profit-sharing plans to help finance their retirement programs have rightfully been concerned about the effects that H.R. 4200 would have on their plans.

H.R. 4200 would seriously hurt the pension plans which use profit sharing proceeds. Sears, J. C. Penney, General Mills and many old companies have established excellent records in this area and should be encouraged rather than legislatively discouraged to continue these fine practices.

Protection of the rights of those workers presently covered is assured in H.R. 2. This bill requires vesting the accrued benefits of employees with significant periods of service with an employer. This bill also requires plans to meet minimum standards of funding. These two provisions by requiring stringent vesting and funding standards negate the need for plan termination insurance which unfortunately is also contained in the bill.

Although legislation cannot eliminate all pension plan terminations, possible losses by any such termination would be drastically reduced by including provisions in the bill:

First, to prevent dilution of benefit security in business acquisition and merger situations;

Second, to provide for partial plan terminations with the approval of the Secretary of Labor;

Third, to provide fund distribution priorities on termination so there will be a more equitable distribution of all assets;

Fourth, to prevent "raiding" of assets by participants who leave the plan.

I will continue to work to maintain the integrity of the private pension system. No bill passed by the Congress should have the effect of reducing those contributions or limiting the size of pensions that workers may obtain. Private pension plans are worthwhile. More and better plans should be encouraged to be developed.

SENATE—*Tuesday, October 23, 1973*

The Senate met at 12 o'clock noon and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, unto whom in all ages men have lifted up their hearts in prayer, as we draw near to Thee, draw near to us. We know not what to ask, but we trust Thee, and Thou knowest what we need—clean hands and pure hearts—goodness and grace and wisdom. Come upon this Nation at this moment of dismay, disappointment, and distress. Give to it a new sense of purposeful direction. Grant enabling grace to the President, the Congress, and all in authority, that they may unite their best efforts for the health and strength of the Nation and for peace and justice in the world.

We pray in His name who came to serve and give Himself for others. Amen.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of October 18, 1973, the Secretary of the Senate, on October 18 and 19, 1973, received messages from the President of the United States.

EMERGENCY SECURITY ASSISTANCE FOR ISRAEL AND CAMBODIA—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate a message from the President of the United States, received by the Secretary of the Senate on October 19, 1973, under authority of the order of the Senate of October 18, 1973, which, with the accompanying document, was referred to the Committee on Foreign Relations. The message is as follows:

To the Congress of the United States:

I am today requesting that the Congress authorize emergency security assistance of $2.2 billion for Israel and $200 million for Cambodia. This request is necessary to permit the United States to follow a responsible course of action in two areas where stability is vital if we are to build a global structure of peace.

For more than a quarter of a century, as strategic interests of the major powers have converged there, the Middle East has been a flashpoint for potential world conflict. Since war broke out again on October 6, bringing tragedy to the people of Israel and the Arab nations alike, the United States has been actively engaged in efforts to contribute to a settlement. Our actions there have reflected my belief that we must take those steps which are necessary for maintaining a balance of military capabilities and achieving stability in the area. The request I am submitting today would give us the essential flexibility to continue meeting those responsibilities.

To maintain a balance of forces and thus achieve stability, the United States Government is currently providing military material to Israel to replace combat losses. This is necessary to prevent the emergence of a substantial imbalance resulting from a large-scale resupply of Syria and Egypt by the Soviet Union.

The costs of replacing consumables and lost equipment for the Israeli Armed Forces have been extremely high. Combat activity has been intense, and losses on both sides have been large. During the first 12 days of the conflict, the United States has authorized shipments to Israel of material costing $825 million, including transportation.

Major items now being furnished by the United States to the Israeli forces include conventional munitions of many types, air-to-air and air-to-ground missiles, artillery, crew-served and individual weapons, and a standard range of fighter aircraft ordnance. Additionally, the United States is providing replacements for tanks, aircraft, radios, and other military equipment which have been lost in action.

Thus far, Israel has attempted to obtain the necessary equipment through the use of cash and credit purchases. However, the magnitude of the current conflict coupled with the scale of Soviet supply activities has created needs which exceed Israel's capacity to continue with cash and credit purchases. The alternative to cash and credit sales of United States military materials is for us to provide Israel with grant military assistance as well.

The United States is making every effort to bring this conflict to a very swift and honorable conclusion, measured in days not weeks. But prudent planning also requires us to prepare for a longer struggle. I am therefore requesting that the Congress approve emergency assistance to Israel in the amount of $2.2 billion. If the conflict moderates, or as we fervently hope, is brought to an end very quickly, funds not absolutely required would of course not be expended.

I am also requesting $200 million emergency assistance for Cambodia. As in the case of Israel, additional funds are urgently needed for ammunition and consumable military supplies. The increased requirement results from the larger scale of hostilities and the higher levels of ordnance required by the Cambodian Army and Air Force to defend themselves without American air support.

The end of United States bombing on August 15 was followed by increased communist activity in Cambodia. In the ensuing fight, the Cambodian forces acquitted themselves well. They successfully defended the capital of Phnom Penh and the provincial center of Kampong Cham, as well as the principal supply routes. Although this more intense level of fighting has tapered off somewhat during the current rainy season, it is virtually certain to resume when the dry season begins about the end of the year.

During the period of heaviest fighting in August and September, ammunition costs for the Cambodian forces were running almost $1 million per day. We anticipate similar average costs for the remainder of this fiscal year. These ammunition requirements, plus minimum equipment replacement, will result in a total funding requirement of $380 million for the current fiscal year, rather than the $180 million previously requested. To fail to provide the $200 million for additional ammunition would deny the Cambodian Armed Forces the ability to defend themselves and their country.

We remain hopeful that the conflict in Cambodia be resolved by a negotiated settlement. A communist military victory and the installation of a government in Phnom Penh which is controlled by Hanoi would gravely threaten the fragile

structure of peace established in the Paris agreements.

I am confident that the Congress and the American people will support this request for emergency assistance for these two beleaguered friends. To do less would not only create a dangerous imbalance in these particular arenas but would also endanger the entire structure of peace in the world.

RICHARD NIXON.

THE WHITE HOUSE, *October 19, 1973.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate a message from the President of the United States submitting a nomination, which was referred to the Committee on the Judiciary.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, October 18, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, informed the Senate that, pursuant to provisions of section 1, Public Law 689, 84th Congress, the Speaker had appointed Mr. POWELL of Ohio and Mr. MARTIN of North Carolina, as members of the U.S. Group of the North Atlantic Assembly on the part of the House.

The message announced that the House had passed a bill (H.R. 10397) to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 2016. An act to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corp., and for other purposes; and

H.R. 6691. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1974, and for other purposes.

The ACTING PRESIDENT pro tempore (Mr. METCALF) subsequently signed the enrolled bills.

HOUSE BILL REFERRED

The bill (H.R. 10397) to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes, was read twice by its title and referred to the Committee on Government Operations.

ORDER FOR EXTENSION OF PERIOD FOR ROUTINE MORNING BUSINESS TODAY

Mr. ROBERT C. BYRD. Mr. President, there being little if any other business to come before the Senate today, with the possible exception of a conference report, I ask unanimous consent that the period for the transaction of routine morning business today be limited to 3 hours, with statements therein limited to 20 minutes.

Mr. GRIFFIN. Mr. President, reserving the right to object, what is the present order in effect with regard to morning business for today?

The ACTING PRESIDENT pro tempore. In the absence of an order from the floor by unanimous consent agreement, we would go into rule VII.

Mr. GRIFFIN. I see. Then there is no other business——

The ACTING PRESIDENT pro tempore. Under the previous order, there was to be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

Mr. GRIFFIN. I thank the Chair. That was my understanding.

The ACTING PRESIDENT pro tempore. Yes.

Mr. GRIFFIN. I wonder whether the distinguished majority whip might, for the time being at least, consider the possibility of extending the period to 1 hour with statements therein limited to 10 minutes.

Mr. ROBERT C. BYRD. Yes; I will be very agreeable to that suggestion. The only reason I made the suggestion was because I would anticipate that Senators on both sides of the aisle may wish to deliver themselves of speeches today in connection with the events of the past weekend and I dare to believe that 3 minutes might not be enough time.

Mr. GRIFFIN. I share the distinguished majority whip's belief. We should lengthen it and provide more time. We can judge later to see whether it is adequate.

The ACTING PRESIDENT pro tempore. Will the Senator from West Virginia restate his modified unanimous-consent request?

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that there be a period for the transaction of routine morning business today, not to exceed 1 hour, with statements therein limited to 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. Not at this time, Mr. President.

THE PRESIDENT'S ACTIONS OVER THE PAST WEEKEND

Mr. ROBERT C. BYRD. Mr. President, the events of the past weekend have been unprecedented in the history of our country. So grave are the implications of these events that they cannot be viewed except with the greatest of apprehensions. So shocking were they, in my estimation, as to overwhelm the most credulous observer with utter disbelief.

I have been appalled, as I am sure that millions of Americans have been appalled, by the swiftness of the actions taken by the Chief Executive of our country, actions that I find impossible to believe to be justified or reasonable.

So sobering is the significance of these happenings that even the most trusting citizen should have reason to be concerned about the state of the Nation.

Before I go further, I should recall my personal affection for the President. I do not discount the services which he rendered our country during his years in Congress and his years in the Presidency. For example, I supported his nominees fc the Supreme Court because I believed it imperative that the philosophical imbalance of that Court be corrected.

I stood with him on the Vietnam war until the culmination of the Paris peace talks because I believed in his Vietnamization policy, and I felt he was right in refusing to be stampeded by those who appeared to advocate capitulation.

I honored him for his advocacy—in earlier years—of reverence for law and his insistence that order be restored throughout the land.

Over the past year, amid rumblings suggesting impeachment, I have urged restraint. I have repeatedly said that such talk was premature and that there was no clear evidence on which to sustain an impeachment or on which reasonably to expect a resignation from office.

I have consistently urged restraint, even in the face of the growing Watergate scandals.

Even at this hour, I urge restraint.

I am also constrained, however, to state my utter abhorrence of the President's actions over this past weekend. I cannot bring myself to defend such actions. I feel compelled vigorously and publicly to object to them.

The actions to which I address my comments are these:

First. In my judgment, failure of the President to appeal the order of the district court, as sustained by the court of appeals, and his failure to comply with the court's order is, in my opinion—and I emphasize, in my opinion—a clear defiance of the rule of law, the foundation on which this Republic exists.

Second. His firing of the special prosecutor and his abolishment of the special prosecutor's office was a violation of a compact arrived at by the administration and the Senate as a precondition for the confirmation of Elliot Richardson to the Office of Attorney General.

Third. His ordering of the FBI men into the offices of the special prosecutor, the sealing off of records and files within those offices, and the refusal of the FBI men to allow personnel in those offices—as was reported in the newspapers—to remove even their personal belongings from those offices, smacks of tactics for-

eign to democratic institutions and to democratic government.

Fourth. Returning the Watergate investigation to the authority of the Justice Department placed the executive branch in the position once again of investigating itself.

Now, let me address my attention briefly to each of these actions singly.

First, noncompliance with the orders of the courts. Of course, it is for the court—and not for me—Mr. President, to judge finally as to whether the President has failed to comply with the court order.

If the court decides that there has been compliance, then I will not contend otherwise, even though I may still hold to my own opinion, but let us examine the facts. The President has suggested that Watergate be removed from television and that it be settled in the courts, and I have concurred with that suggestion publicly.

Yet, the President's actions can only serve to hamper and obstruct the judicial process. He stated that he would abide by a "definitive" court ruling on the tapes. Yet, in failing to appeal the lower court's decisions, he deprived the Nation's highest tribunal of any opportunity to make a definitive ruling. He said that he was confident that the Supreme Court would have ruled in his favor. Why, then, did he not give that Court a chance to rule in his favor? If it had been given the opportunity to rule in his favor and had so ruled, the whole controversy surrounding the tapes would have been resolved. There was a definitive ruling by the district court, but the President did not abide by it. He appealed that ruling, and he had a right to appeal that ruling. There was a definitive ruling by the court of appeals, by a 5-to-2 vote, but the President did not abide by it, in my judgment. Both courts ruled that the tapes should be surrendered; the President did not surrender the tapes. He offered, instead, what he called a compromise. Let us examine the compromise.

The compromise is to consist of a so-called summary of portions of the tapes dealing with conversations concerning Watergate. The summary is to be prepared by the President himself. The summary is then to be submitted to Senator STENNIS, who will listen to the tapes and verify the accuracy of the summary. The summary will then be submitted to the Ervin committee and to Judge Sirica.

On its face, the compromise may appear to be a reasonable and valid one. In reality, it falls far short of meeting the requirements under the court orders. As for the Ervin committee, the compromise may very well be sufficient; I do not presume to speak for the committee. The committee took its case to the court and lost; the compromise, therefore, is a gain for the committee. It has gained something, whereas the court gave it nothing.

We have to remember that the legislative committee's purpose, under the Senate resolution, is to secure information on which to base legislation to prevent recurrences of future Watergate scandals. The committee has no duty to find guilt or innocence. It cannot indict; it cannot prosecute; it cannot conduct a trial; it cannot convict.

The court of appeals, in suggesting that the President's lawyers seek a way of compromise, was not directing its remarks to the needs of the legislative committee. It was not directing any effort to accommodate the wishes or the needs of the committee. It suggested a compromise with Cox and Sirica—not with the committee. The thrust of the court's order was directed toward a reasonable approach to the submission of evidence involving the possible commission of crimes for evaluation by the district court and the grand jury. In this regard, the so-called compromise, in my judgment, was no compromise at all. In the first place, as long as the tapes are in existence, they constitute the best evidence as to what the tapes say. A written "summary" of their contents is mere hearsay and is not likely to be viewed as permissible evidence in a court of law. In the second place, the President will not avail himself for cross-examination as to the veracity or the accuracy or the thoroughness of the summary. Unless the tapes themselves, together with handwritten notes, papers, documents, and so forth, are surrendered, the prosecution, of various defendants in the Watergate case—includes Messrs. Mitchell, Stans, Erlichman, and others—dropped, inasmuch as defendants would not be able to adequately cross-examine witnesses produced by the prosecution—witnesses who have testified to the contents of the tapes and whose conversations are reportedly recorded thereon.

Mr. ALLEN. Mr. President, I ask recognition in order that I might yield my 10 minutes to the distinguished acting majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized.

Mr. ALLEN. I yield my 10 minutes to the distinguished acting majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Alabama.

Finally, sight must not be lost of the fact that papers, notes, documents, and other memoranda in the possession of the White House, may be even more important than the tapes in determining guilt or innocence. Hence, a mere summary of relevant portions of the tapes, even if such summary were absolutely accurate and thorough, would not include such other important documents as were being sought by Special Prosecutor Cox. The President himself, some time ago, stated that the tapes could be subject to misconstruction; therefore, the handwritten notes and other papers and memoranda may be vital to the proper construction of the tapes' contents. Again, I say, a summary such as has been proposed in the compromise would, in my opinion, fall far short of the whole story.

The President indicated that a very distinguished Member of this body, Senator STENNIS, would be chosen to verify the accuracy of the summary. Every Senator has the utmost respect for the integrity, the objectivity, and the impeccable reputation of Senator STENNIS. I view the placing of such a responsibility on Senator STENNIS, at this time, a severe imposition, and I regret that he has been asked to shoulder this additional burden. Characteristically, of course, he has responded to the call as one of duty, and I admire him for it. I think it is unfair, however, to expect Senator STENNIS, or anyone else who has not been associated day by day and hour by hour with the Watergate case, to sit in judgment as to the relevancy of tape recorded conversations dealing with the Watergate developments. Judge Sirica has been intimately associated with the Watergate case from its very inception, and he would be the individual best equipped to decide what portions of the tapes are relevant. Both the district court and the court of appeals suggested that the responsibility of making such determinations be his.

As to the firing of Special Prosecutor Cox and the abolishment of his task force, I can only view the action as high handed. I know that there are those who maintain that the President had no alternative but to fire one who refused to obey his orders. Ordinarily, I would agree with that 100 percent. But what were the orders? The orders were for Cox to desist from resorting to judicial process to secure the tapes, papers, handwritten notes, and other documents containing information bearing upon the possible commission of serious felonies. Cox was doing his duty. He was fired for doing his duty. He had already won two court battles in his effort to subpena the tapes which contained conversations the President held between June 1972 and April 1973. Cox's role from the beginning had been that of an independent prosecutor with instructions to seek evidence on the Watergate scandals, even if his search led behind the wall of executive privilege and into the White House files. The President, a long time ago, assured the Nation that there would be no White House coverup. Yet, the special prosecutor not only met repeatedly with obstructions from the White House in his efforts to secure information in the possession of the White House bearing upon the Watergate crimes, but, for his pains, he also was summarily fired and his office was abolished.

Cox could not have desisted without unfaithfulness to the pledge which he gave to the Senate prior to his appointment as special prosecutor. The President was asking him to abandon any further legal challenges to claims of executive privilege. Cox could not do this and remain true to his commitment to the Senate. The nomination of Attorney General Richardson was confirmed on the strength of Cox's assurance that he would follow the Watergate case wherever it led.

The President's abolishment of the special prosecutor's force was in my opinion, an act uncalled for, unjustified, and utterly provocatory. He has professed a desire to avoid confrontation with Congress; yet, the abolishment of the prosecutors' task force deliberately and calculatingly invites confrontation. The President, in appointing Elliot Richardson to be Attorney General, expressed

his approval of the appointment of a special prosecutor. Elliot Richardson selected that prosecutor. The President publicly expressed approval of an independent investigation. The guidelines by which the special prosecutor was to conduct his investigation were submitted to the Judicary Committee by Mr. Richardson, and they purportedly had administration backing. Those guidelines were refined during Mr. Richardson's confirmation hearings, and the refinements had the approval of the administration. Why now this drastic action of summarily dismissing the special prosecutor and abolishing the special prosecutor's office, and, with it, the independent investigation?

We hear it said that Mr. Cox was becoming a fourth branch of Government. Yet, two courts had ruled in his favor, and the written record of a Senate legislative committee will sustain a commitment which he was attempting to carry out.

As to the naked use of the FBI on last Saturday to swiftly descend after 9 p.m., upon the special prosecutor's office, preventing Cox's staff personnel from claiming their own personal possessions, can one deny that there is cause to fear what may happen next? Have we been introduced to the American version of the Soviet KGB? Speaking as one citizen and as one Senator, such use of the FBI was reprehensible. It was as though the FBI were closing in on a ring of criminals. One wonders if the Army might not one day be an instrument of misused power.

The very establishment of the office of the special prosecutor resulted from the failure last year and early this year of the Justice Department and the FBI, under Acting Director Patrick Gray, to conduct a thorough investigation of the Watergate scandals. District Court Judge Sirica publicly stated his disappointment with that investigation, and he expressed the hope that congressional committees would get the facts. There is ample history to justify Judge Sirica's frustrations. It was in such a context, that a special prosecutor was selected. Obviously, the executive branch should not be allowed to investigate itself. Yet, that is precisely where we are now. The independent investigation has been squelched. The Justice Department, acting under the direction of an Assistant Attorney General, will again be in charge. That Department is under the direction of the Chief Executive. It is subordinate to him and it is subordinate to his wishes and directions. It should be obvious to anyone that an investigation under such circumstances can never be independent. It is obvious that any real investigation of the Watergate scandals requires prosecutors who are independent and who have the courage to insist upon access to all relevant tapes, papers, notes, and documents at the White House. It is imperative that an independent investigation still be pursued vigorously.

Mr. President, this constitutes my evaluation of the discouraging events of the past week end. I do not maintain that there are yet absolute grounds for impeachment of the President, but I do maintain that there is adequate cause for profound concern. Impeachment is a matter to be determined by the other body, and I will reserve any final personal judgment until trial by the Senate, after the House impeached—if that occurs. Certainly, I do not maintain that, although the firing of Cox is an indirect affront to the Senate and the summary abolishment of the prosecutor's office force smacks of totalitarian authority—these acts, in my judgment, do not in themselves appear to formulate a just basis for impeachment.

However, if the courts should decide that the President has failed to meet the requirements of court orders and that he is, therefore, in contempt of the courts, such, in my opinion, would probably come within the purview of the constitutional reference to "high crimes and misdemeanors," and the foundation would have been laid for the House to consider impeachment proceedings. I hope that, somehow the President will review his position in this regard and will yet fully comply with the order of the courts and submit the tapes and relevant evidence required by the court order.

Finally, Mr. President, considerable sentiment has surfaced to the effect that Mr. FORD's nomination for the Office of Vice President should be held hostage. I think it would be unfortunate if the Congress, under Democratic leadership, sought in this way to repeal the results of last year's election. In my judgment, Mr. FORD's confirmation should rise or fall on the merits of his own personal case and on the basis of his qualifications to fill the Office of Vice President. I may vote against him or I may vote for him, but I will not be a party to intentional delay of action on his confirmation out of pique or as an indirect means of changing the election results of 1972.

Mr. President, I ask unanimous consent to have printed in the RECORD certain extracts from the hearings of the Committee on the Judiciary—of which I am a member—on the nomination of Elliot Richardson to be Attorney General. The purpose of the extracts is to substantiate the compact agreed upon by the Senate Committee on the Judiciary, and to show that Mr. Cox was living up to his commitment as special prosecutor.

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

Senator BYRD. Mr. Secretary the Assistant Attorney General, Mr. Henry E. Petersen, on September 16, 1972, in a press release, stated in part as follows:

"This investigation has been conducted under my supervision. In no instances has there been any limitation of any kind by anyone on its conduct. Indeed, the investigations by both the FBI and the Grand Jury have been among the most exhaustive and far-reaching that I have seen in my 25 years in the Department."

In the opinion of some of us, at least, the Watergate investigation was not exhaustive, was not far-reaching, and it was not without limitation.

* * * * *

Senator BYRD. Well, Professor Cox, if we may view Watergate as a generic term for infamy, do you see any limitations or outer boundaries whatsoever in connection with the investigations that you will pursue? And if there are any outer boundaries, if there are any off-limits areas, would you state them at this time?

Mr. Cox. There is nothing that I see that this document puts off limits that I could possibly wish to go into. I am more overwhelmed by its scope than by its limitations, Senator. I don't mean that I hope I won't be overwhelmed, but it is a rather awesome thing, to be honest about it. But I don't see anything here that could prevent my doing anything which I felt in my responsibility to myself and to this committe, the other organs of governments, the people, that would limit me in performing them. If I did find anything, I would find some way of insisting that that barrier be removed.

Senator BYRD. The second paragraph, which speaks of your full authority, uses the phrase with respect to that authority,

". . . all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility. . . ."

Can you envision any offense arising out of the 1972 Presidential Election which you would not deem it necessary and appropriate to pursue?

Mr. Cox. Well, I can imagine there being things so small and so remote from senior personnel in the Government, both in distance and time and association that it might be a mistake to encumber myself and my staff with them. That would be my only criteria. In other words, if it seemed to me that this is something that was so trivial and so remote, as I put it—you know, somebody out in the State of X has committed some offense which is a technical one; we investigate and can't find that he has any link to any public figure beyond a county chairman, or seems to have no link with any public figure. I would think that if we had to deal with all of those beyond satisfying ourselves on those very essential points we would be in danger of overwhelming ourselves with trivia.

But I think that one would have to have it very firmly in mind that the special prosecutor wasn't expected by anyone to be sloughing things off. And that would be my leaning unless it was a clear case for interfering with more important things.

* * * * *

Senator BYRD. Mr. Cox, in your opinion, will the Attorney General have any authority whatsoever—based upon the charter, upon your discussions with him, upon your understanding with him—to overrule you in any matter without dismissing you?

Mr. Cox. No, sir, he wouldn't have any such authority that I can think of except there is possibly a little edge in the budgetary matters that we talked about, where one would have to try to go over his head and behind his back, but that is the only one that I recall.

And I should make it perfectly clear that there is no private understanding between us. I know there is no commitment on my part to him. There were some things which weren't originally written down, there may be some commitments that he has made to me that I was relying on, not basically different from his position here, but he didn't ask me for any and I didn't give any, and I guess, Mr. Secretary, they are all written down now, the things we talked about.

Secretary RICHARDSON. I believe they are, yes.

Senator BYRD. Mr. Secretary, do you differ in any matter with the understanding which has been expressed by Professor Cox?

Secretary RICHARDSON. No, I don't. I would feel that if I had thought that something was being done that verged on the edge of an extreme impropriety, that I might bring it to his attention. If he agreed, he presumably would correct it or not do it. If he didn't agree, then, of course, the situation would

become one in which the only recourse I could have would be that of dismissal.

* * * * *

Senator BYRD. What would you do, Mr. Secretary, if the President asked you for a report from the Special Prosecutor on the progress of the investigation?

Secretary RICHARDSON. I would refer this to the Special Prosecutor and he would have to decide what the response should be insofar as he is not required to report to me except to the extent that he deems appropriate, so it would follow that any report to the President would have to be looked at in terms of whatever he believed the public interest at stake required.

As I said earlier in the hearings, so far as these investigations are concerned, my own relationship to the White House and the President will have to be an arm's length one in the first instance. And of course, this is especially true for the Special Prosecutor insofar as under these guidelines, he is the one exercising direction and immediate responsibility for the investigation.

* * * * *

Senator BYRD. You don't subscribe to his (Mr. Kleindienst's) broad theory with respect to application of the privilege?

Secretary RICHARDSON. As far as I understand it, no. I would add further that in my view, there is an appropriate role for the courts in the adjudication of a claim of privilege. As between the Congress and the executive branch, the President specifically, there may be a problem in getting adjudication of this issue because, of course, they may conclude that it is a so-called political issue and thus decline jurisdiction. But in a criminal prosecution, where the jurisdiction of a court attaches from the outset, it seems to me appropriate that the court should adjudicate an issue arising out of a claim of privilege by the executive branch or by or on behalf of the President on the one side and a prosecutor of criminal violations on the other.

It is therefore my understanding that for purposes of the Watergate investigation and all the other related matters, if such an issue should arise, the President will be represented by counsel on one side of that issue and that the Special Prosecutor would assert his claim to obtain the information or the evidence on the other, and that if that could not be resolved otherwise, then in my judgment, the issue would have to be resolved by a court.

* * * * *

Senator BYRD. Would the Special Prosecutor have the authority to direct the FBI to broaden the scope of its investigation and to pursue any matter which comes within the context of this charter?

Secretary RICHARDSON. Yes, he would. Of course, he would have some FBI personnel presumably assigned to him as part of the Watergate Special Task Force.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to insert in the RECORD at this time the guidelines agreed upon by the Judiciary Committee and Mr. Richardson and Mr. Cox during the hearings to which I have alluded.

There being no objection, the guidelines were ordered to be printed in the RECORD as follows:

DUTIES AND RESPONSIBILITIES OF THE SPECIAL PROSECUTOR

THE SPECIAL PROSECUTOR

There will be appointed by the Attorney General, within the Department of Justice, a Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, as to which he shall have full access;

Determining whether or not to contest the assertion of "Executive Privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, or for warrants, subpoenas, or other court orders;

Deciding whether or not to prosecute any individual, firm, corporation or group of individuals;

Initiating and conducting prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including United States Attorneys;

Dealing with and appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to such committees.

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part.

STAFF AND RESOURCE SUPPORT

1. Selection of staff

The Special Prosecutor shall have full authority to organize, select, and fire its own staff of attorneys, investigators, and supporting personnel, on a full or part-time basis, in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in the Department of Justice including United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. Budget

The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions, and other assistance, and such requests shall receive the highest priority.

3. Designation and responsibility

The personnel acting as the staff and assistants of the Special Prosecutor shall be known as the Watergate Special Prosecution Force and shall be responsible only to the Special Prosecutor.

CONTINUED RESPONSIBILITIES OF ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all of the duties currently assigned to him.

APPLICABLE DEPARTMENTAL POLICIES

Except as otherwise herein specified or as mutually agreed between the Special Prosecutor and the Attorney General, the Watergate Special Prosecution Force will be subject to the administrative regulations and policies of the Department of Justice.

PUBLIC REPORTS

The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall upon completion of his assignment submit a final report to the appropriate persons or entities of the Congress.

Mr. HASKELL. Mr. President, I regret very much what I must say today. I speak from my knowledge of what has occurred in the last few months concerning the bringing of impeachment proceedings against the President and of other matters.

The distinguished Senator from North Carolina (Mr. ERVIN) and his committee and the special prosecutor, Mr. Archibald Cox, have pursued this case diligently. But now I have to discuss this matter, because it seems to me that we have reached the last straw.

Just last Friday, at midnight, the President announced he would not appeal to the Supreme Court of the United States the decision of the Court of Appeals ordering him to present certain tapes and certain other documents—these possibly much more important than the tapes. The President chose not to appeal, but he also chose not to abide by the judgment of the court.

Our Nation was founded in law and survives on the belief that no man or woman is above the law. I can only conclude from Mr. Nixon's actions that he considers himself above the law. If he is allowed to pursue the course he has chosen, we can come to no other conclusion than that this is the end of the Republic of the United States. But that cannot be allowed to happen. There is only one procedure left to show that we are a government of laws, not a government of men. That is the course of impeachment. I, therefore, hope that the House of Representatives brings the charges.

I recognize, of course, the disruption to the country which would result from impeachment, but I am equally aware that it would mean the end of the country if we allow one man to stand above the law. Should the House of Representatives bring the charges, we in this body would sit as jurors. We would hear the defense and, as jurors would make up our minds. I speak as a prospective juror. I have not prejudged the President. I say only that he is accountable for his actions and that sufficient prima facie evidence exists to call him to account.

I submit that this is not the time for compromise. This is not the time for resolutions. It is not the time for finding ways out. I am sorry to say that the gauntlet has been thrown down.

To illustrate the seriousness of the situation, while I was at home in Colorado over the weekend the telephone at my house rang constantly. Approximately one-tenth of the people did not want to give their names. They were calling in desperation, asking for action by Congress along the lines I have suggested. But they did not want to give their names, because they were afraid of "investigation." It is unthinkable that in the United States of America people should be afraid to criticize, afraid that what happened in Nazi Germany might happen here. The situation which bred such fear must be rectified.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks a more elaborate articulation of my position. May I say again that it is very painful to have to utter these words, but I felt compelled to do so.

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

STATEMENT BY SENATOR HASKELL

Unless it is prepared by its inaction to guarantee the dissolution of our American government of laws, the House of Representatives must bring immediate impeachment proceedings against President Nixon.

There can no longer be any serious question about the course Richard Nixon has set for this country: government by the whim of a single man. If our faith in the traditional constraints of decency, morality and conscience in government was ever valid, it cannot have survived the unprecedented events of the past few days. Since this country was founded, we have lived with the concept that no citizen stands above the law. Now the President has put himself above the law. I find that intolerable.

Archibald Cox, Elliot Richardson and William Ruckelshaus have not been forced from public service for routine insubordination. They were abhorrent to the President because their integrity forbade them to participate in his scheme to defy the courts and the Congress.

As the President obliterated the last traces of integrity within his administration he simultaneously demonstrated his intense contempt for the Constitution, the Congress, the judiciary and, most tragically of all, the American people. This revelation will benefit us only if it finally galvanizes the House of Representatives into action toward impeachment.

Even though we have heard some tentative discussions of impeachment—the process and the ramifications—since the Watergate miasma began to spread, serious consideration has always given way to fervent hope for another solution. That has been my hope as it must have been for any reasonable man, so repellent is the prospect of subjecting this country to so dangerous and disruptive a procedure as the impeachment of its president.

But we have seen the President defy both the Congress and the courts in their efforts to find a less catastrophic resolution. Now we are bankrupt of alternatives. Now we must turn to the Constitution for our direction. It prescribes the ultimate restraint of a willful President who responds to no other—impeachment.

The prospect of impeachment is still a grave one. But the mortal danger to the country lies in refusing to recognize that there is no other choice. The President has shattered any contrary illusions. And that is the significance of his dismissal of the special prosecutor. The President was answerable, and thus impeachable—triable—months ago for his role in the Watergate affair. But we recoiled from impeachment then so long as there seemed another way to get at the truth—which was, after all, the goal both of Mr. Cox and the Senate Watergate Committee.

The Watergate burglary was only a minor manifestation of a massive attack on the Constitution of the United States waged over the past several years by the administration. Only if all of us see the incident in that perspective can we realize how truly close we are to the loss of the individual liberties we have enjoyed for over 200 years.

Once the storm broke, we became aware of the whole range of incursions the Nixon Administration has made into that body of freedom. We do not know the truth yet about the President's involvement in the systematic electronic eavesdropping, burglaries and intimidations. We don't know the extent of the role in the apparently coercive campaign which raised millions of dollars for his re-election. But we do know these things happened.

We also know attempts were made to subvert justice in the offer of the FBI directorship to Judge Matthew Byrne who was sitting in the Ellsberg case at the time. We know, too, that presumably incriminating documents were destroyed by L. Patrick Gray acting FBI director, at the direction of administration officials. We know these same officials sought to limit the Watergate investigation, asking the CIA to pressure the FBI. Burglary, breaking and entering, suppression of information, interference with judicial processes, eavesdropping—all seem to be standard procedures.

The President's dismissal of Mr. Cox adds nothing material to the evidence that the man in whose administration these abuses were practiced could hardly have been unaware of them. It simply says with finality that there will be no easy answer. But the country cries out for an explanation of the President's participation. The President, at this very moment in contempt of court, has left a single avenue open to us.

As a United States Senator and a prospective juror in the matter, I do not presume to prejudge the President. But he invites prejudgement with his campaign to thwart every reasonable effort to get at the truth.

And we must have the truth. For the one thing we cannot long survive is the shroud of corruption lingering over the Nixon Administration in a kind of evil half-life, contaminating every aspect of government.

An impeachment proceeding will prove that we are a people of laws, that no individual is above the law and that we, in fact, adhere to our Constitution. I urge the House of Representatives to begin the process. Then each member of the Senate, according to his conscience, can weigh the mounting evidence against the President.

Mr. BENNETT. Mr. President, before I begin my prepared statement, I would just like to say this in all candor and friendliness to my friends who feel that the President ought to be impeached: If they are going to sit as jurors, they may morally disqualify themselves in advance by the statements they make on the floor of the Senate, because statements made in strong disagreement with what is going on can carry them over the line to the point where they can be in the position of making it obvious that they have already prejudged the case.

Mr. HASKELL. Mr. President, will the Senator yield for a comment?

Mr. BENNETT. I will be happy to, provided I do not lose any time.

Mr. HASKELL. I certainly do not want the Senator to lose any of his time.

The ACTING PRESIDENT pro tempore. Without objection, the time will not be counted against the Senator.

Mr. HASKELL. The record will show that this Senator said that we would sit as jurors, we would hear the defense, and we would then make up our minds; but the overwhelming prima facie evidence, in my judgment, indicates what has to be done.

Mr. BENNETT. That is just the kind of attitude I am warning my fellow Senators about.

Mr. President, there has been a wide spectrum of reactions to the President's proposal that Senator STENNIS become the channel through which the material on the White House tapes would reach the Senate committee, the courts, and the public. These have ranged all the way from acceptance and approval to the most strident kind of partisan denunciations which ended in shrill demands for the President's immediate resignation or his impeachment. The wildest of these now ring a little hollow against the significance of the Russian cooperation in securing yesterday's cease-fire and underline the risks involved in this extreme course of action. They also bring two questions into sharp focus for me. Today I ask all my colleagues to face them with me.

Recognizing fully the seriousness and complexity of the problem created by the uncertainty about the White House tapes, I have first asked myself:

Do the American people want a solution which will do the least damage to the Government itself—and to our international standing and strength, or do they agree with those who see this as a chance to bring President Nixon down—even at the risk of dangerously weakening the Office of the Presidency itself?

The second question follows naturally. If we seek the best possible solution, with which should we be most concerned—the substance or the form?

Because I am one who thinks we ought to choose a solution rather than a circus and substance rather than form, I like the President's proposal to use Senator JOHN C. STENNIS as a screening intermediary. In the first place—and most importantly, I trust Senator STENNIS—as a man of the highest character and a loyal American, as a Senator tuned to the finest traditions of this body, and as a fine lawyer with sound judicial experience. As the developing course of events swirls around the Watergate episode, all three branches of Government—executive, legislative, and judicial—have been moving on collision courses. When President Nixon, representing the executive branch, entrusted his fate to JOHN STENNIS, who has been part of the other two branches—legislative and judicial—I think we have been given a way in which these forces can come together without an explosive confrontation, and be contained and resolved in the magnificent capability and character of this man—whom we all trust. Moreover, this can

be the quickest solution of all—Senator STENNIS' report can be ready in a few days, or at most a few weeks—and save the Congress and/or the country from being locked into months of debilitating debate.

Over the weekend the Stennis plan has been denounced as "jerry-built" and "illegal." I do not see it that way at all. Obviously, so long as the tapes are in the President's hands, he can do with them as he pleases. As a matter of fact, this plan is only a variation of the idea put forth by Judge Sirica who, in calling for the tapes, proposed to do essentially what Senator STENNIS will do. In passing, it is interesting to note that Mr. Cox rejected the Sirica proposal also.

Many seem to believe that the President's decision to pass up his right to carry his appeal to the Supreme Court was the action of a desperate man seeking to prevent the exposure of information that he knew would destroy him if made public.

The fact that in turning the tapes over to Senator STENNIS, he also gave him authority to reveal the pertinent data, should set that idea to rest. I think he really made that choice because he feared that if the Executive were to bow completely to the judiciary it would inevitably create a precedent which could weaken his power and that of any of his successors to protect sensitive information from fishing expeditions conducted by resourceful and imaginative lawyers who could bring cases in any one of our 400 Federal courts.

Of course, human nature being what it is, it is easy to see why some politicians and their supporters in the media have rejected this proposal out of hand. As a solution, it is too simple and direct. It is unacceptable to some because it minimizes the opportunity for political exploitation. Instead, it could shorten up the legal process, and thus reduce the prospect for a continuing stream of future headlines.

