Mr. President:

When the President of the United States sent troops into Little Rock, Arkansas, last September to enforce racial integration at Central High School, he made what was undoubtedly the most grievous error of his career.

His action did violence to the Constitution.

It ran contrary to the intent of Congress, and violated the laws enacted by Congress governing the use of troops by the President.

The President's action stirred up racial animosity throughout the United States.

Finally, this rash act did not achieve its presumed objective, which was to bring about peaceful integration of the school.

The decision to send troops into Little Rock, was, in short, one of the most tragic errors in all American history.

No doubt many factors contributed to this decision of the President. Perhaps we will never know precisely what went on in his mind during the period when the decision was being formulated. Although the blame for this drastic action must ever rest with the President, I feel that the Congress, by its overwhelming approval of the so-called Civil Rights Act of 1957, may have created a climate in which he and his advisers thought action of this nature would meet with approval.
There is every reason to believe that the President was urged on by the then Attorney General, Herbert Brownell, the father of this abominable legislation, who had set himself up as a crusader in the field of racial integration. As Attorney General he was charged with the responsibility of advising the President on such matters. We all remember the press reports on the role he is supposed to have played in the Little Rock episode. I am disappointed, frankly, that no committee of the Congress, either in the Senate or in the other body, has found a suitable opportunity to question Mr. Brownell concerning his part in the Little Rock tragedy.

Mr. Brownell has since left the Administration. Nevertheless, this is a case in which it is not well to let by-gones be by-gones. To the contrary, the Little Rock decision should be documented in as much detail as possible, so that it may better serve as a lesson for the future.

There is, within the Department of Justice, a division known as the Office of Legal Counsel, headed by an Assistant Attorney General. Last fall, the man in that position was W. Wilson White.

During the hearings held by the Judiciary Committee relative to the confirmation of Mr. White's appointment as Assistant Attorney General in charge of the Civil Rights Division, he was asked to describe the duties of the Office of Legal Counsel. He replied:

"The Assistant Attorney General in that position of the Department of Justice...is really the Attorney General's lawyer."

In other words, this is the Assistant Attorney General who is charged with doing research in the field of law in order that
the Attorney General may be properly informed.

It was in this office last September, as Mr. White informed the Judiciary Committee, that memoranda were prepared setting forth the courses of action the President might pursue in a situation, such as the one which developed in Little Rock. Indeed, it was in this Office of Legal Counsel that the Proclamation of September 23 and the Executive Order of September 24 were drawn up.

I have outlined this chain of command in the Department of Justice, so that we may clearly understand the relationship between the President and Mr. White at the time of the Little Rock tragedy. Mr. White advised the President, for all intents and purposes, but he did not do so directly. His legal counsel was submitted indirectly, through the Attorney General.

I believe, in all fairness, that this relationship between Mr. White and others in the Administration should be clearly understood. It is not fair to Mr. White to put the full weight of the Little Rock tragedy on his shoulders.

Nevertheless, we are faced with the inescapable fact that Mr. White's legal memoranda formed the basis for the President's use of Federal troops at Little Rock. We are faced, too, with the fact that these memoranda, as submitted to the Judiciary Committee, fail to show that Mr. White suggested the deputizing of U. S. Marshals as a method of enforcing court orders more in harmony with the law.
Instead he suggested a course of action wholly in conflict with Article IV, Section 4, of the Constitution:

"The United States shall guarantee to every State in this Union/a Republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence."

I believe this brief quotation from the Constitution is sufficient to show that there is ample authority for the use of Federal troops/to quell domestic violence when — and only when State authorities/request such aid. The principle is one which is basic to the preservation of local self-government.

For Mr. White to be at such variance with this fundamental constitutional principle, is shocking to me. It suggests that one of two alternatives/must be true: Either Mr. White is lacking in the understanding of constitutional law, that a man in his position should have, or else his bias in favor of racial integration is so strong that he is able to overlook the law.

We need not concern ourselves in deciding which of the alternatives is true. Either one is sufficient to disqualify Mr. White for the post for which he has been nominated.

The confirmation of Mr. White would add another irritant to the racial situation in the South. Mr. White is known in the South as one of those who badly bungled the affair in Little Rock. I do not understand how the Administration can believe that a man
of this reputation will be able to inspire confidence and respect with the Southern people in his work, as head of the Civil Rights Division of the Department of Justice. It seems to me that the Administration, had it been so minded, could have found a competent attorney who was not reputed in the South to be a leading advocate of the use of troops to force racial integration.

Even if I were satisfied with Mr. White's personal qualifications, I would vote against his confirmation by the Senate.

When the Civil Rights Bill was before the Senate last summer, I opposed it vigorously. I pointed out at that time that the new Civil Rights Division of the Department of Justice, set up under the provisions of the Act, could serve no useful purpose. It will increase the power of the Federal government to meddle and interfere with the functions of State and local governments. In the field of race relations, it will stir up resentment, hatred, bitterness, and perhaps violence.

As a matter of principle, I would record my vote in opposition to the confirmation of any man as the head of this division of the Justice Department. As a matter of principle, I believe that the position should be made permanently vacant.

The choice before us is clear. Either we can accept docilely the monstrous crime of Little Rock, and mark it as the beginning of the end of the Republic and constitutional government, or we can let Little Rock serve as a warning, and with all the strength at our command fight to restore a governmental system under which local self-government can be secure.
I cannot forgive those responsible for the error of Little Rock, nor can I condone the governmental philosophy which led to the Little Rock decision and the Civil Rights Act.

For these reasons, I oppose the confirmation of the nomination of W. Wilson White as the Assistant Attorney General, in charge of the Civil Rights Division of the Department of Justice.