of a Republican Party point of view or a Democratic Party point of view in the deliberations of the highest court of the land. The Supreme Court is not the property or the province of our political parties; but it would son become so if the President, whoever he might be, should yield to these incessant demands that one party or another be assured of a certain number of advocates on the Court.

When thinking men fall victims to the belief that the Supreme Court, like Congress, should be judged by the apportionment of votes, then I must conclude that such men are misconceiving the purpose of the Court and are misusing their intellectual liberty. They are not judging the nomination now before us; they are simply exposing their own prejudices and arguing that the Court should be created in their own image.

I hope that the Senate will never fall into the error of such ways by perverting the powers of confirmation to usurp the independence and integrity of the Court. Such a course would be a far greater threat to the Republic than could be any one individual appointment of a loyal American.

Some may feel—and some have said—and the Senator from Michiban has indicated—that vacancies on the Supreme Court should be filled by promotion from the lower courts. The logic and necessity for such a course eludes me. Quite often, if not always, judges on the lower courts are chosen primarily for their regional or local prominence. The luster and sanctity which enshrouds such judges often are measured by their consistent espousal of a sectional viewpoint. It seems much more logical to me to place on the Court men of outstanding national service which has affored them the opportunity to grasp a national viewpoint rather than a sectional or local viewpoint. Charles Evans Hughes, for example, was such a man; his rich experience in national affairs enhanced his service as a justice. McReynolds, Brandeis, Sutherland, Butler, Stone, and Roberts—these justices came to the Court through the avenue of public service, not up the ladder of judicial promotions. The quality of their service certainly was not diminished by their broad and useful experience.

Mr. President, after all, why have we, through custom and through law, surrounded the Supreme Court with provisions for security, stability, and immunity which are enjoyed by no other public servants? We have done so in the belief that such provisions will enable men of capacity to rise above their antecedents and serve the cause of justice impartially and without intimidation. In the ordinary course of events, men do not reach such a pinnacle of security and immunity. This aura of security and immunity has been created as a challenge, designed to nurture and develop the highest degree of wisdom and impartiality that a man can impart. This condition was not conceived as a reward or as a cloak of protection to give a man free rein in expounding some preconceived concept of justice or philosophy.

Tom Clark has shown himself to be a man who responds to challenges with courage, with honesty, and with real ability. Because I know Tom Clark, as a man and as a public servant, I am confident that he will be equal to the challenge and will grow in stature as he meets and masters this new challenge. I know that Tom Clark will not prostitute this challenge by carrying to the Court fixed opinions and preconceived concepts of justice.

This is my judgment of Tom Clark; I am here for no other purpose. I have no desire to remake the Court in the image of my own preferences and my own philosophy; I do not conceive that to be a proper part of my duty here.

I have no desire to apportion the prejudices of the Court among various groups or parties according to some numerical balance. I prefer to place my trust in men who are unburdened with prejudice and who will dispense justice on the basis of the law and the facts rather than on the basis of the plaintiff's reputation.

For this duty and this responsibility I know of no happier selection that could have been made than the nomination of Tom Clark. I commend him to the Senate. I know he will serve the cause of justice well.

Mr. McCARRAN. Mr. President, I yield 10 minutes to the Senator from North Dakota [Mr. LANGER].

Mr. LANGER. Mr. President and fellow Senators, I do not rise to the defense of Tom Clark, because in my opinion he needs no defense. Since I have been a Member of this body I have been for Republicans and Democrats who were nominated for office when I thought they were good men, and I have been against them when I thought they were not. I spoke for 3 hours against Mr. Stettinius, who later became Secretary of State.

What we are interested in today is the facts. In March 1945, Mr. Clark was nominated to be Assistant Attorney General to have charge of the antitrust division. I was tremendously interested in that nomination. Up to that time there had not been even a pretense that the criminal provisions of the Sherman antitrust law and the Clayton Act should be enforced. I demanded that Mr. Clark appear. I call the attention of every Senator upon this floor to the fact that one week's notice was given that Mr. Clark would appear before the Committee on the Judiciary on the 22d day of March 1943, prepared to answer any questions. Frankly, although I had never met him, I was opposed to him.