Most vocal among those who feel they would be shortcircuited by the Stennis solution are those who are even too impatient to wait for the courts. These are mostly Members of Congress who want to move the hoopla and the headlines into the area where they can benefit politically from them. The privilege of participating in a once-in-a-century impeachment proceeding is a heady and exciting prospect. Some want to vent their political spleen, and some, looking beyond a hoped-for successful impeachment, see it as a unique opportunity—an historical first—to transfer the Presidency from one party to another without the risk of an election.

To me, the injection of partisanship into this problem is a dangerous game. Any weakening of the office of the President would represent a chance that it could permanently affect the power of every future President to carry his responsibilities regardless of his party.

To repeat, to me it is ridiculous to charge that the President did it in fear of being forced by the court to reveal something that was on the tapes which would establish his personal guilt. If any such material is there, Senator STENNIS will find it and he has been given complete freedom to reveal whatever may be on the tapes which he feels should be subject to further action by the Senate committee or the courts. His responsibility is to be a filter—not a plug.

To me the values of accepting and following the President's Stennis plan are obvious. By refraining from any rash action until we have the benefit of this study, we preserve the ability of both the President and the Congress to continue to act with power in the present international crisis as well as against our domestic problems. Yesterday's ceasefire in the Middle East was a great and welcome evidence of the value of the détente that the President worked out with Russia, but the hardest work and the greatest need for U.S. strength lies still ahead when the negotiations for the final boundaries begins. You can be sure Russia will be in there doing all she can for her client states. Of what use will our help be to our friends if both the President and Congress are immobilized by what may well prove to be a futile impeachment procedure? Actually both the President and Congress already "have on their plates more than they can say grace over" during the rest of this year.

If the impeachment process were to be justified, it should not be undertaken in a circus atmosphere. It is a most solemn and tragic matter—and ought not to be triggered by trivia or set in motion with a lot of hoopla. I have been heartened to hear the comments of many authorities on this subject, including former Supreme Court Justice Arthur Goldberg. They agree that in the resignations and firing that have taken place over the weekend, the President has not exceeded his consitutional authority or create the basis for impeachment. Still there have been many strident voices calling for it for these reasons, and some Congressmen are fighting for the brief headline that will come to those whose names are on the resolutions that are being introduced in the House today. Still, to me, it is significant that many of the President's most vigorous press critics have stopped short of demanding impeachment now.

So, I close as I began. Facing this very serious problem, do we want a solution or a circus—and if a solution, which is more important to us, form or substance? To me, by entrusting these tapes to Senator STENNIS, the President has offered us a solution with substance, and it is one for which we will not have long to wait and also one that will still allow for appropriate court action if, after Senator STENNIS responds, that seems warranted.

Because I have faith in both President Nixon and Senator STENNIS, this is the solution I prefer—and I hope we will all have the patience to wait for it before we start anything more drastic which might be damaging to the Senate, the Presidency, and the country, and in the end, be revealed as futile and unjustified

INTRODUCTION OF S. 2600, TO PROVIDE FOR THE APPOINTMENT OF AN INDEPENDENT SPECIAL PROSECUTOR

The PRESIDING OFFICER (Mr. ABOUREZK). The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I intend to introduce a bill calling for the appointment of a special prosecutor.

I think that the Senate was on the right course some months ago when it felt that it was completely necessary to have a completely independent special prosecutor look into the matters of prosecuting crimes which occurred in the Watergate events.

At that time, Mr. President, Attorney General Richardson was up for confirmation. And upon his assurances that he would appoint Archibald Cox—who has a high reputation, certainly with me, that he would be given complete independence, and upon such assurances being guaranteed by the President of the United States, the Senate allowed Mr. Richardson to be confirmed and the appointment to be made by Mr. Richardson of Special Prosecutor Cox. We now see that has all come to naught. We find ourselves back in a situation in which the President is now in complete charge of the prosecution of wrongdoing in his Office and investigating possible charges against himself. And we see that now the order of the court is being defied and no one is left to even litigate the bringing of a citation for a ruling to show cause that the order is being defied because of the firing of Special Prosecutor Cox.

I think that right now, more than anything else the people want to know that there is order in this country, that there is a rule of law in this country, and that Congress is trying to bring some order into this matter. I think that what we need to display more than anything else is that we have a course of action and that we will appoint a special prosecutor and attempt to get the truth of the matter and will let the facts speak for themselves and will let the people judge those facts.

Mr. President, I know that several other Members want to introduce bills for this purpose. A letter has been written to Judge Sirica. I have signed that letter along with other Members of the Senate.

I ask unanimous consent that a copy of that letter be printed at this point in the RECORD.

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

HON. JOHN J. SIRICA,
Chief Judge, District Court,
Washington, D.C.

DEAR JUDGE SIRICA: We are the sponsors of bills which would establish the Office of Special Prosecutor as a statutory entity to continue the work begun by the Watergate Special Task Force. Our bills differ in some respects, but they share a common objective: the establishment of an instrumentality to continue the work begun by Mr. Cox' office in such a way as to maximize the chances that justice will be done and the truth told.

Our purpose in writing is to lay to rest any appearance of opinion on our part that

the course of action we propose is the only available means for assuring that the investigation proceeds in the most effective way. The introduction of these bills is in no way intended to derogate, or conflict with, the inherent, statutory and constitutional powers vested in the U.S. District Court for the District of Columbia and other Federal courts, or to express any opinion, for or against the exercise of any such powers. Because of our firm commitment to the doctrine of separation of powers, we believe that the exercise of all powers vested in your office is not a matter with which members of other branches of the Federal government should interfere.

We, therefore, take no position on the advisability of exercise of your supervisory power over grand juries to appoint a Special Counsel to present evidence to, and otherwise assist, the special Grand Jury currently investigating various incidents related to the 1972 Presidential Campaign. Although such a Special Counsel may not be provided with the authority to sign an indictment on behalf of the United States, or to conduct post-indictment criminal proceedings, appointment of such a Special Counsel appears to be a legally permissible means of preventing an interruption of the present investigation during the present period of uncertainty.

We hope that this letter, which is being made available to the press and the public, will make clear our firm conviction that officials of other branches should in no way interfere or be perceived to interfere with the efforts of the Judicial Branch to discharge its duties with respect to the Watergate investigation.

Respectfully yours,

STEVENSON.

———— ————.

———— ————.

———— ————.

Mr. CHILES. Mr. President, the letter was written to assure Judge Sirica that by taking this action, we in no way do away with the power and the right he has as chief judge and as the person now in charge of the criminal matters under investigation.

We are simply trying to take the course that we feel Congress should take. We do not seek to divide his powers at the time we enact into law the office of special prosecutor. We should wrap up the Watergate case. At the same time, I think that the Watergate Committee has performed well for the country and has brought to light many of the events which occurred in that matter. We are now in a position where we do not want to be going in two directions by having the Senate committee and the office of special prosecutor. Enough facts have been developed now so that the Congress can turn this matter over to the courts and to the special prosecutor.

I would hope that at the time we do involve ourselves in the appointing of a special prosecutor and bringing that law into effect, we would then abandon the Watergate Committee and have them go ahead with the recommendations for legislation that would prevent such things occurring in the future.

Further investigation of crimes would be left to the special prosecutor.

Mr. President, I send the bill to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. STEVENS. Mr. President, did I understand the Senator from Florida to say that he is introducing a bill to allow Congress to appoint a special prosecutor?

Mr. CHILES. Mr. President, I am introducing a bill to allow Congress to create the office of special prosecutor. The appointment would be made by the chief judge.

Mr. STEVENS. Is the Senator from Florida of the opinion that the grand jury is unable to continue its investigation?

Mr. CHILES. The Senator from Florida is of the opinion that the people of the United States want to get the facts and the complete facts in this matter. And the best way to do that is to have an impartial prosecutor that would be available to prosecute this case, and no person, regardless of whether it is Mr. Petersen—who I think possesses a high reputation, certainly with me—involved in the Justice Department now has the confidence of the people or would meet with the approval of the people.

Mr. STEVENS. Mr. President, does the Senator from Florida believe that the court does not have the authority to appoint persons to assist the grand jury, if the judge feels that the prosecutor who is duly designated by the executive branch cannot for any reason carry out his functions?

Mr. CHILES. The Senator from Florida in his remarks also said that he was having printed in the RECORD a copy of the letter which was signed by several Senators who will introduce bills in this particular matter, a letter to Judge Sirica. The letter set forth our statement that in no way would the action we were taking take away any of the rights of the court, but would assist it in carrying out its duties in the appointment of a special prosecutor. This is simply a direction to provide for the office of special prosecutor.

Mr. STEVENS. I notice that the Senator from Florida agrees with the President that the Watergate Committee has served its purpose and that the matter should be left to the courts. Is the Senator from Florida willing to leave the matter to the courts?

Mr. CHILES. Is the President of the United States willing to leave the matter to the courts?

Mr. STEVENS. I think the Senator from West Virginia has very clearly pointed out that that matter remains to be seen. This is a matter between the executive branch and the courts. And the matter still rests with the courts.

Mr. CHILES. If it is a matter between the executive branch and the courts, then I really have a hard time understanding why the Stennis agreement comes into play. It is certainly an agreement involving three parties. And the Senator is correct that the Senator from Florida now feels that if we create the office of special prosecutor—which we should do—and if we set up a special prosecutor, then we should leave the matter to him. I think that the Watergate Committee has completed its task and we should not be going off in several directions. We should leave the matter to the special prosecutor and to the courts.

Mr. STEVENS. Mr. President, I am confused as to what the Senator from Florida suggests, because the Senator from Alaska understands that Judge Sirica has yet to rule on the compromise suggested by the President of the United States.

If that is the case, what in the world is all the hurrah about on the floor of the Senate today?

Mr. CHILES. I would be delighted to try to enlighten the Senator from Alaska. If he is confused, I will be glad to counsel with him and try to enlighten him.

The PRESIDING OFFICER. The 10 minutes of the Senator from Florida have expired.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be permitted to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized to receive messages from the President of the United States and from the other body during Senate adjournment over to Friday next at 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S ACTIONS DURING THE PAST WEEKEND

Mr. CURTIS. Mr. President, now is the time to keep cool and to think clearly in reference to Watergate. The facts do not coincide with everything that the headline seekers would indicate.

I believe that Mr. Cox made a serious error in not going along with the arrangement for Senator JOHN STENNIS of Mississippi to listen to the tapes. This arrangement called for Senator STENNIS to have access to the total tapes—not summaries nor excerpts. Senator STENNIS, the chairman of the Senate Committee on Standards and Conduct, stands as the foremost man of integrity in public life today.

Mr. Cox received an executive appointment. Legally his status was that of an assistant to a cabinet officer. The right of the President to remove him raises no legal or constitutional problem. Impeachment talk may be, in the minds of some good smear talk, but there are no legal grounds for impeachment.

The Congress could have passed a law

setting up a totally independent prosecutor for the Watergate matters. This was done back in the 1920's in connection with the Teapot Dome scandal. At that time, the House of Representatives and the Senate passed a statute which provided for the appointment of a prosecutor and the carrying on of the prosecution. I understand this was discussed in the Senate Committee on the Judiciary, but a decision was made not to do so. Instead a procedure was followed involving agreements and understandings.

It seems to me that Mr. Cox ought to have respected the agreement entered into by Senator SAM ERVIN, Senator HOWARD BAKER, and President Nixon and made an attempt to see what would develop following Senator JOHN STENNIS' report.

Mr. President, I think I am quite charitable when I point out that Archibald Cox is no superman, neither is he noted for being a nonpartisan and objective participant in these matters. Let us look at a few of the facts.

When Mr. Cox was given his assignment, according to Assistant Attorney General Petersen, the Watergate case had been 90 percent broken. The seven principals had already been sentenced.

Mr. Cox was given his assignment on May 18. Since that time, three individuals have pled guilty, each to one count of an indictment, as have three corporations in reference to their campaigning contributions and there has been one indictment of another individual. This is not a very impressive record for the Cox bureau of 81 lawyers for whom the Senate voted a recent appropriation of $2.8 million.

The record is very clear that Cox desired not to have the tapes delivered to Judge Sirica but Mr. Cox wanted the tapes himself.

Neither Mr. Cox nor his staff had any part in the handling of the case against Maurice Stans and John Mitchell.

Few people can appreciate the burdens on the President of the United States. Every Congressman and every Senator must delegate matters to his staff that he would like to do himself. Our responsibilities and the size of our constituency are such a small fraction of those of the President. In addition to the tremendous burdens falling on the President in reference to domestic matters, he is the world's foremost peacemaker. His last campaign had to be managed by others. I am convinced that President Nixon not only was not involved but never condoned any wrongdoing and that the real facts were withheld from him far too long.

A few weeks ago I appeared with a panel on the public radio network. The subject of discussion was the Watergate scandals. I asserted that there had been no evidence whatever involving the President of the United States with these wrongdoings. I would like to quote to you what was said by Mr. Edmisten, the assistent counsel to the Ervin committee. Incidentally, Mr. Edmisten has been employed by Senator ERVIN for 10 years. He is in a position to know. Here is what Mr. Edmisten said:

> I agree with Senator Curtis entirely that there's not been any evidence whatsoever to link the President with any of these doings. It's not credible evidence. . . .
>
> Senator CURTIS. I appreciate you saying that. . . .
>
> Mr. EDMINSTEN. . . . and, as a lawyer, I agree, too, that no court in the land would admit an iota of it.

Mr. President, I yield the floor.

Mr. CURTIS subsequently said: Mr. President, earlier today I spoke on matters relating to the Watergate proceedings. Within the last hour I have learned that the President has decided to turn the tapes over to Judge Sirica.

It is my understanding that the President has done this in order to clear up any public misunderstanding. There were people who were not aware that the arrangement called for Senator STENNIS to have total access to the tapes, not summaries nor excerpts.

Earlier I said that I thought Mr. Cox had made an error in not complying with the agreement entered into by Chairman Ervin and President Nixon in reference to the role to be played by Senator STENNIS. It was a wise and fair procedure. Mr. Cox was out of line in the action he took in refusing to go along with the agreement for Senator STENNIS to listen to the tapes. Had Mr. Cox been willing to honor the arrangement entered into by the President and Chairman ERVIN for Senator STENNIS to listen to the tapes, many of the subsequent actions could have been avoided.

Mr. HANSEN. Mr. President, despite the trauma of the times, this is no moment to give way to hysteria. The President proposed to provide a summary of the White House tapes for the special Senate Investigating Committee. Whether this will be accepted by the committee remains to be seen. The President has not defied any court order, according to a statement just recently made by the former Attorney General Elliot Richardson. Certainly, the cries some have made for impeachment proceedings are reactionary and premature.

Impeachment of a President is one of the most serious acts a Congress can take, and it is a step that must not be made on uncertain or emotional grounds. Our Nation has more at stake here than the question of jurisdiction of the White House tapes. The world is in turmoil, with war in the Far East, and war in the Middle East. Stability is needed desperately. It seems justifiable to conclude that no President could discharge the demanding responsibility of that office in these times of increasing crisis without a responsible approach by the Congress and other political leaders in the Nation.

I believe most Americans agree that the challenges of the present and the opportunities for a better more peaceful tomorrow, which these times provide, demand that there be as speedy a resolution to Watergate as is possible. America's future and indeed the future of many millions of people throughout the world is inextricably tied in with the effective President of the United States.

Calm and reason in this Nation are most desirable at all times. They are of the greatest necessity now. Some points on the matter of the White House tapes and the Watergate require court action before they can be resolved. We are a Nation of law, and we must have the patience to let the system work. No nation has a better system.

There is no reason to hold up, or to delay unnecessarily, the confirmation of JERRY FORD. His confirmation is not a part of the Watergate investigation action at all. The country needs to have a Vice President installed for the good of the country. I compliment the distinguished majority whip for voicing essentially the same feelings about JERRY FORD's nomination to the Vice-Presidency.

The President's selection of JOHN STENNIS to hear the White House tapes and determine what is pertinent to the Watergate investigation is a choice with which few Senators would seek to find fault.

Senator STENNIS' integrity and character are unquestionable—second to none. As chairman of the Committee on Armed Services, JOHN STENNIS is in a key position to judge which, if any, of the tapes may be so sensitive as to harm the national security if the confidentiality of them were broken. As chairman of the Committee on Standards and Conduct he enjoys the unqualified admiration of every Member of this body.

His choice by the President deserves the support of every American.

Mr. President, I regret very much that Mr. Cox, the special investigator employed by the executive department of the U.S. Government, did not choose to let the compromise which was worked out by the chairman and the vice chairman of the Special Select Committee of the Senate with the President be implemented. I think that, had that been done, the matter could have moved forward toward resolution far more quickly than now seems likely to be the case, and full prosecution of the Watergate case could have proceeded so as to have permitted the President to discharge with greater effectiveness his very onerous responsibilities worldwide.

I regret that that course was not taken by Mr. Cox. I think that now we are faced with a situation which will undoubtedly draw out further the argument and the debate over the actions of the President.

As was noted by the distinguished Senator from Nebraska (Mr. CURTIS), even the special assistant to Senator ERVIN admitted there was not one iota of evidence to indicate any grounds at all to believe there had been any Presidential involvement in the wrongdoing which we characterize as Watergate.

Mr. DOMENICI. Mr. President, I thank the distinguished Senator from Kentucky. I just wanted to use a couple of minutes of his time to make some comments to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), the majority whip, and to say that I was present this morning as he delivered his statement regarding the problem that confronts the American people and the Senate.

At the outset, let me say that I commend the distinguished Senator from

West Virginia for his remarks. Although I might not agree with them in every detail, I agree with them in principle and in concept. I especially commend the Senator from West Virginia for, in my opinion, rising above the partisan arena and addressing himself in a real and statesmanlike manner to the serious problems we face.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from New Mexico very much for his comments.

Mr. DOMENICI. Mr. President, I would also say, aside and apart from the Presidential problem, that the Senator from West Virginia, in referring to the President's nominee for Vice President and urging that we get on with that business and not hold it as some kind of club, has shown the kind of statesmanship I expect from him and I commend him again for that.

However, with reference to his statement about the events of the past weekend, I have one question and one observation I should like to share with the distinguished Senator from West Virginia.

As I listened to the events of the past weekend I, too, was concerned about the involvement of the FBI. I concluded, at least temporarily, at one point during the weekend, as did the Senator from West Virginia, that it was perhaps a deplorable condition and one that caused me to think about the kinds of regimes I do not want to be a part of and which our Constitution does not permit. But as I continued to think about it, I thought of what, to me, seemed like a plausible and reasonable alternative so far as what was in the mind of the President at that particular time. I suggest to the Senator from West Virginia, because he was very concerned, that if the Senator had found himself in the same position as the President that particular evening, and had decided that he was going to abolish the office of the special prosecutor, Mr. Cox, and if, in fact, he had arrived at the point in time when he, as President, said, "There is no more Special Prosecutor," that then the President is confronted with another real problem: 3 days from that day, what would people be saying about the evidence in that room? What would some other faction in the Government be saying about its whereabouts, or its destruction, or its disappearance?

I believe that one could conclude, if he was as concerned about this possibility, at that point in time, even politically, that he would not want to face another accusation that he was party to destroying it or getting rid of it, or saying it was pilfered. Even those who had collected it could conclude that they might be subject to such an accusation, such an inference. So I determined that, unless I was prepared to say that the FBI and the people who went down there and the present Director were all acting in concert with some scheme of the President as compared with some true objective of preserving it intact, I should give the FBI the benefit of the doubt. It may be that this was the one way to preserve it and make sure at least that we had a third party who could say it was intact.

As I say, that is an alternative. In all other aspects, I commend the Senator for his comments.

Mr. ROBERT C. BYRD. Mr President, I thank the Senator from New Mexico. I am quick to say there is something certainly to be said for his viewpoint. I recognize the necessity of some action to protect the files and the evidence that had been accumulated there. The way in which it was reported to have been done, frankly, scared me, if I may use a well-understood word, and I am sure that millions of Americans reacted to this in the same way.

It was reported, as I indicated in my statement, that the personnel were not allowed to remove their belongings, their personal items, pictures of their wives and children, and so forth. I thought that was going to the extreme. It seems that there could have been some way whereby the actions taken to protect the evidence could have been taken without this display of raw power.

I regret that the FBI was used in this regard. I understand that after a while, on Saturday evening, the FBI agents were removed. I assume that U.S. marshals have taken their place. I think the appearance of this use of the FBI is what gave me great concern. The manner in which the FBI was used, especially in the context of the events of the past year and a half, merely lends additional credence to the fear that the FBI is being used, and will be used, now and in the future, under any administration, as a super secret police force which will act at the political behest and the beck and call of the Chief Executive, whether he be a Democrat or a Republican, to achieve whatever ends he may seek to promote—be they legitimate or otherwise.

I thank the Senator for his observation.

Mr. DOMENICI. I would comment further, Mr. President——

The PRESIDING OFFICER. The time for morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an extension of the time for an additional hour, if need be, and that there continue to be a limitation on statements therein of 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico now has the floor.

Mr. DOMENICI. Let me comment further on the observations of the distinguished Senator from West Virginia.

I wholeheartedly agree with that aspect of his response and discussion with me as it concerns the appearance and the show of force and that kind of attitude, which I think should not be present. In that respect, I concur wholeheartedly.

I think the final test will be what the status is of the evidence in that room. That is why I bring it up. I hope that 2 weeks hence or a month hence, it will prove to have been beneficial ultimately to whatever course we take, that somebody saw to it that it was safeguarded. I do not refer to those who were there because I do not have any reason to mistrust those who worked for Mr. Cox. I am referring to the appearance later on for the American people. But I share the Senator's concern as to what the American people could conclude from the way it was done.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. WILLIAM L. SCOTT. Mr. President, we ought to consider the organization of our Federal Government and recognize that the Federal Bureau of Investigation is a bureau within the Department of Justice, just as the Office of U.S. Marshal is a branch of the Department of Justice. So when we talk about the Federal Bureau of Investigation seeing that the files are secure, this is the Department of Justice. Frankly, I see nothing wrong with either the U.S. Marshal's Office or the Federal Bureau of Investigation doing this. Both are branches of the Department of Justice.

Mr. DOMENICI. I hope the distinguished Senator does not conclude that I saw anything wrong with it. I was addressing myself to the same proposition.

Mr. WILLIAM L. SCOTT. I appreciate what the Senator was doing.

Mr. COOK. Mr. President, I have read the remarks and listened to most of the remarks of the Senator from West Virginia, and I conclude that I am in agreement with many of them.

The point I want to make with respect to the discussion this morning is that I am very much concerned that many of us are passing judgment on a question that we may have to resolve later, and I am concerned about some of the remarks that many of my colleagues already have made on national television. I heard one over the weekend who said:

> Therefore, I conclude the President should be impeached.

For a Member of the U.S. Senate to pass judgment on what the House will do and then to sit as a juror to make that determination smacks of a conclusion that I doubt seriously the Senator really wants to make.

Another Senator made the remark that if a certain thing happened, this would be an impeachable offense. We have had one impeachment in the Congress of the United States. I have read the entire record, and I could not glean from having read that record that this Member of the Senate could say with absolute clarity that this would constitute an impeachable offense, unless he was trying to pass judgment on his colleagues in the House and saying, "If you will do this, you send it over to us, and we will have a stacked jury."

Mr. President, under the Constitution of the United States, if impeachment proceedings are brought, they are brought in the House. The charges are made and those charges are sent here, and we then act as a jury. The President of the United States cannot ask for a change in venue. It must be heard here.

The only point this Senator wants to make—and to make to all his colleagues—is that I do not think we should have a lynch mob or that the Senate of the United States should constitute a lynch mob and that we should not go around the country, ior the benefit of

our brethren up in the gallery, behind the Presiding Officer, who want to take a poll as to how many want to vote tomorrow to impeach or not to impeach. This is not a Qualye poll we are going through or a Kraft poll. This is a determination relative to the stability of the Government of the United States.

What bothers me is that we may be able to go through this record, if in fact that does occur, and it comes over here, and be able to stand on this floor at the time this occurs and say that 22 or 31 or 18 Members of the U.S. Senate have already expressed themselves so vehemently that they cannot even sit and listen to the case. Most of the gentlemen who are saying these things are lawyers. I know that in representing a client before a jury anywhere in the United States, they would not let anybody who had made such reports about their client sit on the jury.

When we talk about the agreement that the President proposed to submit to all concerned, to which Mr. Cox disagreed, I would read to Mr. Cox and to the Members of the Senate what the court of appeals said. It did not say that the tapes in toto shall be turned over. It said:

> He may give the grand jury portions relevant to Watergate, by using excerpts in part and summaries in part, in such a way as not to divulge aspects that reflect the pungency of candor or are otherwise entitled to confidential treatment. It is not so long ago that appellate courts routinely decided cases without an exact transcript, but on order of the trial judge settling what was given as evidence.

So I would only say that there is no violation of a court order at this point. I think Elliot Richardson made that clear in his press conference this morning, in his mind, that the President of the United States had not violated a court order.

I suggest, again, that the country is looking to this body relative to whether it can conduct its business here or whether it is going to conduct it in every news medium in the United States, whether it is going to refuse its commitment and totally and completely, piecemeal, prejudge this matter.

This Senator will utilize his judgment and will utilize it to the best of his ability. But I am not going to prejudge it, and I am not going to prejudge it for anybody in the press. I am not going to prejudge it for anybody on television. I must say that this Senator will have a degree of disrespect for those who do so and who must sit on a jury.

Apparently, none of the gentlemen of the press corps ever has to sit on a jury. If they did, they would know the admonition to which they have to subscribe.

So let us use a degree of logic and understanding and calmness, as the Senator from West Virginia has said, because we have a great duty and responsibility that is ours at any time, and we have to fulfill it. I hope we will not fulfill it in a way that routinely gives accolades and routinely extends congratulations and routinely gives a number of reporters and cameras access to one's office so that one can give a good 30-second or 1-minute spot for the late news—because that is not what we are here for.

I hope that if we do judge this matter, we certainly do not judge it as a stacked jury. I do not think that anybody in the United States who is accused of a crime or accused of a civil violation or action wants to be prejudged by a jury that walks by him before he walks into the courtroom and say, "This won't take very long, because we're going to get you." As a matter of fact, the judicial system, thank God, is not set up that way in the United States.

Mr. TAFT. Mr. President, I wish to commend the distinguished Senator from Kentucky for the words he has spoken and to associate myself with them. Certainly this is a time when we must not prejudge any case. I think that every Senator has a duty to withhold his judgment and to examine very carefully any of the questions he may be called upon to decide.

Perhaps I differ to some extent with the Senator from Kentucky in this regard; perhaps not. I think that Senators have another duty that must be considered equally strongly; that is, to try to explain to the American people what the processes and the difficulties are with regard to decisions that may or may not confront this body or the other body, or by those in the executive branch of the Government. I think we cannot move hastily but must gain a clear perspective.

I was particularly impressed this morning to read an editorial in the Cincinnati Enquirer dealing with some of the historical precedents involved. I should like to call the Senate's attention to a certain portion of the editorial in the Enquirer of October 23, which reads as follows:

> By extraordinary coincidence, the crux of President Nixon's difficulties at the moment are strikingly similar to those that beset Andrew Johnson, the nation's 17th President, against whom the House of Representatives instituted impeachment proceedings 105 years ago.
>
> The 40th Congress, as hostile to President Johnson and what he perceived as his mandate as the 93rd has been to President Nixon and his, undertook to declare that the President could not remove from office a Cabinet member to whose confirmation the Senate had consented. President Johnson proceeded to violate the Tenure of Office Act; his impeachment resulted. But after a trial before the Senate that consumed more than two months, President Johnson was acquitted. A further vindication came when the Supreme Court, in Myers vs. the United States, struck down the Tenure of Office Act as an unconstitutional invasion of the President's powers.

Mr. President, I call that to the Senate's attention because I think it points out that even as to an act of Congress, or even as to an act of Congress that is contemplated and may be passed, there are particular circumstances when judgment should be reserved.

Some of us, when this matter was up before—I remember when the distinguished Senator from Massachusetts (Mr. BROOKE), a fine lawyer, who was the attorney general of his State—considered whether law enforcement can be brought up by any branch of the Government other than the executive branch. We should certainly not speculate on arriving at a judgment in regard to such a decision.

The Cincinnati Enquirer this morning published an editorial commenting on the current developments on the national scene. It seems to me that the comments are worth considering by those of us who may be called upon to act.

Mr. President, I ask unanimous consent that the entire editorial from the Cincinnati Enquirer of October 23, 1973, be printed in the RECORD.

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

IMPEACHMENT IN THE AIR

Congress returns from its Veterans Day weekend today with its passions more inflamed than at any time since the beginning of the Watergate inquiry.

Only a week ago, ironically, President Nixon's nomination of Rep. Gerald R. Ford (R-Mich.) to be the new vice president seemed to have inaugurated a long-overdue truce in the President's relations with Congress.

Only hours ago, also ironically, the White House came forward with what seemed an eminently sensible compromise on the thorny issue of the so-called Watergate tapes.

But now Congress is angrier than most Americans have ever seen it. Its mood, its rhetoric are impatient and ugly. Impeachment—with all its shattering implications—is in the air.

By extraordinary coincidence, the crux of President Nixon's difficulties at the moment are strikingly similar to those that beset Andrew Johnson, the nation's 17th President, against whom the House of Representatives instituted impeachment proceedings 105 years ago.

The 40th Congress, as hostile to President Johnson and what he perceived as his mandate as the 93rd has been to President Nixon and his, undertook to declare that the President could not remove from office a Cabinet member to whose confirmation the Senate had consented. President Johnson proceeded to violate the Tenure of Office Act; his impeachment resulted. But after a trial before the Senate that consumed more than two months, President Johnson was acquitted. A further vindication came when the Supreme Court, in Myers vs. the United States, struck down the Tenure of Office Act as an unconstitutional invasion of the President's powers.

The President's dismissal Saturday night of Watergate special prosecutor Archibald Cox came, like President Johnson's effort to remove Secretary of War Edwin M. Stanton, as the climax of a long chain of disputes. In 1868, the President came to regard Secretary Stanton as a virtual agent of his congressional opponents. Last weekend, President Nixon apparently came to see Mr. Cox as hell-bent on forcing a constitutional confrontation of the sort that prudent men customarily seek to avert—a confrontation, moreover, that the White House had gone far to forestall. The reason is that issues resolved before the Supreme Court more often than not have ramifications that reach far beyond the case at hand.

In this instance, any definitive ruling that may be arrived at in the case of President Nixon's tapes presumably would be applicable to all future chief executives.

Certainly, the powers of the presidency would be gravely diminished if presidential documents should become, for all times, subject to the subpoenas of the legislative or judicial branch.

Just as certainly, only the cause of presidential arrogance, again for all times, would be served by a firm declaration that nothing that crosses a presidential desk or occurs in a presidential office may be subpoenaed by

either of the two other branches of the federal government.

That is why The Enquirer had hoped, from the very beginning of the tapes dispute, that a satisfactory compromise could be found and a precedent-setting showdown prevented.

We shall learn this week whether the compromise the White House proposed Friday night is a viable one. If it is, the Watergate case's outstanding issues should be resolved relatively quickly. If it is not, even stormier days are likely to lie ahead.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a telegram from the Honorable MIKE MANSFIELD, majority leader of the U.S. Senate, addressed to the Honorable JAMES EASTLAND, chairman of the Judiciary Committee, and dated October 21, 1973, in which the distinguished majority leader urged the chairman of the Committee on the Judiciary to convene a meeting of that committee as soon as possible to consider all the factors involved in the recent developments relating to the ousting of Archibald Cox and of William Ruckelshaus as Deputy Attorney General and the resignation of Attorney General Elliot Richardson.

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

OCTOBER 21, 1973.

Hon. JAMES EASTLAND,
U.S. Senate,
Washington, D.C.

In view of recent developments relative to the ousting of Archibald Cox and William Ruckelshaus and the resignation of Elliot Richardson as Attorney General, I most respectfully request that you convene a meeting of the Senate Judiciary Committee as soon as possible to consider all the factors involved.

Certain promises and pledges were made by the Attorney General to the Senate Judiciary Committee. Certain commitments were made so that Mr. Archibald Cox could assume an independent position as Special Prosecutor. The Senate proceeded in good faith on the basis of those promises, pledges and commitments.

The resignation and discharges of the above mentioned individuals are matters of the highest importance and I believe they should be considered by the full Judiciary Committee as soon as possible. This is a matter which, in my opinion, confronts not only the Judiciary Committee but the full Senate, the Congress and the American people as well.

Sincerely yours,

MIKE MANSFIELD,
Majority Leader, U.S. Senate.

INTRODUCTION OF S. 2603, TO PROVIDE FOR THE CONTINUATION OF AN INDEPENDENT INVESTIGATION OF CERTAIN ACTIVITIES BY HIGH OFFICIALS

SUBMISSION OF SENATE RESOLUTION 191, RELATING TO THE CENSURE OF ROBERT BORK

Mr. STEVENSON. Mr. President, Benjamin Franklin at the Constitutional Convention in 1787 said our Government could end in despotism, as others had before it, only when we ourselves become so corrupted as to need despotic government and incapable of any other form of government.

That day will come when our fear of despotism, or our indignation at corruption, is so long sustained, that we tire, and suffer it, and do nothing.

However much the White House may profess surprise at the public outcry, the day when the American people suffer corruption or despotism in silence is far off. The great strength of the American people, the deeply held conviction that all Americans are equal under the law, our faith in an independent judiciary—all are manifesting themselves.

It is the Congress now, not the American people, which is tested.

As Archibald Cox said:

It is now up to the Congress to determine whether our system of laws is to be replaced by a system of men.

The institutions of Government will either be defended or corrupted. We have no middle course. The choice is to act, or not to act—to purge ourselves of the corruption or, tired, to suffer it.

The President proposed a deal. But his tapes "compromise," insofar as it applies to the lawsuit brought against Richard M. Nixon by Archibald Cox on behalf of the United States, would not compromise an issue. It would compromise the Government itself. No man subject to an order of court can be permitted to substitute his own action for that required by the court.

As Lincoln said:

The courts are the tribunals prescribed by the Constitution and created by the authority of the people to determine, expound and enforce the law. Hence whoever resists the final decision of the highest tribunal, aims a deadly blow to our whole republican system of government—a blow, which if successful, would place all our rights and liberties at the mercy of passion, anarchy and violence.

In this case the highest tribunal is the court of appeals. The President proposes to place himself above the court and the law.

Senator STENNIS is a man of unquestioned integrity who would diligently review the tapes and could reasonably do so with respect to the tapes sought by the Senate select committee. In that case no court order binds the President; there a compromise between equal branches of Government is in order.

But to interpose Senator STENNIS, or any other man, between the President and the judicial process is to accept the proposition that the President is not accountable to the law. We dare not accept that proposition.

Of greater importance, access to the tapes by means of a summary or transcript or whatever is intended to be offered is at most access to only a part of the evidence.

The evidence of criminality in the 1972 Presidential campaign goes far beyond the Watergate break-in and coverup; it involves the solicitation and expenditure of illicit campaign contributions, alleged payoffs for campaign contributions, and political espionage.

Moreover, the possible criminal actions of this administration for which the President and his appointees may be responsible go far beyond the 1972 campaign; they include the break-in at the office of Mr. Ellsberg's psychiatrist, the possible misuse of public funds for improvements to the President's personal properties at San Clemente and Key Biscayne, the possible nonpayment of Federal and local taxes by the President, the gift by Mr. Hughes to Mr. Rebozo, and wiretapping cloaked in the mantle of national security.

In all these cases, the evidence lies uniquely within the control of the President. As the court of appeals said in the Cox case—

The court's order must run directly to the President, because he has taken this unusual step of assuming personal custody of the Government property sought by the subpoena.

The "compromise" permits limited access to only a part of the evidence in the Watergate case. It permits no access to the other evidence or to leads in that case, including the President's logs. On the contrary, the President directed the special prosecutor to desist his efforts to obtain through the courts logs, memoranda, and other documents within the control of the President, notwithstanding they may contain evidence of criminal conduct altogether unrelated to the conduct of official business.

Now, with the removal of Mr. Cox, the investigation of the Nixon administration is under the control of Mr. Nixon. And no one under his control is in a position to challenge his assertion that he and he alone will judge his own case. The "compromise," insofar as the criminal investigation is concerned, demands capitulation.

Public confidence in the integrity of the government, the search for truth and the enforcement of the law all require a thorough and impartial investigation by a prosecutor equipped with the necessary powers and resources, including access to all the evidence. President Nixon's "compromise" tolerates nothing remotely resembling a full, thorough, and independent investigation—and the American people know it.

During Senate confirmation proceedings on the nomination of Elliot Richardson to be Attorney General, both the President and Mr. Richardson acknowledged the importance of a thorough investigation of the 1972 campaign by a truly independent prosecutor. Mr. Richardson, on behalf of the administration, gave the Senate explicit and detailed assurances that the prosecutor would have full authority and all the requisite resources and powers of independence. The record is comprised of exchanges of correspondence between myself and Mr. Richardson, his testimony before the Senate Judiciary Committee and the final guidelines for the prosecutor submitted by Mr. Richardson to that committee. Mr. President, I ask unanimous consent that this correspondence and the guidelines be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENSON. Mr. President, those assurances include "full authority for investigating and prosecuting offenses against the United States arising out of

the unauthorized entry into the Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matter which he consents to have assigned to him by the Attorney General."

More specifically, the special prosecutor was assured "full authority" with respect to "conducting proceedings before grand juries and any other investigations he deems necessary"; "reviewing all documentary evidence available from any source as to which he shall have full access"; "determining whether or not to contest the assertion of executive privilege or any other testimonial privilege"; "initiating and conducting prosecutions, framing indictments"; and "filing informations, and handling all aspects of any cases within his jurisdiction."

