

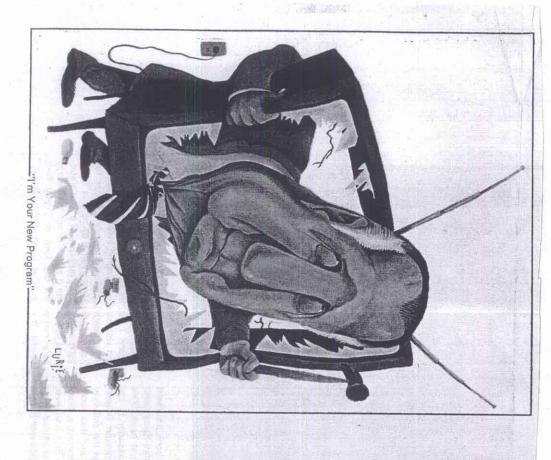
## Southern strategy and Southern stigma

Two issues dominated the long and unpleasant controversy over the nomination of Judge Clement Haynsworth to the Supreme Court. One was his personal character and qualifications—and at best he appears a lackluster choice. The other, though it did not loom so large in the Senate debate, had a lot to do with how opinion about him originally divided. This was the fact that he is a Southerner.

ern strategy" are questionable, so is a phenomesippi. But if certain aspects of Nixon's "Southcamp, such as the Administration's attempt to deingly designed to win votes from Governor Wallace's reducted the accusation. This strategy is, of course, lay desegregating public school systems in Missistioning other Administration tactics that are seemthe South. True enough, there are grounds for quesplaint about the absence of a two-party system in seem a curious turnabout from their perennial comegy," and the White House never really effectively ings of the Nixon administration's "Southern stratline, and the objections it evokes from some liberals for the Republican party below the Mason-Dixon the politically natural one of attempting to win votes Opponents saw in Haynsworth's choice the work-

> eral jurist. -and became the Court's most distinguished libwas elevated from politics to the Supreme Court who had virtually no judicial background when he the Court, was an ex-member of the Ku Klux Klan began with. Black, at 83 the only Southerner on pared with those that Alabama's Justice Hugo Black civil rights, his debilities almost seem petty comworth may have shown himself in cases involving ed on, of course. But however narrow Judge Hayns-Such conversions are not automatically to be countwho were once dogmatic and sectional in outlook. sibility of the court often enlarges the vision of men non that might be called the "Southern stigma." for one thing, the way that the awesome responjudge in, say, civil rights cases. This theory ignores. Southerner, Haynsworth could not possibly be a fair because he is a white, Anglo-Saxon Establishment Haynsworth's critics outside Congress have, that The stigma would in effect imply, as a number of

A wider issue has to do with the notion of whether there should be "reserved seats" on the Supreme Court. Before he nominated Haynsworth to the seat previously occupied by Ahe Fortas, and earlier held by Justices Brandeis and Cardozo, Frankfurter and Goldberg, the President said he wanted to end the



tradition of having a fixed "Jewish seat" or "Catholic seat" on the Court. On the same grounds the argument might be made that there should not be a Southern seat on the Court. Since vacancies on the bench usually occur one by one, the requirement of a reserved seat could very well lower the quality of Court appointments by excluding the best-qualified jurists available.

a Jewish or Catholic one.) seat" in perpetuity any more than there should be and in the more recent appointment of Thurgood of course, mean that there now should be a "Negro Marshall as the first Negro Justice. (Which does not, nation can be served by the appointment of a qualish and the first Catholic Supreme Court Justices. id consideration in the appointment of the first Jewhas not been sufficiently represented. This was a valparticularly if he represents a segment of society that ified Justice from some particular section or group, tory, the best interest of both the Court and the sideration is that at some particular moments in hisheard, and none is excluded. A more pragmatic conthe nation's diverse social and geographic voices are ideal of a high court in which as many as possible of There is something strongly attractive about the

A pragmatic case can also be made for a Southern appointment at this time. The struggle of black Americans for full equality will continue to be a dominant item of the Supreme Court's docket, and it would seem-politically unhealthy to have no Southerner on the Court at a time when many of its major decisions—however noble or necessary in themselves—are alienating white Southerners from the Supreme Court as an institution. At best, of course, a Southern Justice displaying high qualities of heart and intellect could enhance many dimensions of the Court's deliberations.