CONGRESSIONAL RECORD — SENATE

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 12 Leg.]

Allen
Baker
Bentzen
Byrd
Cranson
Domino
Eglenton

Erikson
Griffith
Hathaway
Heath
Hicks
Jackson
Manesfield

Nelson
Paskorne
Sparksman
Summerville
Talmadge
Tower

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSMFIELD. Mr. President, I move that the Senate do direct the request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Ahern
Allan
Bellamy
Bell
Benét
Biddle
Brook
Brown
Burke
Burdkell
Byrd
Cannon
Case
Ceres
Clark
Cook
Cotton
Curtis
Dale

Berttett
Burns
Burns
Bush
Carey
Humphrey
Inouye
Javits
Kennedy
Lewis
McClellan
McCleure
McCoy
McFadden
McGovern

Rasland
Patten
Patrick
Purnell
Russell
Saxay
Shuster
Kipling
Schweiker
Scott
Spence
Snowe
Stevens
Stevenson
Taft
Williams
Young

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. BAKER. Mr. President, this amendment to the resolution now pending before the Senate simply provides that the select committee constituted by the resolution would consist equally of three Democrats and three Republicans.

On yesterday, in colloquy with the distinguished senior Senator from North Carolina, I indicated that I felt that a select committee was the preferable way to conduct of inquiry of the Senate; that it was superior to one of the standing committees doing this inquiry, I thought it offered a greater opportunity to illuminate all the facts attendant on the circumstances of the recent Presidential campaign and other political activities.

I indicated, as well, that the precedent for having an equal division in select committees and special committees of the Senate in this respect was well established, and that I believed we would enhance and reinforce the position of absolute objectivity and freedom from personal consideration if we were to go before this precedent in this instance.

I also indicated yesterday that I have no doubt whatever about the objective manner, the calm, cool, and judicial manner, in which the distinguished senior Senator from North Carolina will conduct this inquiry as chairman of the select committee if he is chosen as chairman of the select committee. This amendment, I think, exceedingly strengthens his standing in that respect, nor does it suggest that I have any fear that the majority members of the committee, nor the staff, for that matter, will engage in a partisan witch hunt.

On the other hand, Mr. President, we must face the fact that, inevitably, this inquiry will be fraught with political implications. That has been true, I am sure, on other occasions, and the Senate has dealt with it, I think, in a very commendable way.

Senators that occur to me in that respect go back at least to 1954, when there was a select committee of the Senate to investigate the McCarthy allegations. A resolution was passed by the Senate in 1954, constituting a committee, on the basis of equal distribution, of three Republicans and three Democrats.

More recently, Mr. President, the Special Senate and Conduct Committee, which, of course, is a committee of very high sensitivity, dealing with the conduct of the members of the Senate, was constituted on the basis of three Republicans and three Democrats.

In the other body, the House of Representatives, in their allocation of membership to the House Standards and Conduct Committee, has followed the same principle, when it allocated a membership on the basis of six members for each party.

In the Select Committee on Improper Activities in the Labor-management field in 1957, the same formula was followed for an allocation on the basis of four members for each party.

More recently there was created a special Senate Committee on the Terminaion of the National Emergency. That Special Committee is made up of equal numbers of Republicans and Democrats, four of each party.

The special committee to study questions related to secret and confidential documents, which was created in S. Res. 18 in the 90th Congress, is made up of five Republicans and five Democrats.

I feel that as we launch into a broad, sweeping inquiry, far broader than any judicial inquiry can be, certainly more comprehensive and broader than any criminal inquiry can be, and as we go into legislative type hearings as distinguished from judicial hearings where we are encouraged with the aid of rules of civil procedure or the rules of criminal procedure, it is incumbent upon us that we guard against any question of partisanship in the inquiry on the part of the two parties are about to embark.

It is for that reason that I offer this amendment to change the composition of the committee from three Democrats and two Republicans to three Democrats and three Republicans, with the avowed and expressed hope that if that happens, the distinguished senior Senator from North Carolina will be chosen and will agree to accept the assignment as chairman of the committee.

Mr. President, I am willing at this time to yield the floor.

Mr. ERVIN. Mr. President, I am strongly opposed to this amendment. Indeed, if this amendment were agreed to, it would mean that the resolution would carry within its provisions the seeds of its own incapacity to enable the performance of the functions which the resolution was designed to. I will come back to that in a minute.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I have studied the precedents, and virtually without exception every select committee

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The Secretary of the Senate reported that on that day, February 7, 1973, he pre-
that has been established since 1947 has been divided between the majority party in the Senate and the minority party. In the Senate at the time so as to give the majority party a larger representation in numbers than that of the minority party. For example, in the second session of the 80th Congress, they established a special committee—which is a name they used to give to select committees—to investigate the national defense program.

The membership of that committee consisted of six Republicans and four Democrats.

The same session established a Special Committee To Study the Problems of American Small Business. The membership of that committee consisted of seven Republicans and five Democrats.

The same Senate established a Special Committee To Reconstruct the Senate Record and Skylights in the Senate Chamber. The membership of that committee consisted of three Republicans and two Democrats.

If we are going to have a majority and a minority party on the Select Committee To Study the Reconstruction of the Senate Roof and Skylights and Remodel the Senate Chamber, where there are present no political overtones of any kind, we certainly should have a division which would enable the committee to be established as the Senate Resolution 60 to function in the event of disagreement between the members of two different parties on the committee.

During the 81st Congress, they continued the Select Committee on Small Business with an assigned membership of eight Democrats and five Republicans.

In the 82nd Congress, they retained the Special Committee on the Reconstruction of the Senate Roof and Skylights and Remodeling of the Senate Chamber with a membership of three Democrats and two Republicans.

They established in that session a Select Committee on Small Business, which would consist of seven Democrats and six Republicans. They also established a Special Committee To Investigate Organized Crime in Interstate Commerce, with a membership consisting of three Democrats and two Republicans.

During the 84th Congress, the Select Committee on Small Business was continued in another membership consisting of seven Democrats and six Republicans. They also established at that time a Special Committee on the Senate Reception Room which consisted of three Democrats and two Republicans. Why they should have any difference where there is no great likelihood of anything more important to discuss except how the reception room should be decorated or whose pictures should hang on the wall, I do not know. There is no room for agreement. Well, some could disagree on that, I guess.