There were present at that meeting the then Senator from Indiana, Mr. Van Nuys, the Senator from Texas [Mr. CONNALLY], the Senator from Arizona [Mr. MCFARLAND], the Senator from Michigan [Mr. FERGUSON], the then Senator from West Virginia, Mr. Revercomb, the then Senator from Connecticut, Mr. Danaher, the then Senator from New Mexico, Mr. Hatch, the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Wisconsin [Mr. WILEY], the Senator from Nebraska [Mr. WHERRY], the Senator from West Virginia [Mr. KILGORE], the then Senator from Vermont, Mr. Austin, the Senator from Nevada [Mr. MCCARRAN] and the present speaker.

We examined Mr. Clark all forenoon. We did not get through with the examination, so we arranged to examine him further in the afternoon. In the afternoon we met again in special session. There were present at that time the then Senator from Indiana, Mr. Van Nuys, the Senator from Texas [Mr. CONNALLY], the Senator from Arizona [Mr. MCFARLAND], the Senator from Michigan [Mr. FERGUSON], the then Senator from West Virginia, Mr. Revercomb, the then Senator from New Mexico, Mr. Hatch, the Senator from Nebraska [Mr. WHERRY], the Senator from West Virginia [Mr. KILGORE], and myself.

The then Senator from Connecticut, Mr. Danaher, the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Wisconsin [Mr. WILEY], the then Senator from Vermont, Mr. Austin, and the Senator from Nevada [Mr. MCCARRAN] did not attend.

Again we interrogated Tom Clark on his fitness and as to his integrity, to ascertain whether or not he should be confirmed as Assistant Attorney General to head the Antitrust Division. When we got all through, on the motion of the distinguished senior Senator from Texas [Mr. CONNALLY], Mr. Clark was unanimously recommended for confirmation.

Two years went by and in June 1945 Tom Clark was nominated to be Attorney General. I wanted to find out for sure whether, as Attorney General, he would enforce the criminal parts of the Sherman Antitrust Act, and the record shows that I again demanded that he appear personally. Mr. Clark appeared on June 13. At that time there were present the Senator from Nevada [Mr. MCCARRAN], the Senator from Wisconsin [Mr. WILEY], the Senator from North Dakota [Mr. LANGER], the Senator from Michigan [Mr. FERGUSON], the Senator from Wyoming [Mr. O'MAHONEY], the then Senator from New Mexico, Mr. Hatch, the then Senator from Oklahoma, Mr. Moore, and the then Senator from Utah, Mr. Murdock. Again we went into the minutest detail abut the Texas matter, just as we did the first time. I did most of the interrogating myself, and I was so merciless that I was cautioned by one of the Senators. I wanted to know why a man who had made five or six thousand dollars before his law partner was elected attorney general of Texas would be making sixty or seventy thousand dollars a year or two later. Mr. Clark gave us the name of every single client from whom he had received more than a thousand dollars. He also told of the work he did to earn his fees.

At that time every opportunity was given to every single Senator on the Judiciary Committee to interrogate him, to ask him about any employment he had, or about anything else. When all got through, he had made such a good impression that the record shows when the motion was made by myself and other Senators to report the nomination he was unanimously for the second time

ber of the Senate but a very short time, that the request of the Senator from Michigan came late in the hearings, after many hours of testimony had been taken, rehashing old charges which the Senator himself had investigated day after day, month after month, in a Republican Congress with a Republican majority, with Republican votes, charges which finally the Committee on Expenditures in the Executive Departments rejected by a vote of 11 to 1.

I am informed that in the only case in recent history when the Judiciary Committee has requested that a nominee for the Supreme Court appear before it, the nominee appeared, just as I am sure Tom Clark would have welcomed an opportunity to appear if nine Members of this body had not voted to report the nomination to the Senate. But when the last nominee appeared he presented a statement to the Judiciary Committee. I shall only read it in part, because my time is limited. He said:

I, of course, do not wish to testify in support of my own nomination. Except only in one instance involving a charge concerning an official act of an Attorney General, the entire history of this committee and of the court does not disclose that a nominee to the Supreme Court has appeared and testified before the Judiciary Committee. While I believe that a nominee's record should be thoroughly scrutinized by this committee, I hope you will not think it presumptuous on my part to suggest that neither such examination nor the best interests of the Supreme Court will be helped by the personal participation of the nominee himself.