Mr. Richardson assured the Senate:

The special prosecutor will not be removed from his duties except for extraordinary improprieties on his part.

In his address April 30, announcing Mr. Richardson's nomination, the President said he was giving Mr. Richardson "absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters," including "the authority to name the Special Prosecutor for matters arising out of the case."

The President said he knew Elliot Richardson would be "fearless in pursuing the case wherever it leads."

In his testimony before the Senate Judiciary Committee hearings on his nomination, Mr. Richardson acknowledged his "absolute authority" from the President and said he was passing on full authority to the special prosecutor.

The crisis now facing us arises because Mr. Richardson and Mr. Cox took their mandate seriously.

The Senate relied upon those assurances of Mr. Richardson and the President, and so did the American people.

The Senate trusted the President, and on this basis of trust, it confirmed the nomination of Elliot Richardson to be Attorney General.

During the Senate debate immediately prior to Mr. Richardson's confirmation I said:

It is upon the understanding contained in these documents (the correspondence between Mr. Richardson and myself), the record before the Judiciary Committee and the revised guidelines offered by Mr. Richardson, that the investigation will now proceed. I am hopeful the Senate will now approve Secretary Richardson's nomination and the appointment of Archibald Cox, and that the investigation will proceed. If so, it will be upon the assumption that, the Senate's advice and consent given, the rules and the central personalities will not be changed by the Executive branch.

The rules and the central personalities have been changed. The President has broken faith with the Senate and with his own Attorney General who acted at all times wisely and in good faith. The President has relieved the special prosecutor of his duties because the prosecutor performed his duties. The President has disobeyed the orders of two courts, and has sought to set himself above the law.

At this point it would be unwise for Congress to confess its impotence or to commence impeachment proceedings. I do not find either course of action acceptable at this point.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRIFFIN. Mr. President, if I may be recognized, I yield to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. I thank the Senator from Michigan.

I propose, instead, several steps which could lead to a more orderly resolution of the dispute in which the President, the Congress, and the courts are enmeshed. These steps could be the last steps before it becomes incumbent on the Congress to take more drastic measures.

I introduce and send to the desk for appropriate reference a bill establishing the office of Special Prosecutor.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. STEVENSON. Mr. President, this office would be headed by a prosecutor with all of the requisite jurisdiction, resources, and powers originally granted Archibald Cox.

Mr. President, I ask unanimous consent that a copy of the bill be printed at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. STEVENSON. Mr. President, the appointment of a prosecutor would be made by the chief judge of the district court in Washington, D.C. Under article II, section 2, clause 2 of the Constitution, the Congress has the constitutional power to vest that function in a Federal court.

I also ask unanimous consent that a legal memorandum supporting that conclusion be printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. STEVENSON. Mr. President, the chief judge now has the inherent authority to appoint a special counsel to present evidence to and otherwise assist the grand jury. This legislation will transfer additional authority to the judge. A special counsel probably could not be given the authority to sign indictments in the absence of the statute. The prosecutor appointed pursuant to this legislation would have such authority. The appropriation to Archibald Cox would be transferred by this legislation to the new office.

I would not presume to suggest whom the judge might appoint to this office, but Archibald Cox has conducted himself ably and bravely. He is in a unique position to continue the investigation he began. I would hope the judge would favorably consider his credentials and that Mr. Cox might be induced to resume his duties.

This legislation would probably have to be enacted without the President's approval. I believe that is possible. If enacted, the President would receive another, perhaps a last chance, to keep his promises to the Senate, to uphold his oath of office, and to bring this ugly matter to an early conclusion in the courts.

Other Members of the Congress are introducing similar legislation. I have sent a letter to Judge Sirica, which is signed by the sponsors of such legislation in the Senate, assuring him that our actions are in no way intended to derogate from his inherent power, to conflict with that power, or to urge upon him any course of action. His exercise of the power to appoint a special counsel to present evidence to the grand jury would be altogether consistent with action by the Congress to create an office of a special prosecutor to be filled by the judge. The offices would merge. The bills of this nature should in no way discourage—or encourage—the appointment of a specal counsel by Judge Sirica. Mr. President, I ask unanimous consent that a copy of the letter be inserted in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

(See exhibit 4.)

Mr. STEVENSON. Mr. President, I turn now to the availability and continued existence of evidence currently in the possession of the president and his subordinates.

We have seen a consistent pattern of extra-legal efforts to suppress such evidence. The President permitted Haldeman, Ehrlichman, and Dean, who left office in disgrace, access to papers left behind. In the case of men who left office under the most honorable of circumstances—Richardson, Ruckelshaus, and Cox—the Federal Bureau of Investigation was instructed to deny them the access previously accorded the malefactors.

So long as evidence remains in the custody of the President or persons acting on his behalf, there exists the possibility that the evidence will be destroyed or tampered with. As a practical matter, the only way to get at the evidence is to establish an office of special prosecutor which can utilize the existing processes of law to require its production. While it is true that the courts, like the pope, have no battalions at their disposal and could not enforce their order in the face of defiance by the President, presidential noncompliance under those circumstances would serve to indicate the need for more drastic measures. Attempts to destroy or tamper with evidence, with the intent of preventing that evidence from becoming available to law enforcement officials or grand juries, is a crime. The problem is one of detection, and that problem can be surmounted only by the reestablishment of a prosecutor as provided for in this bill.

The importance of full access to all such evidence at the earliest possible

time underscores the importance of prompt enactment of this legislation.

Elliot Richardson, as Attorney General, respected the solemn assurances he had made to the U.S. Senate on behalf of himself and the President. He refused to fire the special prosecutor. He acted honorably. He gave up his office before he would break his word. So also did Mr. Ruckelshaus, his immediate successor. Mr. Bork, on the other hand, broke faith with the Senate. He violated the assurances solemnly given on behalf of this administration when, in his first official act, he fired Mr. Cox.

The legally and morally binding nature of the commitment to the Senate was recognized by Mr. Richardson and Mr. Ruckelshaus on October 20. Mr. Bork's action violated that legal and moral commitment made to Mr. Cox and to the U.S. Senate by the administration. It besmirches his reputation and casts grave doubts on his willingness to uphold the law and his oath of office. It is his action which has precipitated the current turmoil.

The Government cannot stand for long if it cannot trust itself. And it cannot stand for long, and remain free, if the people do not trust it. This breach of trust can only lead to greater distrust of the Executive in the Congress and in the citizenry. The public concludes that Mr. Cox was doing his job too well, and the Congress must conclude that the word of the President and his agents is not to be believed. I suggest, Mr. President, that the removal of Mr. Cox by the Acting Attorney General constituted a most dangerous contempt upon the Senate which we dare not approve by our silence.

In order to give the Senate the opportunity to express its disapproval of Mr. Bork's conduct, I also submit a resolution of Senate censure of Mr. Bork based on the actions he has taken. Mr. President, I ask unanimous consent that the resolution be reprinted in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the resolution be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARRY F. BYRD, JR. Mr. President, if the Chair will recognize me, I will gladly yield 2 minutes of my time to the Senator from Illinois.

Mr. STEVENSON. I thank the Senator from Virginia.

The PRESIDING OFFICER. The Sentor from Virginia is recognized for an additional 2 minutes.

Mr. STEVENSON. Mr. President, I hope that in its executive session tomorrow the Senate Judiciary Committee, to which my resolution will be referred, will consider the resolution in hearings on Mr. Bork's role in the dismissal of Mr. Cox.

Mr. President, I believe history will record that these were among the best of our times; the people and their elected representatives in the Congress did not tire of the struggle for virtue in Government and freedom. Given the choice between freedom and repose, we saw that we could not have both. We acted—not with courage. For men of faith it takes no courage. We acted with the resolution and decency which have on the whole characterized the actions of the Nation from its birth until recently.

Our duty is clear. The press and the courts and the public have done theirs. I am confident the Congress will do its duty. If the measures which I and others propose in this body today do not resolve the issue, our duty will remain. And we dare not ignore it.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., May 3, 1973.

Hon. ELLIOT L. RICHARDSON,
Attorney General-Designate,
Department of Justice,
Washington, D.C.

DEAR MR. RICHARDSON: As Attorney General you would immediately be faced with an unprecedented task of restoring public confidence in the integrity of the Federal government. We know you share our concern that justice prevail in all questions of official misconduct and that the public receive speedy assurance that an impartial investigation of the so-called Watergate Affair will be conducted thoroughly and relentlessly.

The Senate has called for appointment of an "independent" prosecutor. The true independence and impartiality of the prosecutor is essential. You have the power to make such an appointment. But a prosecutor is not made independent by virtue of an adjective. Neither his selection from outside the Justice Department, nor his approval by the Senate assures independence and a truly thorough and impartial investigation. That depends upon the character of the prosecutor and his authority, and powers and resources.

We trust you to select for this position a man of unquestioned integrity, the highest professional ability and the tenacity with which to get the job done. We also expect you to make the scope of his inquiry broad enough to encompass all illegal conduct arising out of the conduct of the President's recent campaign and the growing evidence that justice has been obstructed in conjunction with that illegal activity. But that is not enough. The minimal powers and resources of a thoroughly independent prosecutor must include:

(1) The power to convene and conduct proceedings before a special grand jury, to subpoena witnesses, and to seek in court grants of immunity from prosecution for witnesses;

(2) The power and financial resources with which to select and hire an adequate staff of attorneys, investigators and other personnel, answerable only to himself;

(3) Assurance that the funds to pay for the services of staff and prosecutor will be continued for the time necessary to complete the investigation and prosecute any offenders;

(4) Assurance that the prosecutor will not be subject to removal from his duties except for the most extraordinary improprieties on his part;

(5) Full access to the relevant documents and personnel of the Department of Justice and all other offices and agencies of the Executive Branch; and

(6) Assurance that the prosecutor would be able to cooperate with any appropriate congressional committees.

The law appears to give you the authority to confer these powers, resources and assurances upon a special prosecutor. If the need arises for legislation to insure these requisites of independence and thoroughness, we will cooperate to that end in every way we can.

In closing we reiterate our trust in you, our confidence in your ability and our hope that forthright action now by the Executive will be enough to resolve these trying matters to the satisfaction and benefit of the nation.

Sincerely,

COSIGNERS OF STEVENSON LETTER TO RICHARDSON

Adlai E. Stevenson, III, Harold E. Hughes, Stuart Symington, Gaylord Nelson, Edmund Muskie, Philip A. Hart, Thomas F. Eagleton, James Abourezk, Lloyd Bentsen, Dick Clark, Joe Biden, William Proxmire, Alan Cranston, and Lawton Chiles.

Hubert Humphrey, John Tunney, Walter F. Mondale, Lee Metcalf, Walter D. Huddleston, William D. Hathaway, Arbaham Ribicoff, Harrison Williams, Frank Church, Quentin Burdick, Mike Mansfield, Jennings Randolph, Thomas J. McIntyre, J. Bennett Johnston, Jr., and Claiborne Pell.

WASHINGTON, D.C.,
May 17, 1973.

Hon. ADLAI E. STEVENSON III,
U.S. Senate.

DEAR SENATOR STEVENSON: Thank you for letter of May 3 and for your expression of confidence in me. I agree wholeheartedly with your observations about the need to restore public confidence. I agree that this end will be served by the appointment of an independence Special Prosecutor with unquestioned integrity, the highest professional ability and great tenacity.

In examining both the record of the Senate Judiciary Committee hearing on my nomination and the points articulated in your letter, I am struck by how close we actually are in our approach to the definition of the Special Prosecutor's role. The detailed description of the Special Prosecutor's authority which I have today sent to the members of the Senate Committee on the Judiciary meets, I believe, all the points enumerated in your letter:

His scope of authority will extend beyond the Watergate case to include all offenses arising out of the 1972 Presidential Campaign and all allegations involving the President, members of his staff and other Presidential appointees:

His powers will include the handling of all prosecutions, grand jury proceedings, immunity requests, assertions of "Executive Privilege" and all decisions as to whom to prosecute and whom not to prosecute;

He will have the authority to organize and select his own staff, responsible only to him, and to secure adequate resources and cooperation from the Department of Justice;

He will have access to all relevant documents;

He will handle relations with all appropriate Congressional Committees; and

He will be subject to removal only by reason of extraordinary improprieties of his part.

Some misunderstanding seems to persist on the subject of the relationship of the Special Prosecutor to the Attorney General. I have repeatedly stated that the Special Prosecutor must be given the authority to do his job independently, thoroughly and effectively. He will possess a truly unique of independent authority within the Department of Justice. But it is also critical, in my view, both in the interests of the effective performance of the Department of Justice as a whole and the speedy and efficient support for the Special Prosecutor's mission, that the Attorney General retain that degree

of responsibility mandated by his statutory accountability.

The laws establishing the Department of Justice give the Attorney General ultimate responsibility for all matters falling within the jurisdiction of the Department of Justice. Under the law, there is no way to handle prosecutions under the applicable Federal criminal laws outside that Department. A change in the law making the Special Prosecutor an independent agency, which I think would be wrong and harmful on the merits, could in any event be very complicated and time consuming. The outcome of any effort to change the law would be uncertain, the investigation would be disrupted, and prosecution seriously delayed.

Further, only the Attorney General can effectively insure the cooperation of other personnel within the Department of Justice (and within other agencies of the Exective Branch) and thus assure the marshalling of additional resources, including professional investigatory and prosecutorial staff, when the Special Prosecutor needs them. The Attorney General is responsible for allocating the overall resources of his Department consistent with the proper pursuit of its various responsibilities. Without being able to draw on these resources and the various sources of authority which are vested in the Attorney General as chief legal officer of the National, any investigation by a Special Prsecutor might be severely hampered.

The approach which I have developed is designed to provide the maximum possible assurance to the public that truth and justice will be properly, thoroughly and effectively pursued. As I have said before, the public will have an insurance policy comprised of four clauses:

The integrity of the Attorney General as reviewed and confirmed by the United States Senate;

The integrity of the Special Prosecutor as reviewed and affirmed by the United States Senate;

The terms and conditions articulated in my detailed description of the Special Prosecutor's authority and in testimony before the Senate Judiciary Committee, which assure the authority and independence of the Special Prosecutor; and

The investigation of the "Ervin Committee" as established by Senate Resolution 60.

With best regards,

Sincerely,

ELLIOT RICHARDSON.

U.S. SENATE,
Washington, D.C., May 18, 1973.

Hon. ELLIOT L. RICHARDSON,
Secretary, of Defense, Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: Your letter to me of May 17 is positive and represents a long step in the direction of an "independent prosecutor" in the Watergate episode.

It is my hope that with a clarification of certain points in that letter and your statement to members of the Judiciary Committee that remaining doubts about the impartiality of the investigator can finally be resolved and that justice delayed can now proceed with dispatch and the government can get on with all its business.

Specific points about the prosecutor's functions which you make in your May 17 letter and statement to the members of the Judiciary Committee are still consistent with your statement of May 7 that the investigation would be conducted "in the Department of Justice" and that as Attorney General you would retain "final responsibility" for all matters within the Department.

It would be helpful if at your earliest convenience you could explain the following points in your May 17 letter:

1. You state that the prosecutor's authority will extend to "all *offenses* arising out of the 1972 presidential campaign and all *allegations* involving the President, members of his staff and other presidential appointees." It is unclear whether you intend that the prosecutor will have the authority to investigate allegations of official misconduct of a *non-criminal* nature on the part of Executive branch personnel. The Congress has the constitutional responsibility for making the laws and overseeing the manner in which Executive branch personnel execute those laws. The Congress is the most appropriate body to investigate and make judgments about instances of official misconduct of a non-criminal nature. The Senate is exercising that responsibility. Is it your intention that the prosecutor's functions include the investigation of such non-criminal misconduct?

2. Your letter states that the prosecutor's powers "will include the *handling* of all prosecutions of 'Executive privilege' and all *decisions* as to whom to prosecute and whom not to prosecute." Thus, the only decision-making power to which you explicitly refer concerns questions of whom to prosecute and whom not to prosecute. Is it the Administration's intention to reserve the decision-making responsibility on all such questions as convening grand jury proceedings, seeking in court grants of immunity for prospective witnesses and passing upon whether present or former Executive branch personnel can properly invoke "Executive privilege"?

3. You state that the prosecutor "will have the authority to organize and select his own staff." Does that authority include the authority to select staff members not now employed by the Department of Justice? What financial resources will be at the disposal of the prosecutor with which to retain the services of any such staff members outside the Department of Justice? And will you assure that the personnel and other resources of the Justice Department are at the disposal of the Prosecutor, except in cases where his use of personnel would unduly interfere with other activities of the Justice Department?

4. You state that the special prosecutor "will have access to all *relevant* documents." Is it your intention to reserve the right to determine what is relevant?

5. You state that the special prosecutor "will *handle* relations with all appropriate congressional committees." Is it your intention to reserve the right to control the access of the prosecutor to committees of the Congress, including the furnishing of information to such committees? My own strong conviction is that both justice and the truth will best be served by a prosecutor free to cooperate with both the Executive and the Legislative branches and to help coordinate their potentially conflicting investigatory activities.

6. The most serious doubt left lingering by your letter and oft-repeated statements is that by some law the Attorney General must retain the "responsibility" or final authority. You oppose a law to remove any such conflict between your statutory duty as Attorney General—and your duty to the people as their chief law enforcement official. In the past, Attornies General, including the acting Attorney General in this very matter, have resolved that conflict by disqualifying themselves. Your failure to do so in favor of an independent prosecutor raises no doubts in my mind about your integrity, but many doubts about your freedom to act. You are, after all, an agent of the President and also a servant of the public. Those roles are not inevitably harmonious. Why do you refuse to disqualify yourself in favor of a prosecutor who can serve the people with a singleness of purpose?

Without a resolution of these questions it could be as difficult in the future as it has been in the recent past to find a man of the highest professional attainment and character to serve as prosecutor. In the meantime, delay eats like acid at the public trust and the cause of justice.

With the resolution of the questions raised by this letter and in the hearings of the Senate Judiciary Committee, I would hope your confirmation as Attorney General would proceed rapidly. At the same time, the prosecutor's investigation of the Watergate episode could proceed and in harmony with the investigation by the Senate Commission. If that does not happen, the doubts and suspicions will linger, partisan politics will intrude, the investigations will be disorder!- and the integrity of the Presidency impossible to restore for many years, I therefore, look forward hopefully to your early response.

Sincerely,

ADLAI STEVENSON.

THE SECRETARY OF DEFENSE,
Washington, D.C., May 17, 1973.

Hon. ADLAI E. STEVENSON III,
U.S. Senate.

DEAR SENATOR STEVENSON: Thank you for your letter of May 3 and for your expression of confidence in me. I agree wholeheartedly with your observations about the need to restore public confidence. I agree that this end will be served by the appointment of an independent Special Prosecutor with unquestioned integrity, the highest professional ability and great tenacity.

In examining both the record of the Senate Judiciary Committee hearing on my nomination and the points articulated in your letter, I am struck by how close we actually are in our approach to the definition of the Special Prosecutor's role. The detailed description of the Special Prosecutor's authority which I have today sent to the members of the Senate Committee on the Judiciary meets, I believe, all the points enumerated in your letter:

His scope of authority will extend beyond the Watergate case to include all offenses arising out of the 1972 Presidential Campaign and all allegations involving the President, members of his staff and other Presidential appointees;

His powers will include the handling of all prosecutions, grand jury proceedings, immunity requests, assertions of "Executive Privilege" and all decisions as to whom to prosecute and whom not to prosecute;

He will have the authority to organize and select his own staff, responsible only to him, and to secure adequate resources and cooperation from the Department of Justice;

He will have access to all relevant documents;

He will handle relations with all appropriate Congressional Committees; and

He will be subject to removal only by reason of extraordinary improprieties on his part.

Some misunderstanding seems to persist on the subject of the relationship of the Special Prosecutor to the Attorney General. I have repeatedly stated that the Special Prosecutor must be given the authority to do his job independently, thoroughly and effectively. He will possess a truly unique level of independent authority within the Department of Justice. But it is also critical, in my view, both in the interests of the effective performance of the Department of Justice as a whole and the speedy and efficient support for the Special Prosecutor's mission, that the Attorney General retain that degree of responsibility mandated by his statutory accountability.

The laws establishing the Department of Justice give the Attorney General ultimate responsibility for all matters falling within the jurisdiction of the Department of Justice. Under the law, there is no way to handle pro-

secutions under the applicable Federal criminal laws outside that Department. A change in the law making the Special Prosecutor an independent agency, which I think would be wrong and harmful on the merits, could in any event be very complicated and time consuming. The outcome of any effort to change the law would be uncertain, the investigation would be disrupted, and prosecution seriously delayed.

Further, only the Attorney General can effectively insure the cooperation of other personnel within the Department of Justice (and within other agencies of the Executive Branch) and thus assure the marshalling of additional resources, including professional investigatory and prosecutorial staff, when the Special Prosecutor needs them. The Attorney General is responsible for allocating the overall resources of his Department consistent with the proper pursuit of its various responsibilities. Without being able to draw on these resources and the various sources of authority which are vested in the Attorney General as chief legal officer of the Nation, any investigation by a Special Prosecutor might be severely hampered.

The approach which I have developed is designed to provide the maximum possible assurance to the public that truth and justice will be properly, thoroughly and effectively pursued. As I have said before, the public will have an insurance policy comprised of four clauses:

The integrity of the Attorney General as reviewed and confirmed by the United States Senate;

The integrity of the Special Prosecutor as reviewed and affirmed by the United States Senate;

The terms and conditions articulated in my detailed description of the Special Prosecutor's authority and in testimony before the Senate Judiciary Committee, which assure the authority and independence of the Special Prosecutor; and

The investigation of the "Ervin Committee" as established by Senate Resolution 60.

With best regards,

Sincerely,

ELLIOT RICHARDSON.

U.S. SENATE,
Washington, D.C., May 3, 1973.

Hon. ELLIOT L. RICHARDSON,
Attorney General-Designate, Department of Justice, Washington, D.C.

DEAR MR. RICHARDSON: As Attorney General you would immediately be faced with an unprecedented task of restoring public confidence in the integrity of the Federal government. We know you share our concern that justice prevail in all questions of official misconduct and that the public receive speedy assurance that an impartial investigation of the so-called Watergate Affair will be conducted thoroughly and relentlessly.

The Senate has called for appointment of an "independent" prosecutor. The true independence and impartiality of the prosecutor is essential. You have the power to make such an appointment. But a prosecutor is not made independent by virtue of an adjective. Neither his selection from outside the Justice Department, nor his approval by the Senate assures independence and a truly thorough and impartial investigation. That depends upon the character of the prosecutor and his authority, powers and resources.

We trust you to select for this position a man of unquestioned integrity, the highest professional ability and the tenacity with which to get the job done. We also expect you to make the scope of his inquiry broad enough to encompass all illegal conduct arising out of the conduct of the President's recent campaign and the growing evidence that justice has been obstructed in conjunction with that illegal activity. But that is not enough. The minimal powers and resources of a thoroughly independent prosecutor must include:

(1) The power to convene and conduct proceedings before a special grand jury, to subpoena witnesses, and to seek in court grants of immunity from prosecution for witnesses;

(2) The power and financial resources with which to select and hire an adequate staff of attorneys, investigators and other personnel, answerable only to himself;

(3) Assurance that the funds to pay for the services of staff and prosecutor will be continued for the time necessary to complete the investigation and prosecute any offenders;

(4) Assurance that the prosecutor will not be subject to removal from his duties except for the most extraordinary improprieties on his part;

(5) Full access to the relevant documents and personnel of the Department of Justice and all other offices and agencies of the Executive Branch; and

(6) Assurance that the prosecutor would be able to cooperate with any appropriate congressional committees.

The law appears to give you the authority to confer these powers, resources and assurances upon a special prosecutor. If the need arises for legislation to insure these prerequisites of independence and thoroughness, we will cooperate to that end in every way we can.

In closing we reiterate our trust in you, our confidence in your ability and our hope that forthright action now by the Executive will be enough to resolve these trying matters to the satisfaction and benefit of the nation.

Sincerely,

COSIGNERS OF STEVENSON LETTER TO RICHARDSON

Adlai E. Stevenson, III, Harold E. Hughes, Stuart Symington, Gaylord Nelson, Edmund Muskie, Philip A. Hart, Thomas F. Eagleton, James Abourezk, Lloyd Bentsen, Dick Clark, Joe Biden, William Proxmire, Alan Cranston, and Lawton Chiles.

Hubert Humphrey, John Tunney, Walter F. Mondale, Lee Metcalf, Walter D. Huddleston, William D. Hathaway, Abraham Ribicoff, Harrison Williams, Frank Church, Quentin Burdick, Mike Mansfield, Jennings Randolph, Thomas J. McIntyre, J. Bennett Johnston, Jr., and Claiborne Pell.

THE SECRETARY OF DEFENSE,
Washington, D.C., May 21, 1973.

Hon. ADLAI E. STEVENSON III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: Thank you for your letter of May 18. I certainly share your hopes that any remaining doubts about the impartiality of the independent investigation and prosecution, to be handled by Archibald Cox, can now be finally resolved. Hopefully, as you so aptly point out, justice delayed can now proceed with dispatch and government can get on with all its business. I have just given members of the Senate Committee on the Judiciary a somewhat revised version of the guidelines under which the Special Prosecutor would operate. A copy is enclosed for your information.

In response to the specific questions raised by your letter, let me make the following points.

1. While the Special Prosecutor's functions would focus primarily on the investigations and prosecution of criminal offenses, he may in the process uncover improprieties or irregularities of a non-criminal kind. He would be free to take whatever action with regard to such improprieties or irregularities as he deemed appropriate, including disclosing them publicly and reporting them to other authorities for their action. There will inevitably, of course, be considerable overlap with the Ervin Committee's investigations, whether or not prosecution is sought in specific cases.

2. It is not my intention to reserve decision-making responsibility on any of the matters enumerated in the description of the Special Prosecutor's duties and responsibilities, as to which he is given full authority. Thus, all decisions as to grand juries, assertions of executive privilege, and seeking grants of immunity will be made by the Special Prosecutor, in a manner consistent with applicable statutory requirements.

3. The Special Prosecutor will have authority to select staff members not now employed by the Department of Justice. The Special Prosecutor will have all the financial resources that he will reasonably need for all his activities, including funds with which to hire non-departmental personnel. I will assure, as the guidelines make clear, that the personnel and other resources of the Department will be at the disposal of the Special Prosecutor, to the extent he may reasonably require them.

4. The Special Prosecutor, not the Attorney General, will determine what documents may be relevant to his mission.

5. The Special Prosecutor will be fully free to make all decisions relating to his dealings with Congressional Committees. I will not control the Special Prosecutor's access to any committee.

6. Having provided the Special Prosecutor with a charter which assures his total operational independence from the Attorney General, together with the resources necessary to carry out his mission effectively, I see no need to "disqualify" myself. I have no personal stake in this matter other than to see that justice be done swiftly, thoroughly and fairly. I hope that the selection of former Solicitor General Cox for the position of Special Prosecutor makes my determination in this regard amply clear.

I regard the questions you have raised as fair and responsible and I have tried to answer them in that spirit. I trust that the Senate and the Department of Justice can and will cooperate in this mission of enormous public importance. I will certainly do everything in my power to see that this occurs.

With kindest regards,

Sincerely,

ELLIOT L. RICHARDSON.

DUTIES AND RESPONSIBILITIES OF THE SPECIAL PROSECUTOR

The Special Prosecutor—There will be appointed by the Attorney General, within the Department of Justice, the Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters *which he consents to have* assigned to him by the Attorney General.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceeedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, as to which he shall have full access;

Determining whether or not to contest the assertion of "Executive Privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, *or for warrants, subpoenas, or other court orders;*

Deciding whether or not to prosecute any individual, firm, corporation or group of individuals;

Initiating *and conducting* prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including United States Attorneys;

Dealing with and appearing before Congressional committees having jurisdiction over any aspect of the above matters *and determining what documents, information, and assistance will be provided to such committees.*

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. *The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities.* The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part.

STAFF AND RESOURCE SUPPORT

1. *Selection of Staff*—The Special Prosecutor shall have full authority to organize, select, *and hire* his own staff of attorneys, investigators, and supporting personnel, on a full or part-time basis, in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to *assign* such personnel and to provide such other assistance as he may reasonably require. All personnel in the Department of Justice, including United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. *Budget*—The Special Prosecutor will be provided with such funds *and facilities* to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions, and other assistance, *and such requests shall receive the highest priority.*

3. *Designation and Responsibility*—The personnel acting *as the staff and assistants* of the Special Prosecutor shall be known as the Watergate Special Prosecution Force and shall be responsible only to the Special Prosecutor.

Continued Responsibilities of Assistant Attorney General, Criminal Division—Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all of the duties currently assigned to him.

Applicable Departmental Policies—Except as otherwise herein specified *or as mutually agreed between the Special Prosecutor and the Attorney General,* the *Watergate Special Prosecution Force* will be subject to the administrative regulations and policies of the Department of Justice.

Public Reports—The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall *upon completion* of his assignment *submit a final report to the appropriate persons or entities of the Congress.*

Duration of Assignment—The Special Prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until *such time as, in his judgment, he has* completed *them* or until a date mutually agreed upon between the Attorney General and himself.

EXHIBIT 2

S. 2603

A bill to provide for the continuation of an independent, thorough investigation of certain activities by high federal officials and persons acting in concert with them

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as the Independent Investigation Act of 1973.

SEC. 2. The Congress finds and declares—

(a) That the conduct of a thorough, fair and impartial investigation of possible violations of Federal law occurring in connection with the 1972 Presidential primaries and general election and any campaign, canvass, or other activity related to such election is essential to the restoration of public confidence in government, to the fullest possible public disclosure of the facts about illegal or improper activities performed in connection with the 1972 Presidential elections, and to the dispensation of equal and exact justice to all persons and organizations against whom charges have been or may be directed;

(b) That the goals enumerated in paragraph (a) of this section cannot be accomplished if the investigation is conducted by an individual subject to dismissal by the President of the United States, the Attorney General, or any other official in the Executive Branch of the United States Government;

(c) That the October 20, 1973 dismissal of Special Prosecutor Cox, coupled by statements made on behalf of the President concerning the future conduct of the investigation, make it clear that investigators serving within the Justice Department will be denied access to important tapes, papers, and other evidence in the possession of the President of the United States and other Federal officials, and that such investigators will not be permitted to utilize established procedures of law to issue or enforce any subpoenas that may be required to secure such tapes, papers, or evidence;

(d) That the national interest requires, and Article II, Section 2, Clause 2 of the Constitution permits, the investigation to proceed under an agency over which the President of the United States and other Executive Branch officials who are or may be targets of the investigation shall have no control.

SEC. 3. There is hereby established an Office of Special Prosecutor (hereinafter referred to as the "Office").

SEC. 4. The Office is empowered to investigate (i) possible violations of Federal law, and possible instances of official misconduct by Federal officials, which occurred in connection with the 1972 Presidential primaries and general election and any campaign, canvass, or other activities related to such election and (ii) allegations of other illegal conduct or official misconduct on the part of the President, members of the White House staff, or Presidential appointees.

SEC. 5. The Office shall be headed by a Special Prosecutor, who shall be appointed by the Chief Judge of the United States District Court for the District of Columbia pursuant to Article II, Section 2, Clause 2 of the Constitution of the United States. The Special Prosecutor shall serve for a term beginning upon his appointment and ending on June 30, 1977, and shall be removable only by impeachment.

SEC. 6. The Special Prosecutor shall have exclusive jurisdiction over the conduct of all investigations, prosecutions, and civil actions on behalf of the United States to enforce all provisions of Federal law violated by (i) any person in connection with the Presidential primaries and general election of 1972, and any campaign, canvass, or other activity related to such election; or (ii) by the President, members of the White House staff, or Presidential appointees. The Attorney General shall cooperate with the Special Prosecutor to the fullest extent possible to insure that the Special Prosecutor has exclusive control of all activities relating to any such investigation and prosecution resulting from such election.

SEC. 7. Notwithstanding any other provision of law, the Special Prosecutor is vested with all of the powers and duties of the Attorney General of the United States and of the United States Attorney in any judicial district of the United States in which legal proceedings are or may be brought pursuant to this Act, insofar as such powers and duties are necessary to the performance of the duties of the Special Prosecutor under Section 4. The powers granted under this section include, but are not limited to, the power to convene and conduct proceedings before grand juries (including special grand juries) of the United States, the power to subpoena witnesses, the power to frame indictments, and the power to seek in court grants of immunity from prosecution for witnesses.

SEC. 8. The Special Prosecutor shall have power to employ and fix the compensation of such attorneys, investigators and other personnel as he deems necessary without regard to the provisions of Title 5, United States Code, governing employment in the competitive civil service, and without regard to Chapter 51 and subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title. Any person so employed shall be answerable only to the Special Prosecutor.

SEC. 9. The Attorney General shall, to the maximum extent consistent with the performance of his other duties, permit the Special Prosecutor to utilize the personnel, facilities, and other resources of the Department of Justice in carrying out his duties under this Act.

SEC. 10. Each department, agency, and independent instrumentality of the Government shall cooperate with the Special Prosecutor.

SEC. 11. All personnel of the Office shall, upon request, appear before, consult with, and cooperate in other respects with all Congressional committees having jurisdiction over any aspect of the Office's activities.

SEC. 12. The Office shall remain in existence until such time as the Special Prosecutor certifies to the Chief Judge of the United States District Court for the District of Columbia that all investigations and prosecutions conducted pursuant to this Act have been completed, or on June 30, 1977, whichever occurs first. The certification shall be accompanied by a full and complete report of all activities conducted by the Office.

SEC. 13. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. Such funds shall remain available, without fiscal year limitation, until expended. All funds appropriated to the Watergate Special Task Force pursuant to The State-Justice-Commerce Appropriations Act for fiscal year 1974 and not previously expended shall be by virtue of the enactment of this legislation be transferred on the date of enactment to the account of the Office; to be expended

by the Special Prosecutor in furtherance of the functions the Office is empowered to perform. The Office shall submit its budget requests directly to the Congress and shall furnish the Office of Management and Budget with informational copies thereof.

SEC. 14. In the event that the United States District Court for the District of Columbia, prior to the enactment of this legislation, appoints one or more persons to serve as special counsel to the special grand jury currently investigating incidents relating to the 1972 Presidential campaign, and in the event that funds to compensate such person or persons for services rendered or expenses incurred are unavailable, any funds transferred to or appropriated for the Office shall be utilized to compensate or reimburse such person or persons.

SEC. 15. In the event that the President of the United States, or anyone acting on his behalf, or any other person initiates legal proceedings challenging the constitutionality of any provision of this act, the Office shall have the right to defend the constitutionality of this Act in any such proceeding, and shall be entitled to utilize the funds transferred or appropriated to the Office to defray any expenses incurred in the course of such a defense. No decision invalidating any portion of this Act shall take effect until such decision becomes final. Exclusive jurisdiction over lawsuits challenging the constitutionality of this Act shall reside in the United States District Court for the District of Columbia.

SEC. 16. The invalidation of any provision of this Act shall not affect the validity of any other provision of this Act.

EXHIBIT 3

CONSTITUTIONAL BASIS FOR LEGISLATION CREATING THE OFFICE OF SPECIAL COUNSEL OR SPECIAL INVESTIGATIVE AGENCY

Article II, Section 2, clause 2, of the Constitution provides in general for appointment by the President, with the advice and consent of the Senate, of "All . . . officers of the United States." However, it also provides that "Congress may by Law vest the Appointment of such inferior Officers, as they deem proper, . . . in the Courts of Law."

Acting under this grant of authority, Congress has frequently provided for appointment of federal officers by the federal courts. For example, 28 U.S.C. sec. 546, provides:

"The district court for a district in which the office of United States Attorney is vacant may appoint a United States Attorney to serve until the vacancy is filled."

Even though United States Attorneys are appointed to their full terms by the President, with the advice and consent of the Senate, 28 U.S.C. sec. 541, and carry out "executive" branch duties, *Ponzi* v. *Fessenden*, 258 U.S. 254, *United States* v. *Cox*, 342 F. 2d 167 (5th Cir. 1965), this provision for filling vacancies by judicial appointments does not violate the constitutional provisions of Separation of Powers. *United States* v. *Solomon*, 216 F. Supp. 835 (D.C.N.Y. 1963).

It is settled that Congress, acting under Article II, section 2, clause 2, may provide for appointment by the courts of officers other than judicial officers. Thus the power of the judges of the United States District Court for the District of Columbia to appoint members of the District of Columbia School Board under D.C. Code sec. 31-101 was upheld against constitutional attack in *Hobson* v. *Hansen*, 265 F. Supp. 902 (D.C.D.C. 1967). And the power of Congress under this clause to provide for judicial appointment of judicial officers has been upheld by the Supreme Court. *Ex parte Siebold*, 100 U.S. 371 (1880).

It is thus clear that—regardless of the label one might attach to the Office of Special Prosecutor—Congress has constitutional power to vest the appointment of that officer in the courts of law. The only limitation on that appointment power that has been adopted by any court construing the constitutional provision is that the duty of the appointed officer "may not have such incongruity with the federal function as would void the power sought to be conferred." *Hobson* v. *Hansen, supra*. And it is clear that counsel for grand juries and prosecutors do not exercise powers incongruous with the federal function.

EXHIBIT 4

OCTOBER 23, 1973.

The Honorable JOHN J. SIRICA,
Chief Judge, U.S. District Court, Washington, D.C.

DEAR JUDGE SIRICA: We are the sponsors of bills which would establish the Office of Special Prosecutor as a statutory entity to continue the work begun by the Watergate Special Task Force. Our bills differ in some respects, but they share a common objective: the establishment of an instrumentality to continue the work begun by Mr. Cox' office in such a way as to maximize the chance that justice will be done and the truth told.