In the 85th Congress, they continued that Select Committee on Small Business with a membership of seven Democrats and six Republicans.

During the 86th Congress, the Senate continued the Select Committee on Small Business with a membership of 11 Democrats and six Republicans. They established a Special Committee on National Water Resources. Surely there is not much room for disagreement about water, unless we are going to have a little more of the Scotch to go with it. This select committee consisted of 10 Democrats, one other Democrat as an ex-officio member of the committee, and six Republicans.

The Senate established, in that same Congress, a Special Committee on Unemployment Problems. That committee consisted of six Democrats and three Republicans.

In the 87th Congress, the Select Committee on Small Business was continued with 11 Democrats and six Republicans constituting its membership.

During the same Congress, the Senate established the Select Committee on Aging which consisted of 14 Democrats and seven Republicans.

During the 88th Congress, the Senate continued the Select Committee on Small Business with 11 Democrats and six Republicans. It also continued the Special Committee on Aging with 14 Democrats and seven Republicans.

During the 89th Congress, the Senate continued the Select Committee on Small Business with 11 Democrats and six Republicans, and the Special Committee on Aging with 14 Democrats and seven Republicans.

Then, during the 90th Congress, the Senate continued the Select Committee on Small Business with 11 Democrats and six Republicans, and the Special Committee on Aging with 13 Democrats and seven Republicans.

During the 91st Congress, the Senate continued the Select Committee on Small Business with 11 Democrats and six Republicans, and the Special Committee on Aging with 11 Democrats and nine Republicans.

During the 92d Congress, the Senate established a Select Committee on Education Opportunity with a membership consisting of six Democrats and six Republicans. During the same Congress, the Senate continued the Select Committee on Nutrition and Human Needs with eight Democrats and six Republicans constituting its membership.

I think the records will show that the membership of these select committees has been proportionate and Republicans proportionate to the respective membership in the Senate of Members of the two parties. It is true that there have been from time to time in some four or five select committees where the membership was equally split. Three of those committees dealt with matters concerning the internal affairs of the Senate and matters relating to the Senate itself.

In other words, we had the Select Committee on Standards and Conduct, the membership being equally divided between the two parties having representatives from each party. The committee virtually no room for tie votes or differences of opinion, because Members of the Senate of both parties certainly intended to vote virtually the same in respect to what constitutes ethical conduct on the part of a Senator of the United States. So that is totally unlike the select committees on which it proved to be established by the pending resolution. The pending resolution proposes to authorize an investigation and study, not of anything relating to the Senate exclusively, but of matters relating to the Presidential election of 1972, a matter lying outside the scope of senatorial activities or senatorial conduct.

A second select committee of the four that I have discovered which had equal division in the party membership of their members was the Special Committee on the Retirement Income Security Act. That committee had reference to the internal affairs of Congress and how they should be conducted, and there were no possible partisan implications in that committee. It had nothing to do with anything outside of the Congress itself.

The third select committee where the membership was equally divided was the Watkins Committee which was appointed to study the question of whether Senator Joseph McCarthy of Wisconsin, should be permitted to perform the duties of a Senator. Manifestly, that was a matter within the family of the Senate itself, and was dealt with by an equally divided select committee, as should have been done.

The other illustration of a select committee, whose function did not relate to the internal affairs of the Senate or Congress as did the other three, was a Select Committee To Investigate Improper Activities in Labor-Management Relations. The membership of that committee was equally divided, but there were two reasons for that, both totally unlike the reason which prompts the introduction of this resolution.

The Subcommittee on Permanent Investigations of the Committee on Government Operations began an investigation of its own accord into certain activities of officers of the Teamsters Union on the West Coast. The Committee on Labor and Public Welfare claimed that the permanent Subcommittee on Investigations was trespassing on its legislative domain, and a controversy arose in the Senate with respect to which of the two committees had jurisdiction of the investigation into alleged improper conduct in the labor and management field.

So, to reconcile the conflicting claims of jurisdiction and to proceed with the investigation which circumstances indicated needed to be made, a compromise was agreed upon whereby they established a select committee composed of an equal number of Senators. At the same time, the permanent Subcommittee on Investigations of the Committee on Government Operations and from the Committee on Labor and Public Welfare. The reason why there was an equal number of Senators from each committee.

There was another consideration:
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Everyone recognized that labor had then, as it has now, a powerful political clout, and the membership of the two parties in the Senate was divided by only about one Senator. The Democratic Party had perhaps a majority of the Senate, and it was generally recognized that if there was any hope of securing the adoption of a resolution establishing a Select Committee To Investigate Improper Activities in the Labor-Management Field, there would have to be strong bipartisan support from both parties. So it was agreed that not only would they have an equal division of the Senate, but the membership of the subcommittees on Permanent Investigations and the Committee on Labor and Public Welfare, but in order to assure strong bipartisan support for the resolution establishing the select committee, the membership should be apportioned in equal numbers between the two political parties. That is the reason for the equal representation on the standing committee. That is the explanation for that. That is the only select committee I can find, outside of the select committee dealing with internal affairs, that has ever been used and deals with the internal affairs of Congress, that has been set up since about 1947. I have not had the opportunity to investigate the conduct of any select committee. This is, as the distinguished Senator from Tennessee has said, a case which might, unless the select committee acts circumspectly, have some political consequences. There has been only one other similar select committee set up during the life of this generation, so far as I can find, and that is what we have called, popularly, the McCarthy Committee. It was the controversy between Senator McCarthy and the Army. That select committee was set up during the time when a majority of the Members of the Senate adhered to the Republican Party. That was a select committee which investigated charges which had considerable overtones, because it was a case which was leveled against Secretary Stevens and the Department of the Army.

So when the Senate established the select committee to investigate those charges, it established a Special Committee on Investigations which had a membership composed of four Republicans, Karl Mundt, Everett Dirksen, Charles Fauser, and Henry Drumheller; and three Democrats, John L. McClellan, Henry M. Jackson, and Stuart Symington.

The select committee was appointed to investigate an area more similar to the matter covered by this resolution than in any other area in the modern history of the Senate. The precedent set by the Republicans, then a majority, in that case, of establishing a select committee consisting of four Republicans and three Democrats is still the precedent we should follow in this case.