I should think it improper—

Evidently the great majority of the Judiciary Committee agreed.

I should think it improper for a nominee no less than for a member of the court to express his personal views on controversial political issues affecting the court. My attitude and outlook on relevant matters have been fully expressed over a period of years and are easily accessible. I should think it not only bad taste but inconsistent with the duties of the office for which I have been nominated for me to attempt to supplement my past record by present declarations.

Therefore, Mr. President, I repeat, it may be an error was committed in not summoning the Attorney General to appear before the junior Senator from Michigan, but, if so, the error is chargeable to nine of his colleagues, not to the Attorney General.

On the next point, the Senator from Michigan makes much of a political investigation we had in the State of Texas in 1935, some 14 years ago. I know nothing about the investigation at the time. It has received much more prominence during the Eightieth Congress and during the hearings on this nomination than it ever received in Texas. But I was informed that during the Eightieth Congress the Judiciary Committee had brought before it material which attempted to question Tom Clark's conduct, and to indicate the Texas Senate had found something wrong with his law practice in 1935 and 1936. I have been informed, and I have read the record, that the Senator from North Dakota [Mr. LANGER] stated in committee hearings, I believe, at page 67 of the record, that the Judiciary Committee went into that charge thoroughly in 1945.

I am informed that Tom Clark has served under four or five distinguished Attorneys General, and that when he first came to the Department, his political enemies brought to the attention of the Attorney General the same old charge, as read here this morning, prepared by a member of the committee, and the FBI was asked to investigate it.

Tom Clark subsequently was appointed to a minor legal position. He served under Attorney General Cummings, Attorney General Jackson, Attorney General Murphy, and Attorney General Biddle. In the case of every job to which he was assigned, it was found that he was too big for the job. He was promoted by each and every one of those Attorneys General during the course of time, as he was elevated to Assistant Attorney General in charge of the Antitrust Division, and to Assistant Attorney General in Charge of the Criminal Division. The FBI made its regular reports, and, as I say, none of those reports indicated that Tom Clark had done anything morally wrong or anything legally or ethically wrong.

But when I saw some of the testimony, some of the sly references, and some of the smear, dirt, and mud thrown into the hearings in an attempt to reflect on Tom Clark and his lovely family, I did not go to the attic or down to the basement or through the back door. I asked who was chairman of the Texas Senate investigating committee. I learned, as the junior Senator from Michigan could have learned, if he wanted the facts, that the chairman of that investigating committee sits as an honored Member of this Congress, only a few steps down the hall in the other body. So I sought him out yesterday and asked him to give me any facts he had concerning the investigation of Tom Clark's conduct 14 years ago. I have here a letter which he addressed jointly to the two Senators from Texas. That letter is as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., August 17, 1949.

Hon. TOM CONNALLY,
Hon. LYNDON B. JOHNSON,
United States Senators,
Washington, D. C.

DEAR SENATORS: In response to your inquiry concerning the findings of the Texas State Senate General Investigation Committee during the years of 1935 and 1936, I am glad to give you my recollection of the findings. I served as chairman of this committee during those years.

Certain rumors were reported to the committee concerning the activities of Hon. Tom C. Clark, then a practicing attorney at Dallas, Tex. The committee did investigate these rumors. I am pleased to be able to advise you in response to your inquiry that such investigation developed nothing which in my opinion justifies any criticism, either moral or legal, against Mr. Clark. About all that was shown was that he was a successful lawyer and enjoyed a far better than average practice at that time.

While he has necessarily made certain enemies through the discharge of his duties as Attorney General, it seems quite clear that his present critics are simply trying to produce a ghost where there is no substance to their charges. My investigations and my observations throughout the years convinced me that Mr. Clark possesses both the legal and moral background to make an outstanding Justice of the Supreme Court.

Very sincerely,

W. R. POAGE,
Congressman, Eleventh Texas District.

Prior to his coming to Congress, the people of Mr. POAGE's area had honored him with service in the State house of representatives, promoted him to the State senate, and for seven terms he has served in the Congress of the United States. So he who wants the facts has them, without going from the basement to the attic to find them.