Our purpose in writing is to lay to rest any appearance of opinion on our part that the course of action we propose is the only available means for assuring that the investigation proceeds in the most effective way. The introduction of these bills is in no way intended to derogate, or conflict with, the inherent, statutory and constitutional powers vested in the U.S. District Court for the District of Columbia and other Federal courts, or to express any opinion, for or against the exercise of any such powers. Because of our firm commitment to the doctrine of separation of powers, we believe that the exercise of all powers vested in your office is not a member with which members of other branches of the Federal government should interfere.

We, therefore, take no position on the advisability of the exercise of your supervisory power over grant juries to appoint a Special Counsel to present evidence to, and otherwise assist, the special grand jury currently investigating various incidents related to the 1972 Presidential Campaign. Appointment of such a Special Counsel appears to be a legally permissible means of preventing an interruption of the present investigation during the present period of uncertainty.

We hope that this letter, which is being made available to the press and the public will make clear our firm conviction that officials of other branches should in no way interfere or be perceived to interfere with the efforts of the Judicial Branch to discharge its duties with respect to the Watergate investigation.

Respectfully yours,

ADLAI E. STEVENSON.
WALTER F. MONDALE.
LAWTON CHILES.
EDWARD M. KENNEDY.
JOHN V. TUNNEY.
ALAN CRANSTON.

EXHIBIT 5

S. RES. 191

Whereas, on April 30, 1973, President Nixon nominated Elliot Richardson to be Attorney General and conferred upon Mr. Richardson the "absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters," including the authority, where Mr. Richardson deemed it appropriate, "to name a special supervising prosecutor for matters arising out of the case,"; and

Whereas Mr. Richardson, during Senate Judiciary Committee hearings on his confirmation to be Attorney General, represented that, if confirmed, he as Attorney General would appoint such a special supervising prosecutor and indicated that as such prosecutor he would name Archibald Cox: and

Whereas Mr. Richardson and Mr. Cox represented to the Senate Judiciary Committee in a document entitled "Duties and Responsibilities of the Special Prosecutor" the terms of an agreement between them as to the authority Mr. Cox would have as Special Prosecutor; and

Whereas in this document Mr. Richardson represented that the Special Prosecutor would have "full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters" which the Special Prosecutor consented to have assigned to him by the Attorney General; and

Whereas in this document Mr. Richardson further represented that the Special Prosecutor would have "full authority" with respect to these offenses, allegations and other matters for, among other things, "conducting proceedings before grand juries and any other investigations he deems necessary", "reviewing all documentary evidence available from any source", as to which Mr. Cox would have "full access", and "determining whether or not to contest the assertion of 'Executive Privilege', or any other testimonial privilege"; and

Whereas in this document Mr. Richardson further represented that in exercising his authority the Special Prosecutor would have "the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice"; that "The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part"; and that the Special Prosecutor would carry out his responsibilities, ". . . with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General" and the Special Prosecutor; and

Whereas the Senate Judiciary Committee relied upon the aforementioned representations made by Mr. Richardson as Attorney General-designate under the plenary authority delegated to him by the President in reporting Mr. Richardson's nomination favorably to the full Senate; and

Whereas the Senate in turn relied upon these representations in confirming Mr. Richardson to be Attorney General; and

Whereas Mr. Cox, acting as the Special Prosecutor, did seek within the Courts certain documentary evidence from the President, and the Courts upheld the contentions of Mr. Cox to a substantial degree, and

Whereas the President refused to comply with the order of the United States Court of Appeals for the District of Columbia but instead directed Mr. Cox to agree to a certain arrangement in regard to seeking the documentary evidence Mr. Cox had been seeking and to desist future efforts to seek evidence from the President; and

Whereas Mr. Cox refused to comply with this Presidential directive, indicating that under the commitment he and Mr. Richardson had made to the Senate and to the American people through the Senate he (Mr. Cox) would continue to seek in Court any documentary evidence as he saw fit; and

Whereas President Nixon thereupon directed Mr. Richardson to remove Mr. Cox from his duties as Special Prosecutor; and

Whereas in recognition of his "firm and repeated commitments" under oath to the Senate Mr. Richardson refused to comply

with the Presidential directive to remove Mr. Cox but instead resigned the office of Attorney General; and

Whereas President Nixon then directed Deputy Attorney General William Ruckelshaus to dismiss Mr. Cox, and Mr. Ruckelshaus also refused to carry out this directive and resigned his post as Deputy Attorney General; and

Whereas President Nixon thereupon designated Mr. Robert Bork to serve as Acting Attorney General and directed him to remove Mr. Cox from his duties, and Mr. Bork did in fact purport to remove Mr. Cox from his duties; and

Whereas this purported act by Mr. Bork was in derogation of the commitment made under oath to the United States Senate by Mr. Richardson as Attorney General-designate, upon the authority of the President, and Mr. Cox had not in fact committed any "extraordinary improprieties" which could permit his removal from office; and

Whereas Mr. Bork did not give Mr. Cox "the full support of the Department of Justice" of the Special Prosecutor as had been represented under oath to the Senate would be given Mr. Cox as Special Prosecutor: Now, therefore, be it

Resolved—

(1) that the Senate hereby finds the aforesaid action of Robert Bork is a breach of the aforesaid assurances made by Elliot Richardson on behalf of the President of the United States to the United States Senate, and

(2) that the Senate hereby condemns Robert Bork for removing Archibald Cox as Special Prosecutor in derogation of the aforesaid solemn assurances made to the United States Senate.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I rise to commend House Speaker CARL ALBERT for his assertion today that the Congress should act expeditiously on the nomination of Representative GERALD FORD to be Vice President.

Speaker ALBERT emphasized in his statement that Representative FORD should not be held hostage because of any disagreements that Congress might have with the President of the United States.

Coming from Speaker ALBERT, these comments are most significant. Speaker ALBERT conceivably could benefit from a delay in the consideration of the nomination of Representative FORD to be Vice President, as Speaker ALBERT now is the first in line for the Presidency.

However, CARL ALBERT is not that kind of a man.

In his statement today he reflects, I think, the views of the vast majority of the American people that the qualifications of Representative FORD for the high office to which he has been nominated should stand on their own and should not be confused with other issues.

I, too, hope that the Senate and the House will act thoroughly but expeditiously on the nomination of Representative FORD to be Vice President of the United States.

I commend Speaker ALBERT for his statement today. I have a very high regard for the Speaker of the House. He is a dedicated, fine American, and the statement he has made today will enhance his prestige and standing in the hearts of the American people.

Mr. President, I yield back the remainder of my time.

Mr. FANNIN. Mr. President, I commend the distinguished Senator from Virginia, and I concur in the statement he has made. The remarks which the Speaker of the House of Representatives made today certainly indicates that we will go forward with the nomination of the new Vice President.

Mr. President, over the long weekend we heard many irate comments concerning President Nixon's firing of Archibald Cox. We have heard and seen wild talk and irresponsible resolutions demanding impeachment of the President.

It is my judgment that we have enough crises in the world without manufacturing another here in the Halls of Congress.

These are precarious times which call for strong leadership in international affairs. President Nixon, with the able assistance of Secretary Kissinger, has provided this leadership. With all due respect to others in Congress and in the Federal Establishment, I do not know of anyone who could at this moment step into the job of President and provide the world leadership which is demanded.

We must consider that President Nixon is not just the leader of this Nation; he is the world leader who has risen to the occasion time and again when peace was threatened.

His bold initiative in sending Secretary Kissinger to Moscow to arrange for a cease-fire in the Mideast is only the latest in a great series of achievements aimed at maintaining world peace.

I seriously doubt that had any other man been President of this Nation that we could have maitnained our détente with the Soviet Union in the face of the strains caused by the Mideast war.

No one else that I can conceive of as taking the President's job could offer us the powerful leadership which we need to solve the energy crisis, to stop the decline of the dollar in the world, and to come up with a new international trade agreement which will assure both free and fair trade.

With emotions running high and the Cox firing to fuel the flames, some would have us hurl ourselves over a cliff in this troubled time.

Mr. President, I believe that rash action at this time by the Congress could be disastrous to the Nation and to the world.

Many events are taking place at this very moment which could change the situation regarding the so-called Watergate tapes.

Nothing will be lost by waiting a day, a week, or a month before we take the next step to resolve the issue over the Watergate.

Mr. President, I believe that the compromise offered by President Nixon is reasonable and should be acceptable to reasonable men. I would point out that President Nixon has given considerable ground. He has gone just as far as he possibly can and yet protect the principle of separation of powers. To demand more is to demand that the President yield a part of his constitutional prerogative. He fears—and rightly so—that this case could set a dangerous precedent which would make it impossible for future Presidents to benefit from confidential conversations with advisers, including the military, and with leaders of other nations.

The President has acted to avoid a constitutional crisis. Responsible leaders in this country have accepted the compromise as a solution to this terrible dilemma.

When tempers cool, and when the partisan bombast subsides, then I believe there will be an understanding that the compromise offered by the President was, indeed, the wisest course to follow.

Mr. President, I believe President Nixon had no other choice than to fire Mr. Cox. It has always been my feeling that the appointment of Mr. Cox was a terrible mistake because of his known partisanship. The cadre of anti-Nixon assistants he assembled to help investigate the case only confirmed my fears. Let me make it clear that I do not believe the Special Prosecutor and his staff should be pro-Nixon. What we needed was an impartial, objective operation, and that is not what we had under the direction of Mr. Cox.

When Mr. Cox pressed for a constitutional confrontation after Mr. Nixon had achieved the means to avoid one, it was obvious that he had to go.

Those who are demanding a showdown on this issue are putting narrow, selfish desires to damage President Nixon before the national and international good.

To force the tapes issue further is tantamount to using nuclear weapons to settle a dispute for which a sensible compromise already has been offered at the conference table.

THE PRESIDENT AND THE LAW

Mr. SYMINGTON. Mr. President, inasmuch as it expresses much of my own thinking in this controversy, I ask unanimous consent that an editorial in the Washington Star-News of Monday, October 22, entitled "The President and the Law," be inserted at this point in the RECORD.

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

[From the Washington Star-News, Oct. 22, 1973]

THE PRESIDENT AND THE LAW

As FBI agents swooped down on his office and took possession of the files, Archibald Cox said it is now up to Congress, and ultimately the American people, "whether ours shall continue to be a government of laws and not of men." We would add that the courts, too, still have a part to play. Otherwise, the ousted special prosecutor just about summed it up.

President Nixon has blundered catastrophically in his handling of the White House tapes issue, and has placed himself in an untenable position in relation to the courts. Unless he can find a way to back-track quickly—and he is not behaving like a man who has much idea of retreating—he is on a course which could lead to unimaginable difficulties.

For starters, it seems almost inevitable hearings looking toward impeachment proceedings shortly will get under way in Congress.

Where did the President go so wrong?

His critical error was not the firing of Cox, which triggered the departure also of the attorney general and his deputy. Nixon should

have let the special prosecutor do the job for which he was hired. But presidents, technically speaking, have a right to fire whole cabinets if they see fit. It may indeed be that by the time Cox ended his remarkably effective news conference Saturday afternoon, it was too late for Nixon. Perhaps as a chief executive whose direct order had been defied, he really had no choice by then but to order Cox removed.

Nor was it wrong for Mr. Nixon to try to work out a compromise solution to his dilemma, a solution whereby he could comply in spirit, as he saw it, with the courts' demand for information as to the content of the tapes, but a solution which at the same time would not involve surrender on the basic issue of executive privilege. There is such an issue. There is substance to the contention that an administration could not function if its private consultations might at any time be laid bare at the order of a judge.

The President's willingness to provide digests of the tapes in question, authenticated by Senator Stennis, did assure so far as we are concerned that nothing on those tapes which related to Watergate would escape the grand jury's and the public's attention. That is no small concession—what part, if any, Mr. Nixon played in the Watergate cover-up has been, after all, the central question plaguing us all.

It seems clear that the President made his crucial mistake when, having learned that Cox was opposed to the suggested compromise, he forbade him to pursue in court any further effort to secure the tapes themselves. It was here that Mr. Nixon irretrievably crossed his Rubicon, precipitating what the White House now recognizes as the "firestorm" of events of Saturday. At that point, the President did two things. First, he broke the solemn word of his administration, offered at Elliot Richardson's confirmation hearing, as to the freedom of action that would be allowed the special Watergate prosecutor. Specifically, among other things, the senators were promised that the prosecutor would have full authority for "determining whether or not to contest the assertion of 'executive privilege.'" The prosecutor would be free to contest this issue. The courts would decide.

But the second thing Mr. Nixon did, in his Friday directive to Cox, was to make it cruelly plain that, so far as he was concerned, the courts would not decide between him and the prosecutor. He, the President, had done the deciding. The courts would not be permitted to hear from the prosecutor on this issue.

There would, moreover, be no appeal to the Supreme Court, such as might produce that definitive decision by which Mr. Nixon had once promised to abide. There would be no production of the tapes and other evidentiary material the District Court had ordered produced. There would be the digests described in the White House "proposal"—no longer a proposal, but a course of action proclaimed by the President. The courts, presumably, could like it or lump it. And Cox was forbidden to argue, on behalf of the grand jury, that the court was entitled to anything more.

Why? Why was it necessary to pursue this arbitrary course, flouting established institutions for the resolving of disputes? The office of special prosecutor had been set up to provide the courts with an officer who could argue the Watergate cases with no taint of White House influence, avoiding any suspicion that the administration might try to continue to cover up. Why at the crucial moment subject it, as just another twig on the executive branch, to precisely the sort of presidential control and interference from which it had been promised immunity?

Why should not the White House present its proposal to the court, while Cox stated his objections? Why should the court not decide?

Quite simply, because President Nixon has sought to adopt a position above the law. And that, to put it gently, has most serious implications for the future of government in the United States. There is a name for a system in which the executive assumes such a position. The name is dictatorship.

The Star-News hopes and believes that the courts and Congress will stand up to the challenge that has been thrown at them. We hope and believe, too, that Richard Nixon will turn back from the dark road which can lead only to tragedy for him and for the country.

THE DURABILITY OF DÉTENTE

Mr. HANSEN. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Joseph Alsop, entitled "The Durability of Détente," published in the Washington Post on Monday, October 22, 1973, so that most Americans will be better able to understand the dimensions of our problems worldwide and why it is so important that we dispatch as quickly as we possibly can the whole Watergate matter in order not further to undermine and weaken the ability of the United States of America to discharge its very significant duties, not only for our people but also for human beings everywhere.

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

[From the Washington Post, Oct. 22, 1973]

THE DURABILITY OF DÉTENTE

(By Joseph Alsop)

While we wait for the outcome of the battles in the Mideast, it is worth asking what the war there has done to the Nixon-Kissinger foreign policy. In this poisonous city, the number of people who never do their homework is constantly increasing. These people are now speaking of the Nixon-Kissinger policy's "collapse," on the ground that the Soviet-American "détente" has been shown to be worthless.

This is nonsense. The policy devised for President Nixon by Secretary of State Henry A. Kissinger was always a gamble against uncertain odds. What has happened in the Mideast has undoubtedly made the odds for the future look more dubious and worrisome. But there are times when men and nations have no alternatives to the best gamble that happens to be open to them.

The place to begin is with this matter of alternatives. The United States always had all sorts of alternatives in the happier time when the United States possessed superior military strength, and was united on the need for a serious world power position. But that was by no means the case by the time President Nixon and Secretary Kissinger became responsible for foreign policy.

By then, a ferocious attack had long been in progress on the American defense program and any kind of American policy based on power. The success of the attack was amply demonstrated, from the start of the Nixon years, by the annual drama of the defense budgets, always inadequate, yet always cut, and even then never passed by more than a vote or two in the Senate.

The men responsible for this shocking situation were such senators as Mike Mansfield (D-Mont.), J. William Fulbright (D-Ark.), Stuart Symington (D-Mo.) and many more, plus their countless allies in the House, in the intellectual world and in the media. From the very start, therefore, Dr. Kissinger was the first architect of U.S. foreign policy since 1941 who had to try to win the game with a terribly weak hand to play.

There are no sure bets for anyone who must try to win with a weak hand. The only chance is to choose the best gamble, and then to play the cards astutely. This has been the real success of the Nixon-Kissinger team. What has happened in the Mideast has not altered that success, although it has greatly darkened the future outlook.

It is here that we come to the problem of "detente" with the Soviet Union, as organized by President Nixon and Secretary Kissinger. For those who did their homework, the ambiguity of this "detente" was always perfectly plain. It was in fact analyzed in full detail in four reports in this space written well before the renewed Arab attack on Israel. The ambiguity, of course, lay in the fact the "detente" was no more nor less than a well justified gamble.

The Soviets, quite obviously, had long been approaching a final choice between two policies profoundly different in character and impact on the world. The first policy was to try to make the Soviet economy work much better by massive importations of credits and technology from the West. This inescapably requires what is called "detente."

The second policy was to escape from the increasingly dangerous Soviet internal economic mess by maximum exploitation of the main Soviet asset, which is greatly superior military power. This choice, if finally made, will automatically transform all the preparations for "detente" into a series of tranquilizers for the West, in advance of the Soviet attack. The first major Soviet attack, if launched, was and still is most likely to be a preventive nuclear attack on China.

Faced with the certainty that the Soviets were getting ready for so fundamental a choice, the President and Dr. Kissinger made a basic decision, and then took two steps to implement that decision. Their decision was that the United States would face a situation worse than the Hitler-time, if the Soviets were to opt for the policy based on naked use of military, and even nuclear power. The steps taken were to make what amounts to an informal, temporary and preventive alliance with Peking, and meanwhile to offer Moscow what is called "detente."

The aim of offering "detente" to Moscow was bleakly practical. It was to make the first of the two policies above-outlined—the one *not* based on naked use of military power—look more attractive and more feasible to the Kremlin's policy-makers. For obvious reasons, this hard inner-reality could not be loudly proclaimed from any public rostrum, although it was not hard for the clear-eyed to perceive. As an effort to influence a future Kremlin decision, it was also a gamble in the true sense.

The Soviet-sponsored Arab attack on Israel has now affected the U.S. gamble, by making it seem considerably more likely that the Kremlin is leaning toward a policy based on naked military power. But if guilty men are to be sought for this Soviet leaning, the right place to look is among those Americans who have worked so hard to undetermine the U.S. defense posture and power position in the world. That is the long and short of it.

PROVISIONAL ORDER FOR RECOGNITION OF SENATOR KENNEDY ON NOVEMBER 2, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, if the Senate is in session on November 2, the distinguished Senator from Massachusetts (Mr. KENNEDY) be recognized for

not to exceed 15 minutes after the recognition of the two leaders or their designees under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE— ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 689) to amend section 712 of title 18 of the United States Code, to prohibit persons attempting to collect their own debts from misusing names in order to convey the false impression that any agency of the Federal Government is involved in such collection.

ENROLLED BILL SIGNED

The PRESIDENT pro tempore (Mr. METCALF) on today, October 23, 1973, signed the enrolled bill (S. 907) to authorize the appropriation of $150,000 to assist in financing the Arctic winter games to be held in the State of Alaska in 1974.

NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS

Mr. ALLEN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9639.

The PRESIDING OFFICER (Mr. HUGHES) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the amendment of the House to Senate amendment No. 5 to the conference report on the bill (H.R. 9639) to amend the National School Lunch Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs.

Mr. ALLEN. Mr. President, this is the conference report on the school lunch bill, and the parliamentary situation is that only one amendment remains unresolved between the House and the Senate, that being amendment No. 5, an amendment by the Senate which was amended by the House, returned then to the Senate, and the Senate added an amendment which would save harmless four States, the States of New York, New Jersey, Maryland, and Rhode Island, with respect to the free lunch payment of 45 cents provided by the bill, inasmuch as they were already receiving up to a cent and a half per free lunch more than the 45 cents allowed by the bill. The Senate amendment provided that these States would be saved harmless in the future, and that they would receive this additional amount, the amount that they are now receiving, and would not be cut back.

The House of Representatives rejected the Senate amendment, and has sent it back at this time.

I ask unanimous consent that the Senate recede from its amendment to the House amendment to the Senate amendment No. 5, in order that we can then seek to amend the amendment once again.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, I would ask the indulgence of the distinguished Senator from Alabama, because the ranking minority member of the Committee on Labor and Public Welfare (Mr. JAVITS), who has an interest in this matter, as the Senator from Alabama knows, is on his way to the floor.

Mr. ALLEN. Yes, I understand. The Senator from Alabama is paving the way for action by the Senate.

Mr. GRIFFIN. I would imagine and believe that he would not object to such action, but I wonder if further proceedings could be temporarily held in abeyance until he arrives.

Mr. ALLEN. I have no objection to that. This move at this time is being made by the Senator from Alabama at the request of and with the full knowledge of the distinguished Senator from New York. If he wishes to speak on the matter, it is quite agreeable.

Mr. GRIFFIN. Mr. President, I am now informed that we had better not wait for the distinguished Senator from New York, because he is absent on official business.

Mr. ALLEN. I see. As I stated to the distinguished Senator from Michigan——

Mr. GRIFFIN. And I am advised by the Senator's staff that the matter is in perfect order, and meets with the approval of the distinguished Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to the Senate amendment No. 5 with an amendment, which I now send to the desk and ask that the clerk please state.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ALLEN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ALLEN's amendment is as follows:

Immediately after the matter to be inserted by the House amendment to the Senate amendment, insert the following sentence: "Notwithstanding the foregoing two sentences, (1) for the fiscal year beginning July 1, 1973, no special assistance factor under this section 11 shall, for any State, be less than the average reimbursement paid for each free lunch (in the case of the special assistance factor for free lunches), or for each reduced price lunch (in the case of the special assistance factor for reduced price lunches), in such State under this section in the fiscal year beginning July 1, 1972; and (2) adjustments required by the sentence immediately preceding this sentence shall be based on the special assistance factors for the fiscal year beginning July 1, 1973, as determined without regard to any increase required by the application of this sentence."

Mr. ALLEN. Before putting the question, Mr. President, this amendment, instead of saving harmless these States indefinitely for the future, saves them harmless for only the current fiscal year. It is the understanding of the Senator from Alabama that this amendment will be agreed to by the House and that that will complete the enactment of the bill.

Mr. President, the House rejected by a vote of 125 yeas to 218 nays on October 18 a Senate amendment to the House amendment to the Senate amendment numbered 5 to H.R. 9639. The purpose of the defeated Senate amendment was to prevent any State from receiving less Federal reimbursement under section 11 of the National School Lunch Act than the State received during the last school year.

While all schools were guaranteed a minimum of 40 cents per meal for free lunches under section 11 of the National School Lunch Act, many schools were able to receive additional reimbursement under an exception in the law. Under this exception any school which needed an amount of reimbursement greater than the minimum of 40 cents to serve lunches could receive such greater amount if it could prove its need to the State agency. Both the House and the Senate, in passing H.R. 9639, eliminated this exception.

Under the new section 11 provided for in the conference report the States will receive Federal reimbursement on the basis of the number of free lunches served multiplied by a minimum of 45 cents. For reduced price lunches the States will receive reimbursement based on the number of reduced price lunches served multiplied by 35 cents. The Committee on Agriculture and Forestry and the conferees felt that we were giving all States an increase under the terms of H.R. 9639. However, subsequent to approval of the conference report it has been pointed out that four States, New York, New Jersey, Rhode Island, and Maryland, were receiving an average statewide reimbursement of more than 45 cents under existing law.

The amendment which was offered by the Senator from New York (Mr. JAVITS) and accepted by the Senate would have provided that no State would receive less under section 11 than it received during the last school year. However, the House rejected this amendment when it was considered on October 18. It was pointed out in House debate that, under the terms of the Senate amendment, the four States in question would continue to receive a higher rate of reimbursement than other States under the so-called escalator clause. In fiscal year 1973, New York received a statewide average rate of 46.5 cents; New Jersey a rate of 45.8 cents; Rhode Island a rate of 45.5 cents; and Maryland a rate of 45.4 cents. Under Senate amendment numbered 5 as amended by the House and as was amended by the Senate action of October 16, these 4 States would have continued to enjoy higher reimbursement rates than the other 46 States.

In opposing the Senate amendment the ranking minority member of the House Committee on Education and Labor (Mr. QUIE) indicated that he would not be opposed to a hold-harmless amendment which would apply to fiscal year 1974 only. The amendment which is being offered today would apply only

to fiscal year 1974 and it would provide that in subsequent years the four States in question would receive no higher rate of reimbursement under section 11 than any other State.

The PRESIDING OFFICER (Mr. HUGHES). Will the Senator from Alabama please renew his request?

Mr. ALLEN. Yes. I ask unanimous consent that the Senate concur in the House amendment to the Senate amendment numbered 5 with an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time? What is the pleasure of the Senate?

EXTENSION OF TIME FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. ROBERT C. BYRD. Mr. President, has the period for morning business expired?

The PRESIDING OFFICER. 10 minutes remain.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for routine morning business be extended for an additional 10 minutes, with a limitation on statements therein of 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR BUSINESS

Mr. GRIFFIN. Mr. President, notwithstanding the fact that I was earlier recognized for 10 minutes, at which time I yielded to the Senator from Illinois, I now ask unanimous consent that I may be recognized for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NEW METHOD FOR SELECTING VICE PRESIDENTS

Mr. GRIFFIN. Mr. President, before eruption of the events of this past weekend, I had prepared a speech for delivery today. In the speech, which I shall proceed to deliver, I propose as a small step in the direction of the parliamentary system, a constitutional amendment to give Congress a direct role in the selection of all future Vice Presidents in a manner similar to that already provided under the 25th amendment in the case of a vacancy.

Frankly, my one and only reservation about the merit of my own proposal has been the concern that a highly partisan, opposition-controlled Congress might frustrate the process by holding a vice presidential nominee hostage for purposes of political extortion.

Ironically, even before the opportunity arrived today to formally present my proposal to the Senate, noises were sounded in connection with events over the weekend indicating that my worst fears about the performance of Congress under such circumstances might be realized, even in the case of the nomination of Congressman FORD, whose selection obviously reflected a high regard for the views of Congress.

If Congress should actually operate now to hold the FORD nomination hostage as some have openly threatened to do, it would not only frustrate implementation of the 25th amendment, but it would tend to prove that Congress itself is unworthy of a broader role in selecting future Vice Presidents as I am suggesting.

The clamor now being heard in some quarters for impeachment of the President affords no legitimate excuse whatever for delaying consideration of the FORD nomination on its merits. I was encouraged to hear the distinguished majority whip, the Senator from West Virginia (Mr. BYRD) make clear in his earlier remarks that he shares this view, and I salute him for his statesmanship in that regard.

If anything, suggestions being heard that impeachment proceedings might be a possibility should hasten, rather than delay, confirmation by a responsible Congress of a nominee like GERALD FORD.

Surely, no one could deny that, if narrow partisan considerations were put aside, there could be no question about the national need now to have a Vice President in office—a Vice President who is well qualified to step up and serve as President if necessary.

As a man of the Congress with a long and distinguished record of experience, JERRY FORD precisely fits those specifications. If Congress does not now proceed to confirm him with reasonable dispatch when the national need is so apparent, Congress will dismally fail an important test bearing on the merits of any proposal to expand the powers of Congress.

Accordingly, I hope and trust that Congress in this time of trial and testing will prove worthy of even a broader role in the selection of all future Vice Presidents by demonstrating that it is capable of putting the national interest above purely partisian interests.

THE PROPOSAL

Mr. President, 2 weeks ago the Vice President of the United States resigned his office under unprecedented circumstances. A little over a year earlier, the Vice-Presidential nominee selected by the Democratic Party at its national convention resigned just as the 1972 campaign was getting underway.

As everyone knows, the circumstances which led to the two resignations were entirely different. However, both cases have underscored the urgent need for meaningful reform of the traditional method of selecting the Vice President of the United States.

An essay which appeared in the August 7, 1972, edition of Time magazine included this paragraph:

> It is all done in a 3:00 a.m. atmosphere by men in shirtsleeves drinking room-service coffee—elated, frantic politicians running on sleeplessness, juggling lists, putting out phone calls, arguing in the bathrooms, trying to make their reluctant minds work wisely as they consider an afterthought: the party's nominee for Vice President of the U.S. It is the worst kind of deadline politics. For a year or two, or even more, the vast American political machine has been rumbling and ramshackling along, sifting presidential possibilities. Now a running mate must be chosen, checked out, signed on and presented to the convention with a triumphant but seldom very credible flourish ('Tom who?' 'Spiro who?')—all in a matter of hours. It is a procedure that invites error. Thus, most vice presidential candidates are too hastily chosen by only one man and his advisors without any real democratic process or sufficient investigation.

Surely, the American people deserve—and they are rightfully demanding—a better method than that for selecting the person who stands only a heartbeat away from the Presidency.

Today I announce my intention to introduce a resolution to amend the Constitution of the United States which in effect would provide:

First. That nominees for Vice President would not be selected at party conventions;

Second. That after a Presidential election, but prior to his inauguration, the President-elect would name his choice for Vice President;

Third. That the nomination would then be subject to confirmation by both Houses of the new Congress which convenes, following the election, in January.

In other words, my proposal would make certain that each future Vice President will be very carefully selected, with Congress as well as the President playing a significant role in the selection process, following a procedure similar to the one already available for filling a vacancy under the 25th amendment.

It is my strong view that almost any of a number of available alternatives would serve the national interest better than the traditional method now used to select the Vice President.

After careful consideration, I have decided to advance this approach for a number of reasons:

First. Instead of nominating a Vice President because his selection at the convention would balance the ticket or pay off a political debt, my proposal would emphasize and focus upon the national need to select an outstanding Vice President who would be highly qualified to step into the shoes of the President of the United States, if necessary.

Second. In contrast to the hurried, harried, haphazard way a Vice President is now selected, almost as an afterthought at the political convention, my proposal would allow the President-elect—as well as Congress—ample time for sober reflection, thorough investigation and deliberate consideration in choosing the Vice President.

Third. Speaking through their elected representatives in Congress, the people would have a stronger, more effective voice in the selection of a Vice President. As a practical matter, the people have little or no voice in the selection process as it now operates.

Fourth. Because the principal duty of a Vice President is to preside over the Senate, it is altogether appropriate that Congress should play a role in his selection. The President would be required to take the views of Congress into account, and it logically follows that such a procedure would encourage a closer working relationship between the White House and Capitol Hill.

Fifth. It is also important that the very operation of such a process inevi-

tably would serve to elevate and increase the significance of the Vice President, thereby making the office more attractive to outstanding leaders of Presidential stature.

I recognize that the bold reform proposal which I now put forward may not be the perfect or final answer. But I am confident of one thing: it represents a major improvement over the process as it now operates.

THE PROBLEM IN PERSPECTIVE

Throughout our history, a number of very able men have held the office of Vice President. One of them serves the Nation now as President; another serves with us in the Senate.

Since the founding of the Republic, 12 Vice Presidents have attained the Presidency—8 of them directly because of the death of a President. In all, Vice Presidents have been called upon to serve 24 of the 32 years for which their deceased predecessors were chosen.

It is unfortunate that the Constitutional Convention of 1787 devoted only slight attention to the subject of the Vice-Presidency. Our Founding Fathers were divided as to whether the country even needed a Vice President at all.

A strange paradox has flowed from that early treatment of the subject by the Constitutional Convention. The Nation's second highest officer is assigned only minor insignificant duties but, at a moment's notice, he must be ready to exercise the vast, awesome responsibilities of the most powerful office in the world.

As John Adams put it:

I am Vice President. In this I am nothing; but I may be everything.

Passage of time has done little to resolve the paradox. As historian Donald Young has written, Harry Truman conferred with President Roosevelt only twice, outside of Cabinet meetings—

During his 82 days as Vice President. Several years after he succeeded Roosevelt, he remarked that he was the worst prepared man for the responsibility of the Presidency since Andrew Johnson. The Vice President has not even been told of the existence of the atomic bomb.

No wonder that Harry Truman, in his salty, characteristic way once commented that all the Vice Presidents in history—

Were about as useful as a cow's fifth teat.

The absurd contradiction between what the office of Vice President is, and what the incumbent may become, poses a dilemma not only for those who must select a Vice President, but also for those who are considered for the office. At one and the same time, the office is both tempting and yet very unattractive to leaders of true Presidential stature.

John Nance Garner summed up his frustrations with this earthly comment:

The Vice-Presidency isn't worth a pitcher of warm spit.

Throughout most of our history, Vice Presidents have been politically impotent and generally ignored, except when a President's death suddenly propelled one of them into the White House. No wonder it became popular to downgrade and poke fun at the Vice-Presidency.

Thomas R. Marshall, Vice President under Woodrow Wilson said: Once there were two brothers—one ran away to sea, the other was elected Vice President, and nothing was ever heard of either of them again.

Since the Presidency of Dwight D. Eisenhower, the Vice Presidency has commanded a bit more attention and respect. Mr. Justice Powell, when he testified before a Senate Committee in 1965 as President of the American Bar Association, made this statement:

In considering any proposal on this subject, it is well to keep in mind that the office of Vice President has indeed become one of the most important positions in our country. The days are long past when it was largely honorary and of little importance in itself. For more than a decade the Vice President has borne specific and important responsibilities in the executive branch of Government. In addition, he has to a large extent shared and participated in the executive functioning of our Government, so that in the event of tragedy, there would be no break in the informed exercise of executive authority.

Despite the fact that some progress has been made, much more is needed. For the sake of the training of the person who holds the office, and for the well-being of the Nation which might suddenly inherit a new leader, the Vice President should be given even more responsibilities and should be allowed to work more closely with the President in the performance of his difficult duties.

President Nixon has a special opportunity to move in that direction now, particularly in light of the outstanding qualifications, experience and abilities of his Vice President-designate, GERALD R. FORD.

As we know, a growing recognition of the importance of the Vice President, combined with the obvious need for procedures to establish succession in the event of Presidential inability, led to development and adoption of the 25th amendment, ratified in 1967.

But, of course, the safeguards written into the 25th amendment were not designed to affect procedures for selecting a Vice President in the normal course of events.

ALTERNATIVES FOR REFORM

Even though there is general agreement that defects abound in the present system for selecting a Vice President, the ideas for reform are about as legion as the critics. Needless to say, it is one thing to find fault, but is it quite another to come up with a workable, acceptable alternative.

To date, most suggestions for change have focused on the need for reform of political party procedures.

These suggestions run the gamut from choosing the Vice Presidential nominees in a national primary to selection of Vice Presidential nominee by party leaders after the national party convention is over, much as the Democrats last year picked their replacement candidate for Vice President.

Even a simple change in convention scheduling would help a bit. I refer to a change so that the party's candidate for President would be nominated on the first day of a national convention, with selection of the Vice Presidential nominee taking place at least 2 days later. During the interim, the convention could focus on such matters as its party platform.

While convention procedural reform could be helpful, I have concluded that more drastic steps are desirable and really necessary—steps such as the one I am proposing.

Some have suggested that the easiest way to solve the problem would be to abolish the office altogether. Of course, that would solve nothing. Even in normal times a vacancy in the Presidency can produce a critical gap in leadership. But in times of crisis, the seriousness of such a gap is magnified many times over. I believe the Nation needs not only a Vice President—but a strong, well qualified Vice President.

On balance I have concluded that the most meaningful and effective reforms in the method of selecting the Vice President would be achieved by amending the Constitution as I am proposing rather than merely seeking to manipulate convention procedures.

Prompt and meaningful reform of the Vice Presidential selection process can be vital to the future of our Nation. To secure action in time for the 1976 elections, we must begin now. The Constitution cannot be amended overnight. Vigorous, searching debate of my proposal and other proposals is essential.

In any crusade to achieve reform the most important step—is the first step. I believe my proposal has great merit, and that it should be adopted. But even if my effort does nothing more than to sharpen the issues, to precipitate a national debate, and to set in motion the wheels of reform, it will serve a very useful purpose.

Mr. President, I send to the desk the joint resolution that I am introducing today and ask unanimous consent that the text be printed at this point in the RECORD.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

S.J. RES. 166

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within 7 years after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. Except as provided in section 2 of the twenty-fifth article of amendment, the Vice President shall be selected in accordance with the provisions of this article of amendment.

"SEC. 2. Each candidate for election to the office of the President shall submit to the President pro tempore of the Senate and to the Speaker of the House of Representatives, not earlier than the day after the day on which electors are appointed under section 1 of article II and not later than the next following fifteenth day of December, the name

of a candidate for selection as Vice President. The President pro tempore and the Speaker shall receive the names without regard to whether the Congress is meeting at the time of their submission, and shall order an immediate investigation of each individual whose name is submitted with respect to his eligibility and suitability to serve as Vice President. Any individual whose name is submitted may withdraw his name from consideration, at any time prior to noon on the third day of January of the next year immediately following such fifteenth day of December, by written request submitted to the President pro tempore and to the Speaker. If any individual withdraws his name from consideration, the candidate who submitted that individual's name shall be notified in writing of the withdrawal of the name by the President pro tempore and the Speaker, and shall submit to those officers another individual's name within three days after being so notified.

"SEC. 3. Upon determining who is the President elect (if such determination is made before noon on the 20th day of January of such year), each House of Congress shall proceed to the consideration of the candidacy of the individual whose name was submitted by the President elect as a candidate for selection as Vice President. A majority vote of both Houses of Congress shall be necessary to select a Vice President under this section.

"SEC. 4. If the Congress fails to approve the candidate for Vice President named by the President elect within 10 days after the day on which the President elect is determined and in any event before noon on the 20th day of January of such year, or if the President elect has not been determined before that time, the office of the Vice President shall be filled in the manner provided in section 2 of the twenty-fifth article of amendment.

"SEC. 5. Any person who is ineligible under the Constitution to hold the office of President shall be ineligible to hold the office of Vice President.

"SEC. 6. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 7. This article shall take effect on the first day of May next following its ratification.".

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time remains under the order for morning business?

The PRESIDING OFFICER. Two minutes.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be an extension of time for the transaction of routine morning business, of not to exceed 1 hour, with statements therein limited to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S ACTIONS OVER THE PAST WEEKEND

Mr. McGEE. Mr. President, I had not intended to speak today, but in light of developments over the weekend and the many and diverse opinions that have been publicly expressed I think that one more will not do any harm.