The reason I am opposed to this amendment is that I do not think the Senate should pass a resolution establishing a select committee which embodies in its provisions a provision which would possibly make it difficult, or even impossible, for the select committee to perform its functions. I would hope that any investigation which might be conducted by a select committee under this resolution would try to ignore political considerations.

I am certain that all the Members on both sides of the aisle share that desire. I pledge myself to do everything within my power to see that political overtones can be eliminated from any investigation and study under this resolution, to the maximum extent possible.

As I said yesterday, I take the business of judging my fellow travelers to the bomb very seriously, and I will do everything in my power, if I should be made chairman of this select committee, to see that the subcommittees judge those who may be charged with illegal, improper, or unethical conduct in respect of the elections, any campaign, or canvass, with the cool neutrality of the impartiality of the Imperial Hotel in New York.

But I would dislike to be chairman of a committee which did not have the capacity within itself to make the decisions that must be made by the Committee of the Whole. I believe it is quite possible that the select committee could never reach a majority decision in respect to what investigations it should conduct, or that subcommittees should be issued, or what the committee staff should do.

I just think it would be the height of folly for the Senate to adopt a resolution establishing a select committee with provisions in the resolutions which could—I do not say they will—but they certainly create the possibility that the committee would be unable to reach any decision with respect to the matters necessary to enable it to perform the functions which the resolution would impose upon it.

For these reasons, I know that it is not the motive of my good friend from Tennessee to see this project, or to have some committee which would be powerless to make a decision and, yet, that is the possibility created by this amendment.

I, therefore, urge the Senate that if it wants a select committee which would certainly have the power to function instead of being bogged down in indecision and chaos, to reject this amendment.

Mr. TOWER. Mr. President, it appears to me that the weight of the argument made by the distinguished Senator from North Carolina is to the effect that because this deals with a partisan matter on which there are likely to be partisan decisions, the absolute majority control of the committee should be in the hands of the majority party.

I think that this is the kind of situation where, because there are partisan considerations involved for the committee to act in what appears to be an objective way, the representation should be absolute.

What has been raised here is the fundamental question about what kind of precedent we may set.

Is the ability to function as a vehicle for the majority party in that body to launch investigations against actions allegedly committed by members of the minority party, with the pregnant possibility that some sort of political benefit will accrue to the majority party? I think, in the case of this, in which we should pick our words very carefully because we may be setting precedents here.

At some point in time, conceivably, the Republicans could become the majority in this body. That is a day much to be wished for on the part of many of us, some 43 of us; but I will not comment on the prospects of that at the moment. But it is conceivable that the Republicans could use this precedent in an effort to mount some sort of investigation against alleged acts of members of the Democratic Party, in an effort to embarrass that party.

I do not suggest for 1 minute that this is the motive of my friend from North Carolina. I assign to him only the loveliest motives. I know that he has a judicial objectivity that compels him to look at these things in the truest possible light and that what may be done. But what we must understand here is that we are setting a precedent; and in setting a precedent for Senator Inouye into political matters, I do not want to see that sort of business, that is of a shady character—we certainly should establish the principle of bipartisanship, so that we can be assured of some degree of objectivity.

There were alleged incidents in the 1964 and the 1968 campaigns, incidents of electronic surveillance of Democrats against Republicans. There was no public outcry because it was not generally known. What happened this time is that the miscreants got caught, and therefore the matter is one of public knowledge, and indeed should be public knowledge, and indeed those who perpetrated the alleged crime of electronic surveillance of the Democratic National Headquarters should be apprehended, should be tried, should be punished; and so on this side of the aisle disagree with that.

No one on this side of the aisle wants to mount any kind of dilatory activity to prevent the adoption of this resolution. We do not face such an issue, without any trepidation. Our hearts do not tremble at the thought of what might be revealed. Our hands and our consciences are clear. The matter is currently being pursued in litigation, and those responsible are being tried and are being punished.

If we want to convey to the people of the United States the idea that this is a bipartisan inquiry that ultimately might lead to legislation to prevent this kind of thing or better enforcement to prevent it, then it should be bipartisan and there should be no doubt, just as when the conduct of a Democratic Member of the Senate was involved, it was conceived to be wise and just that an absolutely bipartisan committee look into the matter and make its recommendations to the Senate. This problem of the votes in that committee; there was no problem of the committee being unable to do its business. It functioned; it made its report; the Senate acted on
that report; and a vast and overwhelming majority of the Senate agreed in part with that report, and I do not anticipate any such difficulty this time.

But whatever difficulties might result in the absence of any further party affiliation, never before in my estimation, to rival the evil that would result from our setting a precedent here that a partisan majority of a select committee will turn its back on the activities of the minority party.

Mr. SCOTT of Pennsylvania. Mr. President, may I be recognized?

THE PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SCOTT of Pennsylvania. Mr. President, the distinguished Senator from Texas recognized me for the purpose of making a presentation with which I believe it would be very difficult to find fault.

The proposal of the minority here is that we own the all sides of the majority unless we are treated with scrupulous fairness. In this matter the choice is simply one between the conduct of the majority under an administration which is framed in the form of an indictment to which the minority is expected to respond, on the one hand—and on the other, a conduct by the parties, bipartisan, free-of-political-oveer realms of investigation conducted by an equality of membership on both sides of the aisle, as we have done in the McClellan committee and in the Committee on Standards and Conduct, on the other, open, free, and entirely cooperative investigation would eliminate from the mind of any reasonable person any suspicion whatever of witch-hunts or indemnities or unwarranted pursuit of some who may prove to be innocent as well as some who may prove to be guilty.

This is not an appeal for stalemates, quite to the contrary. The minority are perfectly willing to agree that the majority should have the benefit in all sides of the majority unless we are treated with scrupulous fairness. In this matter the majority unless we are treated with scrupulous fairness. In this matter the choice is simply one between the conduct of the majority under an administration which is framed in the form of an indictment to which the minority is expected to respond, on the one hand—and on the other, a conduct by the parties, bipartisan, free-of-political-oveer realms of investigation conducted by an equality of membership on both sides of the aisle, as we have done in the McClellan committee and in the Committee on Standards and Conduct, on the other, open, free, and entirely cooperative investigation would eliminate from the mind of any reasonable person any suspicion whatever of witch-hunts or indemnities or unwarranted pursuit of some who may prove to be innocent as well as some who may prove to be guilty.

