

Frank Mankiewicz and Tom Braden *Post* 8.26.69

Haynsworth Was in Clear Violation Of Canons of Ethics for Ten Years

JUDGE Clement F. Haynsworth may be — as President Nixon is fond of telling us—a “strict constructionist” when it comes to the Constitution; he is something far less when it comes to the canons of judicial ethics.

Judge Haynsworth was in clear violation of the canons of ethics for seven years on the bench, during which time he profited over \$400,000 from a company in which he was not just a casual investor, but an insider. He decided an important case in favor of a company doing \$100,000 a year's worth of business with his company, an act in which he says—incredibly—that he saw no impropriety and sees none now. Finally, he has participated along with Attorney General John Mitchell and the White House in a shabby attempt to make it seem that Attorney General Robert Kennedy approved of his behavior, a claim they knew to be false when they made it.

Canon 26 of the Code of Judicial Ethics promulgated in 1908 by the Committee on Professional Ethics of the American Bar Association says: “A judge should abstain from making personal investments in enterprises which are apt to be involved in litigation in the court, and after his accession to the bench, he should not retain such investments pre-



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viously made longer than a period sufficient to enable him to dispose of them without serious loss.”

THE FACTS, as revealed in this space, and by William Eaton of the Chicago Daily News, show clear violations of this conflict-of-interest canon arising out of Judge Haynsworth's continuing relationship with Carolina Vend-a-Matic, an automatic vending machine company.

Haynsworth, as a lawyer, helped form the company in 1950 with some of his partners and associates. He took 15 per cent of the stock whose total value was \$20,000, was appointed first vice president, and served as a member of the board of directors. When he was appointed to the Court of Appeals in 1957 by President Eisenhower, he made no move to divest himself of his holdings.

Six years later, by 1963, the company was prospering;

the Judge retained his stock interest. Among the contracts held by Carolina Vend-a-Matic was one worth \$50,000 annually from Deering Milliken Co., a large company owning several southern mills.

In February of 1963, Judge Haynsworth's court began considering the case against Deering Milliken. In August, while the case was still pending, Deering Milliken awarded Carolina Vend-a-Matic another contract worth \$50,000 a year. In November, Judge Haynsworth wrote the 3-2 decision of the court in favor of Deering Milliken.

The following April, in 1964, the stock of Carolina Vend-a-Matic was sold to a larger company called ARA Services, Inc. for \$3.5 million of ARA Services stock. For his original investment of approximately \$3,000, Judge Haynsworth received stock worth \$457,000 which he promptly sold. It is hard to make the record significantly more attractive than the one which brought down Abe Fortas.

THE LEAST attractive aspect of the whole Haynsworth situation is the sly attempt of the Nixon administration to make it seem as though this behavior was approved by Judge Haynsworth's colleagues and by the late Robert Kennedy when he was Attorney General.

What happened was quite

different. After the Deering Milliken case was decided, the textile workers union that had lost the case received an anonymous report that as a reward for the decision, Deering Milliken had cancelled all other contracts and given all its vending machine business to Judge Haynsworth's company. It was *this* charge — easily proved false—of which Chief Judge Simon Sobeloff of Judge Haynsworth's court cleared him and which he passed on to the Department of Justice. And it was *this* of which Robert Kennedy wrote in “clearing” Haynsworth.

The White House cagily released only excerpts of the Kennedy-Sobeloff documents. Had they been released in full, this would have been quite clear; obviously both the White House and the Department of Justice knew of the prior conflict-of-interest and were anxious that it be concealed. Surely, the Age of Apollo demands more.