I venture into this rather short statement with some trepidation. I am not a lawyer. I am not on the Judiciary Committee. But I suppose I would be a member of the jury, in spite of my professorial background, in the event more serious proceedings were to be undertaken in the House. It is in that context that I wanted to express for the record of this body my own reflections on this matter.

I would have to start by confessing that I was ill-prepared for the latest development over the weekend. I had boarded a plane in my hometown of Laramie, Wyo., Saturday afternoon, to fly to Dallas, Tex. ,for the purpose of addressing a United Nations group in honor of the anniversary date of the founding of the U.N.

When I landed in Dallas, there was, without any warning, an assemblage of the local press. They wanted to know what I thought about the most recent developments in Washington. I began to address myself to the resignation of the Vice President of the United States. They said, "Oh, no, we are not talking about that. Haven't you heard what has happened?"

That shows what can happen when one gets on an airplane. It is a kind of shattering experience to think that one can ride on a plane for a couple of hours and not learn that tumultuous events are happening on the ground.

I recall that I had my press secretary look up for me the number of times in the last 12 months that I have revealed my ignorance—at least my sentiments. I am sure that on six memorable occasions I summoned the media to make statements about developments in the Watergate case. On each of those six times I made the mistake of being inexact.

So this time I have sworn, pledged, and vowed not to make any direct forecasts or any predictions. But I would be less than honest if I failed to confess that I have been deeply shaken by the events of the weekend. As to those who would try to torture the right of the President to fire Mr. Cox and others, I would only have to say that they miss the whole point. The issue was not whether it was the prerogative of the President. The issue was the integrity of the appointment of the independent, special investigator, who apparently was fired because there was a difference of opinion concerning just what he had been appointed to do. It is this which looms largest in the minds of the people with which I had occasion to talk and who have confronted me with questions in the 2 or 3 days since the event. It is not the legality; it is the lack of wisdom, the lack of judgment, the shattering of credibility, that all seems to surface.

So in the light of that, I shall say what I have to say. The question should be approached, not in a legal sense, but I would hope a little bit in the historical sense, since that was my own profession for many years before entering this distinguished Chamber. In that sense, my petition is that we proceed with caution and with cool heads.

The whole prospect of impeachment proceedings ought to have a sobering effect on every Member of this body. The track record of the U.S. Senate on the impeachment of Presidents is not a distinguished one. There has been only one such occasion, the impeachment of Andrew Johnson right after the American Civil War. Andrew Johnson was impeached by the House for almost totally disgraceful reasons; narrowly partisan political reasons; tortured, unfair, persecutional reasons. It was a sorry, sorry episode in our country's history and should not serve as a parallel for any consideration at the present time, except to have taught us how not to proceed if such a situation were ever to arise again.

What I am saying is that I think it is most important that we have a little less rhetoric on this matter, at this moment. We should allow a moment for the cooling of heads to occur. Then as we proceed to the examination of the record in the other body, that it be done for the right reasons. It should be pursued for substantive reasons, for reasons of truth and proving facts, rather than for political considerations emotional considerations, publicity considerations, or whatever else. There already has been enough demeaning of the processes of government in the last year, and we should not indulge in still more. I think it behooves all of us in this body to proceed with that single thought uppermost in our minds, so that we can contribute to the restoration of dignity to the governmental mechanism and its processes by proceeding in an orderly way.

I know that we are all human. Sometimes it is easier to seek quick solutions. But I think the important thing is that we seek to achieve a wise solution, that we bring about a fair and just conclusion, and that we sort out the various factors that are exigent at the present time.

I think, likewise, that it should be sobering to us—at least it is to me—that we ought to be careful about saying who is guilty or who is not. At least, I think I should be, if I am to end up being a member of the jury. Do I not call into question my fitness to be a member of the jury if I pronounce the outcome before the vote is submitted?

What I am saying does not condemn those who are already calling for impeachment; but rather to say that we ought to be certain of what we are doing; certain of our reasons; in low key; and surrounded by the dignity for which these times desperately cry in this moment of serious national crisis.

I thought Archibald Cox put it correctly in his news conference, when we all heard him say, in effect, that what we must not overlook is that we are a nation of laws, not a nation of men. Men come and go, some good, some less good. But it is the law and the procedures through law that represent an ongoing continuity that is needed to establish the credibility of a system of government.

I think that is one of the things that loom large in the minds of many people around the world who do not aways understand our system, when they see us wracked by these grave crises. They are amazed when they have seen, on many occasions, how we have proceeded to make corrections and adjustments and have pursued in prosecutions where nec-

essary, within the Constitution and under the law. They are amazed when in almost any other area of the world governments would have fallen, the system would have collapsed, a junta would have taken over, or there would have been open rebellion and civil strife.

I think, thus, we ought to keep in mind what it is we are exhibiting to the rest of the word; that is, that whenever we have a grave crisis, there is always a place for the orderly procedure under the rules prescribed in advance by the Constitution or statutes. It is for that reason that I beseech my colleagues to join hands in responding to the seriousness of this moment, in a way that lends prestige to this body.

I would add a footnote in light of the remarks just made by the distinguished minority whip of the Senate, the Senator from Michigan (Mr. GRIFFIN). I belong to that group in the other party who deplored any unreasonable delays in the selection of a Vice President. It was my view that there was too much of a delay as it was in waiting another month in the consideration of this question. I do think, in light of the record, there must be an intensive inquiry. A great many things are already known. With the facilities of investigation that are available, we do not need to strain or stretch it out. I think events of the past weekend make it even more imperative that we expedite a sober consideration of the pending nominee, JERRY FORD.

I would say, in that context, Mr. President, that, as a Democrat, I would certainly hope that no partisan rancor or political expediency be permitted to intrude into the considerations of that question. This question is far bigger than Democrats or Republicans or independents. It is a question that really holds very much of the resilient qualities capable of emanating from our system of government, and we have to evaluate them as Americans and as people first, and as partisans last, if at all.

So, Mr. President, I express the humble hope that calm spirits will prevail, that cool heads will lead, and that warm hearts will prevail; hearts that understand a system that others around this world have sought to emulate. I sincerely hope we will equate our responsibilities with the best interests of our Nation.

Mr. BAYH. Mr. President, I ask unanimous consent to introduce into the RECORD a statement which I made on yesterday relative to this whole matter which we have been discussing, based on the facts that existed at that time.

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

STATEMENT BY SENATOR BAYH

The events of the past week have placed unprecedented stress on our Constitutional form of government. We are at a critical point in history, confronting a fundamental test of whether political decision-making will be permitted to subvert our judicial institutions and, in fact, our very system of government.

Unlike most other nations, for almost 200 years, our governmental institutions have survived and our nation has prospered because Presidents, Congresses, the courts and individual citizens have placed the rule of law above personal partisan political advantage and have determined that preservation of our precious, yet fragile, form of government is more important than any one individual.

One hundred years ago Abraham Lincoln said, "No man is above the law." At this moment, that basic concept, and its corollary that all citizens should be treated equally under the law, are in greater jeopardy than at any previous point in our history. President Nixon's decision to ignore the judicial process and to discharge those who refuse to go along with his decisions specifically raises the question—is one man—even the President—above the law.

We all know what happens to most average Americans who run afoul of the law.

A driver who speeds pays a fine and perhaps loses his license.

A burglar who breaks into our homes is jailed.

A small businessman who violates the seemingly endless maze of federal regulations is fined.

The average citizen who cheats on his income tax feels the force of law, a fine and likely imprisonment.

The average citizen who commits perjury or extortion can well expect to end up behind bars. In short, each of us know, we either obey the law or we pay the price.

If that is what happens to most of our citizens, isn't that what we should expect to happen to all of our citizens? (Unfortunately, that logical and appropriate expectation is in jeopardy).

Two former Cabinet officers are under indictment for accepting a bribe of $100,000 in connection with a proceeding before the Securities and Exchange Commission.

There are well documented reports that a single industry offered a $2 million "campaign contribution" in exchange for a government decision providing windfall profits for its members.

Former top White House aides have been charged with a wide variety of criminal offenses, including perjury and obstruction of justice. Some have been indicted, and others have already pleaded guilty.

A doctor's office has been burglarized, and his confidential patient-doctor relationship violated, under orders emanating from the White House under the guise of national security.

Executives of major corporations have acknowledged that persons raising money for the President's reelection campaign actively solicited and accepted illegal campaign contributions, even to the point of implying that refusal would bring adverse regulatory action by the government.

And, of course, there is Watergate—which has come to mean not only the break-in at Democratic National Committee headquarters, but the full range of law violations designed to subvert the electoral process.

There has been an attempt made to imply that these misdeeds are normal in the political process. "They all do it" has been the common excuse and the result has been to further erosion of public confidence in the basic political process of our system.

When our homes are broken into, or our money stolen, we expect the culprit to feel the full force of law. In the cases I have just listed, no one is stealing money from our pockets; they are trying to steal our political heritage, our freedom, and to corrupt our system of justice.

Given the enormous magnitude of the crimes with which we must deal, it is all the more imperative to carry out the pledge made by President Nixon on April 30. He said, in a speech to the American people, "justice will be pursued fairly, fully, and impartially, no matter who is involved."

Many agreed with the President in August when he said, "The time has come to turn Watergate over to the courts where the question of guilt or innocence belongs. The time has come for the rest of us to get on with the urgent business of our nation." We desperately hoped to put Watergate behind us—to convict the guilty and exonerate the innocent—and get on about the business of the country.

Yet the President's recent decision to ignore a lawful court order that he provide the courts with access to his controversial tapes prevents fair, full or impartial administration of justice. The President's action actually makes it impossible to prosecute successfully the law violators through the courts. The fact is, that as a matter of law, the withholding of the tapes and the other evidence requested will prevent the conviction of the defendants in many of these cases, since under the law these defendants can demand that evidence, in the possession of the government, which may tend to prove their innocence be produced. (Brody v. Maryland 373 U.S. 83/1963).

Whether or not the tapes actually disclose Presidential involvement, so long as the President refuses to produce them for the court, it will be impossible to convict many of those whose guilt can be clearly established without the tapes. So even before we confront the crucial question of whether the President can ignore a lawful court order the American people must be alerted to the fact that as long as the President refuses to give the courts access to the evidence in his possession, no amount of prosecutorial skill can provide for the conviction of those guilty individuals who can hide behind the defense provided by the President himself.

Even more important than sending the Watergate conspirators to jail, is the fact that the President has deliberately broken an implicit commitment to the Senate and to the American people that there would be an *independent prosecution* of Watergate and related cases by a special prosecutor. That commitment was made when the President vested full authority for the Watergate case in former Attorney General Elliot Richardson authority to appoint an independent special prosecutor, and allowed Mr. Richardson's nomination to go forward after the Attorney General designate has assured the Senate Judiciary Committee that Mr. Cox could proceed fully and without constraint.

At the time of Mr. Richardson's nomination the President said, "I have given him absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters. I have instructed him that if he should consider it appropriate, he has the authority to name a special supervising prosecutor for matters arising out of the case."

When the Senate confirmed Mr. Richardson, the President was well aware of the pending appointment of Archibald Cox as Special Prosecutor and of the special prosecutorial arrangement made by Mr. Richardson with the Senate and at no time uttered one word of objection. It is only now, when the special prosecutor, Mr. Cox, is prosecuting those involved, that the President enters his objection.

Thus, in addition to making prosecution more difficult, if not impossible, the President has denied the American people their right to a full, impartial and independent prosecutor who can restore confidence in the integrity of our legal system.

Last spring, when the Richardson nomination was before the Judiciary Committee, and the terms under which a special prosecutor would be appointed was the central issue, I was deeply and directly involved in the negotiations surrounding Mr. Cox's appointment and the precise terms of that appointment. Along with Senator Hart I engaged in

elaborate and protracted negotiations with Mr. Richardson and Mr. Cox. The end product of those negotiations was an understanding of the conditions that would ensure an independent prosecution of the Watergate and attendant cases. The President's action of the past week destroys these efforts to let each American know that the courts would deal with the Watergate conspirators absent from political pressure and influence.

This obvious disrespect for the rule of law is what has created the grave Constitutional crisis that looms before us, posing a subtle but ominous threat to the very survival of our system of government with its checks and balances. This crisis stems directly from the President's refusal to abide by a lawful court order.

The President urged that Watergate be decided in the courts. Two courts have ruled against the President and he has refused to appeal the courts' decision to the Supreme Court. Rather the President has chosen to ignore the court orders. He has refused to obey the law.

Mr. Cox, for his part, was entirely correct in rejecting the extra-legal compromise offered by the President. That compromise must be regarded as unacceptable, not only because it ignored a court order, but because it seeks to substitute a privately agreed upon arrangement for a well established judicial procedure.

The net result of the resignation of Attorney General Richardson and the calculated dismissal of William Ruckelshaus and Mr. Cox, is that it vests in the Justice Department responsibility for prosecution of the violations of the law in Watergate and other cases previously within the jurisdiction of the special prosecutor. The American people are painfully aware of the fact that this is the same Justice Department which grossly mismanaged the Watergate prosecution prior to the 1972 elections, and prior to the appointment of the special prosecutor.

The President's actions have produced a ground swell of opinion demanding impeachment. It is clear that the House of Representatives has the responsibility of considering such a course of action.

But, perhaps there is one last chance to restore the rule of law to America, short of impeaching the President.

With this goal in mind, later this week I will introduce legislation requiring the appointment of a new special prosecutor and a deputy special prosecutor by the chief judge of the District Court for the District of Columbia. By calling for the appointment of two such special prosecutors, I am following the precedent established in the Teapot Dome case, when President Coolidge appointed prosecutors of differing political parties. The statute would assign to prosecutors the same responsibilities previously assigned to Professor Cox pursuant to the Guidelines agreed upon by the Senate Judiciary Committee, the Attorney General and Professor Cox and the President. Similarly, the special prosecutors would be by statute be given the full range of powers ordinarily available to the Attorney General of the United States investigating alleged misconduct and initiating and conducting all phases of the prosecutorial function.

The legislation would authorize the special prosecutor to organize and hire such staff as he may reasonably require, and provide him with an appropriate budget. In this regard, the legislation would again parallel the Guidelines under which Professor Cox has been operating successfully. The Department of Justice would be directed to provide such assistance as the prosecutor reasonably requests, including the investigatory resources of the FBI. If the prosecutor determines it necessary, he would be empowered to hire and direct his own investigatory staff. The special prosecutor, like Professor Cox, would be required to submit a final report to Congress; beyond that, he would be free to determine the need for additional reports and the time when his assignment is complete. Following the precedent of the Guidelines, the Chief Judge of the District Court could remove the special prosecutor or his deputy only for "extraordinary improprieties."

I recognize that this proposal involves legislation in areas where there are few constitutional precedents. But it is the President—not the Congress—who has set us adrift in these unchartered waters. I believe the Congress possesses the power under the Constitution to establish an independent prosecutor to pursue allegations of corruption by the very highest officials of the executive branch, the institution ordinarily charged with enforcing the criminal laws.

In the first place, Article II, Section 2 of the Constitution provides that "the Congress may by law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." The Supreme Court has specifically held that the Congress may vest the power in the federal courts—pursuant to Article II, Section 2—to appoint "officers" performing various functions, generally those related to the work of the judiciary. See *Ex Parte Hennen*, 38 U.S. (13 Pet.) 230, 257–58 (1839) (clerks of the courts); *Ex Parte Siebold*, 100 U.S. 371, 397–98 (1880) (supervisors of Congressional elections); *Rice* v. *Ames*, 180 U.S. 371, 378 (1901) (United States Commissioners).

The special prosecutor is intended to perform functions which are intimately involved with the powers and responsibilities of the Judicial Branch. As with any attorney, representing the prosecution or the defense, he would discharge his functions as "an officer of the court." The District Courts are already authorized to appoint United States Attorneys—prosecutors—to fill temporary vacancies in their Districts. 28 U.S.C. § 546. And the validity of this provision has been specifically upheld against a constitutional challenge that it violates the separation of powers. *United States v. Solomon*, 216 F. Supp. 835 (S.D.N.Y. 1963). For these reasons, I believe that the Congress validly may vest the appointment of the special prosecutor in the Chief Judge of the District Court of the District of Columbia. It is essential to note that perhaps no other constitutional entity can so well perform the function required in this case—appointing a prosecutor of alleged corruption in the executive branch. As the Supreme Court said in holding that Congress could vest the appointment of Federal election supervisors in the Federal courts:

> It cannot be affirmed that the appointment of the officers in question could, with any greater propriety, and certainly not with equal regard to convenience, have been assigned to any other depository of official power capable of exercising it. *Neither the President, nor any head of department, could have been equally competent to the task.* *Ex Parte Siebold*, 100 U.S. 371, 398 (1880) (emphasis added).

Moreover, I believe that independent constitutional support for my proposal may be found in Article I, Section 8, Clause 17 of the Constitution, which authorizes the Congress to "exercise exclusive legislation"—plenary authority—over the District of Columbia. Congress acts in this capacity as a state legislature and the states clearly have authority to provide for the appointment of a special prosecutor in this manner. And a three judge federal court has held—both under Article I, Section 8 and under Article II, Section 2—that the Congress can constitutionally vest the District Court judges of the District of Columbia with powers far afield of their ordinary judicial responsibilities, specifically, the power to appoint the members of the District of Columbia Board of Education. *Hobson v. Hanson*, 265 F. Supp. 902 (D.D.C 1967), appeal dismissed, 393 U.S. 801 (1968).

Many of the alleged acts were performed in the District of Columbia, and a substantial amount of evidence concerning them remains in the District of Columbia. The legislation would provide that the special prosecutors would be authorized to bring suits in any court of competent jurisdiction, either in the name of the United States or in the name of the District of Columbia. This would allow the prosecutors to pursue crimes under either federal law or District of Columbia law (which, for example, contains a broad perjury provision).

Moreover, Article I, Section 8, Clause 18 empowers the Congress "to make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof." The power to prosecute corruption within the Executive Branch is plainly a power vested by the Constitution in the government of the United States. More specifically, the Constitution specifically refers to the functions of the grand jury in the fifth amendment. And if the Congress can empower a prosecutor to conduct a grand jury proceeding aimed at producing an indictment or presentment against those guilty of such corruption, surely the necessary and proper clause permits the Congress to provide also for the independent prosecution which the Constitution anticipates following grand jury action.

As Chief Justice Marshall wrote more than 150 years ago: "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional." *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316, 421 (1819). I believe the necessary and proper clause was intended to provide Congress with sufficient flexibility precisely so that it could deal with difficult and unforeseeable circumstances such as the President has precipitated in this case.

In recent years there has been much political verbiage about crisis in government and screaming headlines that threaten to dull our senses to the historical nature of the situation now confronting this nation. But, like the story of the boy who cried wolf, the wolf is now at the door. The response of the Congress and the American people must be unflinching and unyielding. Otherwise, we could well find that those things we hold dear—our freedom and our liberty, indeed the very foundation of our democracy—have slipped away and left 210 million Americans hostage to the unlimited power of one man—the President.

We have known the rule of law in this country for two centuries. In Anglo Saxon jurisprudence it stretches back 500 years. Prudent and thoughtful men must now consider seriously the use of the ultimate option available when all others fail to ensure justice and the rule of law. The President may have left us no alternatives but impeachment. Perhaps it is the only alternative available to protect our system of laws.

My bill to establish an independent prosecutor is one last effort to make our system of justice function. If this last option fails, we have no alternative but to impeach the President and replace him with one who recognizes that even presidential power must be controlled. When efforts to protect presidential rights threaten to destroy our constitutional system and the guarantees that treat all citizens equally under the law—the people must prevail.

Mr. BAYH. Mr. President, I suggested in that statement a concern which I still have over the position the President

has put the Senate, the Congress, and this Nation in, in which we may have no alternative but to seriously study, consider, and perhaps even ultimately act, on the matter of impeachment. I hope it does not come to that, Mr. President.

I listened with great care to what my friend and colleague from Wyoming suggested, and share the thoughts that he expressed. I think perhaps one other thought needs to be expressed—that we are desperately in need of whatever courageous action is necessary to try to shore up confidence in the whole system of government in the minds of the people of this country. Whenever a nation and its people lose confidence in the ability of its system to provide equality of treatment under the law for all of its citizens, then we shake the very cornerstone and foundation of the system.

I suggested on yesterday that one possible alternative to immediate and irreconcilable confrontation was the proposal contained in the statement just introduced into the RECORD to provide another vehicle for the appointment of a special, independent prosecutor, because where the country now is crying impeachment because of presidential action and where we need to give careful consideration to the merits of this outcry, I think it is also important for us to recognize that we have a responsibility to see that justice be done, whether it is conviction or exoneration, for those individuals who have been implicated in the Watergate affair.

So far as I, as a Member of the Senate, am concerned, I think we have a responsibility to see the carrying out of the pledge that was made by former Attorney General Richardson, by former Special Prosecutor Cox, and, by inference, the President of the United States, when he permitted us to proceed with the Richardson nomination and the Cox appointment, fully aware of the special problem facing us, with his own words promising a special approach, a nonpartisan and independent approach, so that wherever the tangled web of Watergate leads, the people of this country will have confidence that all the facts are on the table, that we are not playing politics as usual, that the great systems of this country are going to be permitted to function, that the guilty are going to be convicted and the innocent are going to be exonerated, that the great, the near great, and the not so great are going to be treated equally under our laws.

We are, as my friend from Wyoming has said, a nation of laws, not of men. It has been repeated historically with every generation, but I think it is also incumbent upon us to recognize that the way the laws are treated, the way they are administered, determines the caliber of justice and the caliber of government and, indeed, the confidence of the people in their government. It is almost impossible to separate men from laws, and indeed it is an axiom that hardly bears repeating that no man, large or small, should be above the law.

I yield the floor.

Mr. METCALF. Mr. President, the events over the weekend are so startling and so alarming that everyone in America is shocked and stunned. I have listened to the television reports, read three newspapers, the Washington Post, the Washington Star-News and the New York Times. I have heard not only reports of the compromise offered by President Nixon, but the reaction of the people concerned, Special Prosecutor Cox, Attorney General Richardson, Deputy Attorney General Ruckelshaus and others.

Many of my congressional colleagues in the House and Senate have made statements about impeachment. Many have suggested that this is the only course left to the Congress and the American people. In this context I make a personal statement.

I have never thought that the Senate committee, the Ervin committee, would be entitled to the Presidential tapes. As an investigative committee of the Senate, the Ervin committee is bound by statute and constitutional precedent. I concur with the opinion of Judge Sirica denying the tapes to the committee. Hence I agree that the ranking members of the Senate committee should have acquiesced to the President's proposal to let Senator STENNIS listen to the tapes and approve a summary. It appears that this was better than anything that the committee could have achieved through court action.

On the other hand, it would appear that Special Prosecutor Cox had no choice but to refuse to agree to this so-called compromise. The reasons that have already been stated this morning and that were enunciated in Mr. Cox's statement are self-explanatory. No prosecutor could prepare a case with such evidence missing, and every defense lawyer would object, and properly so, to the withholding of such vital information. Under the commitments made by the President and the agreement between Attorney General Richardson and the Senate Judiciary Committee at the confirmation hearings there was no other alternative than to resign. As honorable men, Mr. Cox, Mr. Richardson, and Mr. Ruckelshaus kept their word and refused to obey an order that would cause them to violate their promises or the express promises of President Nixon.

This morning and over the weekend several of my colleagues in the Senate have talked about impeachment. This is, of course, as has already been suggested by the Senator from Utah (Mr. BENNETT) a very delicate matter. In case an impeachment proceeding is instituted by the House of Representatives, the Members of the Senate will sit as the court and jury to decide the veracity of the charges brought by the House of Representatives. It will be the various articles of impeachment that will be voted upon by the Senate. Each Member of the Senate will vote guilty or not guilty in accordance with the evidence adduced. It is like a familiar legal story about the man who was charged with a crime and appeared before the judge at the preliminary hearing. The judge said, "How do you plead, guilty or not guilty." The accused said, "Your Honor how do I know I haven't heard the evidence?"

If an impeachment is brought it will be incumbent upon each Senator to vote upon the question as to whether the managers on the part of the House of Representatives have proved each respective article of the impeachment proceedings.

Several Senators have made statements about impeachment. Some have suggested that this is the only way to discover whether or not the President has failed to carry out his constitutional oath of office. Others have looked at the events of the last weekend and suggested that impeachment is the only recourse. I agree with the warning that the Senator from Utah expressed earlier today. Intemperate pronouncements might lead to a defense attorney's motion to disqualify such a Senator. But I have heard no such pronouncements.

Every Senator who has suggested impeachment has done so with the reservation that it would be incumbent upon the House managers to prove their case. Certain analogies come to mind. Frequently judges are called upon to issue preliminary restraining orders upon the basis of ex parte evidence presented. Just as frequently the same judge upon a hearing on the merits of the case will dissolve such order and dismiss the case.

In many of our States grand jury proceedings have been replaced by the prosecutor's appearance before the trial judge and asking for an information citing the accused for a crime. Sometimes this same judge presides at a trial without a jury and finds that the evidence is insufficient to convict. It is in this sense that some Members of the Senate are suggesting that there be an impeachment, if that is the last alternative but when the case comes to the Senate for trial and determination, if it ever does, these same Senators will adhere to their special oath to "do impartial justice according to the Constitution and laws."

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. GRIFFIN. Mr. President, I ask that the period for morning business be extended, on the same basis, for an additional 30 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistance legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

REPORT OF OVEROBLIGATION OF AN APPROPRIATION

A letter from the Executive Director, Advisory Commission on Intergovernmental Relations, reporting, pursuant to law, on the overobligation of an appropriation. Referred to the Committee on Appropriations.

REPORT OF FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a summary report entitled "Steam-Electric Plant Air and Water Quality Control Data, 1970" (with an accompanying report). Referred to the Committee on Commerce.

REPORT OF COMMISSION ON AMERICAN SHIPBUILDING

A letter from the Chairman and Members of the Commission on American Shipbuilding, transmitting, pursuant to law, a report of the Commission (with an accompanying report). Referred to the Committee on Commerce.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

Two joint resolutions from the Legislature of the State of California. Referred to the Committee on Commerce:

"ASSEMBLY JOINT RESOLUTION No. 17

"Relative to urging Congress to adopt a uniform certificate of title law

"Whereas, The need for a uniform, nationwide certificate of title law for vehicles is substantial and would help reduce interstate vehicle theft; and

"Whereas, Even if California, or any other state, were to develop the most effective controls imaginable for the prevention of illegal titling and stolen vehicle conversion, if other states have no title laws or very inadequate ones, the interstate aspects of vehicle theft will continue to create serious problems; and

"Whereas, Not all states have certificate of title laws and the certificate of title laws of some states are very weak and nearly as states have no title laws or very inadequate title laws whatsoever; and

"Whereas, because of this, it is possible for a vehicle stolen in California to be registered or titled in another state and sold or retitled in yet another state, or even in California if the numbers on the document are not the same as on the vehicle stolen; and

"Whereas, Two congressional bills were submitted last year which, in part, would have required certificate of title legislation in all states; and

"Whereas, These provisions of the bills were deleted so that states could be given the opportunity to develop such legislation on a voluntary basis; and

"Whereas, California would very much like to see eliminated the major governmental weakness in vehicle theft prevention which is external to California, thereby deterring interstate traffic in stolen vehicles; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature respectfully memorializes the President and Congress of the United States, if all states do not voluntarily enact adequate certificate of title statutes by the end of 1973, to enact legislation requiring each state to enact such statutes and to establish the necessary procedures and safeguards to assure a reasonable degree of integrity for the certificates of title issued thereunder; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Attorney General of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

"ASSEMBLY JOINT RESOLUTION No. 48

"Whereas, The United States is the only major industrial nation in the world that has not adopted the metric system as the principal system of measurement; and

"Whereas, the Secretary of Commerce has determined in a study authorized by Congress that the increasing use of the metric system is inevitable and that the adoption of the metric system would improve our position in world trade markets; and

"Whereas, Other nation's trading communities like the European Economic Community are establishing restrictive industrial standards favoring the metric system; and

"Whereas, the metric system would aid our educational system by simplifying the teaching of math and shortening the time needed to learn math; and

"Whereas, The State of Ohio has already instituted a 10-year plan to convert all highway mileage signs to metric; and

"Whereas, The spreading use of the metric system is creating confusion and unnecessary antipathy towards the metric system; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California jointly*, That the Legislature respectfully memorializes the Congress to enact this year legislation establishing the necessary machinery to coordinate the conversion from the imperial system to the metric system, and to establish a deadline of 10 years in which to achieve metric conversion; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORT OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. CANNON), from the Committee on Rules and Administration, without amendment:

H. Con. Res. 301. Concurrent resolution providing for the printing as a House document "A History and Accomplishments of the Permanent Select Committee on Small Business of the House of Representatives" (Rept. No. 93-479).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHILES:

S. 2600. A bill to provide for the appointment of an independent special prosecutor to prosecute certain investigations into criminal activities. Referred to the Committee on the Judiciary.

By Mr. BIBLE:

S. 2601. A bill to provide for commercial outdoor recreation purposes of certain lands of the forest reserves created from the public domain, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. STEVENSON:

S. 2602. A bill to provide that daylight savings time shall be observed on a year-round basis. Referred to the Committee on Commerce.

S. 2603. A bill to provide for the continuation of an independent, thorough investigation of certain activities by high Federal officials and persons acting in concert with them. Referred to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (for Mr. BENTSEN):

S. 2604. A bill designating the Texarkans Dam and Reservoir on the Sulphur River as the Wright Patman Dam and Lake. Referred to the Committee on Public Works.

By Mr. HELMS (for Mr. THURMOND):

S. 2605. A bill to prohibit the export of agricultural grain to any country which reduces the quantity of oil normally exported by such country to the United States, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MONDALE:

S. 2606. A bill for the relief of Grant J. Merritt and Mary Merritt Bergson. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 2607. A bill to establish the Alpine Lakes National Recreation Area, including within it the Alpine Lakes Wilderness Area in the State of Washington;

S. 2608. A bill to designate certain lands in the Snoqualmie and Wenatchee National Forests, Washington as "Alpine Lakes Wilderness" and "Enchantment Wilderness" for inclusion in the national wilderness preservation system;

S. 2609. A bill to designate certain lands as wilderness; and

S. 2610. A bill to designate the Alpine Lakes Wilderness, Snoqualmie, and Wenatchee National Forests, in the State of Washington.

Referred to the Committee on Interior and Insular Affairs.

By Mr. GRIFFIN:

S.J. Res. 166. A joint resolution proposing an amendment to the Constitution of the United States with respect to the selection of the Vice President of the United States. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES:

S. 2600. A bill to provide for the appointment of an independent special prosecutor to prosecute certain investigations into criminal activities. Referred to the Committee on the Judiciary.

(Senator CHILE's remarks when he introduced the above bill and the ensuing debate are printed earlier in the RECORD.)

By Mr. STEVENSON:

S. 2602. A bill to provide that daylight savings time shall be observed on a year-round basis. Referred to the Committee on Commerce.

Mr. STEVENSON. Mr. President, this winter the American people face an energy crisis of unprecedented proportions.

Cold homes, closed schools, rotting grain, and idle factories are not only possible—they are a certainty, unless we find the national will to live by a new energy ethic—the ethic of conservation.

Why and how this happened is the subject of much debate. But whatever the reasons, everyone agrees that little can be done over the short run—particularly this winter—to increase our limited energy supplies.

We are short over 629 billion cubic feet of gas. We are short 1.3 billion gallons of

propane. Under the best of circumstances, we were expected to be short over 100,000 barrels per day of fuel oil this winter. A colder than average winter here or in Europe, anything less than record domestic refinery production and a threatened Arab oil boycott could leave us with shortages of 1 million barrels per day of fuel oil and another 1 million barrels per day of crude oil.

If we cannot increase supplies, we must find ways to decrease demand. And we must do it together as individuals and as businesses and nationwide. The bill I am introducing today, calling for year-round daylight saving time, offers the Congress and the Nation a unique opportunity to take a decisive step in that direction.

On October 28—next Sunday—we are scheduled to turn our clocks back 1 hour and return to standard time. A soon to be released study by the Rand Corp. in California suggests that this time change may increase our total energy deficit this winter by as much as one-third to one-half. The time has come for the Congress and the administration to decide whether this energy starved Nation can afford to leave daylight saving time behind.

The Rand study—the most comprehensive on the subject to date—concludes that daylight saving time could save approximately 2 percent of all electrical output. Preliminary data indicates that the energy savings could be substantially higher during the peak load months of December, January, and February.

The production of electricity consumes one-third of all our Nation's energy resources. Assuming only a 2-percent electrical savings this winter, year-round daylight saving time would result in saving three-quarters of 1 percent of all our energy needs. That is 25 percent of our projected shortfall of 3 percent—and that is from electricity generation savings alone.

It previously has been assumed that the greatest energy savings from year-round daylight saving time would result from decreased electrical generation. Perhaps the most significant finding of the Rand Study is the 2 percent projected savings of fuel oil and natural gas which may result from decreased commercial and residential heating needs. Approximately 39 million homes and 3.3 million commercial buildings are heated with natural gas, and another 16.5 million homes and almost 1 million commercial buildings with fuel oil. These are also the fuels which are expected to be in shortest supply this winter.

Combining all these savings, the Rand study estimates the total energy saving from year-round daylight savings time may run as high as 1½ percent of our total energy needs this winter. This is one-half of our total projected shortfall of 3 percent.

In view of these substantial savings and the critical energy shortages we face this winter, my bill provides for a 1-year test of year-round daylight saving time as an energy conservation measure. It also authorizes the Department of Transportation, as administrator of the Uniform Time Act, to submit an evaluation of this 1-year trial to the Congress.

Daylight saving time was initiated as an emergency conservation measure during both world wars. The need is as great now. And the need is to move quickly. If daylight saving time makes any sense as an energy conservation measure, every effort must be made to avoid the energy loss and personal inconvenience which will occur with the scheduled time change this Saturday. Now is the time for Congress to move.

In addition to offering substantial fuel savings, daylight saving time will also help reduce crime, improve traffic safety, produce more daylight for the convenience and pleasure of most people and eliminate the confusing twice yearly time changes. Work and school schedules could be adjusted to convenience those adversely affected by early morning darkness.

Daylight saving time offers the opportunity to act quickly and easily to provide substantial energy savings while simultaneously providing a national focal point for sorely needed personal conservation initiatives. When used in conjunction with a conscientious nationwide energy conservation program of individual action, the energy savings associated with daylight saving time increase many fold.

The bill I am introducing today resolves that it is time we embark upon a nationwide energy conservation campaign, including personal efforts to:

Turn thermostats down several degrees, especially at night;

Limit unnecessary automobile travel and hold down the speed of necessary travel by automobile;

Keep automobiles in tune and buy small, efficient automobiles;

Use public transportation whenever possible;

Turn off office air-conditioners and heating plants an hour earlier in the afternoon;

Make a conscious effort to limit unnecessary use of lights; and

Shut off all unnecessary office building lights and outdoor displays.

These are only a few of the many individual actions which, together with daylight saving time, could save hundreds of thousands of barrels of petroleum products a day. In the short run, energy conservation is the only answer we have.

We are in serious trouble, and we are in serious need of strong national leadership to make energy conservation work—forthright leadership that rallies the Nation to the task.

Now, more than ever, the people are looking to the Congress for answers. It is time we establish a nationwide energy conservation program. And we can begin this week in Congress by passing year-round daylight saving time.

The future of the Nation may depend on how we meet the challenge of this winter's energy crunch. The stakes are simply too high to ignore a measure as promising as daylight saving time.

Mr. President, I ask unanimous consent that the full text of the Emergency Daylight Saving Time Energy Conservation Act of 1973 be printed in the RECORD at this point.

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

S. 2602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Daylight Savings Time Energy Conservation Act of 1973".

SEC. 2. The Congress hereby finds and declares—

(a) that the United States faces the probability of severe energy shortages, especially in the winter of 1973–1974 and in the next several winters thereafter;

(b) that taking into account curtailments of all other fuels, the most optimistic estimates of this shortage for the winter of 1973–1974 may be expressed as a shortfall of 100,000 barrels per day of number two fuel oil;

(c) that various studies by the Department of Transportation and other governmental and nongovernmental agencies indicate that if daylight saving time were in effect year-round there would be an energy saving of from one-half to three per centum of all energy used in electrical power generation;

(d) that although no definitive studies have been done on the savings of energy in areas other than electrical power generation, there are indications that there would be savings in these other energy areas;

(e) that the studies referred to in clause (c) of this section indicate that if daylight saving time were extended to be in effect year-round, such action by the Federal Government could serve as an incentive for other energy conservation by individuals, companies, and various governmental departments, agencies, and other entities at all levels of government, and that these energy conservation efforts could lead to greatly expanded energy savings and would help to meet the projected energy shortages, and that these energy conservation efforts could include but not be limited to such actions as:

(1) turning down thermostats several degrees, especially at night;

(2) limiting unnecessary automobile travel and holding down the speed of necessary travel by automobile;

(3) keeping automobiles in tune and buying small, efficient automobiles;

(4) using public transportation whenever possible;

(5) turning off office air conditioners and heating plants an hour earlier in the afternoon;

(6) making a conscious effort to limit unnecessary use of lights; and

(7) shutting off all unnecessary office building lights and outdoor displays; and

(f) that in addition, the use of year-round daylight saving time could have beneficial effects in other areas affecting the public interest, including the reduction of crime, improved traffic safety, more outdoor playing time for the children and youth of our nation, greater utilization of our parks and recreation areas, an expansion of tourism and travel, and the elimination of the confusion during the twice-yearly changeover in times which occur in most areas of the nation; and

(g) that the emergency nature of an energy shortage in the winter of 1973–1974 requires at least the temporary enactment of year-round daylight saving time.