What does this resolution do? It is the broadest resolution ever introduced in the Senate, in my recollection. The chairman is empowered with greater authority and greater powers than we have ever given to any chairman. I must say that I cannot imagine a senator better qualified or better equipped to wield these massive powers than the distinguished senior Senator from North Carolina, [name] with a reputation for fairness, without question. But this resolution is limited to a single occurrence because the majority view here is that they do not wish to know of anything else. This is “See no evil, hear no evil, speak no evil, except the evil we demonstrate, which we will define carefulliy.”

Moreover, in section 3, subsection (11) of this resolution are the widest possible powers to send a handful of officials amongst the executive department—if it is necessary to the right of the Senate and the Select Committee to do its business. We do not permit the picking and prying into the flabby cesspools of rumor (what the bottom of a file which is not capable of being extraordinarily scrupulous, as indeed, the Senator from Arkansas (Mr. McClellan) has been in the conduct of his committee business. We do not permit the picking and prying into the flabby cesspools of rumor which lies at the bottom of a file and which would be a happy hunting ground for the evil mongers, for the person who wishes to leak it to his favorite source.

Senator would come tumbling out of the closet; skeletons devoid of fair play. In other words, bastard skeletons would come piling out of these closets, wreaking their revenge and inflicting great damage, and I say to the Senator from New Hampshire (Mr. Coburn), and all members of the leadership have indicated they welcome an investigation, so that only that the fair and well and truly conducted and that it be to the point.

We also say, “Why not look into 1964?” The Senator from Arizona has frequently pointed out the misbehavior to which he was subjected from many points of view. I do not want to look into 1968. Why not look into 1967? To this Senator's side of the aisle said to some people—had I forgotten the incident? No, I did not call him; he and I were having a conversation about the elections which had just gone by. I remember the Senator telling his travel plans. I do not remember the intervention and the wording, but he says that telephone was electronically bugged and someone cut in and made certain remarks. I had forgotten it. It was after election, but it is an incident that happened in 1964, in November.

There were many other instances, and they could be adduced, but the majority does not want to know what is going on in their party or its friends or supporters did. "Perish forbid" is their slogan. Perish forbid if we should at any point imply there was at any point anything wrong with the majority party.

No, let us not look into Mr. Tuck and his practical jokes, picking and prying of his.259, I am not saying he was involved in the general rhetorical hee-hawing with regard to Mr. Tuck's boys pranks, always at the expense of his party. Let us find out.

But let us equally find out whether or not virtue is the sole property of an individual, of a party, of a group. Let us find out who is guilty, who is not. If we do not believe the courts can find out, let us find out who was innocent. Let us have the Senate make a judgment, if it can make an unbiased one, which, as this committee presently formed, it would have difficulty to find out. Let us try. We will cooperate even if we lose, even if we are not ridden, even if we are over-ridden, even if the majority exercised the full force of its power because it is afraid to let us go into the 1968 campaign and the 1968 campaign; and I say what is being them and not to electronic surveillance. That is what is bugging them. That is why they say, "Let us confine this study to something of something where we know the only political benefit to be gained would be gained by us, and let us not put this in the public, which is the dimension where we can see it against what has long been going on in this country," and that is a lot of undesirables, improper practices by supporters of both political parties, which has been going on for too long. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I commend the distinguished minority leader for his appropriate remarks under these circumstances. I suppose that one of the bitter fruits we will reap from the appearance of the lack of impartiality is inevitable further conflict, conflict as to our motives, conflict as to the scope of the inquiry, as to the narrowness of the inquiry, and other events that may or may not be disclosed in this investigation will inevitably be a part of these proceedings.

I speculate that if the resolution had called originally for an equal division of Republicans and Democrats, and had an ample precedent for doing so in other equally, sensitive matters, we would not have that attitude now growing up.
think the minority leader has bespoken the attitude that will arise through the country. In the final analysis, it is not the Senate that will decide if this should be three and two, three and three, or four and one. It will make the technical determination and ultimately reach a decision. But the American people reach the final decision. I cannot believe for one moment that the American people believe American fair play says that a defendant under a resolution charge of indictment should be tried by a force consisting of three for conviction and two for acquittal. It has been my hope since this matter first arose that the Senate would comport itself in such a way that a situation such as that would not be created.

The American people looik to this body to inquire into the full scope of the election process, unfettered by the judicial process. I expect that the Senate fully inquire into whatever aspect of the matter should be presented to us so the chips can fall where they will. Senator from North Carolina yesterday professed that his determination would be cold and judicially impartial, I profess to be absolutely neutral in this inquiry, not as a member of the select committee, but as a member of the Senate. I profess to go into this matter as one member of the Senate, determined to determine the facts and implications and all the activities, and to ascertain all the patterns of conduct to which we are going to desire to direct itself for remedial action. I profess to be just as diligent in my ambition to prosecute as to be impartial.

I do not suggest for a moment that I or any Republican member of the Senate has a desire to serve as defense counsel for anyone. If we do not start on an absolutely impartial basis, if we do not start by signaling to the American people that the Senate is doing one of the things it does very well, and that is undertaking a comprehensive investigation and that matter, if we do not start on the right foot impartially, the American people are not going to judge us on the basis of the resolution, but rather, as we go through the methods of our methods of investigation, starting with this unequal distribution. I shall not prolong this much longer except to say this: The distinguished senior senator from North Carolina indicated he did not wish to prejudice over a committee that could not act because of a stalemate in case of a 3 to 3 division. To begin with, I doubt that that will happen, because I speculate the leadership will appoint people who are dedicated to the proposition that six men will act in concert and that they will be enjoined to act in concert in an impartial investigation of all the attendant circumstances. So I doubt very much that we are going to have a partisan stalemate, if the committee is evenly divided, and if we approach the matter with impartiality.

But I noticed yesterday that the senior senator from North Carolina, I believe very correctly, amended his resolution to delete the legislative reporting requirement. I think he was suggesting that it be a fully effective and investigatory committee, and on a matter of this importance it ought not to report legislation to the Senate.

