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Mr. GRAVEL. Mr. President, I should like to associate myself with the remarks of the distinguished Senator from Michigan (Mr. HART) and with the remarks of the distinguished Senator from Texas (Mr. YARBOROUGH), who preceded us both this afternoon.

I should like to address myself in one small measure to a statement made yesterday afternoon by the distinguished Senator from Virginia (Mr. SPONG) while I occupied the Presiding Officer's chair.

We are essentially in the same situation, having voted for the President's nominee Judge Haynsworth and now having announced our positions to vote against the President's present nominee, Judge Carswell. It is interesting that two individuals, one from so far North and one from a community which is very much a part of Southern history, should follow a similar voting pattern.

I can attest to the problem that comes of geographic constraint, because I can frankly say that when I voted for Judge Haynsworth, after a great deal of introspection on my part, I received a great deal of criticism in my own State. I received a great deal of pressure before the final vote was cast.

So I know firsthand the emotions that race through my colleague's mind, and I know firsthand what he will be subjected to in the ensuing months in the geographic context of his own constituency with regard to this issue. I compliment him on his courage.

I would hope the record is made clear and I am glad that the Senator from Texas made the statement—that if Judge Carswell's nomination is rejected, I hope the President will go to the South and select another jurist, but a man of some caliber, who will grace the Bench with honor and distinction. I do not feel that it is worthy of this body to reject or approve anybody based upon geographic considerations.

I would just like to give my own wrapup of why I feel Judge Carswell's nomination should not be confirmed tomorrow, and add one slight item which gives me some distress.

There are three basic points why I hope tomorrow the Senate will reject Judge Carswell's confirmation, and one is based upon race matters. I think he should be forgiven the statements made some 20-odd years ago, but I think he has

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not made sufficient record, through act or deed, to give any indication—not even the slightest indication—that he has h d a change of heart, a change of philosophy, or a change of viewpoint. In fact, in reading the record I feel that what actually has happened in this person is a greater sophistication, wherein the views are put forth in a more palatable fashion in somewhat polite society. Still, this sophistication does not disguise what I feel is a view and a philosophy that should not be allowed on the High Court—a racially based philosophy.

The second point at issue, of course, is the ethical question. I do not measure the ethics only in financial terms of personal reward. I think it is a point of ethics if a person who has power abuses power. I think that here, again, looking at the record of Judge Carswell and his conduct, the way he has handled people in his court, we have strong indication and adequate proof that he has usurped power in a fashion that, in my mind, reflects very poor judicial ethics.

The third question—one that has been adequately treated by my colleague most recently—is the issue of judiclal stature. I cannot think of a better quotation that could be made than the fact that mediocrity can be a corrosive factor or instrument on anything that takes place least of all do we want it in one of the most important instruments of our Government.

But the point that distresses me most is the point that has occurred since the Easter recess. When I declared myself prior to the Easter recess, it was based upon information that had been uncovered since the name was handed down to the Senate. I think information was brought forward of which the President had no knowledge. With the uncovering of this information, the President had a very simple choice and that was not to do anything; and if the Members of this body chose, they could return that nomination to committee for further investigation.

The President, after the Easter recess, chose an alternative position that was very simply to use the full force of his office to effect the confirmation of Judge Carswell's nomination. I think this will inure to the President's detriment. Certainly he has his choices, but the record was made and was revealed, and the choice was made by Judge Carswell and

the administration to not have him come back to the Judiciary Committee for further investigation, for further statements. This was not the case with Judge Haynsworth; because, as he was under attack, he did come forward and give additional testimony.

I can liken this to a practice which is fairly familiar in judicial circles and which may speak a world of information when it is invoked. I think that Judge Carswell in this case, when confronted with accusations, has in a sense taken the fifth amendment. I think that a person wishing to hold that high office, in the interest of creating a sense of authority, creating a sense of sensitivity, creating a sense of responsiveness, should have come forward and treated these allegations and should not have retired in silence and relied upon the administration to push through the confirmation.