SEC. 3. Section 3 of the Uniform Time Act of 1966 is amended by inserting at the end thereof the following:

"(d) Notwithstanding any other provision of law (1) the one hour advance in time provided by subsection (a) of this section shall continue during the period from 2 o'clock antemeridian on the last Sunday of October, 1973, until 2 o'clock antemeridian on the last Sunday of April 1974, and (2) the provisions of clauses (1) and (2) of subsection (a) of this section shall not apply during such period."

SEC. 4. The Secretary of Transportation shall (1) make an investigation and study for the purpose of determining the amount of energy in its various forms which is conserved as a result of the extension of daylight saving time pursuant to the amendment made by this Act, and (2) report the results of such investigation and study, together with his recommendations to the President and the Congress not later than June 30, 1974.

By Mr. STEVENSON:

S. 2603. A bill to provide for the continuation of an independent, thorough investigation of certain activities by high Federal officials and persons acting in concert with them. Referred to the Committee on the Judiciary.

(Senator STEVENSON's remarks when he introduced the above bill and the ensuing debate are printed earlier in the RECORD).

By Mr. ROBERT C. BYRD (for Mr. BENTSEN):

S. 2604. A bill designating the Texarkana Dam and Reservoir on the Sulphur River as the Wright Patman Dam and Lake. Referred to the Committee on Public Works.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Texas on the introduction of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BENTSEN

I am introducing today a bill to rename the Texarkana Dam and Reservoir in Texas the Wright Patman Dam and Lake.

The Texarkana Dam and Reservoir was authorized by the Flood Control Act of 1946 and was completed in 1958. It has operated successfully for the purposes of flood control, water supply, and recreation. The reservoir's recreational use is of particular pride to my state, and has provided enjoyment to over 2½ million visitors every year.

I am asking that the Congress rename this dam and reservoir for Wright Patman because he is a great Texan, a great statesman, and, above all, a great American.

Wright Patman has served continuously in the U.S. House of Representatives since March 4, 1929. Previously, he had been a member of the Texas State House of Representatives from 1921 to 1924, and also served as district attorney for the fifth judicial district of Texas from 1928 until his election to the Congress. As Chairman of both the powerful Committee on Banking and Currency and Joint House-Senate Economic Committee, and Vice-Chairman of the Joint House-Senate Committee on Defense Production, Congressman Patman has the ability to influence greatly the lives of all Americans. He has served with great distinction during his 45 years in Congress and has earned the respect and affection of his colleagues and constituents.

Chairman Patman has been particularly interested for many years in the field of water resources development, and it is only fitting that the Texarkana Dam and Reservoir be renamed in his honor The success of the dam epitomizes his contributions to the field of water resources and honors him for his many unselfish years in public service.

As I have stated before here on the Senate floor, I believe that the late President Johnson summed up very well what we all know about Congressman Wright Patman: "(Few) have served longer and with more experience than Wright Patman. None has served better and few as well. He represents the best in America's conscience and heritage, but most of all he always votes and fights for what he believes is best for the folks."

I realize that it is a departure from traditional policy to rename a porject for a sitting Member of Congress, but I believe that departure in this case is more than justified by Chairman Patman's unique record of service and dedication.

I am very proud to call Wright Patman my friend, and I strongly urge the support of my colleagues in passing this bill.

By Mr. HELMS (for Mr. THURMOND):

S. 2605. A bill to prohibit the export of agricultural grain to any country which reduces the quantity of oil normally exported by such country to the United States, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. HELMS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from South Carolina on the introduction of the bill, together with an insertion.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR THURMOND

In recent times, the investments of American corporations and their stockholders have frequently been expropriated by foreign nations. These nations initially welcome with open arms U.S. capital investment and then at a later date nationalize the fruits of these investments.

In a typical example, one of our corporations will invest millions of dollars in a foreign nation to develop a particular property. It will then spend considerable time and additional money in bringing the property to maximum operating efficiency. Once these properties have been developed by American expertise and money, then they are nationalized by the benefiting nation.

Mr. President, there is also the very real problem of various nations attempting to influence U.S. foreign policy by threatening to nationalize our properties or by restricting imports upon which this country has depended for a number of years. I speak with specific reference to the current situation with which our Nation is faced in the Middle East. Although normally the conduct of American foreign policy by the Executive Branch should not be unduly restricted, in my opinion, it is incumbent upon the Congress to act when necessary to protect American investments and to discourage outright extortion. For these reasons, I send to the desk legislation which would require the President to prohibit any export from the United States of grain to any nation which is found to have reduced, for political purposes, the quantity of oil normally exported by such country or to have nationalized any of our properties in these countries. Any prohibition against such exports will be lifted when the offending nation ceases such activity or when such nation pays just recompense to our Nation. The President shall keep Congress currently informed of all actions taken by him under this Act.

Mr. President, I have obtained from the Agriculture Department some very informative figures on grain imports from many of the Middle Eastern countries. I add some tables to my remarks and urge all of my colleagues to give careful consideration both to these tables and to this legislation.

PERCENT IMPORTS OF CONSUMPTION

	1971–72	1972–73	*1973–74
Egypt:			
Wheat	49.5	54.0	53.3
Feed grain	.6	1.5	3.0
Iran:			
Wheat	34.6	16.4	14.6
Feed grain	25.2	33.3	23.3
Iraq:			
Wheat	28.2	.....	38.5
Feed grain	32.9	.....	.....
Jordan:			
Wheat	39.2	41.8	79.1
Feed grain	22.2	20.8	29.2
Kuwait:			
Wheat	.....	.....	.....
Feed grain	.....	100.0	100.0
Lebanon:			
Wheat	[1] 101.4	72.9	93.3
Feed grain	[1] 104.9	[1] 101.2	81.7
Saudi Arabia:			
Wheat	100.0	100.0	100.0
Feed grain	100.0	100.0	100.0
Syria:			
Wheat	58.3	9.1	35.3
Feed grain	11.7	2.0	20.5
Israel:			
Wheat	54.0	60.2	54.2
Feed grain	92.1	96.2	96.6

[1] Percent of imports is greater than 100 percent due to build up of stocks.
*Estimated.

IMPORTS: WHEAT AND FEED GRAINS FOR SPECIFIED COUNTRIES

[1,000 metric tons]

	1971–72	1972–73	*1973–74
Egypt:			
Wheat	1,695	1,900	2,100
Feed grain	19	50	110
Iran:			
Wheat	1,116	770	770
Feed grain	276	395	300
Iraq:			
Wheat	320	0	500
Feed grain	250	0	0
Jordan:			
Wheat	125	150	238
Feed grain	10	11	7
Kuwait:			
Wheat	0	0	0
Feed grain	0	7	10
Lebanon:			
Wheat	448	291	347
Feed grain	213	163	76
Saudi Arabia:			
Wheat	350	350	350
Feed grain	25	25	25
Syria:			
Wheat	698	100	400
Feed grain	40	10	100
Israel:			
Wheat	293	339	315
Feed grain	862	952	1,033

*Estimated.

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 2607. A bill to establish the Alpine Lakes National Recreation Area, including within it the Alpine Lakes Wilderness Area in the State of Washington;

S. 2608. A bill to designate certain lands in the Snoqualmie and Wenatchee National Forests, Wash., as "Alpine Lakes Wilderness" and "Enchantment Wilderness" for inclusion in the national wilderness preservation system;

S. 2609. A bill to designate certain lands as wilderness; and

S. 2610. A bill to designate the Alpine Lakes Wilderness, Snoqualmie, and Wenatchee National Forests, in the State of Washington.

Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I introduce for appropriate reference four distinctly different land use classification

bills pertaining to the rugged and indeed beautiful Alpine Lakes region of Washington State. These bills represent the culmination of exhaustive research, including natural resource inventories of the Alpine Lakes region by private business, conservation organizations, and by the U.S. Forest Service—all of whom have recommended different approaches for preserving what is commonly referred to as the Alps of North America.

I wish to have it completely understood from the outset, Mr. President, that I am introducing all of these measures because of their timeliness, not because I support any particular proposal. The public hearings which must be held in the House and the Senate will serve as the proper forum for reaching decisions as to which areas should be added to the national wilderness preservation system and which should be categorized as national recreation areas, botanical areas, scenic, areas, management units, or continued to be managed by the U.S. Forest Service under their normal management system as required by the Multiple Use Sustained Yield Act of 1960. My colleague, Senator MAGNUSON, who is cosponsoring all bills and all seven members of the Washington State delegation from the House who are introducing identical bills share my beliefs in this regard.

Because of its beauty and immense natural resource values, the North Cascades and in particular the Alpine Lakes region have been the subject of many books, reports, and travelogs almost since the first Federal forest reserves were established in the 1890's. Because of the early and continuing controversy over whether a North Cascades National Park should be established, together with associated problems of resource balance between competing users, a North Cascades study team was appointed in 1963 to "explore in an objective manner all resource potentials of the area and the management and administration that appears to be in the public interest." The multiagency team spent 2½ years studying more than 6 million acres of Federal land in the North Cascades before publishing their comprehensive report in October 1965. I should emphasize that the North Cascades study team engaged in one of the most complete public airings of regional land use policy that this country has ever witnessed.

Mr. President, in 1967 and 1968, I devoted considerable time to legislation encompassing much of the North Cascades region, time which culminated in the establishment of a 505,000-acre North Cascades National Park. Another 700,000 acres of dramatic alpine scenery, active glaciers, and mountain lakes in northern Washington were placed in a special status, including the Ross Lake and Lake Chelan Recreation Areas, and Pasayten Wilderness, and additions to the Glacier Peak Wilderness.

Because of the sheer magnitude of undertaking long-range land use patterns for the entire North Cascades area, only those study team recommendations dealing with land north of the Stevens Pass Highway were the subject of legislation in 1967 and 1968. The measures I am introducing today represent one more step toward total congressional consideration of the study team's recommendations.

Nationwide interest has been focused on the entire Alpine Lakes area as a result of the establishment of the North Cascades National Park and related land areas. Conservationists for many years have expressed their concern about the protection, management, and development of the lands involved in these measures. Because of the public's concern for protection for the outstanding natural beauty and grandeur, much of the Alpine Lakes area is currently being managed for its exceptional scenic wilderness and recreational values.

Mr. President, the extensive field hearings which were held during the long and complex debate on the North Cascades Park legislation enabled Congress to enact legislation which, I believe, best represented the needs of the majority of citizens. In an effort to see that all sides are heard on the Alpine Lakes proposals, I anticipate using the same procedures here. I feel it is essential that all alternatives be considered and the public be provided with a full opportunity to discuss them in depth so that we may make the wisest decision with regard to the future use of the beautiful Alpine Lakes region.

It might be useful at this point, Mr. President, to review the North Cascades Study Team recommendations for treating the Alpine Lakes region. While there was considerable disagreement between study team representatives of the National Park Service and the U.S. Forest Service as to classification of the Alpine Lakes area, the final position of the study team was:

NORTH CASCADES STUDY TEAM RECOMMENDATIONS

Recommendation I. An Alpine Lakes Wilderness Area should be established.

On the crest of the Cascade Mountains, between Snoqualmie and Stevens Pass, is an extremely beautiful area of high mountain lakes and peaks believed to be unmatched elsewhere in the country. Much of this area has been in limited area status under Forest Service management.

The team concurs with the Forest Service proposal to create a wilderness area of some 150,000 acres. The area clearly meets the standards for classification as wilderness. Some additional miles of low standard trails should be developed for camping, hiking, riding, hunting, and similar wilderness pursuits.

Recommendation II. An Enchantment Wilderness Area should be established.

This area of about 30,000 acres in the Mount Stuart Range lying east of the recommended Alpine Lakes Wilderness Area. It is an area of outstanding scenic qualities, of sharp contrasts in elevation and topography, of challenging mountain climbing, and without roads.

The National Park Service recommended that the Alpine Lakes and Enchantment areas be combined into one, but the Forest Service recommended that the two areas be kept separate in order to permit better access and the development of a connecting road between Leavenworth and Cle Elum Lake. . . . The study team agreed with the Forest Service.

The National Park Service, in addition to supporting a single unit wilderness area, also recommended that the wilderness "be the core of a larger surrounding recreation region." This concept is similar in many respects to the legislative proposal I am introducing today for the Alpine Lakes Protection Society—an organization of conservationists which was established in 1968 for the purpose of advocating the preservation and protection of the Alpine Lakes region. Their proposal calls for land classification of some 936,000 acres, including a core wilderness area of 364,000 acres surrounded by a national recreation area consisting of 562,000 acres. Approximately 41,000 acres of the proposed wilderness are now in private ownership. Since there is no condemnation authority in the Wilderness Act, under their proposal this land would have to be acquired by the Federal Government either by purchase or exchange.

The second bill I am introducing at the request of another organization, the Alpine Lakes Coalition, closely resembles the original U.S. Forest Service recommendations to the North Cascades Study Team in 1965. The coalition proposal calls for an enchantment wilderness of 44,000 acres and an Alpine Lakes Wilderness of 172,000 acres with a corridor between these two areas. The remaining acreage outside the wilderness area would continue to be managed in accordance with the multiple use concept as established by the Multiple Use Sustained Yield Act of 1960.

The Alpine Lakes Coalition was recently formed following an extensive land use and natural resources inventory study conducted by a team of land managers from the forest products industry. The coalition is composed of forest industry representatives from several firms as well as recreation and business organizations including the Association of Washington Business, the Big Game Council, the Central Washington Cascades Study Team, the Northwest Mining Association, Outdoors Unlimited, the Pacific Northwest Four Wheel Drive Association, the Washington Farm Forestry Association, the Pacific Northwest Ski Association, the Trailer Coach Association, the Washington State Horsemen, Inc., the Washington State Snowmobile Association, the Washington Trail Riders Association, and the Western Environmental Trade Association.

The third legislative plan for the Alpine Lakes I am introducing is at the request of Dr. Pat Goldsworthy, a noted conservationist, on behalf of the North Cascades Conservation Council, the Sierra Club, Friends of the Earth, and the Mountaineers. Their proposal calls for a single unit wilderness area of approximately 600,000 acres. Like the ALPS proposal, there is a substantial amount of private property contained within their wilderness area request.

Mr. President, the last bill I am introducing represents the wilderness proposal of Region 6 office of the U.S. Forest Service. While this measure does not have the official administration stamp of approval of the executive branch, I am introducing it now because it could be up to 14 months before a final position would be taken by the administration regarding the Alpine Lakes. It was also felt by members of the Wash-

ington State congressional delegation and most individuals concerned with the Alpine Lakes that all the proposals should be introduced together in an effort to provide a forum for comment prior to and during subsequent congressional hearings.

I want to commend the Forest Service at this time for their work in defining the land use alternatives for the Alpine Lakes area and for their conduct in involving the public in their decisionmaking process. While many people disagree with the Region 6 recommendation of a 285,000 acre single-unit wilderness area, the Forest Service has nonetheless focused a great deal of public attention, and rightly so, on this magnificent area.

Under the Region 6 proposal, only their recommendation for wilderness would require congressional action. It is their intent to administratively classify some 634,000 acres surrounding their wilderness proposal as a "management unit" and another 24,000 acres as "Tumwater Canyon and Mount Index Scenic Areas." While the land use criteria for the management unit have not been clearly defined by the Forest Service, it is felt by most observers that national recreation area classification would be a logical statutory framework for the Forest Service region's management unit.

Mr. President, I ask that the text of these four bills be inserted in the RECORD at this point.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2607

A bill to establish the Alpine Lakes National Recreation Area, including within it the Alpine Lakes Wilderness Area in the State of Washington

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT OF AREA—STATEMENT OF PURPOSES

SEC. 1. In order to preserve the scenic, scientific, historic, recreational and wilderness values of the Alpine Lakes region of the Cascade Mountains; to provide for the public outdoor recreation use, education, inspiration and enjoyment thereof by the people of the United States; to assure orderly and quality development or use of private lands within the region in a manner consistent with the purposes of this act, and to further the purposes of the Wilderness Act, there is hereby established, subject to valid existing rights, the Alpine Lakes National Recreation Area (hereinafter referred to as the "area") in the State of Washington.

BOUNDARIES OF AREA—WILDERNESS AREA CORE

SEC. 2. Alpine Lakes National Recreation Area shall comprise that particular area which is shown on a certain map, identified as Alpine Lakes National Recreation Area (proposed by Alpine Lakes Protection Society) 1972, which is on file and which shall be available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture. As a part of the Alpine Lakes National Recreation Area, the core of such area, as depicted on the above-described map, is hereby designated as a Wilderness Area (hereinafter referred to as the "core") in accordance with the Wilderness Act.

ADMINISTRATION BY SECRETARY OF AGRICULTURE

SEC. 3. The administration, protection and development of the area shall be by the Secretary of Agriculture (hereinafter referred to as the "Secretary") in accordance with the provisions of this Act, and, to the extent consistent with these provisions, the laws, rules, and regulations applicable to national forests. The core shall be managed pursuant to the Wilderness Act, and regulations issued pursuant thereto, except as provided in sections 4, 5, and 8 of this Act.

ACQUISITION OF PROPERTY—AUTHORITY OF SECRETARY

SEC. 4. (a) The Secretary shall acquire by purchase with donated or appropriated funds, by gift, exchange, transfer from any Federal agency, or otherwise, such lands, waters, or interests therein within the boundaries of the area as he determines to be necessary or desirable for the purposes of this Act.

(b) Without limitation upon the preceding subsection, the Secretary may acquire less than fee interests, including scenic easements, when, in his judgment, such acquisition will sufficiently protect the interests of the United States for the purposes expressed in this Act.

(c) Any non-corporate owner or owners of improved residential property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain for a term ending at the death of such owner or owners, the right of use and occupancy of such property which does not unduly impair the scenic, natural or recreation values of the area. The Secretary shall pay to such owner the value of the property on the date of such acquisition, less the value on such date of the right retained by the owner. Such valuation shall be in accordance with the provisions of section 4(g) hereof. The retention of a right of use and occupancy shall not exempt the owner thereof from the provisions of section 5 of this Act.

(d) In exercising the authority to acquire granted by this Act, the Secretary shall, to the extent practicable, make such acquisitions in accordance with the following priorities—

(1) lands devoted to uses incompatible with, or needed to prevent threatened development or uses which would be incompatible with the purposes of this Act,

(2) lands within the core,

(3) other lands needed for preservation or protection of the scenic, natural or recreational values of the area, and

(4) lands needed for development of facilities.

Within each of the foregoing priorities, the Secretary shall give primary consideration to acquisitions where the owner needs to sell for reasons of personal hardship, or where the owner has placed or intends to place his property on the market for transfer.

(e) Notwithstanding any other provisions of law, any Federal property located within the area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for his use in carrying out the provisions of this Act.

(f) In exercising his authority to acquire property by exchange the Secretary may accept title to any non-Federal property within the area, and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction which he classifies as suitable for exchange or other disposal and which is not within any other Wilderness or Primitive Area: *Provided*, That the Secretary shall not convey to the grantor any federally owned property within the area unless—

(1) such exchange will not substantially impair the scenic, natural or recreational values of the area;

(2) federally owned property outside of the area cannot reasonably be used for the exchange; and

(3) the exchange will not result in any decrease in federally owned property within the core. Federally owned property within the area shall not be conveyed in exchange for non-Federal property elsewhere. In selecting federally owned lands outside of the area to convey under this subsection, the Secretary shall make such selection without regard to whether such lands have similar characteristics to those lands the Secretary seeks to acquire. The values of properties exchanged pursuant to this subsection shall be approximately equal or, if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require,

(g) In acquiring any lands or interests therein the Secretary shall not pay more than the fair market value thereof. Such lands or interests shall be valued without regard to any decrease in the value thereof that may have resulted from the promulgation of regulations or adoption of zoning ordinances pursuant to section 5 of this Act: *Provided*, That the provisions of the last preceding sentence shall cease to be in effect after a period of ten years from the date of this Act.

REGULATION OF LAND USES—CONDEMNATION AUTHORITY

SEC. 5. (a) After consulting with appropriate local zoning agencies, the Secretary shall make and publish regulations, which may be amended from time to time, specifying standards for zoning ordinances to be adopted and applied by appropriate local zoning agencies to privately owned property within the boundaries of the area. Standards specified in such regulations shall have the object of assuring that the highest and best use of such privately owned land is consistent with the purposes of this Act and the management plans adopted by the Secretary pursuant to section 6 of this Act. Such regulations shall be as detailed and specific as is reasonably necessary to accomplish such objective and purpose.

(b) The appropriate local zoning agencies shall submit to the Secretary for his approval any zoning ordinance intended to apply to privately owned property within the area. The Secretary shall approve any zoning ordinance or any amendment to zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(c) The Secretary shall, at the request of any local zoning agency having jurisdiction over privately owned lands within the area, assist and consult with such zoning agency in establishing zoning ordinances. Such assistance may include payments for technical aid.

(d) The Secretary shall, at the request of any owner of privately owned lands within the area, assist and consult with such owner regarding ways for such owner to use his property in a manner which is consistent with or in furtherance of the purposes of this Act.

(e) The Secretary is authorized to condemn privately owned lands or interests therein within the area if—

(1) such property is put to any use which does not conform to an approved zoning ordinance and the Secretary's regulations; or

(2) such property is made the subject of a variance, conditional use permit, or other exception to an approved zoning ordinance

that does not conform to any applicable standard contained in regulations issued pursuant to this section; or (5) zoning in accordance with standards contained in regulations issued pursuant to this section is incapable of legally preventing a use of privately owned land which may substantially impair the scenic, natural or recreational values of the area. Before any condemnation action is commenced, the Secretary shall notify the owner of such property in writing that condemnation is being considered. Such notice shall contain a detailed statement as to why the Secretary believes that the use made or planned to be made of the property authorizes the Secretary to condemn that property. Any such owner shall have sixty (60) days following receipt by him of that written notice within which to discontinue or abandon the existing or proposed use referred to in such notice. Discontinuance or abandonment of such use within such sixty-day period shall have the effect of prohibiting the Secretary from acquiring such property by condemnation by reason of such use. In any case in which such use is not discontinued or abandoned within such sixty-day period, the Secretary may acquire such property by condemnation. The Secretary shall initiate no condemnation action under this section until he has made every reasonable effort to acquire such property by negotiation and purchase. A certificate of determination by the Secretary or his designated representative that such reasonable efforts have been exhausted shall be prima facie evidence of compliance with this requirement. This section shall not be construed as limiting any authority to condemn granted to the Secretary by any other law.

(f) In any action to condemn privately owned lands or interests therein pursuant to the provisions of this Act, such land or interests shall be valued to include compensation for any decrease in the value thereof, not otherwise compensated for, that may have resulted from the promulgation of regulations or adoption of zoning ordinances pursuant to this section: *Provided*, That the provisions of this subsection shall cease to be in effect after a period of ten (10) years from the date of this Act.

(g) In the event condemnations authorized by this section involve estimated expenditures in excess of current appropriations for these purposes, the Secretary shall proceed with such condemnations as current appropriations permit in accordance with the priorities established in section 4 (d) of this Act.

MANAGEMENT PLANS

SEC. 6. In the administration, protection and development of the area outside of the core (hereinafter called the "perimeter"), the Secretary shall prepare and implement a land and water use management plan, which shall include specific provision for, in order of priority: (1) protection of scenic, natural, scientific, and historic features contributing to public enjoyment, inspiration and education; (2) public outdoor recreation benefits; and (3) such protection, management and utilization of renewable natural resources, including forage and forest products, as is consistent with and does not significantly impair the scenic, natural or recreational values of the area. The Secretary shall, to the extent possible, apply the provisions of this section to privately owned lands in accordance with section 5 of this Act.

(b) The Secretary shall, as a part of the preparation of management plans for the perimeter, establish zones wherein timber harvesting on federally owned lands either shall not be conducted or shall be in accordance with the following guidelines. In a zone established by the Secretary including all lands within one mile of the core and such other areas as the Secretary may designate, utilization of commercial timber shall be limited to the following: (1) cutting related to construction and maintenance of recreational, scientific or historic facilities; (2) removal of trees posing a danger of injury to persons or property; (3) sanitation cutting of timber posing a substantial threat to other portions of the area or adjacent forest lands from insects, disease or fire hazard, where alternative means of protection are not feasible and where such cutting will not have a serious impact upon the scenic, natural or recreational values of the area; and (4) salvage cutting of timber killed or seriously injured by catastrophic events, including, but not limited to, fire, insect or disease epidemics, where such cutting will not substantially impair the scenic, natural or recreational values of the area. Salvage cutting in this zone shall not be undertaken to recover normal forest mortality. Elsewhere outside of the core, harvesting by clearcut shall not exceed thirty (30) percent of all acreage logged within the area in any year. Units for harvesting by clearcut shall not exceed twenty-five (25) acres per unit and shall not encroach upon streams, lake shores and existing trails. All harvesting shall be in accordance with landscape management practices with measures to assure prompt reforestation. No timber harvesting may be conducted in watersheds of local communities and reclamation districts without prior consultation by the Secretary with the parties to be affected.

(c) The Secretary shall, as a part of the preparation of management plans for the perimeter, conduct an inventory outside of the core of potential recreation facilities including, but not limited to ski areas, tramways, and lodges, including site surveys and feasibility studies where necessary, with the assistance of non-governmental specialists generally recognized for their technical ability and expertise in these fields. Such surveys and studies shall, where applicable, consider the impact of any such facilities upon the Wilderness Area Core.

(d) The Secretary shall, in furtherance of management plans for the perimeter, adopt regulations regarding off-road motorized traffic in those portions of the area outside of the core. In adopting such regulations, the Secretary shall consider the extent to which such traffic is compatible with other recreational uses of the area, potential disturbances of soil, vegetation and wildlife, fire prevention, and the availability of other public and/or private lands for the use of off-road motorized traffic by the public.

(e) The Secretary shall, in furtherance of management plans for the perimeter, adopt regulations regarding motorized water traffic on lakes and streams within the area. In adopting such regulations, the Secretary may prohibit such private traffic on those lakes and streams or portion thereof which, in his judgment, are suitable for canoe and kayak use.

(f) The Secretary shall, in furtherance of management plans for the perimeter, establish policies regarding the location and design of existing and proposed roads. In establishing such policies, the Secretary shall give primary consideration to the natural, scenic and recreational values of the area, rather than the convenience to or speed with which such roads may be traveled by the public or the lowest ratio of construction and maintenance costs. In determining the design standard for any road to be reconstructed, such standard shall be based upon projected usage of such road in accordance with its existing design, rather than in accordance with its proposed design. No new roads of a permanent nature shall be constructed except for primary recreation use.

(g) The Secretary shall permit the reasonable use of Lakes Kechelus, Kachess and Cle Elum for irrigation and municipal water supply purposes.

HUNTING AND FISHING

SEC. 7. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the area in accordance with applicable Federal and State laws. The Secretary, after consultation with the Washington Department of Game, may designate zones where and establish periods when no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment. Nothing in this section shall affect the jurisdiction or responsibilities of the Washington Department of Game under other provisions of state law with respect to hunting and fishing.

MINING

SEC. 8. The lands within the area, subject to valid existing rights, are hereby withdrawn from location, entry or patent under the United States mining laws. The Secretary, under such regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands under his jurisdiction within the recreation area outside of the core in accordance with the provisions of section 192c of Title 30, and he may permit the removal of leasable minerals from lands or interests in lands within the recreation area outside of the core in accordance with the Mineral Leasing Act of February 25, 1920, as amended, or the Acquired Lands Mineral Leasing Act of August 7, 1947, if he finds that such disposition would not have serious adverse effects on the scenic, natural or recreational values of the area: *Provided*, That any lease or permit respecting such minerals in lands administered by the Secretary shall be issued subject to such conditions as he may prescribe, including but not limited to, adequate provisions for site restoration.

AIRCRAFT OVERFLIGHTS

SEC. 9. The Secretary shall consult with appropriate officials of the Department of Transportation, Department of Defense, and the Washington State Aeronautics Board regarding flights by aircraft over the area. In cooperation with such officials, the Secretary may adopt regulations regarding flight paths, altitudes, and other provisions applicable to all or certain types of aircraft flying over or near the area.

UTILITY EASEMENTS

SEC. 10. The Secretary shall consult with the Bonneville Power Administration regarding means for reducing the scenic impact of electric transmission lines through the area. The Secretary shall not grant easements for additional lines unless additional lines cannot be installed in existing corridors, the capacity of lines in existing corridors cannot reasonably be increased, or location of additional lines outside of the area is not practicable. If the Secretary determines that additional easements are required, preference shall be given to such easements through Stampede Pass, rather than the Snoqualmie Pass area. The Secretary shall require, to the extent practicable, multiple use corridors for other utilities requiring transmission easements.

WILD AND SCENIC RIVERS

SEC. 11. All portions within the area of the following rivers are hereby designated for study and recommendations for inclusion with the National Wild and Scenic Rivers System: Cle Elum, Icicle, Miller, Skykomish (south fork), Snoqualmie (all forks), Tye, and Wenatchee.

(b) There shall be no new water impoundments or diversions within the area except for reasonable irrigation and municipal water supply purposes. There shall be no new water impoundments or diversions outside of the area substantially affecting the quantity or

quality of water in streams flowing through the area.

STATE JURISDICTION

SEC. 12. Nothing in this Act shall deprive the State of Washington or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the area consistent with the provisions of this Act, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the recreation area.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary for the acquisition of land and interests in land pursuant to sections 4 and 5 of this Act. There is also authorized to be appropriated such sums as may be necessary for the study of and/or development of recreation facilities pursuant to section 6 of this Act.

S. 2608

A bill to designate certain lands in the Snoqualmie and Wenatchee National Forests, Washington as "Alpine Lakes Wilderness" and "Enchantment Wilderness" for inclusion in the national wilderness preservation system

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in furtherance of the purposes of the Wilderness Act (78 Stat. 890) that the Secretary of Agriculture is hereby authorized and directed to classify and manage as wilderness—

(1) those certain lands in the Snoqualmie and Wenatchee National Forests, Washington which comprise approximately one hundred seventy-two thousand acres and which are generally depicted on a map entitled "Alpine Lakes Wilderness" and dated October 3, 1973, and

(2) those certain lands in the Wenatchee National Forest, Washington which comprise approximately forty four thousand acres and which are generally depicted on a map entitled "Enchantment Wilderness" and dated October 3. 1973.

SEC. 2. As soon as practicable after such classification, the Secretary of Agriculture shall promptly transmit to the Congress a map and legal description of these wilderness areas and such description shall have the same force and effect as if set forth in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. Upon classification the wilderness areas designated by this Act shall be known as the "Alpine Lakes Wilderness" and the "Enchantment Wilderness" and shall be administered by the Secretary of Agriculture in accordance with the same provisions and rules as those areas designated as wilderness by the Wilderness Act of September 3, 1964 (78 Stat. 890), except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

S. 2609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ALPINE LAKES WILDERNESS

SEC. 101. In accordance with section 3(b) of the Wilderness Act (78 Stat. 890; U.S.C. 1132(b), there are hereby designated as wilderness certain lands in the Snoqualmie and Wenatchee National Forests, Washington, which comprise approximately six hundred thousand acres as depicted on a map entitled "Alpine Lakes Wilderness Conservations Groups Proposal, June 1973" these lands shall be known as "the Alpine Lakes Wilderness".

SEC. 102. As soon as practicable after this Act takes effect, the Secretary of Agriculture (hereinafter referred to in this Act as the "Secretary") shall file a map and a legal description of the Alpine Lakes Wilderness (hereinafter referred to in this Act as the "Wilderness") with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act; *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 103. The wilderness designated by this Act shall, upon filing of the legal description and map, was provided for in section 102 be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by the Act as wilderness areas, except that any references in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

TITLE II—LAND ACQUISITION

SEC. 201. Within the boundaries of the Wilderness, the Secretary may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that he may not acquire any such interests within the Wilderness without the consent of the owner, so long as the lands are devoted to uses compatible with the purposes of this Act.

S. 2610

A bill to designate the Alpine Lakes Wilderness, Snoqualmie, and Wenatchee National Forests, in the State of Washington

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the area generally depicted on a map entitled "Alpine Lakes Wilderness—proposed", dated September, 1973, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the Alpine Lakes Wilderness within and as a part of the Snoqualmie and Wenatchee National Forests, comprising an area of approximately 285,200 acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the Alpine Lakes Wilderness with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Alpine Lakes Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

By Mr. GRIFFIN:

S.J. Res. 166. Joint resolution proposing an amendment to the Constitution of the United States with respect to the selection of the Vice President of the United States. Referred to the Committee on the Judiciary.

(Senator GRIFFIN's remarks when he introduced the above joint resolution are printed earlier in the RECORD.)

ADDITIONAL COSPONSORS OF BILLS

S. 847

At the request of Mr. ROBERT C. BYRD, for Mr. NELSON, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 847, the School Bus Safety Act.

S. 948

At the request of Mr. MONDALE, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 948, to amend the Federal Property and Administrative Services Act of 1949 to provide for the use of excess property by certain grantees.

SENATE CONCURRENT RESOLUTION 55—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF THE REPORT OF THE PROCEEDINGS OF THE 46TH BIENNIAL MEETING OF THE CONVENTION OF AMERICAN INSTRUCTORS OF THE DEAF AS A SENATE DOCUMENT

(Referred to the Committee on Rules and Administration.)

Mr. BAYH, for himself and Mr. HARTKE) submitted the following concurrent resolution:

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That the report of the proceedings of the forty-sixth biennial meeting of the Convention of American Instructors of the Deaf, held in Indianapolis, Indiana, from June 24, 1973, through June 29, 1973, be printed with illustrations as a Senate document. Five thousand five hundred additional copies of such document shall be printed for the use of the Joint Committee on Printing.

SENATE RESOLUTION 191—SUBMISSION OF A RESOLUTION RELATING TO THE CENSURE OF ROBERT BORK FOR REMOVING ARCHIBALD COX AS SPECIAL PROSECUTOR

(Referred to the Comimttee on the Judiciary.)

(The remarks Senator STEVENSON made when he submitted this resolution appear earlier in the RECORD.)

SENATE RESOLUTION 192—SUBMISSION OF A RESOLUTION TO URGE THE PRESERVATION OF ISRAELI SOVEREIGNTY AND TERRITORIAL INTEGRITY AND CONTINUED FRIENDLY RELATIONSHIP WITH THE ARAB NATIONS IN THE MIDDLE EAST THROUGH A BALANCED SETTLEMENT OF THE PRESENT CONFLICT

(Referred to the Committee on Foreign Relations.)

Mr. HELMS. Mr. President, the ceasefire in the Middle East is a welcome development. A conflagration anywhere in the world carries with it the danger that the two superpowers may be gradually sucked in, one on each side, with an escalation of the conflict into a major con-

frontation. In the present circumstances, the United States was being drawn deeper and deeper into the affair. On Friday, the President asked for $2 billion in grants for military aid to Israel, of which more than $800 million has already been spent. U.S. Marines were dispatched to the region, and U.S. ships were standing by. The danger of an incident became more prominent, an incident which could lead us to a more direct conflict with the Soviet Union.

Setting aside the potential for involvement with the Soviet Union, the confrontation was one which the United States could never win. The U.S. interest lies with both sides in the unending dispute. Israel is an object of much sentimental sympathy by many Americans who directly or indirectly participated in the establishment of that nation. But the United States has also had longstanding friends among the Arab nations, and we also participated in the modern development of those areas. Indeed, we have a situation in which neither side is our enemy, and neither side bears ill will toward the United States, except in so far as each has a perception that we are aiding the other side.

The United States interest, as I think everyone agrees, is in the achievement of a long-term settlement. It also lies in diminishing the perception of each side that we are aiding the other. In a highly emotional situation, where suspicions breed paranoia, it may be impossible to remove the duel perception. Simply being "even-handed" is not enough. Even-handedness leads to the doctrine that we must supply weaponry to one side to match the supply of arms which the Soviet Union gives to the other. Thus we have an even-handed escalation of the potential for conflict.

Instead, what we must do is to recognize the realities of the situation. A long-term solution must provide for a balanced political settlement, rather than balanced escalation of the potential for armed conflict. Israel is a fact of modern life, and any settlement must guarantee her political sovereignty, territorial integrity, and economic viability. At the same time, Israel must recognize the territorial integrity of her neighbors. The territorities which Israel seized by force of arms in 1967 must be given back to the nations from which they were wrested. This is a hard saying, but it must be said. At the same time, Israel's fears of massive troops concentrations on her border can be allayed by establishing appropriate demilitarized zones. These zones can be on both sides of the old boundary lines, and sufficiently broad to include whatever natural obstacles and distances may be suitable. Civilian administration of the areas seized by Israel should be reestablished immediately, including whatever portions may be demilitarized.

Such a settlement would satisfy the essence of the immediate controversy. Israel's aspiration for buffer zones would be fulfilled; at the same time, the desire of the Arab nations for the return of their territorities would be met. But it would not satisfy the long-term problems. The problem of the Palestinian refugees remains a festering sore. It is not only a problem of justice, but a problem of practical politics. The Arab guerrilla movements have been spawned in the refugee camps, where the young men have no hope and no future, and seek fulfillment in the burning cause of justice. They have not only committed terrorist acts throughout the West, but have incited political pressures and armed revolt against the moderate Arab leaders. They are not the cause of unrest in the Middle East, but they provide the tinder for ungovernable passions. It must be said that Israel has not fully recognized her obligations in this matter, nor have the Arab nations been able to provide the means for a solution.

Finally, we must turn to those means by which the economies of this region can be made equal partners in the system of free market countries. Israel has demonstrated that she can be economically viable, particularly if she does not have to maintain the burden of armaments. The Arab nations are divided into the oil producers and those who are not. Yet even the have-nots have other resources which could be the base for economic development. We must help the Arabs to diversify, and for those with a surplus of oil revenues to invest in their neighbors, so that the benefits of free enterprise can be spread around. We must not expect even the oil-producing nations to be content with the role of being suppliers of natural resources to the West.