Where is the stalemate in that respect? On the matter of writing a report? Surely not, because it is infeasible to me that there will be more than one report. There may be six views. There may be five and one view, or two and three, but surely none of us will suggest that any member of the committee, no matter what ratio is, will be forbidden from expressing his opinion or his view. So there is no stalemate on reporting. Certainly there is no stalemate on stating views in the report which the resolution requires the select committee to submit to the Senate.

On the matter of issuance of subpoenas, which is the next item that would occur to me where there is a potential for stalemate, to begin with, I doubt very much if the majority party on the select committee would have any objection to any subpoena that had the most remote connection or the most minor possible connection of competent information. I doubt that would happen, but if it did, there are ways far better to approach it than to make the distribution of the committee 3 to 2 and raise the very ugly specter of a partisan inquiry, and one of those ways is to have the chairman, if the Senate so wishes, make the determination on the matter of subpoena power.

I would be perfectly willing to say that if there was a stalemate on the matter of issuance of subpoenas, the chairman's point of view would prevail on the issuance of such subpoenas. There may be other possibilities for stalemate, but if there are any, I am not sure I recognize them at this time, but I am sure, Mr. President, that we can find ways to avoid stalemates. There are many, many ways to endeavor to avoid a stalemate that I can think of, and all of them are preferable to starting out with a stacked deck.

Bear in mind that the emotion of the debate today is as a mere consequence to the emotion of the debate that will rage not only in the committee, but in the Senate, too. If we do not conduct ourselves with such scrupulous impartiality, with such a total lack of partisanship, with such an absolute dedication to fairness, that we can face the country with our result as a united Senate; and I believe we are going off on a very wrong foot if we do not embody that determination in an equal distribution on this committee.

I thank the senator for yielding.

Mr. Scott of Pennsylvania. Mr. President, I will yield to myself for one observation. I do agree with the senator from Tennessee. One thing we want to avoid in the public mind and in the mind of this body, and that is that we are being subjected to a packed jury. No one wants to do that.

I do commend those who report the progress that was made in subsection 3 as to the powers of examination to all agencies of Government and all documents, no matter how raw and raw in every way, and I do not think it would be because they run counter to the right of privacy which has been so long advocated in the Senate and the press, and which run considerably counter to the rights of the people affected.

It may be that if this privacy is invaded and if it involves the secessions of a politician, that may be a matter for entertainment, but there are not only politicians here. Let us suppose it involves the jingle-belling of a member of the press around the houses of joy. Then, I submit, there may be a great deal more resentment against the right of privacy.

Look to your rights and look to sure, so we may be justified in what we are saying, and not be portrayed as seeking to delay or prevent anything. We are for it, we are for expediting. We will very likely offer amendments to expedite it. We want it fair. We want it just.

We do not want to violate any principle of American jurisprudence by allowing persons to poke into every crevice and find litigation is credible—that issue is credibility—credibility insofar as the American people are concerned relative to any investigation that might be undertaken by this body. They will be asking questions. Why is it important to have the amendment of the Senate from Tennessee providing that the committee shall be on a 3 to 3 basis? Why is that important? I answer very simply this: So the result of the work product of that committee will be believed. That is why it is important.

At the time of the Watergate crisis, at the time of the FTA case, at the time of the charges and countercharges in the last campaign between the various candidates in the Democratic and Republican Parties, polls invariably would be taken as to whether this was an issue in the minds of the American people. You all know the results of those polls as well as I do. As a Republican, let me say I wasaghast to learn that we did not conduct ourselves with such scrupulous impartiality, with such a total lack of partisanship, with such an absolute dedication to fairness, that we can face the country with our result as a united Senate; and I believe we are going off on a very wrong foot if we do not embody that determination in an equal distribution on this committee.

I am getting a little tired of being at the bottom of the totem pole as far as public esteem is concerned. I think members on the other side of the chamber feel the same way. Yet the way this committee is constituted, the way the whole affair is serving, the committee will do its work, and the result will be a partisan one. Last time it was the Republican Party; this time it is the Democratic Party. What will result is not the democratic process. Ask the people, especially
the young people, if that is not so. It would be some comfort to have done something which had credibility to it. A 3-to-3 committee renders the work product of that committee a partisan one. I attribute no motives to a 3-to-3 committee, but that is the hallmark of the partisan, and the product of such a committee is meaningless, and the members on that committee are involved in that partisanship on an individual basis.

Mr. WIECKE. Some of us who sit in this body who did not share, at the time of our youth, the dream of reaching this lofty position in government. At that time it was a young man's political gambit, politicians, men in high public places were idols.

That is no longer the case. This system has been smeared and juggled around by everyone, by both parties, and by the press. I know the men and women I work with. They are men and women of honor. And to that work product some people there are Watergates and IIT's and whatever anyone wants to bring up does not in my mind change the glem or shame. If there is any rot in it, it ought to be rooted out, and it ought to be rooted out by both major parties in equal measure.

This opportunity now confronts us. We have the opportunity now, not to gain points one over the other, but to gain points for the American political system.

Mr. ERVIN. Mr. President, I will make one or two observations. If I had any feeling that three Democrats on this committee or the committee itself would seek to create a form of partisanship, I would vote against the resolution entirely.

It is a custom in this country to solve most of the problems by majority rule. I ought to be opposed to majority rule because I have died from more lost causes than any other Member of the Senate. And the way in which decisions can be made.

The minority has the opportunity to exercise wisdom and convince the majority of the necessity of its cause. But the decision has to be made by the majority.

The Senator from Texas said that he would establish a precedent. Here is the whole committee report that shows the precedent. When the charges were made against Army Secretary Stevens of improper and biased conduct, the Senate, which was then controlled by a Republican majority—set up a select committee to investigate those charges which, like this one, found no agreement or overtone. They set up a committee of four Republicans and three Democrats.

That is the only precedent we have that I know of concerning a select committee to investigate matters of this kind.

Mr. Friends say, of course, that if we set up a committee of three Democrats and two Republicans, some people will criticize it and say that the Democrats are trying to persecute the Republicans. This resolution gives them the right to inquire. This resolution gives them the right to commit improper conduct. It does not change anyone with improper conduct.