I recognize that the criticism voiced against this nomination before the Judiciary Committee came, primarily, from sources long since discredited by their own deeds and words, as sterile, intellectually barren mimics. They speak because they must speak, they act because they must act, they do not think because they must not think. I am not concerned about the opinions these sources express.

I wish to make it clear that I am talking about the original group, which I characterize generally as crackpots and Communists and fellow conspirators.

My great concern is for the opinions expressed by men who have retained their personal liberty and intellectual integrity, but who, unwittingly, forfeit those values because of prejudices or because of mental laziness which compels them to evaluate issues in terms of convenient, adaptable stereotypes. When men who have retained their independence of intellect are willing to content themselves with stereotyped thinking, then I fear we are misusing the freedom of thought which we are determined to preserve in the present conflict of philosophies.

The charge has been made, for example, that this appointment is improper because Tom Clark has been a conspicuously loyal member of his party. Personally, I fail to see the impropriety of loyalty to a chosen political faith. Expediency may have its rewards and vacillation may have its opportunities, but, to me, these traits are unwise and unwanted among members of the Court. If a man possesses sufficient conviction, courage, and consistency to remain loyal to the principles of a political faith—in adverse times as well as favorable times—then such a man, in my opinion, is a reassuring choice for a judicial position.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. JOHNSON of Texas. Will the Senator from Nevada yield me five additional minutes?

Mr. McCARRAN. I yield five additional minutes.

Mr. JOHNSON of Texas. Furthermore, I believe it is a tedious, arbitrary, and peculiarly unjustifiable argument to contend that the President, in the intests of impartial justice, should strive to assure a certain amount of bias and partiality on the Court. I cannot concede that the President of the United States should use the appointive powers of his high office to assure the advocacy

States, the United States Circuit Court of Appeals, and the highest court in the State of Maryland. As I have said, the list included some 70 cases—an impressive record. In the face of those facts it was asserted over and over again, in the bitterness of the last night of the Eightieth Congress, that Mr. Perlman had not been identified with the trial of cases in the highest courts of the land. Moreover, for weeks, that information was in the hands of the investigating committee headed by the junior Senator from Michigan, and was not even placed in the record.

On the floor of the Senate, on the last night of that session, the senior Senator from Maine [Mr. BREWSTER] had the effrontery first to say that this man was unfit to hold the high office of Solicitor General of the United States, and then to offer to make a trade which would permit his confirmation assuming that a certain resolution pending in connection with an election probe would be allowed to go through as a part of the deal.

This so outraged the sense of fairness and the judicial mind of the eminent Senator from Missouri [Mr. DONNELL], as the RECORD will show—and I have it before me—that he said that it was a most outrageous proceeding; that Mr. Perlman's nomination should be considered on its merits, and not made the measure of a political deal.

The Senator from Maryland, then in the minority, was placed under the injunction of not being able to rise and refute these false allegations and assertions lest the Senate adjourn before a vote was taken. He had to sit silently in his seat and see this whole tirade, which was beneath the dignity and standing of the United States Senate, smeared forever upon the RECORD of the Senate.

Let us see what the record has been since the 70 cases which Mr. Perlman tried in the United States Circuit Court of Appeals, in the Supreme Court of the United States, and in the highest court in Maryland, which were ample justification of his legal attainments. Let us see how he has performed as Solicitor General. I asked Mr. Perlman to send the record to my office, which he did about 3 weeks ago. I was waiting for this opportunity to correct the unjust accusations which were spread on the RECORD in the last night of the Eightieth Congress. I have prepared this statement based upon the record which Mr. Perlman has furnished me.

Last year about this time, I called the attention of the Senate to the record made by Solicitor General Philip B. Perlman, of Maryland, during his first term before the Supreme Court as the law officer of the United States Government.

I did this in view of the fight made by the junior Senator from Michigan [Mr. FERGUSON] and the senior Senator from Maine [Mr. BREWSTER] to prevent and defeat his confirmation.

I now desire to call the attention of the Senate to Mr. Perlman's record during the past term of the Supreme Court. He appeared in that Court 13 times. Twelve of the cases he argued have been decided, and one has been removed from the docket without decision. Of the 12 cases decided, there were 11 decisions in favor of the Government and but one against—a very impressive record.