Nor must we overlook the role that U.S. private enterprise can play in this diversification. We should look forward to the day when there will be a broad range of private industrial relationships between the United States and our Arab friends, helping the Arabs to develop their own economies, instead of simply being the recipient of oil royalties. Even our cooperation in the past, I fear, has been somewhat one-sided. A prime aim of such activity should be to provide an economic base for the solution of the problem of jobless refugees. We must not make the mistake of thinking that material means will solve the whole problem, but it is nevertheless an element that should be included.

In my view, a balanced political settlement would provide the long-term basis for peace in the Middle East. It is close to the terms under which the Arabs have indicated for the first time that they would sign a permanent treaty. We should use our influence with Israel, and it should be considerable, to induce them to sign a permanent treaty. I believe that a treaty could be signed in 6 months, if the basic premises of both sides were met as I have outlined.

Accordingly, Mr. President, I am today introducing a sense of the Senate resolution along the broad outlines I have suggested. In this resolution I am joined by Senators McCLURE of Idaho, SCOTT of Virginia, and THURMOND of South Carolina. I invite other like-minded Senators to join as cosponsors.

Mr. President, I ask unanimous consent that the text of the resolution be printed at this point in the RECORD.

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

SENATE RESOLUTION 192

Whereas, the negotiated cease-fire in the Middle East is a welcome development because military conflict endangers the political and economic structure of the entire region; and

Whereas, any permanent settlement must guarantee the political sovereignty, territorial integrity and economic viability of Israel; and

Whereas, the unresolved problems of Palestinian refugees and the unsettled territorial controversies will continue to increase rather than to reduce tensions in the area; and

Whereas, arms shipments by the superpowers to both sides can lead only to a renewal of military confrontations and to the potential of subsequent involvement by the super-powers; and

Whereas, the economic prosperity and future development of all nations of this region and of all nations which are dependent upon stability in the distribution of world energy resources can be jeopardized by the increase of Soviet influences in the area; and

Whereas, the recent tragic events demonstrated the necessity for a permanent balanced political solution rather than the maintenance of balanced military forces; Now therefore be it

Resolved, That it is the sense of the U.S. Senate that the President should continue his mediation between the opposing parties of the area to bring about a long-term, lasting peace settlement. Such a peace should consider all the political and economic realities of the region, including the territorial integrity of all states involved, the need of Israel for protective buffer zones, the Arab aspiration for the return of their territories, and the long-term development of a sound economic base for the elimination of social and political problems. In this spirit, the settlement should include—

(1) Re-establishment of the civilian administration of the Sinai Desert and Golan Heights areas and the west bank of the Jordan River under Egypt, Syria, and Jordan, respectively;

(2) Establishment of broad demilitarized zones on the borders between Israel and its neighbors;

(3) Achievement of a just settlement of the Palestinian refugee problem;

(4) The cooperation of major free market countries and the Arab world in a long-range program of technical and industrial investment and development, with special emphasis upon the creation of job opportunities for Palestinian refugees;

(5) The negotiation and signing of a permanent peace treaty within six months after the cease-fire.

ADDITIONAL COSPONSORS OF SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. CURTIS, the Senator from Tennessee (Mr. BAKER) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of Senate Concurrent Resolution 52, expressing the sense of Congress relative to friendship with the Republic of China.

ADDITIONAL COSPONSORS OF SENATE RESOLUTIONS

SENATE RESOLUTION 189

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Texas (Mr. TOWER), I ask unanimous consent that he be added as a cospon-

sor of Senate Resolution 189, relating to the transfer to Israel of Phantom aircraft and other equipment.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEARING ON NOMINATION OF RUSSELL W. PETERSON TO BE MEMBER OF COUNCIL ON ENVIRONMENTAL QUALITY

Mr. JACKSON. Mr. President, on Tuesday, October 30, the Committee on Interior and Insular Affairs will hold an open public hearing on the President's nomination of Russell W. Peterson to be a member of the Council on Environmental Quality. The hearing will begin at 2:30 p.m. in room 3110 of the Dirksen Senate Office Building. The public is invited to attend, and any Member of the Senate wishing to participate is welcome to do so.

For the information of the Senate, I ask unanimous consent that a biographical sketch of Governor Peterson be placed in the RECORD at this point in my remarks.

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

The President today announced his intention to nominate Russell W. Peterson, of Rehoboth, Delaware, to be a member of the Council on Environmental Quality. The President also announced that upon his confirmation by the Senate he would designate Mr. Peterson as Chairman of the CEQ. As both member and Chairman he will succeed Russell E. Train, who held the positions from February 9, 1970, until he became Administrator of the Environmental Protection Agency on September 13, 1973.

Governor Peterson was Governor of Delaware from 1969 to 1973. Since leaving office he has been Chairman of the Executive Committee of the National Commission on the Future of America in Its Third Century.

From 1942 to 1969, Governor Peterson was with E. I. DuPont de Nemours & Co., Inc., in Wilmington, Delaware, serving as: Research Director, Textile Fibers Department (1954–55, 1956–59), Merchandising Manager, Textile Fibers (1955–56), Director, New Products Division, Textile Fibers (1959–62), and Director, Research and Development Division, Development Department (1963–69). He is also a former Chairman of the Board of Directors and former Chairman of the Executive Committee of the Textile Research Institute, Princeton, New Jersey.

He was born on October 3, 1916, in Portage, Wisconsin. Governor Peterson received his B.S. degree in 1938 and his Ph. D. in 1942 from the University of Wisconsin, where he was elected to Phi Beta Kappa.

Governor Peterson is married to the former E. Lillian Turner. They have two sons and two daughters.

The Council on Environmental Quality was established by the National Environmental Policy Act of 1969 to formulate and recommend national policies to promote the improvement of the quality of the environment. The Council consists of three members. Current members are Dr. Beatrice E. Willard and John A. Busterud.

ADDITIONAL STATEMENTS

AIMS OF ANGELS, TOOLS OF TYRANTS

Mr. FANNIN. Mr. President, one of the finest journalists in this area is Mrs. Shirley Scheibla, the Washington editor of Barron's.

On October 10, Mrs. Scheibla was the speaker at the luncheon of the Security Subcommittee of the National Security Industrial Association in Washington.

The title of her talk, "Aims of Angels, Tools of Tyrants," refers to the mistaken actions taken by Congress in the name of ecology and the public good. She provides us with a penetrating analysis of the devastating effect that actions by the Environmental Protection Agency can have on the economic security of our Nation.

This country's ability to compete on the world market already is threatened by high wages and lagging productivity; additional self-inflicted burdens of costly and unnecessary environmental controls administered in an adversary manner will cause economic and social disaster.

Mr. President, I believe all Members of Congress should consider the points made in this excellent speech, and I ask unanimous consent that it be printed in the RECORD.

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

AIMS OF ANGELS, TOOLS OF TYRANTS

Scientists probably won't know for years the full significance of the astronauts' proven ability to live in space for 59 days. But one bad fallout from the space program already is readily apparent—the widespread belief that the United States government can do just about anything if it devotes enough resources to it.

The War on Poverty already has proven that this is not true. Instead of ending poverty, it has created monumental problems. Now the government has embarked on a crash program to stop pollution and make everything safe and beautiful. Like the elimination of poverty, it's a hard goal for politicians to quarrel with.

BEYOND GOAL-SETTING

This newest crash program, however, now has gone beyond the goal-setting stage. In addition to your activities of looking for those who would overthrow the government by force, it would be well worth your while to examine what this program has done so far and where it is leading. It has waked the nation up to the need to control pollution, and that is indeed laudable. But the hysteria and insistence on a crash program to end pollution at all costs already has made serious inroads on the profit system and actually has been counter-productive in several important instances. Unguided by common sense and the art of the possible, it can lead to totalitarianism and the end of capitalism.

ENERGY SHORTAGE

Since nothing can disrupt industry or bring a nation to its knees faster than an energy shortage, let's take a look first at what the environmental movement has done in that field. The fuel shortage is forcing the United States to currently import oil at a record rate of over a million barrels a day from the unstable, unfriendly Middle East. Yet if court action by environmentalists had not blocked construction of the Alaskan pipeline, today we already would be receiving over a million barrels a day from that one source.

Even if Congress passes pending legislation during this session to enable construction to go forward, we could not receive oil from that pipeline for four years since that is the minimum time required for construction. Meantime, the estimated cost of the pipeline has escalated from $1.5 billion to $3.6 billion, and a large part of one of the richest oil fields in the world lies unexplored because of lack of means to transport new discoveries.

(The planned capacity of the pipeline is 2 million barrels a day, while already discovered oil would mean 1.2 million barrels a day.) Let us all pause for a moment and give thought to Alaska's caribou and permafrost and the price we are paying for their comfort and preservation.

OFFSHORE OIL AND GAS

Another tremendous source of domestic oil and natural gas lies offshore. According to the Interior Department, about 3 million acres a year in prime prospective tracts should be made available for exploration. But back in 1971 when the Department started a five-year program calling for general lease sales, the Natural Resources Defense Council obtained a court injunction which held up the sale of 346,000 acres from December 1971 to September 1972. Environmentalists have protested the sales of more than a million acres of leases since then and are threatening to take the Interior Department to court over the first lease sale in the Florida Gulf Coast, scheduled for December of this year. Also taking in parts of Mississippi and Alabama, it is expected to involve 800,000 acres.

NASSIKAS WARNING

To help encourage exploration for natural gas, the Administration has called for ending price regulation by the Federal Power Commission. But FPC Chairman John Nassikas told me, "If we just de-regulated all gas, that wouldn't solve the problem because, without opening up the federal offshore leases, it would only run up the price and not bring out enough gas."

Thus, the environmentalists are discouraging exploration for one of the cleanest and most environmentally acceptable fuels.

SANTA BARBARA

Because of pressure from environmentalists, the Interior Department, in apparent violation of sanctity of contract and due process of law, indefinitely suspended 35 oil leases in the Santa Barbara channel. They are located in the vicinity of a blowout which several years ago poured oil over 400 square miles of ocean surface and 100 miles of coastline. However, production at the blowout site is continuing because capping would increase the risk of another disaster. As for the area comprising the 35 leases, the Geological Survey has concluded it is no more prone than any other to blowouts and that the potential benefits outweigh the slight risk involved in drilling.

OIL IMPORT QUOTAS

Back in 1959 the Interior Department imposed oil import quotas on grounds of national security. It said the quotas were essential to encourage domestic exploration and development. The idea very clearly was to bring about high enough prices for such encouragement. Prices never got that high, however, and the hoped for production boost did not occur. Because of pressure from the consumer movement, the Interior Department let the oil companies know it would increase imports if prices got too high. Now, of course, regardless of prices, the situation is too desperate to continue their import quotas.

DEEPWATER PORTS

The most efficient way to handle the increasing imports is to build deepwater ports, and several groups of companies are interested in spending the hundreds of millions of dollars each one would cost. Such ports would require legislation, however, and, naturally, the environmentalists are opposing it.

REFINERIES

They already have blocked construction of several refineries in the U.S. Let me just tick off a few: A Stuart Petroleum refinery at Piney Point, Md. to operate in conjunction with a bulk plant it already has there; a 100,000 barrel a day facility by Supermarine Inc. at Hoboken, N.J. on the site of the old Todd Shipyard; a 65,000 barrel a day refinery by North East Petroleum at Tiverton, R.I.; expansion of the Amerada Hess plant at Port Reading, N.J. and expansion by Chevron East at Perth Amboy, N.J.

Shell Oil Co. tried to build a 150,000 barrel a day refinery on Delaware Bay but ran into a state law obtained by the environmentalists which prohibits refineries and other heavy industry within 10 miles of the coast. McClean Fuels Co. wanted to build a 200,000 barrel a day refinery at three different locations, South Portland, Me., Searsport, Me. and Riverhead, L.I., but failed to get environmental approval.

FUEL PENALTIES

Discouragement for obtaining petroleum would seem to dictate stringent use of it, but environmentalism is resulting in just the opposite. At the beginning of this year when he was head of the Office of Emergency Preparedness, General George Lincoln said that cleaning up auto exhausts already has cost 300,000 barrels a day of extra gasoline and will cost about two million barrels a day by 1980. Additional safety equipment means more fuel penalties because of the extra weight. Also, taking the lead out to please environmentalists means a 15% to 20% decrease in fuel efficiency.

BOILER FUEL

Because of the natural gas scarcity, the Federal Power Commission has been trying to discourage wasteful use of it as a boiler fuel. But here again environmental demands are causing trouble. The Commission is finding that many firms feel forced to use clean natural gas for boiler fuel because of anti-pollution requirements. Incidentally, some who converted their facilities to use oil because of FPC pressure and natural gas scarcity now are having trouble getting oil.

COAL IS BLACK

Coal, of course, is the only domestic fuel in plentiful supply. But it's name is black with environmentalists because it is dirty. Filters have not yet been perfected. Neither has liquified coal. Meantime reliance on limited supplies of low-sulphur coal is creating much economic hardship.

Since there are inadequate resources for extensive hydro-power, and technology is still evolving for oil shale, thermal, solar, tidal and other exotic sources of power, that leaves only the atom. But that's anathema to environmentalists.

NUCELAR POWER PLANTS

In a massive fuel study released early this year, the National Petroleum Council said that 23 nuclear power plants with a capacity of 20,000 megawatts will be delayed six months to three years by environmental obstacles. Let me stop here to translate for you the meaning of 20,000 megawatts. That's 20 million kilowatts, and a kilowatt is equal to 1,000 watts. I have a good-sized home covering 3,000 square feet, and it has 50 kilowatts. The next time we have a brown-out or black-out, you might consider how many homes, offices and factories those 20 million kilowatts would power. (The Council also said each year's delay could cost the electric utility industry between $5 billion and $6 billion.) For 17 months following the Calvert Cliffs decision by the Court of Appeals the Atomic Energy Commission licensed no plants at all while it took time to do the environmental studies required.

Now Ralph Nader and Friends of the Earth have gone to court to force closure of 20 of the 31 operating plants but have failed to obtain an immediate injunction, and the issue of whether they should be closed is still pending before a court of appeals.

AUTOS

A new game plan is to penalize use of private autos and compel greater travel by public transportation. This, so the reasoning goes, not only would mean purer air, but less use of gasoline, thus leaving more petroleum for other purposes. So far as I can determine however, no one has figured out how the nation's cities, already strapped financially, are going to be able to afford the big outlays for public transportation this will require. The tendency is to look to the federal government, but I suggest that those who do so also take a look at the current size of the federal budget. Also ignored is how greater public transport would affect the private auto market and, in turn, the nation's economy since the auto industry makes up such a large part of it.

CLEAN AIR ACT

The transportation edicts are framed by the Environmental Protection Agency under authority of the Clean Air Act which is one of the greatest instruments of tyranny fashioned by Congress. Although EPA itself admits that some of its orders under it lack scientific validity and that it is having trouble equating economic costs with health benefits, woe be to anyone who doesn't obey EPA. The Act calls for fines of up to $25,000 a day and imprisonment up to a year for a first violation of EPA rules and $50,000 a day and two years for a second offense. In some instances compliance requires passage of state laws. Yet, the Bill of Rights notwithstanding, the penalties for non-compliance apply to state and local officials as well as ordinary citizens.

Under the Act, EPA also is struggling with what one official calls the "biggest challenge in the air program" by trying to nail down specific requirements for about 50,000 individual stationery sources.

NONDEGRADATION OF CLEAN AIR

But that's only one facet of the Clean Air Act. Last June, in a case brought by the Sierra Club, the U.S. Supreme Court upheld the ruling of a lower court that there must be no significant degradation of air quality, even for areas which presently have cleaner air than required by federal standards. This could throttle industrial development for clean areas. In a stab at defining "significant" in a way that would allow some development, EPA held hearings in August on four rules it suggested. The Sierra Club, however, has notified EPA that it doesn't like any of the ideas and will take the agency to court if it tries to implement any of them.

LAND USE CONTROLS

The draconian Clean Air Act notwithstanding, EPA officials still aren't satisfied with their tools for forcing purity in the air and elsewhere. They are advocating legislation which would require an EPA okay for any use to which land might be put. Thus, a buyer who paid a handsome sum for a choice site with a specific use in mind might find that use vetoed by EPA—if the land use planning legislation goes through. If it does, kiss property rights good-bye in the name of purity.

WATER POLLUTION

Agency action under the Water Pollution Act is not so far along since the measure was enacted only last year. Here too, however, it appears that EPA is using it to impose expensive controls on industry. They are expected to cost billions of dollars and cause some plant closings. Nevertheless, in a study for EPA not yet made public, the National Academy of Sciences has found that many of EPA's criteria are faulty and lack adequate scientific justification.

DDT

EPA also administers the nationwide ban on DDT. The depredations of the Gypsy Moth in the east as a result are well known. Now the Tussock Moth is devastating northwest forests and worsening the shortage of timber. Consequently, some of the original Senate sponsors of the DDT ban are trying to get it rescinded.

OSHA

The Occupational Safety and Health Act, administered by the Labor Department, is providing just as potent anti-business weapons as the environmental and consumer movements. A year ago George C. Guenther, then Assistant Secretary of Labor for Occupational Safety, told me that under OSHA, the Labor Department commands enough power to put everybody out of business. That is not hard to understand. Senator Carl Curtis (R., Neb.) told the Senate that regulations implementing the law make up a stack 17 feet high. Virtually every employer is in violation of OSHA one way or another, and the Labor Department has authority under the law to assess fines without court review. Critics of the law are legion and even include some of its original Congressional sponsors. One of the main complaints is that it is inflating the cost of doing business without corresponding gains in safety and health.

As this cursory glance shows, the environmental and allied movements are using the aims of angels to fashion the tools of tyrants. Let us hope that the hysterical crash program soon succumbs to the rule of reason so that we can get on with the job of cleaning up under the system which affords the greatest freedom, efficiency and general well-being of any yet devised by man.

ISRAEL'S RIGHT TO EXIST IN PEACE

Mr. MONDALE. Mr. President, I would like to call to the attention of my colleagues an eloquent statement written by an eminent group of professors at the Hebrew University of Jerusalem during the fighting in the Middle East.

Mr. President, I believe this statement is still worth reading now that a tentative cease-fire has been agreed to by Israel and Egypt. Indeed, their message becomes even more appropriate.

As the professors state:

We feel that it is the duty of free men . . . to insist on the overriding duty of the Arab states to recognize Israel's right to exist in peace, and to demonstrate this by agreeing immediately to meet the representatives of Israel for discussion and negotiation.

I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT OF THE STAFF OF THE HEBREW UNIVERSITY OF JERUSALEM, OCTOBER 10, 1973

For the fourth time since its creation, Israel is engaged in battle with the neighboring Arab world. It is a battle which is uneven in two respects. In the first place, if Israel wins, the Arab world will endure; if the Arabs win, Israel will cease to exist. Secondly, there is no equivalence in the forces engaged. Syria and Egypt have drawn on enormous forces, both of manpower and materiel. Sixteen other Arab countries have expressed their solidarity with them, and a number have already sent units of their armed forces to join in the battle. Israel faces this situation as a small people fighting on its own. Nearly all of our students, and most of our colleagues, are today in uniform.

We, the undersigned, have always used our right as free men to express our views on

our country's policies, both external and internal; and some of us has disagreed with some of these policies in the past. Today it is clear to all of us beyond any shadow of doubt, that Egypt and Syria prepared this attack over a long period, and deliberately chose to launch it on the Day of Atonement, the most sacred day in the Jewish calendar.

It is equally clear to us that, though aware of the Egyptian and Syrian plans, the Government of Israel chose to abstain from a preemptive strike, and rather to do all it could to avert the danger by a diplomatic effort.

The real issue today, as it was in 1967, is the determination by Egypt and Syria to destroy Israel.

We are doubly convinced that the road to meaningful negotiations for a peaceful outcome has always been open to the Arab states. Had that road been taken by the Arab states, the response of our people and our government would have been such as to ensure that every conceivable step to bringing these negotiations to a mutually acceptable and positive conclusion would have been made by us.

The Egyptian and Syrian attack against us on the Day of Atonement, has led us to the painful conclusion that the policy of the present governments of the Arab states, is to go to any length to destroy the existence of Israel.

There can be no peace in the Middle East, unless the right of our people to independence and continued existence in Israel is fully recognized by our neighbors.

There can be no peace until the Arab states change their policy, and understand that the future of the Middle East must take the form of peaceful co-existence between them and Israel.

The cause of organizing a peaceful world is based on the right of all peoples to free existence and harmonious national self-expression and self-government. These rights cannot be denied to Israel and its people.

For this reason, we feel that it is the duty of free men throughout the world who cherish the cause of peace and see it as pre-condition for humanity's survival and development, to insist on the overriding duty of the Arab states to recognize Israel's right to exist in peace, and to demonstrate this by agreeing immediately to meet the representatatives of Israel for discussion and negotiation.

The Arab doctrine of prior agreement by Israel to withdraw from territory, is illogical and unacceptable. Everyone of us is wholly convinced that our very existence today—that we have been able, at considerable cost in lives, to withstand Egyptian and Syrian assault and turn it back—are due to the fact that this doctrine was rejected by us. The way in which the Egyptian and Syrian attack was prepared and launched must convince the world that this rejection was thoroughly justified.

The argument has been heard that having suffered military defeat in the past, the Arabs cannot be expected to negotiate with Israel without a "gesture" from Israel. The "gesture" demanded has been that Israel should place the Arabs unconditionally, and before any agreement or commitment on their part, in a condition where, as experience shows, it would be made easier for them to attack Israel. We cannot agree that this is morally acceptable or practically feasible. Nor should the world agree. For the fourth time since 1948, we have seen our country besieged and attacked, our friends and relatives killed; we have been the target of terror on a world-wide scale; yet today, when everyone of us has members of his family, students and colleagues, at the front, we say that we remain ready for a peace process with our Arab neighbors. A peace process must mean mutual recognition, with peaceful co-existence as its goal, achieved by free negotiations. In the circumstances which have arisen, the secure nature of the agreed boundaries is, more than ever, seem to be imperative. The nature of the territorial settlement will only emerge as a function of mutual trust.

We address ourselvs to our colleagues, to students, and to men of good will all over the world in the hope that they will use their influence to the utmost to bring home to the Arab countries the demand of the world that the language of hate and vilification, and the dialogue of war, must be replaced by the dialogue of peaceful co-existence.

Shlom Avineri, Joseph Ben-David, Ernst Bergmann, Aryeh Dvoretzky, Samuel Eisentadt, Saul Friedlander, Natan Goldblum.

Jack Gross, Yehoshafat Harkabi, Avraham, Harman, Alex Keynan, Don Patinkin, Joshua Prawer, Michael Rabin.

Nathan Rotenstreich, Gershom Scholem, Moshe Shilo, Gabriel Stein, Jacob Talmon, Ephrain Urbach, David Weiss.

The above signatories are on the staff of the Herbrew University in Jerusalem.

ENVIRONMENTAL PROTECTION AGENCY REGULATIONS

Mr. NELSON. Mr. President, the Environmental Protection Agency—EPA—has promulgated regulations in the July 5 and September 7 issues of the Federal Register pursuant to sections 301—effluent guidelines—and section 402, the National Pollutant Discharge Elimination System—NPDES—of the Amendments to the Federal Water Pollution Control Act—FWPCAA—of 1972 establishing those agricultural pollution areas that will be classified as "point sources" and thereby have to file for a NPDES permit and meet the zero discharge of waste effluent guideline by 1985.

The EPA regulations define both large and small "concentrated animal feeding operations" as "point sources" although the EPA later excluded farm operations with less than 1,000 beef cattle, 700 dairy cows, 290,000 broilers, 180,000 laying hens, 55,000 turkeys, 4,500 hogs, 35,000 feeder pigs, 12,000 sheep and lambs and 145,000 ducks from compliance with sections 301 and 402 of the act.

During the debate of the FWPCAA Congress clearly indicated that small farm operations were not to be considered "point sources" of pollution unless they met three criteria developed by Senator MUSKIE in a colloquy on the floor of the Senate with Senator DOLE. It appears that neither set of the EPA regulations follows the congressional intent in the manner small farm operations are excluded from the compliance with the act.

The Natural Resources Defense Council—NRDC—has filed suit against the EPA alleging that the agency cannot define all concentrated animal feeding operations as "point sources" and then exclude small operations when the act specifically states that all "point sources" are to be controlled through the issuance of a permit and compliance with published effluent guidelines.

The NRDC agrees that there should be a numerical cutoff determined with public hearings that distinguishes a small farmer-feeder operation, a "nonpoint source," from a large "concentrated animal feeding operation" that is a "point source." The public interest law firm does not specifically object to the feedlot-point source criteria established by Senator MUSKIE, rather they object to the way EPA has drafted its regulations.

Furthermore, numerous constituent letters indicate that the public has not had an adequate and full opportunity to draft responses for consideration in the decisionmaking process. In fact, public hearings were not held in Wisconsin until October 2, 7 days before the public comment period expired on the draft effluent guidelines.

Therefore, in a letter to the Administrator of the EPA, Mr. Russell Train, I have urged the EPA to: First, extend the public comment time for the September 7, 1973, effluent limitation guidelines, second, hold public hearings on both the NPDES and effluent programs, and third, redraft these two sets of regulations to reflect in specific language the congressional intent and legislative history—Legislative History, volume II, pages 1298–99—of the FWPCAA as it pertains to agricultural problems.

The July 5 regulations developed the numerical cutoff point for farm operations that must file for a NPDES permit while EPA's second set of regulations establish effluent guidelines for point sources of pollution under section 301 of the act. The September 7 draft effluent regulations initially proposed that all farmers regardless of size would have to meet a zero-discharge-total confinement of runoff by 1985. Seven days before the public comment time expired, the EPA announced a dramatic change in policy: The farm operations that were exempt from the NPDES regulations would now be exempt from the effluent guideline limitation program. This action appears not only to be in variance with the law but contrary to published EPA policy—38 Federal Register, 128, page 18001.

The question is one of implementation rather than intent. Senator MUSKIE's colloquy clearly sets forth criteria which the EPA should follow in determining whether feedlots are "point sources" of pollution. The criteria state:

"If a man-made drainage ditch, flushing system or other such device is involved and if any measurable waste results and is discharged into water, it is considered a 'point source.' Natural run-off from confined livestock and poultry operations are not considered a 'point source' unless the following concentrations of animals are exceeded: 1,000 beef cattle, 700 dairy cows, 290,000 broiler chickens, 180,000 laying hens, 55,000 turkeys, 4,500 slaughter hogs, 35,000 feeder pigs, 12,000 sheep or lambs, 145,000 ducks. Any feedlot operations which result in the direct discharge of waste into a stream that transverses the feedlot are considered point sources without regard to number of animals involved."

This statement shows that if a feedlot is a "point source" a permit is to be required. The Congress gave the EPA the discretion to distinguish between a "concentrated feeding operation", which would require a permit and effluent guidelines and a farmer-feeder operation which would not.

The EPA admits the proposed regula-

tions will be most harsh economically on the small farm and will in fact promote the decline of the small operation and encourage the growth of larger facilities which are less family oriented.

The Wisconsin Legislature has expressed its concern by passing a joint resolution calling for the EPA to amend its regulations. In addition, a large number of constituents have written to me asking for more time to draft comments to the EPA.

Mr. President, I ask unanimous consent that my letter to EPA Administrator Train and the Wisconsin Legislatures joint resolution be printed in the RECORD.

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

OCTOBER 9, 1973.

Hon. RUSSELL TRAIN,
Administrator, Environmental Agency, Washington, D.C.

DEAR MR. ADMINISTRATOR: I am concerned over the EPA regulations which have been published in the Federal Register that establish the National Pollution Discharge Elimination System (NPDES) and the effluent limitation program of the Federal Water Pollution Control Act Amendments of 1972 (FWPCAA). It appears to me that neither set of regulations follows the Congressional intent of the legislation. Furthermore, numerous constituent letters indicate that the public has not had an adeqaute and full opportunity to draft responses for consideration or meaningfully participate in the decision-making process, and in fact, public hearings were not held in Wisconsin until October 2.

The National Resources Defense Council's suit raises serious legal questions surrounding the manner in which the EPA has exempted small farm operations from compliance with the mandates of PL 92–500. The Congress clearly did not intend that small farm operations would be covered by the permit and effluent limitation program except when such farm was a "point source" of pollution as described by Senator Muskie in his discussion of legislative intent on the floor of the Senate (Legislative History, Vol. II, pp. 1298–99).

The EPA's final regulations which will be published in the *Federal Register* should make a clear distinction between a "concentrated animal feeding operation", a point source pollution problem covered by the NPDES program, and a small farmer-feeder operation, a non-point source.

On October 2, 1973, seven days before the public comment times for the effluent limitation was due to expire, two representatives of the Region V EPA briefed members of the state legislature, the Governor's office, and members of the public at a public hearing in Madison, Wisconsin. Not only did that meeting come too late in the 30-day review period but a significant change in policy was anounced by Mr. John Kirkwood. A message from Robert Sansom indicated that those farmers who qualified for exclusion from the July 5 NPDES regulations would also be excluded from complying with the September 7 effluent guidelines. This action appears not only to be in variance with the law but contrary to published EPA policy (38 *Federal Register* 128 p. 18001).

To permit adequate public participation in the review of the proposed standards the time limit for the reception and consideration of citizen comments should be extended. In addition public hearings should be shceduled to permit the public full opportunity to comment on the specific proposals to implement the legislation.

The EPA must promulgate its regulations on sounder legal grounds. The July 5, 1973 *Federal Register* citation clearly states that, "the agency proposes to exclude for the present time certain classes of agricultural and silvicultural point sources from the requirements of the NPDES program." The Sansom telegram extends this exclusion to the effluent guidelines. According to the FWPCCAA, the NPDES program provides for the establishment of a permit program to regulate the "discharge of any pollutant" or combination thereof. Section 502(6) defines "pollutant" among other substances as "agricultural wastes discharged into the water" of any kind. The terms "discharge of pollutants" and 'discharge of a pollutant" seem to include "discharge of any pollutant" are defined in section 502(12) of the Act as meaning, "any addition of any pollutant to navigable waters from any source." Navigable waters (section 502(7)) is defined as, "The waters of the United States . . ." Finally, the term, "point source," is defined (section 502(14) to include any, "concentrated animal feeding operation . . . from which pollutants are or may be discharged.

Although the EPA exempted small farm operations there is a serious question they did so pursuant to the guidelines spelled out by Senator Muskie. The intent of the Congress is clear: *all* point sources of pollution are to be covered by the NPDES program. Section 502(14) does not define "concentrated animal feeding operations." Senator Muskie in a colloquy with Senator Dole on the floor of the Senate on November 2, 1972, sets forth criteria which the EPA should follow in determining whether feedlots are point sources. The criteria state:

"If a man-made drainage ditch, flushing system or other such device is involved and if any measurable waste results and is discharged into water, it is considered a 'point source.' Natural run-off from confined livestock and poultry operations are not considered a 'point source' unless the following concentrations of animals are exceeded: 1,000 beef cattle, 700 dairy cows, 290,000 broiler chickens, 180,000 laying hens, 55,000 turkeys, 4,500 slaughter hogs, 35,000 feeder pigs, 12,000 sheep or lambs, 145,000 ducks. Any feedlot operations which result in the direct discharge of waste into a stream that transverses the feedlot are considered point sources without regard to number of animals involved."

This colloquy clearly shows that if a feedlot is a "point source," a permit is to be required. The Congress gave the EPA the discretion to distinguish between a "concentrated animal feeding operation," which would require a permit and a small feeder-farmer operation which would not.

There seems to be a good deal of unresolved controversy surrounding the numerical formula that determines who is excluded under present EPA regulations. Should EPA choose to redraft their regulations along the lines suggested by the Senate a numerical formula would still be needed to distinguish between a small farmer-feeder operation and a point source concentrated animal feeding operation. The Secretary of Agriculture has suggested an even more stringent definition for an agricultural point source. He defines a "concentrated animal feeding operation" as:

". . . a feed lot, feed yard, or confined feeding facility having more than 300 animal units at one time. Feed lots, feed yard, or confined feeding facilities shall mean the feeding of livestock on sites or facilities from which wastes must be removed and that are not normally used for raising crops, or on which no vegetation intended for livestock feeding is growing. Thus, permit applications will be required from operators of feed lots, feed yards, or confined feeding facilities having the equivalent of 300 animal units. The following data are suggested as minima for the requirement of a permit:

"Slaughter steers or heifers	300
Dairy cows	200
Boilers	35,000
Laying hens	32,000
Turkeys	10,000
Butcher hogs	1,200
Feeder pigs	10,000
Sheep	2,300"

The Sansom telegram represents a significant change in policy at a very late stage in the decision-making process. Such changes should be printed in the Federal Register and given the opportunity to be fully examined and discussed in public. It is clear that the public has not had the opportunity to fully participate in the review and consideration of these regulations. Therefore, I urge you to: (1) extend the public comment time for the September 7, 1973 effluent guideline regulations (2) hold public hearings on both the NPDES and effluent limitation regulations and (3) redraft these two sets of regulations to reflect in specific language the Congressional intent and the legislative history of the FWPCAA as it pertains to agricultural pollution problems.

Sincerely,

GAYLORD NELSON,
U.S. Senator.

STATE OF WISCONSIN: 1973 SENATE JOINT RESOLUTION 80

Request the U.S. environmental protection agency to amend the proposed effluent limitations guidelines for the feedlots category of the federal water pollution control act.

Whereas, on September 7, 1973, the U.S. environmental protection agency published proposed rules in the Federal Register concerning effluent limitations guidelines for the feedlot category of the federal water pollution control act; and

Whereas, the proposed rules apply to nearly all producers of milk, meat and eggs in the state of Wisconsin; and

Whereas, the proposed rules require that by 1977, the water runoff from a feedlot containing dairy cattle, beef cattle, hogs or poultry shall be postively stopped from entering streams except in unusual circumstances; and

Whereas, to meet the requirements demanded by the proposed rules, most Wisconsin producers of milk, meat and eggs would have to spend a prohibitive amount of money in order to stay in production; and

Whereas, the prefatory statement to the proposed rules as set out in the Federal Register of September 7, 1973, contains language indicating that the environmental protection agency accepts the fact that small producers are going out of business and being replaced by larger facilities and that this trend will be accelerated by these proposed rules; and

Whereas, Wisconsin farmers, who produce over 16% of the total volume of milk in the United States, are primarily small producers with 77% of the milking cows in Wisconsin being in dairy herds of less than 50 heads; and

Whereas, if the proposed rules as finally published do not include exemptions for the small producer, it will mean the ruin of the small family farm in Wisconsin and an increase in the cost of food to the consumer; and

Whereas, representatives of the environmental protection agency appearing at the joint hearing of the senate agriculture and rural development committee and the assembly agriculture committee on October 2, 1973, testified that the agency interpretation is that the proposed rules would only apply to dairy herds of over 700 head, beef herds of over 1,000 head, herds of swine of over 2,500 head or to significant contributors to pollution; and

Whereas, the proposed rules do not contain any specific exemptions or make any refer-

ence to the assertion that the proposed rules only apply to significant contributors to pollution or make any attempt to define what constitutes a discharge from an animal feedlot or the discharge which constitutes a significant contributing source of pollution; and

Whereas, the farmers of Wisconsin, who have been leaders of the state and of the nation in stopping the excessive erosion of the land and in protection of the water supply, are willing to continue to be leaders in developing methods of water pollution control by cooperating with reasonable laws and regulations; now, therefore, be it.

Resolved by the senate, the assembly concurring, That the environmental protection agency is strongly urged to amend the proposed rules concerning feedlots to include specific exemptions which exempt, for example, operations containing less than 700 dairy cattle, 1,000 beef cattle and 2,500 swine and that definitions be provided specifying what constitutes a discharge from an animal feedlot and what discharge constitutes a significant contributing source of pollution; and, be it further

Resolved, That the proposed rules also be amended to direct that in all cases enforcement shall be carried on in a reasonable manner to avoid the dislocation of present producers and to provide for survival and revitalization of the small farmer; and, be it further

Resolved, That duly attested copies of this resolution be immediately transmitted to Mr. Phillip B. Wisman, EPA Information Center, Environmental Protection Agency, Washington, D.C. and to each member of the congressional delegation from Wisconsin.

GENOCIDE CONVENTION UNJUSTLY CRITICIZED

Mr. PROXMIRE. Mr. President, critics of the Genocide Convention have expressed their concern that ratification of this treaty would make a wide range of activities subject to punishment under international law.

Article II of the convention defines genocide as any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such:

First. Killing members of the group;

Second. Causing serious bodily or mental harm to members of the group;

Third, Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

Fourth. Imposing measures intended to prevent births within the group; and

Fifth. Forcibly transferring children of the group to another group.

In a number of previous statements before the Senate I have pointed out that the Genocide Convention does not apply to many of the acts which some of its critics fear that it would. The Senate Foreign Relations Committee has enumerated those concerns which are not covered by the Genocide Convention:

It does not alter the rules of warfare, or the obligations of parties to the Geneva Conventions on the treatment of prisoners or war and the protection of civilian persons in time of war.

It does not apply to civil wars as such.

It does not apply to discrimination, racial slurs, and insults and the like.

It does not apply to voluntary population control measures.

It does not apply to the past.

However distressing some such actions may be, they do not constitute genocide under the terms of the Genocide Convention and the understandings attached to it.

Mr. President, we must ratify the Genocide Convention.

THE NEED TO ESTABLISH AN OFFICE OF CONGRESSIONAL LEGAL COUNSEL

Mr. MONDALE. Mr. President, I recently introduced legislation (S. 2569) to establish an Office of Congressional Legal Counsel to aid in our attempts to insure that the executive branch obeys the law and the will of Congress.