If we establish a mechanism of a committee, the members of which are three Senators who are Democrats and two Senators who are Republicans, some people who are suspicious of all human conduct can say that the Senate wanted to whitewash this whole thing and so conduct the committee in such a way that the committee would be prevented from making any decision or taking any action.

Mr. WIECKE. Mr. President, I would like to comment on a remark made by the Senator from North Carolina who commented on his high esteem of the Democratic members of the committee to be appointed.

The point I am making is that it does not make any difference what we think of ourselves. It makes no difference to the American people what the Senator from North Carolina thinks of his colleagues or what the Senator from Connecticut thinks of his.

The fact is that we have an opportunity to restore the faith of the American people in the political process. And the way in which we are going to accomplish that is most successful is to put the matter in the hands of an equal number of the members of each party and not have the Democrats hitting the Republicans over the head or the Republicans hitting the Democrats over the head in a bipartisan fashion. We will gain absolutely nothing by doing it in that manner.

This partisanship quite frankly has become quite a serious national problem. Mr. BAKER. Mr. President, I commend the Senator from Connecticut for a very succinct statement. I think, very appropriate manner. It is not the final judgment of the Senate, but rather the judgment of the people of the United States that should control as we debate this resolution. I do this.

I referred a suggestion a moment ago to the Senator from North Carolina, and I hope it might eliminate some of his stated obstruction to an equal balance on the select committee. That suggestion was to provide that in the case of subpena power, there was an equal division of votes, that the chairman's point of view would be the prevailing point of view. I did not detect a response from the Senator from North Carolina on that matter. I judge that means that it is not acceptable.

I wonder if the Senator from North Carolina could suggest any other alternative by which we could avoid the stalemate which he fears without creating a distorted effect.

Mr. ERVIN. I say that the best way to make certain that there will be no stalemate is to have a committee which has a majority on one side or the other. The number on each side would not make any difference. Mr. BAKER. I know it would not make any difference.

Mr. ERVIN. But the Senator from Florida yesterday asked me about the subpena power. And I am very pleased that the resolution does not give the chairman the power of issuing subpenas without the concurrence of the rest of the committee. And as I am concerned, I would not want to issue subpenas without the concurrence of the committee.

Mr. BAKER. I would not want the Senator to do so either. However, if there were a committee composed of three members of each party, I would be very pleased for the chairman to have the determination. Would that make any difference to the Senator from North Carolina?

Mr. ERVIN. No, it is my belief that the chairman should be more or less an instrument to carry out the will of the committee. I would not want to have that authority in the hands of a committee composed of three Democrats and two Republicans. If three Senators did not wish to have a subpena issued, I would not want to have two votes on the question.

Mr. BAKER. Would it not be that way as the Senator proposes the membership of the committee? If there were three Democrats and two Republicans, the Democrats would have three votes.

Mr. ERVIN. A member of the committee should not have two votes, one as a member of the committee and one as the chairman of the committee.

One of the great cases before the Supreme Court, BAKER against Carr, came out of the Senate. And I am in favor of one man, one vote.

Mr. BAKER. I am glad to know that, because I know of an occasion when the Senator from North Carolina and I had a very sharp debate on that matter.

Mr. ERVIN. Yes. However, the Senator has grown wiser since that occasion. Mr. BAKER. I have never doubted his wisdom. I am happy to have his support now.

I wonder if it would serve any purpose or we could find a way to do this, because I want to be fair, and I am willing, as far as I am concerned, to amend my amendment providing I cannot be placed in a similar committee. And I am sure my doubts have been ordered, to provide that in the case of a claim of subpena power, the chairman's point of view would prevail. I wonder if there are any other things in the mind of the Senator from North Carolina that we could resolve and thus avoid a stalemate, if that is what we are concerned about. What else could we do to eliminate a stalemate?

Mr. ERVIN. I say that the best thing to do is to follow the precedent established by the Republicans when the Republicans were in control of the committee. They then established a select committee. I think that is the one this resolution proposes to establish.

Mr. BAKER. And of course as to the precedent that we had in the McCarthy case of equal representation, and the precedent established because of the national emergency, which also has equal representation, and the precedent in the select committee relating to se-
creed and confidential documents, which also has equal representation, plus the Committee on Improper Activities in the Labor-Management Field, which was also of equal representation, as well as the question of voting on Standards of Conduct, I wonder if it does not serve as a precedent to the Senate on important issues when there is an area of sensibilities that we present representatives to the country as an impartial tribunal.

I wonder, then, if we cannot meet this problem of a stalemate, if that is really the sticking point, if we cannot meet it with a subpena power solution, or if the Senator from North Carolina has other problems about which he is concerned.

Mr. President, the Senator from North Carolina does not want to be entitled to cast two votes. Every other Senate committee is established with a division, and a division between the parties roughly comparable to their membership in the Senate, every one of them that is now in existence, except the Senate Committee on Rules.

Mr. TOWER. There are two others.

Mr. BAKER. And the other two I mentioned, National Emergency and Confidential Disclosure.

I wonder in that respect, speaking of appearance to the public, as to the country making a judgment on our fairness, what the situation would be if the Republicans were in the majority of the Senate today, and we insisted on three and two.

Mr. EVINS. If the Senate will pardon me, that is exactly what they did when they were in the majority.

Mr. BAKER. I think the country would judge that we were trying to serve a political purpose, and we insisted on three and two. I think a committee dealing with a matter of this sensitivity ought to avoid the appearance of partiality, and the only way to do that is by equal division. I think the Senator from North Carolina ought to try to find a way, and I am willing to ask for a quorum call, if it will help me to get past the stalemate.

Mr. ERVIN. I would say the only truly effective way that I know to avoid a stalemate is by the very method that this resolution sets forth.

Mr. BAKER. Does the Senator from North Carolina doubt for a moment that what I have suggested would avoid a stalemate?

Mr. ERVIN. Well, we would have the same situation as if the Senator from North Carolina were the only man on the committee, and he was to make the decisions. I do not want that power.

Mr. BAKER. Mr. President, I am perfectly willing to have the Senator from North Carolina have the tie-breaking vote. If I am willing to do that, I would hope the Senator from North Carolina would be willing to.

Mr. COTTON. Mr. President, will the Senate yield?

Mr. BAKER. I yield.