The cases successfully argued by Mr. Perlman during the last term included the opposition by the Government to the effort to have the Supreme Court inquire into the legality of the conviction of the Japanese war criminals convicted by the International Court at Tokyo; the conviction of Carl Marzani, former State Department employee, for making false statements as to his Communist affiliations; the case involving the constitutionality of the act giving the residents of the District of Columbia and the Territories the right to maintain suits in other Federal jurisdictions; the cases involving the right of the Government to sue Louisiana and Texas to determine paramount authority over the submerged lands in the marginal sea, the so-called tidelands cases; and a case reversing a large judgment by the Court of Claims against the United States in favor of a railroad's claim for additional compensation for carrying mail.

In addition to his 13 arguments in the Supreme Court, Mr. Perlman argued a case in the United States Court of Appeals for the District of Columbia, appearing at the request of and on behalf of all the 12 judges of the United States District Court for the District of Columbia.

During the 1947 term in the Supreme Court, Mr. Perlman argued 12 times before that body. One case was not decided in that term; and of the 12 others, he was successful in 8. The total for the two terms shows 25 appearances, and 23 decisions, in which he was successful in 19 and lost but 4.

The Solicitor General, with but few exceptions, has charge of all Government litigation in the Supreme Court, reviews all briefs, and determines who shall argue each case. During the 1948 term just ended, out of 91 decisions, the Government views prevailed in 71 cases and were rejected in but 20. In 1947, the result was 51 successes out of 69 cases, the unsuccessful ones numbering 18. During the two terms, out of 160 cases decided on the merits, the Government's views prevailed in 122 cases, and were rejected in but 38 cases.

Mr. President, these are facts. These are not wild assertions or calumnies as to collusion, fraud, near fraud, or influence. These are facts, and they testify more eloquently than any Senator will be able to argue as to the character and legal ability of Philip B. Perlman.

During the 1948 term just ended, the Solicitor General, in addition to the cases before the Supreme Court, handled more than a thousand matters involving decisions as to whether or not to file petitions for certiorari, whether or not to file appeals from the district courts, and a variety of motions and other miscellaneous matters, including the conduct of the Government's case before the special master appointed by the Supreme Court to make recommendations as to the determination of the boundary questions in the California tidelands case. The care and discrimination exercised in deciding what cases the Supreme Court should be asked to review is indicated by the fact that out of 62 petitions for certiorari acted upon, 50 were granted, and but 12 were denied.

On May 9 last, the Solicitor General personally took the whole assignment in the Supreme Court, and argued all three cases scheduled for that day.

Mr. President, I do not pretend that the nomination now before the Senate is on all fours with the matter I have just discussed, but I am somewhat disappointed when the eminent junior Senator from Michigan tells of the intrigues, and so on, which went on, whereas when one of his colleagues, the senior Senator from Maine [Mr. BREWSTER], offered to barter the confirmation of the nomination of Mr. Perlman, when it was pending on the last night of the session, as the RECORD shows, the Senator from Michigan did not then rise to denounce that conduct. In other words, the Senator from Maine offered us the proposition that he would vote to confirm the nomination of Mr. Perlman, notwithstanding all the assertions that had been made about him, if a resolution offered by the Senator from Missouri [Mr. KEM] were adopted as a part of the trade. The eminent Senator from Missouri [Mr. DONNELL] had the courage, the fairness, and, I may say, the complete mental integrity, for which I shall never forget him, to rise and denounce that proposal, and to say that the Senate should consider each of these propositions on its own merits. He saved the day, in my opinion, because he rose above any pettiness. But his was the only voice that was raised in that way; he was the only one among those who were interested in this whole matter who acted in that way.

Therefore, Mr. President, when I hear a review made of matters similar to those we heard discussed before, and when I think about the trade which was offered on the floor of the Senate the last night of the session, I take such statements with a little more salt than I would have taken them if we had passed on each of these matters as we should, without reference to any deal or trade on the floor of the United States Senate.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial appearing in the St. Louis Star-Times for June 27.

