that it is legitimately arguable.

With very real respect, however, I submit that it puts the cart before the horse to argue the law in this specific instance in the absence of all the facts. It certainly is possible that a more compelling and learned summary of precedents and prior argument on "good behaviour" can be made than the preliminary one I have made; indeed, I am in the process of doing exactly that. This will be useful, however, only in the context of the evidence and testimony which I have every confidence the Special Subcommittee will fully develop in its investigation for the information of the House. As previously stated I stand ready to cooperate in every way in getting the truth and the whole truth on the record in this matter.

It is my conviction, Mr. Chairman, that when all the facts are known the Members will have little difficulty in deciding whether or not they square with the Constitutional standards of judicial conduct.

Warm personal regards,

Gerald R. Ford, M. C.

cc to: The Honorable William M. McCulloch

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CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

**NEWS
RELEASE**

--HOLD FOR RELEASE IN SUNDAY AM'S--
August 9, 1970

Statement by Rep. Gerald R. Ford, R-Mich., Republican Leader, U.S. House of Reps.

I am gratified that Chairman Celler of the Committee on the Judiciary has agreed publicly to open hearings on the impeachment of Associate Justice William O. Douglas, with witnesses examined under oath, as I have asked from the outset.

The Chairman's commitment is conditioned, however, as to time and circumstances. Public hearings will be in order, he stated in an August 5 news release, "when the special subcommittee is satisfied that the facts indicate that an impeachable offense may have been committed." The definition of "an impeachable offense" thus becomes crucial to the conduct of free and full public hearings.

The Constitution clearly entrusts the determination of this question to the conscience of the whole House of Representatives, which has the "sole power of impeachment." In response to an earlier request from Chairman Celler, as detailed in my attached letter to him, I have provided members of the Committee on the Judiciary with an independent and comprehensive legal memorandum on this question which was prepared by the Detroit, Michigan law firm of Dykema, Gossett, Spencer, Goodnow & Trigg.

My own personal views on this legal question were stated in my April 15 speech on the floor of the House, a copy of which is also attached.

*



CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

NEWS
RELEASE

---FOR IMMEDIATE RELEASE---
December 4, 1970

Statement by Rep. Gerald R. Ford, Republican Leader, U.S. House of Representatives

I am disappointed but not surprised by the action of the Democratic Majority of the Special Subcommittee of the House Committee on the Judiciary.

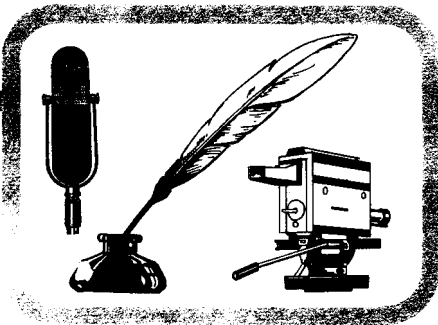
It has been evident from the outset that its so-called investigation into the conduct of Associate Justice Douglas would not be vigorously pursued or objectively evaluated.

It makes a mockery of the constitutional duty of Congress to attempt to end a matter of such importance to the American people and to the integrity of the Supreme Court of the United States without one public hearing or a single word of sworn testimony.

I have not seen the final report of the Subcommittee which I understand contains additional evidence of impropriety and misbehavior on the part of Justice Douglas, which the Majority of the Subcommittee chose to gloss over. For the present I can only say that this matter is far from finished and that the sentiment of House Members, both Democrats and Republicans, is not accurately reflected in the Subcommittee's vote.

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**CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER**

**NEWS
RELEASE**

--FOR IMMEDIATE RELEASE--
December 4, 1970

Statement by Rep. Gerald R. Ford, Republican Leader, U.S. House of Representatives

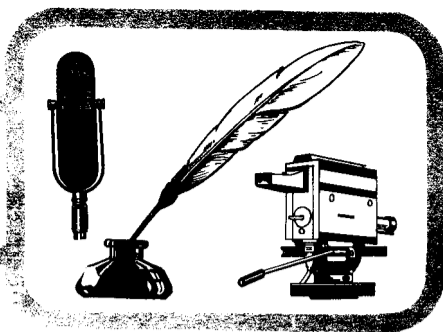
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CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

**NEWS
RELEASE**

HOLD FOR RELEASE
WED. AMs, DEC. 16, 1970

STATEMENT OF REP. GERALD R. FORD (R-Mich.)

While a partisan majority of the Special Subcommittee whitewashes Justice Douglas in its conclusions, the contents of its 924-page report condemn his conduct and cry for more searching inquiry.

Aside from legalistic arguments, over the past decade Justice Douglas' extensive extra-judicial earnings and activities have impaired his usefulness and clouded his contribution to the United States Supreme Court. I am of the opinion that he did practice law in the course of these non-judicial pursuits, did intervene improperly in affairs outside the scope of the judicial branch of the government, and did show poor judgment in his personal financial transactions, to say the least.

Mr. Hutchinson's cogent Minority Views should have been unanimously subscribed to by the Special Subcommittee. Not all the evidence is in nor has it been tested in the normal way. Only an excess of personal or partisan loyalty or a failure fully to study the documents can explain an attempt to close the case at this point.

I return to the guideline of a great Associate Justice of the Supreme Court, the late Benjamin Cardozo, with which I closed my April 15 speech to the House.

"Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behaviour."

If one uses the Cardozo standard rather than the Rifkind standard, Justice Douglas clearly fails the test of good behaviour.

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