In the October 17 edition of the Minneapolis Star, Austin Wehrwein analyzes this proposal and effectively demonstrates the need for its speedy adoption. I urge that this article be read as an excellent summary and analysis of the important changes that the establishment of such an office could bring about.

Mr. President, I ask unanimous consent that Mr. Wehrwein's article be printed in the RECORD.

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

HOUSE COUNSEL FOR CONGRESS

(By Austin C. Wehrwein)

Watergate didn't create arrogant excutive clout.

It was made possible by the existence of power there to be abused, by an accelerated, cumulative growth centered in the White House.

That trend can be summed up in two words. Before Watergate they served, in effect, as the White House's response to congressional challenge.

They were, "So what?"

The rebuttal to that, henceforth, might well be: "So we'll sue you."

This is the point of a new bill introduced by Sen. Walter F. Mondale, D-Minn., which was inspired by Ralph Nader.

Under it the legislative branch would create its own law office. Explained Mondale:

"This office would give senators and congressmen an in-house capability to bring suit against illegal executive branch actions."

The concept in full is a breakthrough.

Still, there are partial precedents.

The General Accounting Office (GAO) is Capitol Hill's own auditing and fiscal investigation agency. It is deep into legalism all the time, of necessity.

The Office of Legislative Counsel aids members in the drafting of bills, a highly technical legal art.

But neither litigates.

Impoundment brought the "so what" problem to the fore.

In the recent past there have been some 20 often successful impoundment lawsuits, including one involving rural disaster relief in Minnesota, brought by the Farmers Union.

A leading precedent for the Mondale concept was the lawsuit brought by the Missouri Highway Commission in which 22 Senators and five representatives filed an amicus curiae brief.

A. U.S. Court of Appeals affirmed a lower court's ruling that the secretary of transportation could not, contrary to express law, block appropriated funds.

Too, members of Congress filed lawsuits to attempt to end the war. Others have filed suits to gain information under the Freedom of Information Act. These cases have, however, been less successful than the Missouri highway case.

On the other hand, Mondale joined three other senators in suing successfully for the ousting of Howard Phillips from his job as acting director of the Office of Economic Opportunity (OEO). It seems the White House just hadn't bothered to send his name up to Capitol Hill for confirmation, so he had no legal right to his paycheck.

The crucial missing element in such tests is that the actual litigation was handled by private lawyers, not by employees of Congress.

Mondale praised their work. But he thinks that if the prerogatives of the legislative branch are to be restored it must have the full potential present only in an Office of Congressional Legal Counsel (CLC). Its own law firm, so to speak, one always on tap. More precisely, what lawyers call "house counsel."

The "senior partner" would be appointed by the speaker and the president pro tem of the Senate from nominations made by the leaders of both parties in both houses.

The CLC would render legal opinions.

It would, armed with appropriate authority, work with private parties bringing civil actions against the executive branch.

It could intervene in actions testing executive abuse of power. Or it could actually represent either house, or committees and individual members or employees of Congress involved in a test of the "validity of any official proceedings."

Finally, and again only after obtaining the green light under regulations, the CLC could iself bring civil actions.

In sum, the CLC would have a busy schedule, including the representation of the Congress and individual members both as plaintiffs and defendants.

This adds a new dimension to our governmental process.

Historically, the power to investigate and the power of the purse were the main joists and beams under the lawmaking function.

Mondale is now proposing the Congressional power to employ, as well as make, the laws so as to guarantee that the executive shall faithfully execute them, constitutionally.

THE NEED FOR A CEASE-FIRE IN THE MIDDLE EAST

Mr. BAYH. Mr. President, it was indeed distressing to learn this morning that the cease-fire has not taken hold in the Middle East. While we must strive for implementation of the cease-fire and adherence to the U.N. Security Council resolution, we must not lose sight of the fact that a major reason for the continued fighting has been the refusal of Syria, Iraq, and Jordan to accept the terms of the Security Council resolution.

Although the reason for the collapse of the cease-fire in the Suez area is less clear, there have been news reports that Egypt—after accepting the terms of the cease-fire—sought to take certain strategic lands and thus precipitated the fresh outbreak of fighting in that region.

Regardless of the success in restoring the cease-fire, it is clear that Israel will require massive military assistance to re-equip its forces and to maintain a balance with its Arab enemies who have received large amounts of sophisticated military hardware from the Soviet Union.

To this end I called some days ago for the United States to provide Israel with Phantom aircraft and other military equipment necessary to replace losses

since war broke out and to maintain the power balance essential to maintaining any cease-fire which will, inevitably, be fragile and subject to great stress.

On Friday the President responded to those of us who had recommended military aid for Israel by requesting a $2.2 billion authorization to guarantee Israel the hardware it must have. I am pleased to support the President's request and shall certainly do all that I can to see that Israel receives the assistance we realize is so crucial to her survival and to lasting peace.

But I must remind my colleagues that the President, as he did last year, has sought to lump together aid for Israel and aid for Cambodia. The President's request includes an additional $200 million in military assistance to Cambodia, something of much less obvious merit than aid to Israel.

I have never had any problem distinguishing in my mind between U.S. policy in the Middle East and U.S. policy in Indochina. The President has repeatedly tried, as he is now doing, to draw a parallel in these two troubled areas, despite the fact that the situations and the U.S. national interest are really quite different in Israel and Cambodia.

Last year the Senator from Idaho (Mr. CHURCH) and I were successful in offering an amendment to weigh aid to Israel and aid to Cambodia separately. As a member of the Senate Appropriations Committee I shall again seek to draw a necessary and valid distinction between these two separate and very different matters of foreign policy.

There simply has not been adequate justification for a supplemental military aid program for Cambodia. Indeed, I am confident that if the President did not have the more compelling argument of aid to Israel he would not even be seeking the supplemental request for Cambodia at this time. We must not be blackmailed into this piggyback arrangement, whereby we have to authorize highly questionable aid for Cambodia in order to help Israel at a time of great duress.

Without an elaborate review of old arguments, let me say briefly there is no valid analogy between Israel—fighting to defend itself from a calculated invasion made possible by Soviet aid—and Cambodia—where the question of external involvement is far less obvious and the basic character of the government is so different from the democracy in Israel.

Aiding a democracy from external attack is something we can and must do; aiding a nondemocratic government in a battle of uncertain origins is something we had better look at very carefully.

I want to reiterate my deep hope that a cease-fire can be arranged in the Middle East, as a necessary prelude to direct negotiations among the belligerents on a final peace agreement to end 25 years of intermittent warfare. But there will not be such a cease-fire, nor a lasting peace in the Middle East unless the United States provides Israel with the equipment—including aircraft—essential to restoring a balance of power. To this end I am prepared to support the President's request for a supplemental military assistance program for Israel, but reserve the right to seek a sharp distinction between that program and the proposed supplemental aid to Cambodia.

FAMILY HEARINGS

Mr. MONDALE. Mr. President, recently the Subcommittee on Children and Youth, which I chair, began a series of hearings on the "American Families: Trends and Pressures." In these hearings we are seeking to understand what influence governmental policies have on families, and to determine the extent to which public policies are helping or hurting families.

Several weeks ago, the St. Paul Pioneer Press included a very kind editorial supporting the purposes and objectives of this inquiry. The editorial said in part:

There is no denying there are significant trends affecting the family's structure and its effectiveness as a basic unit in society and that pressures on the traditional nuclear family organization are growing . . .

Because it contains such a clear and concise statement of the goals of the subcommittee's investigation, I ask unanimous consent that a copy of this thoughtful editorial be printed in the RECORD.

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

A NEW MONDALE INQUIRY

Minnesota's Senator Walter Mondale, the work of his rather generously publicized Select Committee on Equal Education having been concluded, has launched hearings in another, but related field, as chairman of the Subcommittee on Children and Youth. The Inquiry is into "American Families: Trends and Pressures."

There is no denying there are significant trends affecting the family's structure and its effectiveness as a basic unit in society, and that pressures on the traditional nuclear family organization are growing, so the inquiry is germane. As the Christian Science Monitor recently observed, it may not be a subject to give a potential presidential candidate (which Mondale is) daily headlines and TV exposure, but "all the national issues impinge on the family. The state of the family tempers or aggravates all (of them)."

Right now the hearings are concentrated on the economic pressures on the family. The findings, judging by what has been heard so far, doubtless will bolster Mondale's long-pursued objectives of government helps to those Americans struggling at or under the poverty income level.

Robert Coles, who won the Pulitzer Prize this year for his books on minority and "backwoods" families, was the lead-off witness for the Mondale subcommittee. His plea was for greater consideration for the mental and emotional burdens placed on a family whose breadwinner is unemployed or underemployed. "A jobless man's situation becomes a wife's mood," Coles said, "(and) a child's feeling for what is in store for him or her, too." In other words, welfare payments and government subsidies cannot remove this psychological burden and therefore do not attack the problem at its base. Depending upon how much impact testimony of this sort may have on Congress and the public, the work of Mondale's subcommittee could bring fundamental changes in the direction and application of legislation affecting the poor.

Not as dramatic as Sen. Ted Kennedy's impending attack on the natural gas suppliers, and certainly without the exposure the Watergate hearings have given a couple of Republicans mentioned as possible presidential candidates, Mondale's work may have more basic meaning. And it would be unfair to the senator and to the work of his subcommittee to suggest that the hearings are part of any campaign build-up. There is no reason to believe Mondale's humanitarianism and interest in the well-being of the American family are anything but sincere and deeply motivated.

THE 4–F SHORTAGE: FOOD, FUEL, FERTILIZER, AND FORESIGHT

Mr. ABOUREZK. Mr. President, the senior Senator from South Dakota (Mr. MCGOVERN) has a well-deserved reputation as a spokesman for family farmers. He has served 4 years in the House of Representatives, 2 years as director of the food for peace program, and 11 years in the U.S. Senate. He has been a member of the Agriculture Committee in both House and Senate.

On October 16, 1973, Senator MCGOVERN spoke to the annual convention of the South Dakota Farmers Union. His remarks once more establish the depth of his concern and understanding regarding American agriculture.

He points out that even in a time of high farm prices and high farm income, the picture is not entirely rosy. Energy production has not been adequate to meet agricultural needs. Fertilizer is in short supply. Prices on the commodity markets have been characterized by wild fluctuations. Transportation has not been adequate to meet rural needs.

All of these shortages are at least partially explained by the failure of foresight. We need not accept shortages as inevitable. Most of all we need not accept the ultimate demise of the family farm as unavoidable.

Senator MCGOVERN is committed to the concept that the family farm is the cornerstone of American food and fiber production. In his remarks he suggests four steps that will help preserve the family farm and will help provide the foresight needed as we move from an era of abundance to an era of scarcity.

Mr. President, I feel that the remarks of Senator MCGOVERN are of such importance that I would commend them to each and every Member of the U.S. Senate. I ask unanimous consent that his comments be printed in the RECORD.

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

THE 4–F SHORTAGE: FOOD, FUEL, FERTILIZER, FORESIGHT

(By Senator GEORGE MCGOVERN)

It is an unusual pleasure to be here tonight, with so many of my long-time friends—farm leaders whose advice and opinions have been invaluable to me for all the 16 years that I have been in Washington.

As I reflect over those four years in the House of Representatives, two as President Kennedy's Food for Peace director, and nearly 11 years as your Senator, I find it difficult to name any single year which has been so momentous for American agriculture as the past year.

Average prices for farm products surpassed 100 per cent of parity for the first

time since 1952. Corn stands at 114 per cent, wheat at 127 per cent.

U.S. farm exports this year will set another new record—probably approaching $20 billion.

You are harvesting an all-time record crop—nearly six billion bushels of corn, two billion bushels of wheat and one and one-half billion bushels of soybeans.

A harvest-season price of $2.50 per bushel for corn and $4.75 per bushel for wheat is almost unheard of.

And there are no surpluses overhanging the market, threatening to force prices down to depression levels.

At no time since I became your representative in Washington—at no time since I first joined the House Agriculture Committee back in 1957—could it have been possible to report such encouraging facts.

"Secretary of Agriculture Butz, as early as May of this year, was referring to prosperity for agriculture as ". . . the promised land of sustained growth, profitable production, and income commensurate with that realized by non-farm sectors of the economy . . ."

But is the picture honestly that rosy? Have we really reached the "promised land" in American agriculture?

Let's examine a few more developments of the past year.

The productive miracle of the American farm, for the first time since World War II, could not produce all the food to meet domestic and foreign demand.

U.S. energy production, for the first time, failed to make enough petroleum available for every need. There is not enough propane for crop drying, and many fuel dealers could not meet commitments for harvest operations.

Fertilizer is in seriously short supply. Anhydrous ammonia alone is projected to be one-million tons short in 1974, and many farmers already cannot obtain fertilizer for this fall's field preparation.

The prices of future contracts on many commodities have swung wildly up and down, out of all relation to supply and demand, causing anxiety and uncertainty throughout the food chain.

Boxcars have not been available to move grain to market.

A number of Federal rural assistance programs—REA, rural water and sewer, conservation cost-sharing and others—were arbitrarily cut back by the Administration earlier this year.

And the cost of everything you buy—from feed and feeder livestock to machinery, supplies and interest rates—have increased enormously.

These problems have led to unprecedented complications.

For the first time when the Nation was not at war, the Administration imposed price controls on food and farm products. For the first time in memory, limitations were placed on farm exports.

In the cities, housewives held angry meetings to denounce the price of food and, at least by inference, denounce the farmer for unfairly increasing his prices.

It has been an eventful year for American agriculture. And no wonder that many of us, despite the most encouraging farm prices in a quarter century, have been justifiably nervous.

Most of you have wondered, as I have, how the strongest nation in the history of the world, with the most advanced economy and sophisticated technology, could blunder into chronic shortages of the "three F's"—food, fuel and fertilizer.

The answer, it seems to me, lies in the shortage of a fourth "F"—foresight.

We have known for years that per capita food consumption in the United States and the rest of the developed world has been growing faster than the world's capacity to produce.

We know that the American consumer has become accustomed to 110 pounds of beef, 65 pounds of pork, and 560 pounds of milk and dairy products each year. And we know that rising incomes in the industrial nations make it possible for consumers in other countries—notably Japan and Western Europe—to want and to bid for as much.

Yet we did not plan for an era of scarcity. We continued to plan as if we were destined for centuries of abundance.

It took no great prophet to warn that a Nation with 6 per cent of the world's people using 34 per cent of the world's energy resources would some day exhaust those supplies.

Yet we continue to build two-ton automobiles to carry one person to and from work, consuming a gallon of gasoline in every 7 or 8 miles.

And certainly it has been apparent for many years that, as developing nations improved their economies, they would learn and want the tools of modern food production.

But still, in the face of rapidly rising world demand for farm inputs such as fertilizer, the world's capacity to produce fertilizer slipped relatively behind.

I wonder how it might have been different if the foresight and the ideas of the people in this arena tonight had been setting American food and farm policy. By looking back at some of the policy recommendations over the past 10 or 15 years, I think we can see how it might have been different.

Had one of your key recommendations prevailed, America would have had a strategic reserve, stored on farms, adequate to cope with periods of unanticipated demand such as we have just seen.

We would have had adequate supplies to meet export needs such as that of the Soviet Union last year, without the need for a massive taxpayer subsidy for the grain trade, and without selling one-fourth of your wheat crop in a manner that did not adequately reimburse the producer.

If we had adopted the kind of price policies advocated by the Farmers Union for so many years, food prices and farm income would have moved up steadily over the past 25 years, rather than ballooning in a period of a few short months.

I am convinced that the anguish expressed by consumers earlier this year would have not occurred, if only food and farm prices had kept pace with urban people's incomes and the increases in cost of everything else they buy.

As a result, there would have been no boycotts, no pressure for price rollbacks, and no imposition of this year's unfair and self-defeating food price controls by the President.

Your forward-looking transportation policies could have served to prevent, or at least ease, the crunch created by the lack of rail facilities to move grain to market.

Certainly, the time-honored Farmers Union position on price and income supports, had it been listened to many years ago, would have resulted much earlier in the kind of "target price" system which is in this year's farm bill. But it would have been a far better one.

I am pleased with this year's farm bill, because it establishes in part the concepts first articulated in the Brannan Plan a quarter-century ago. It sets a minimum price, below which the Federal government will not permit farm income to fall. And if market prices should drop below that minimum target price, a direct payment makes up the difference.

And it almost goes without saying that your forward-looking advocacy of greater public control of the Nation's energy resources could have prevented the kind of energy shortage which American farmers are facing this year.

But the Farmers Union position which I regard as the foundation on which all other policies rest is your unending insistence on the family farm as the cornerstone of American food and fibre production.

Had American agricultural policy been established on the firm protection of America's farm families, I am convinced that we would not find ourselves in the contradictions which face us today.

The consumer would be less prone to criticize our agricultural sector if he or she knew that the principal beneficiary of increased food prices were families just like them, and not the corporate giants whose principal responsibilities are to wealthy stockholders.

The substantial increases in farm income this year would be spread more evenly, and spent more widely in the rural communities of America.

And there would have been, over the past dozen years, sustained growth in the farm market for fuel, fertilizer and other farm inputs which are in short supply, and healthy railroad systems serving all rural America.

But, to my regret, this kind of foresight has been lacking in Washington. And we are faced with a number of problems and challenges which must be met. I would like to outline for you just *four* of the steps which, I believe, we must take to prevent a recurrence of many of the less hopeful developments of the past year.

First, we must re-direct our policy from one which grew out of a surplus mentality to one which deals with an age of scarcity. That means we must come to grips with America's role as a food provider in the face of spreading world hunger. We no longer have surpluses to give away, and we must determine how we are to respond to famine and drought in less developed areas.

Maintaining a capability to provide food for those in need is not only a humanitarian goal, but one which is important to every American farmer. This week I released a study, done for my Senate Nutrition Committee, which demonstrates the impact on the American farm economy of our domestic and foreign food assistance programs. It demonstrates how Food for Peace, food stamps and child feeding programs have provided a sustained, steady source of farm income.

The senior Republican member of the Senate, George Aiken of Vermont, has joined me in an effort to establish a U.S. policy of cooperation and leadership in the development of domestic and foreign food reserves. We should never be caught short again, such as we were in 1973.

Second, we must do more to provide incentive to American farmers to produce the food and fibre that will be demanded by a growing world population and rising world income.

That means that the Secretary of Agriculture should fully use the powers granted under the new farm bill to make it more certain that the farmer will earn a profit if he expands production as the Secretary asks.

One significant action by the Secretary this year goes counter to that goal. In calling for all-out feed grain production, Secretary Butz established a national acreage allotment of 89 million acres for 1974. That compares with 130.1 million acres this year. While it is not likely that prices will fall significantly in 1974, and deficiency payments to make up the target price are not likely to be paid on the farmer's allotted acreage, such a low allotment is a dangerous precedent. It further increases the financial risk of not getting your crops planted or harvested because

of natural disaster, because the bill provides disaster payments only on allotted acres.

And it means that we should increase the target prices in existing law. When we set the target prices in the Senate Agriculture Committee in April of this year, we used figures which then represented 70 per cent of parity. But by the time the bill came out of Conference, because of the threat of a veto, they had been reduced—to $2.05 per bushel for wheat, $1.38 for corn. And we lost two years of the escalator clause.

But since we started to draw up the farm bill, production costs have increased 7.6 per cent—that's an annual rate of almost 18 per cent. To be fair, then, and have the Federal government share the risk of all-out production, I believe the target price should be increased to at least 70 per cent of parity. Based on today's prices and costs, that means $2.46 for wheat and $1.65 for corn.

Compared with today's market prices, target levels such as those are modest indeed.

Third, we must reform the system of commodity futures trading which affects the price of everything you sell and everything you buy.

Last Friday, I introduced a bill to overhaul the system of Federal regulation of commodity exchanges, in the hope that we can stop the excessive speculation which brought soybean prices to $12.90 a bushel—a price that no farmer in this room ever received or is likely ever to receive.

I propose the creation of an independent, five-member Commodity Exchange Commission, patterned after the Securities and Exchange Commission, which regulates the stock market. My bill would give that commission significantly expanded powers to deal with speculators, and to prevent conflicts of interest which can serve to harm both farmers and consumers.

Some sort of legislation is likely to pass the Congress next year. I have spent the last four months studying the need for reform, and I am convinced that the time is at hand for a positive result.

And *fourth*, we should enact the Family Farm Act of 1973. Senator Abourezk and Senator Gaylord Nelson of Wisconsin and I have introduced a bill which would prohibit farming by large, non-farm corporations which compete unfairly with the family farmers of America.

They are not more efficient; they are less efficient. But they have tax breaks and can compete unfairly for capital, machinery, and other production inputs.

These four steps, I submit, would help develop a system of production of food and fibre which would fairly reward the men and women whose labors are at the very heart of that system. It would be fair to the consumers in our great cities, and to the people of the world.

Such policies would help restore America's image in the world community. And they would, more than anything else, affirm America's leadership in the world.

It does us little good to have the most damaging weapons and the strongest war machine if our economy is in chaos and our capacity to produce food is in disarray. Because America must be more than a first-rate military power. We must be a first-rate moral power if we are to bring peace and order to a troubled world.

With your help, and your continued foresight, we can build the kind of world that we deserve and our children require.

MAKING AMERICA SAFE FOR DEMOCRACY

Mr. McGOVERN. Mr. President, tonight I will address an audience at the Virginia Commonwealth University in Richmond, Va. This is an address which grows out of weeks of thought on my part as to the constitutional crisis the Nation now confronts. I have come to the painful conclusion that given the disturbing revelations of misconduct in the Nixon administration, the dismissal of Special Prosecutor Cox, and the difficulty of pursuing unanswered questions by other methods, that the time has come to begin impeachment proceedings.

Since the election last year, I have been reluctant to speak on the President's involvement in Watergate, because I felt my remarks might be interpreted as the vindictive behavior of a defeated candidate. But I have now come to the conclusion that the only way we can restore public confidence in our constitutional system and establish either the President's innocence or his guilt once and for all is through the constitutional process of impeachment.

I ask unanimous consent that the full text of the address I intend to deliver this evening be printed in the RECORD.

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

MAKING AMERICA SAFE FOR DEMOCRACY

(By Senator GEORGE MCGOVERN)

In the oath of office taken by the President and members of Congress, there is a single thread from which the fabric of our Republic is woven—and that is to protect and defend the Constitution.

If this thread is broken, then the tapestry on which we have predicated almost two hundred years of our national existence becomes unraveled and meaningless. Those who disregard the Constitution do so at their own peril. And when the office they hold is high enough, and their power great enough, any defiance of the Constitution imperils us all.

The Constitution has been challenged before. And we have survived, because men of honor have put the law and the Constitution above all other concerns. And now we are being tested again.

I do not know what is on those celebrated White House tapes. I do not even care to speculate.

But I do know this: America cannot function with a President who believes he is above the law and who claims the right to defy the Courts, the Congress, and the Constitution.

And I also know that after this turbulent weekend, there is just one agency left with a constitutional remedy. It is the Congress, and the remedy is impeachment. And if we fail to use that remedy, then we, too, invite the contempt of the American people. So as a citizen who loves this nation and as a United States Senator, I believe that the House of Representatives should exercise its constitutional power to begin impeachment proceedings.

We are surrounded by grave national concerns. Yet, the national government is at a standstill, paralyzed by the worst political scandal in our history.

We turn on the news hoping to hear about progress on the fuel crisis so that there will be enough heating oil this winter. Instead, we hear that still another White House aide has been indicted.

We hope to hear that inflation is abating, but instead, we read that the "law and order" Vice President of the United States, after protesting his innocence for so long, has copped a plea to avoid a prison term.

We hope to learn that crime is more nearly under control. Instead, we hear more about a crime wave at 1600 Pennsylvania Avenue.

And finally, we learn that one clear difference between Mr. Nixon and Mr. Agnew is that Mr. Agnew could not fire the people who were investigating him.

Mr. Nixon would have us believe that our national government has not responded to urgent needs in other areas because the Congress has been "wallowing" in Watergate.

But let us not forget who created this wallow and who now keeps us in it—not those who are determined to seek out the truth and to punish the guilty—but those who committed and condoned crimes and who now obstruct justice.

Since the election a year ago, I have been reluctant to speak on the President's involvement in Watergate. For many months I have remained almost silent in the belief that it might seem vindictive for the defeated presidential candidate to comment on the conduct of his opponent's campaign.

So when I have discussed this issue, I have expressed a desire to accept the President's claim of innocence. And I have suggested that even these bad times for the few who have failed the American people could lead to good times for the American system by inspiring a new appreciation for the rule of law and a new respect for the Constitution.

But those hopes, without prompt and vigirous action by the Congress, no longer hold.

How can we take seriously the President's claim to the presumption of innocence if by his every action he invites the assumption of guilt?

And how can we proclaim a renewed faith in the Constitution, if we fail now to use the constitutional mechanisms devised by the framers for precisely the condition we are in today?

It is important that we know the nature of that remedy—that we understand what impeachment does and does not mean. For what I propose today is not that Mr. Nixon be removed from office; it is only that we begin this one kind of inquiry that he must take seriously, because he knows it could lead to that result.

Our constitutional draftsmen understood the lessons taught by the rule of powerful and often arrogant monarchs in England. They feared an excess of power in executive hands. And they took two steps to prevent it.

First, they established checks and balances among the three branches of government. The war power and the power of the purse—those most susceptible to abuse—were placed in the Legislature, the branch closest to the people.

And second, the framers understood that even checks and balances in the Constitution might not suffice in the absence of checks and balances in the President's own conscience. I think they recognized that even the most carefully constructed system could not restrain any leader who was determined to thwart it. So Congress was given the power to investigate the conduct of the President and, in cases of high crimes or misdemeanors, to remove him from office.

If we draw a parallel with the laws by which the rest of the American people are governed, the role of the House of Representatives is similar to that of a Grand Jury. If after investigating and evaluating the facts, a majority of the House votes for impeachment, all that means is that probable cause of wrongdoing has been found and that the case should be tried by the Senate. In other words, the House, like a grand jury, may bring an indictment, which then opens the way for a trial by the Senate.

After the President is impeached by the House of Representatives, the Senate determines his guilt or innocence, with the Chief Justice of the United States presiding over the trial. And here, the standard is more stringent. While the impeachment, or indictment, is accomplished by a simple majority

vote in the House, conviction, or removal from office, cannot be voted by anything less than a two-thirds majority in the Senate.

So the procedure is straightforward. It includes ample safeguards for the President and rigorous standards of proof.

And while it provides that remedy, the Constitution also assures that the removal of one man shall not mean either the collapse of the Presidency or the fall of our system. Indeed, James Madison and his colleagues saw the power of impeachment as an essential restraint against arbitrary one-man rule.

The American people can be assured that the government will continue. Considering the performance of government over the past nine months, it may well be that impeachment, far from damaging our political system, is the best method of restoring public confidence in that system. It could dispel the dark clouds over the White House, either by vindicating the President's claim of innocence or by replacing him with someone who will heed the obligations of the Constitution.

As a member of the Senate, I must reserve my judgment on conviction until the case is before the Senate. But the process of impeachment should begin now.

Indeed, some authorities, including members of the House of Representatives and the entire national board of the distinguished American Civil Liberties Union, have seen grounds for impeachment for some time.

In describing the "decisive engine" of impeachment, James Madison declared that it should make the President personally responsible for his subordinates—"to superintend their conduct so as to check their excesses." Certainly, there is cause to question whether that responsibility has been met.

The list of Nixon Administration offenses includes bribery, forgery, burglary, perjury, unlawful wiretapping, obstruction of justice, destruction of evidence, improper use of sensitive government agencies such as the Internal Revenue Service, the FBI and the CIA, and the "fixing" of antitrust suits.

If Mr. Nixon knew about this criminal behavior and either condoned it or covered it up, he has obviously betrayed his high office. If he did not know that all about him, his top aides were sabotaging our democratic process, he is obviously unqualified to lead a great nation.

The President's oath of office requires that he uphold and defend the Constitution, which assigns the war power to Congress. Yet, Mr. Nixon deceived the Congress and the American people by covering up and denying fourteen months of bombing in Cambodia. Did that action uphold the Constitution, or were the Constitution and the presidential oath both betrayed?

Those activities and others—including the establishment of a White House "plumbers" unit with a mandate which contemplated clear violations of law—all raise the impeachment question.

But Mr. Nixon has gone much further. He says he offers compromise through the courtesy of Senator Stennis on the White House tapes; but in fact, he stands in contempt of definitive orders by the United States District Court and the Court of Appeals. Judge Sirica did not instruct Mr. Nixon to summarize selective portions of the tapes for a single Senator of his choosing. He ordered him to surrender the tapes for examination by the Court. The Court of Appeals sustained Judge Sirica. The President's obligation was to appeal those decisions of the highest Court in the land, or else to obey them. He has done neither. And his conduct not only prevents a full and fair investigation of his own role in a clear defiance of the rule of law; it also jeopardizes the prosecution and the defense of other alleged participants in Watergate.

Finally, Mr. Nixon stands in contempt of the United States Senate. Elliot Richardson was confirmed as Attorney General only after the President pledged that Mr. Richardson would have absolute authority to make all decisions bearing upon the Watergate case and related matters . . . [including] the authority to name a special supervising prosecutor for matters arising out of that case."

And before he was confirmed, Mr. Richardson promised the Senate that he would do just that, and that the special prosecutor would be independent. Mr. Richardson kept his promise, even though he was ordered to violate it, and even at the risk of his career. And Mr. Nixon kept appointing acting Attorneys General until he found one who wanted the job badly enough to dismiss Special Prosecutor Cox and then seal off and close down his office, and stop the Watergate inquiry dead in its tracks.

In effect, Mr. Nixon has served notice that no inquiry by the Justice Department or by the judicial system will be permitted to follow the truth into the oval office. Is this not clearly an obstruction of justice? Surely, Mr. Nixon knows that the Senate insisted on an impartial prosecutor in the first place because it had ample reason to doubt the reliability of the Administration's investigation of itself. But beyond this, the courts have spoken clearly to Mr. Nixon and he has chosen to ignore their orders.

After this most recent constitutional challenge, the Congress has no choice but impeachment.

Other nations have fallen in the wilderness in which we now wander, where the pursuit of power breaks the bounds of principle, where there is justice only for some and finally liberty for none.

Yet, there is a beacon in the gathering darkness; it has lighted our way and the work of our forbearers throughout the life of this land. That beacon is the Constitution, and if we follow it now, we can come home again to the true America. We can live once more by ideals instead of deals. We can be ruled once more by democratic traditions instead of dirty tricks. We can step again to the message which has seemed until recent days to be sounded only by a distant drummer—a faith which was kept by Archibald Cox even as he lost his position—that ours must be a government of laws, not of men, and certainly, not of one man. No one man is indispensable to the Presidency, but the Constitution is indispensable. The law must be sustained; and the highest officials of government have the most solemn obligation of conscience to bend their wishes and their will before the bar of justice.

So the question of impeachment is put to the Congress and the country. We hoped to avoid it, but it has come. We sought to avert a constitutional crisis, but unless we face it, we will sanction and perhaps fasten upon our children the excess of an unrestrained executive power. If what this President has done is not a cause to begin impeachment, what can ever call any President to account?

This is not a partisan matter, but a matter of principle. Elliot Richardson and William Ruckelshaus are Republicans who resigned, not to help the Democratic Party, but because they put duty to America ahead of any political party. And this is not an attack on the Presidency, but a defense of it. For if we condone, even by our inaction, the wrongs of Watergate and the White House horrors, our political process will be dishonored; the office of the Presidency will be disgraced; and we will be blamed as long as men read or remember history for betraying the promise of America.

We cannot wait for history's judgment. We must have the courage to judge. We must find a way out of the wilderness. And there is only one path, marked out for us by Thomas Jefferson in the Declaration of Independence and by James Madison, the father of the Constitution. Here in this historic City, we remember their heritage; and in every part of this country we must resolve to make our own. We must follow our conscience and our Constitution wherever they take us, even to impeachment. We can change Presidents, but we must not change our principles.

Almost sixty years ago, a great Virginian and a great President, Woodrow Wilson, called on the people of this nation to make the world safe for democracy. Now, we the people must summon ourselves to a task at least as difficult and even more fundamental—to make America safe for democracy.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a call of the calendar beginning with Calendar No. 444 and extending through Calendar No. 450.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

The resolution (S. Res. 178) authorizing additional expenditures by the Committee on Interior and Insular Affairs for routine purposes was considered and agreed to as follows:

Resolved, That the Committee on Interior and Insular Affairs is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $25,000 in addition to the amount and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in S. Res. 96, agreed to May 10, 1973, and S. Res. 137, agreed to July 20, 1973.

ADDITIONAL COPIES OF SENATE HEARINGS ON COPYRIGHT LAW REVISION

The resolution (S. Res. 188) authorizing the printing of additional copies of Senate hearings on copyright law revision was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on the Judiciary one thousand additional copies of the hearings before its Subcommittee on Patents, Trademarks, and Copyrights during the present session on Copyright Law Revision.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 170) authorizing supplemental expenditures by the Committee on Veterans' Affairs for inquiries and investigations which had been reported from the Committee on Rules and Administration with an amendment on page 1, line 1, after the word "Resolved," strike out "That S. Res. 47, Ninety-third Congress, agreed to February 22, 1973, is amended as follows:

(1) In section 2, strike out the amounts "$100,000" and "$40,000" and insert in lieu thereof "$250,000" and "$50,000", respectively." and, in lieu thereof, insert: "That section 2 of Senate Resolution 47, Ninety-third Congress, agreed to February 22, 1973, is amended by striking out the amounts "$100,000" and "$40,000"

and inserting in lieu thereof "$210,000" and $50,000", respectively."

The amendment was agreed to.

The resolution, as amended, was agreed to.

ORDER FOR PRINTING OF A COMPILATION OF THE 25TH AMENDMENT

The Senate proceeded to consider the resolution (S. Res. 183) authorizing the printing of a compilation of materials on the 25th amendment as a Senate document which had been reported from the Committee on Rules and Administration with an amendment on page 1, at the beginning of line 6, strike out "document for the use of that committee." and insert "document, of which one thousand copies shall be for the use of the Committee on the Judiciary and one thousand copies shall be for the use of the Committee on Rules and Administration."

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That a compilation entitled "Selected Materials on the Twenty-fifth Amendment", prepared by the Subcommittee on Constitutional Amendments, Committee on the Judiciary, be printed as a Senate document, and that there be printed two thousand additional copies of such document, of which one thousand copies shall be for the use of the Committee on the Judiciary and one thousand copies shall be for the use of the Committee on Rules and Administration.

ORDER FOR PRINTING ADDITIONAL COPIES OF HEARINGS ENTITLED "U.S. INTERESTS IN AND POLICY TOWARD THE PERSIAN GULF"

The concurrent resolution (H. Con. Res. 275) providing for the printing of 1,000 additional copies of the hearings before the Subcommittee on the Near East of the Committee on Foreign Affairs entitled "U.S. Interests in and Policy Toward the Persian Gulf" was considered and agreed to.

ORDER FOR PRINTING ADDITIONAL COPIES OF REPORT OF THE COMMISSION ON THE BANKRUPTCY LAWS OF THE UNITED STATES

The concurrent resolution (H. Con. Res. 322) to reprint and print the corrected Report of the Commission on the Bankruptcy Laws of the United States was considered and agreed to.

ORDER FOR PRINTING AS A HOUSE DOCUMENT THE CONSTITUTION OF THE UNITED STATES

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 184) to print as a House document the Constitution of the United States which had been reported from the Committee on Rules and Administration with an amendment on page 2, add the following new section:

SEC. 2. There shall be printed fifty-one thousand five hundred additional copies of the document authorized by section 1 of this concurrent resolution for the use of the Senate.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 23, 1973, he presented to the President of the United States the following enrolled bills:

S. 907. An act to authorize the appropriation of $150,000 to assist in financing the arctic winter games to be held in the State of Alaska in 1974; and

S. 2016. An act to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 442 and 443.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES AND IMMUNITIES TO THE ORGANIZATION OF AFRICAN UNITY

The bill (S. 1526) to amend the International Organizations Immunities Act to authorize the President to extend certain privileges and immunities to the Organization of African Unity was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Organizations Immunities Act (22 U.S.C. 288–288f) is amended by adding at the end thereof the following new section:

"SEC. 12. The provisions of this title may be extended to the Organization for African Unity in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.".

CERTAIN PRIVILEGES GRANTED TO THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES

The bill (H.R. 5943) to amend the law authorizing the President to extend certain privileges to representatives of member states on the Council of the Organization of American States was considered, ordered to a third reading, read the third time, and passed.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Friday, October 26, 1973, the Senate will convene at 12 o'clock noon.

Under the order previously entered, after the recognition of the two leaders or their designees under the standing order, there will be a period for the transaction of routine morning business not to exceed 30 minutes, with statements therein limited to the usual three minutes.

I do not anticipate any business, unless there are measures on the Calendar which have been cleared for action and possibly any conference reports that may be available and awaiting action.

I do not, at this time, anticipate any yea-and-nay votes.

ADJOURNMENT TO FRIDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Friday next.

The motion was agreed to; and at 3:07 p.m. the Senate adjourned until Friday, October 26, 1973, at 12 o'clock noon.

NOMINATION

Executive nomination received by the Senate on October 19, 1973, pursuant to the order of October 18, 1973:

FOREIGN CLAIMS SETTLEMENT COMMISSION

Kieran O'Doherty, of New York, to be a member of the Foreign Claims Settlement Commission of the United States for a term of 3 years from October 22, 1973 (reappointment).

HOUSE OF REPRESENTATIVES—*Tuesday, October 23, 1973*

The House met at 12 o'clock noon.

Rabbi Sally Preisand, Stephen Wise Free Synagogue, New York, N.Y., offered the following prayer:

Once again, we consecrate ourselves to the task of building a better world. Those who sit here have been granted positions of authority by their fellow citizens. May they use their power wisely and for the good of all, and may their decisions ever reflect a true sensitivity toward human needs. May they uphold the law of right-