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

SOLICITOR GENERAL PERLMAN MAKING GOOD, SO SCALP KNIVES ARE SHEATHED

(By Harry D. Wohl)

WASHINGTON.—The scalp knives that were bared for Philip B. Perlman a couple of years ago are sheathed today. For Perlman has demonstrated by victory in court that he is more than well equipped for his job as solicitor general of the United States.

Perlman, whose confirmation was blocked for months by Senator HOMER FERGUSON, Republican, of Michigan, has a perfect score so far in this term of the United States Supreme Court. Of the 13 cases he has argued personally, opinions have been handed down

in 10. All have been in favor of the Government.

During the previous terms of the court, Perlman argued 12 cases personally. Eight opinions were in favor of the Government, three were against it, and one case was held over for reargument. Of 69 cases handled through the Department of Justice that term and decided by the court, the Government was successful in 51. That, it is said, is as good as the Government has ever done.

The Solicitor General, under the direction of the Attorney General, represents the Government before the Supreme Court. He is not required to go into court himself, but may assign members of his staff to do the arguing. Perlman, however, seems to love to get deep into the details of a complicated case, then demonstrate his talents before the high tribunal. Few of his predecessors have made as many personal appearances.

In an accomplishment rarely equaled, Perlman argued the whole assignment before the court one day last month. During a 4-hour session he argued three cases. One involved the Federal Communications Commission; the other two dealt with the Government's right to sue Louisiana and Texas in the tidelands oil dispute.

When the tall, graying Perlman, who is 59, goes before the court, he wears a cutaway and striped trousers. Although he can lash out dramatically when the occasion requires, he customarily speaks in clear, restrained tones. He uses words like building blocks, each carefully chosen to cement into the structure he is rearing.

Perlman is a worker enamored of his work. When other men go home from their day's work, Perlman, a bachelor, comes to his second wind.

Perlman was named Socilitor General by President Truman on January 31, 1947. Senator FERGUSON, chairman of the Senate Judiciary subcommittee dealing with the matter, delayed for 3½ months before opening hearings. That was in the last week of the first session of the Eightieth Congress. Senator FORREST DONNELL, Republican, of Missouri, voted for Perlman's confirmation. The full Judiciary Committee voted 10 to 1 for confirmation.

FERGUSON had scoured Maryland to find something detrimental to Perlman. Then, still trying to block Perlman, FERGUSON and Senator OWEN BREWSTER, Republican of Maine, attempted, by filibuster, at 4 o'clock in the morning on the last day of the congressional session to prevent action. But Perlman was confirmed.

Perlman says he still doesn't know the reasons for what he terms Ferguson's "vendetta."

Attorney General Tom Clark inscribed an old print—a birthday gift:

"To Phil Perlman, Solicitor General of the United States, of whom I am most proud for his outstanding accomplishments in protecting, maintaining and enlarging the concept of individual rights under our American system—from his friend Tom Clark."

Perlman had argued for the Government that racial restrictive covenants, including one that came to the court from St. Louis, were unenforceable. The court gave a 6-to-0 decision for the Government. Perlman also argued that the Rent Control Act was valid—and won. His victory in the case involving the validity of the postwar Renegotiation Act meant that the Government could collect legally more than $10,000,000,000.

Intense application is habitual to Perlman. It started years ago. While a reporter on the Baltimore American, he took political economy and English at Johns Hopkins University. While on the Baltimore Star he studied law at the University of Maryland.

In 1910 Perlman moved over to the Baltimore Evening Sun, working with such men as H. L. Mencken and Frank R. Kent. In 3 years he was city editor. In 1917 he went to the Maryland State law department under Attorney General Albert C. Ritchie. In 1920, when Ritchie became governor, Perlman was named secretary of state.

Then Perlman served as city solicitor of Baltimore, as general counsel of the Baltimore Housing Authority, as special counsel for the Baltimore Transit Co., as special counsel for the Home Owners' Loan Corp., and in other capacities too numerous to list. He is on the boards of four art museums, on the board of the Associated Jewish Charities of Baltimore, and is one of the founders of the Baltimore Symphony Orchestra.

In 1932 Perlman was a delegate to the Democratic National Convention in Chicago and handled publicity for the Franklin D. Roosevelt campaign in Maryland. He was active at subsequent conventions.