Mr. EVINS. The only reason that the Senator from New Hampshire asked the Senator from Tennessee to yield was that, without pride of authorship—because there was no authorship—because the Senator from New Hampshire, in the consultation or conference that took place between the joint leadership of both parties, who suggested the expedient of having a 3-to-3 makeup of the committee, and that there be a tie, the chairman should have the power to cast the deciding vote. The one thing that I noted was that the attitude of everyone on the other side of the aisle engaged in that conference was completely adament. The suggestion that an ex officio member could come in and break a tie, and the suggestion that the chairman would have the power to break a tie by having his vote prevail, met with a blank wall.

As far as I am concerned, I think the important thing is to get this committee created. And I want to note this: If we on the side of the aisle wanted to make political capital for ourselves, I think that a 3-to-2 committee would be far preferable to a 3-to-3 committee, because then if any Republican wants to gain political advantage he can say that "It was a partisan issue," and it was brought out for partisan purposes, and we did not have an equal voice," and try to pass that impression out to the country.

In fact, it is far better in a better situation if the Democratic side insisted on having all Democrats on the committee.

As far as the Senator from New Hampshire is concerned, there should be an investigation. I shall vote for this investigation. I would vote for the investigation if every member on that investigative committee was from the majority side, because there is one thing that must not be allowed to happen. There must not be any suspicion allowed to go out to the American people that there has been any kind of a whitewash or any kind of a cover-up, no matter who may be involved, where they are found, or how high they may be.

So, regardless of this vote and regardless of the vote on any other amendment, it should be clear to you as far as I am concerned, that I am going to vote for the investigation, but it was, to me, very clear in our conference that the question is divided. The minority are pledged to it, and that matter of making speeches about these amendments is an exercise in futility. I simply would say that if you want to continue partisanship on this vital issue, the best way to do it is to let the suspicion go out to the people that this is a weighted committee.

I have absolute confidence in the fairness and integrity of the distinguished Senator from North Carolina, and I doubt if there is a single Member of this body, on either side, who does not have absolute confidence in him. As far as I am concerned, I do not know of any three Senators on the other side, or any five Senators on the other side of the aisle, that I do not have complete confidence in. But the matter at stake is not in whom we have confidence. The matter at stake is prescribed.

I shall, of course, vote for the amendment of the Senator from Tennessee, but when I walked out of the room last night, after some very 20 minutes, to avoid the necessity of even a debate on this matter, I was perfectly positive that the stage is set. By that I do not mean that the stage is set for an unfair investigation. It could not be so with a man like the Senator from North Carolina on the Democratic side. But the stage is set for this kind of a set-up, and I find it difficult to understand why it is set.

If I were sitting on the Democratic side instead of on the Republican side, I would want it a 3-to-3 committee, with proviso to prevent a deadlock or a stalemate. So, as the Senator from Tennessee has so well said it is unfortunate if we start this off with even the faintest odor of politics or political party, and they were absolutely unlimited in their powers and free to go into any extraneous matter it would be far better for the American people that there be a committee.

Mr. BAKER. Mr. President, I commend the Senator from New Hampshire for his usual eloquent remarks. I agree with his remarks. It will be a great contribution to the perspective of this debate.

The distinguished Senator from North Carolina referred to the so-called McCarthy committee on the 4-to-3 basis. In my opening remarks, I referred to the censure of Senator McCarthy on the basis of 3-to-3—and the date was July 5, 1954, I believe.

It might serve the record to point out to my colleagues that there were two inquiries in the McCarthy case, one was 4-to-3 which, incidentally, was the Army-McCarthy investigation, and the other, as I understand it, was on the censure of Senator McCarthy which was equally divided, 3-to-3.

Mr. ERVIN. Mr. President, that is true. It was equally divided. It only involved the question of whether the Senator had been guilty of disorderly conduct within the meaning of the Constitution and it did not have any other matters to be investigated. The other investigation was called the Army-McCarthy hearing where the committee was divided 4-to-3, with four Republicans and three Democrats. It involved political overtones because it involved charges made against that very fine gentleman, Republican, Secretary of the Army, Robert Stevens, and the Department of the Army, Mr. BAKER. I thoroughly agree with the Senator that there were, in fact, two committees. Since the Senator from North Carolina and I have made statements which appear on their surface to be at variance, I want the record to be clear on that point. There were two committees, the one that voted censure, which was equally divided, and the other one that conducted the investigation into the Army-McCarthy hearing, which was not equally divided.

Mr. President, I have at the desk an amendment to my amendment. The year and nays have been ordered and, therefore, I would have to ask unanimous consent before I could modify that amendment, which I would propose to do.
I wonder whether, at this time, it would be in order for the clerk to report the proposed change before I ask unanimous consent.

The PRESIDING OFFICER (Mr. MURPHY). It would be in order, and the clerk will state the modification.

The legislative clerk read as follows:

On page 2, line 11, strike "die" and insert in lieu thereof: "six".

On page 2, line 14, strike "two" and insert in lieu thereof: "three".

On page 3, between lines 6 and 7 add a new subsection as follows:

"(d) In the event of a tie vote in the select committee as to whether a subpanel should issue, the position taken by the chairman shall be the prevailing position."

Mr. EASTLAND, of course, is aware of the suggestion I made in our previous colloquy.

I now ask unanimous consent that I may amend my amendment.

Mr. NICHOLSON. Mr. President, reluctantly.

I must object to the request. I do not understand it exactly. I think, maybe, it will not be necessary, even if the amendment be defeated or adopted.

The PRESIDING OFFICER. Does the Senator from North Carolina object?

Mr. ERVIN. Yes, Mr. President, and I object.

The PRESIDING OFFICER. Objection is heard. The modification is not agreed to.

Mr. BAKER. Mr. President, I have nothing further to say on this amendment. I am sorry that the proposed amendment to the amendment was objected to. The Senator from North Carolina is entirely within his rights to object. On that procedural point, I will offer this as a separate amendment if my amendment fails.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

On this question the ayes and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Gravel), the Senator from Alaska (Mr. Gravel), the Senator from Washington (Mr. Magnuson), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. Journeay) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

Further announce that, if present and voting, the Senator from Alaska (Mr. Gravel), the Senator from Connecticut (Mr. Ribicoff), the Senator from New Mexico (Mr. Montoya) and the Senator from Idaho (Mr. Bayh) would each vote "no.”