Occasionally Perlman goes to his farm in Baltimore County to ride horseback or to relax with his fine collection of early American furniture.

He doesn't stay away from his work very long. He wants to make good at the job. Oh, yes, he has made good; but Phil Perlman wants to do even better than good.

Mr. McCARRAN. Mr. President, I yield 20 minutes to the junior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 20 minutes.

Mr. JOHNSON of Texas. Mr. President, the junior Senator from Texas does not pose as an expert on the qualifications essential to Supreme Court Justices. If I were to do so, I would be venturing into uncharted seas, guided solely by my own passing preferences. opinions, and prejudices. That I refuse to do.

Except for the fundamentals of age and citizenship, specific qualifications for the personnel of the three branches of our Government—legislative, executive, and judicial—are not stated in the Constitution. The authors of that document wisely reasoned that qualifications are elusive, intangible standards, better entrusted to the judgment and experience of succeeding generations than to the rigidity of inflexible Constitutional law. Representative democratic government differs from aristocratic monarchial government on this fundamental principle.

Under our system, men to whom high office is entrusted are judged on their individual merit by their contemporaries. Because of this, it is not necessary in this great Nation of ours for a man to acquire a certain margin of wealth, a specific quantity of property, or even a designated amount of formal education to qualify for service in a position of public trust. Such standards are wholly inconsistent with our democratic principles.

Furthermore, in those instances, such as this, where the Senate is required to give its consent to appointments made by the Chief Executive, it is not our obligation to sponsor other men as candidates. The privilege of selection is not mine, nor is it that of the junior Senator from Michigan. The Senate's proper duty is confined to a judgment of the nominee himself. I say this for the purpose of emphasizing that we cannot cloak our prejudices or our partisanship, pro or con, in the robes of nonexistent tradition, and pretend that the judgment we exercise is any judgment except our own. There is no law, there is no tradition which compels or authorizes any of us to say that a justice of the supreme court must meet these qualifications or those qualifications. There is no such convenient and expedient route of retreat from the great responsibility of resting our decision solely upon the character and the capabilities of the nominee himself.

Today we are here to judge Tom Clark, nothing else. We are not here to determine the philosophy of the highest court of the land, as the junior Senator from Michigan indicates he would like to do. It is not properly within the province of the legislative body to add to or subtract weights from the scales of justice. We are here only to preserve the integrity of the court, not the composition of the court. Integrity is the sole tradition with which we should concern ourselves, for traditions are often treacherous.

I speak now because I know Tom Clark. I think I know him well. He is and long has been one of my closest friends, and of that friendship I am enormously proud. Because I know him, I feel no compulsion to argue the merits of the man's character and capacity which, to those who know him, are unquestioned. The case for Tom Clark does not need to be proved on the floor of the Senate of the United States; it has been clearly and permanently established by Tom Clark's own deeds in the service of the Nation. I could not add to that record, nor can critics detract from it.

The nomination of Tom Clark has evoked some curious and disturbing suggestions and reasonings. I shall examine some of them. I have no wish to quarrel or debate here with honest opinions thoughtfully reached. I do not wish however to pass by without acknowledgment the growth of concepts which I believe are ill-founded and ill-considered.

I shall deviate for a moment to refer to some of the statements made by the junior Senator from Michigan. I do not expect to refer to the innuendos and the implications and the mud which were brought before the Judiciary Committee of this body by Communists, crackpots, and their coconspirators. But while a Member of this body, an eminent Senator from a sovereign State, spent more than an hour asking this body to refuse to consent to the nomination of a great man who has served his country well, I attempted to enumerate the reasons the Senator gave to the judicious Members who listened to him.

As I wrote them down, the Senator's first criticism was that he did not have an opportunity personally to interrogate the nominee; that he was not afforded the right to have the nominee for the Supreme Court brought before him to answer his questions. Whatever criticism may properly be directed to that point, none of it should fall upon the shoulders of Tom Clark. It is my understanding that the Judiciary Committee, composed of the Senator's colleagues, by a vote of 9 to 2, voted to report Tom Clark's nomination to this body. I am informed, although I have been a Mem-