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. Brooks), the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Packwood), the Senator from Georgia (Mr. Farnsworth) and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

The Senator from Maryland (Mr. Mathias), the Senator from Ohio (Mr. Saxe), and the Senator from Vermont (Mr. Stafford) are absent on official business.

If present and voting, the Senator from Arizona (Mr. Goldwater) and the Senator from South Carolina (Mr. Thurmond) would each vote "yea.”

The result was announced—yeas 35, nays 45, as follows:

[No. 13 Leg.]

Yeas—35

Alten
Baker
Barlow
Boland
Bennett
Brooksbank
Byrd
Case
Abourezk
Bentsen
Bible
Biden
Burkett
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Eastland
Fong
Goldwater
Harkin
Kassebaum
Kaufman
Kehoe
Kimbell
Kohl
Lawson
Matthews
McGovern
Mankiewicz
Norton
Pearson
Psaila
Reid
Ribicoff
Richmond
Robb
Stevenson
Talmadge
Tunnel
Williams

Nays—45

Alten
Baker
Bartlett
Beall
Bellmon
Benett
Brock
Byrd, Harry P., Jr.
Case
Abourezk
Bentsen
Bible
Biden
Burkett
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Eastland
Fong
Goldwater
Harkin
Kassebaum
Kaufman
Kehoe
Kimbell
Kohl
Lawson
Matthews
McGovern
Mankiewicz
Norton
Pearson
Psaila
Reid
Ribicoff
Richmond
Robb
Stevenson
Talmadge
Tunnel
Williams

The message further informed the Senate that, pursuant to the provisions of section 5, Public Law 420, 83d Congress, as amended, the Speaker had appointed Mr. Cask of New York and Mr. Quay as members of the Board of Directors of Gallaudet College, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 1, Public Law 86-417, the Speaker had appointed Mr. Byrd, Mr. Bennett, Mr. Javits, and Mr. Robert W. Dawson, Jr., as members of the James Madison Memorial Commission, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 1, Public Law 86-42, the Speaker had appointed Mr. Morgan, Chairman, Mr. Johnson of California, Mr. Randall, Mr. Kyrillos, Mr. Stratton, Mr. Meeks, Mr. Culver, Mr. Harvey, Mr. McEwen, Mr. Horton, Mr. Winn, and Mr. Poynter as members of the U.S. Delegation of the Canada-United States Intergovernmental Group, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 2(a), Public Law 85-874, as amended, the Speaker had appointed Mr. Thompson of New Jersey, Mr. Ross, of Wyoming, and Mr. Feingold of Wisconsin as members ex officio of the Board of Trustees of the John F. Kennedy Center for the Performing Arts, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 302(a), Title 2, Public Law 90-683, the Speaker had appointed Mr. Gray, Mr. Blatnik, Mr. Howard, Mr. McEwen, Mr. Zor, and Mr. Mazzoli as members of the National Visitor Facilities Advisory Commission, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 601, Title 2, Public Law 95-250, 97th Congress, the Speaker had appointed as members of the Committee To Investigate Nonessential Federal Expenditures the following members of the Committee on Ways and Means of the House: Mr. Mills of Arkansas, Mr. Ullman, and Mr. Collier, and the following members of the Committee on Appropriations of the House: Mr. Mahon, Mr. Whitten, and Mr. Cederberg.

ESTABLISHMENT OF SELECT COMMITTEE TO INVESTIGATE AND STUDY CERTAIN FACTORS AFFECTING THE PRESIDENTIAL ELECTION OF 1972

The Senate continued with the consideration of the resolution (S. Res. 60) to establish a select committee of the Senate to conduct an investigation and...
study of the extent, if any, to which illegal, improper or unethical activities were engaged in by any persons, acting individually or in combination with others, in the presidential election of 1972, such as campaign, canvass, or other activity related to it.

The PRESIDING OFFICER. The resolution is open to further amendment.

Mr. HUBBARD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, while many of my colleagues are here, let me take this opportunity to say that I have at least one and possibly two further amendments. I do not expect they will take very long. I hope we can proceed to a rollock vote on the next amendment in 10 or 15 minutes. I have an amendment at the desk which I ask the clerk to read.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 2, line 14, strike "the" and insert in lieu thereof: "the committee on".

On page 3, lines 6 and 7 add a new subsection as follows:

"(d) In the event of a tie vote in the select committee as to whether a subpoena should issue, the position taken by the chairman shall be the prevailing position."

Mr. ERVIN. Mr. President, I ask for the record on the amendment.

The yea and nay were ordered.

Mr. BAKER. Mr. President, this is the same amendment that I asked the clerk to report in the course of our previous debate as a proposed modification to my amendment, to which the Senator from North Carolina objected.

Mr. STEVENS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, if I may have the attention of my colleagues for just a few minutes, this will not take too long.

This is the same amendment which I attempted to offer as a modification to my previous amendment, which, in effect, simply specifies that in the case of a three and three division of this select committee, in the event of a tie on the matter of the issuance of the subpoena, that the position of the chairman shall be the prevailing position. That is the only thing the amendment would do.

The amendment adds the language that, in effect, gives the chairman the tie-breaking authority in case of a tie in a three and three committee in issuing subpoenas.

In previous colloquies I said, and I reiterated now, that if a stalemate really is the bone of contention, if the fear of stalemate is real and genuinely the matter that prevents the adoption of an amendment to the committee, then if there are other matters besides the issuance of subpoenas I would be willing to try to work out something to avoid a situation where the amendment relates to the issuance of subpoenas; if there are others, I hope they are suggested.

On the question of legislative authority, select committee, it has none because of the amendment of the Senator from North Carolina yesterday. On the question of filling a report, there is no language that would include the majority and minority views. I assume the general precedent under legislative reorganization would prevail so that no one's right of offer or added to.

Mr. President, I am honestly seeking a way to avoid the objection stated to an equal division of this select committee. I will not go into all the colloquy much further, but about how the country is going to view this, but I do want to reiterate once more that if we wrap ourselves in the flag of righteousness and claim that we have investigated a matter of grave concern, beginning with a stacked deck, not only will we not have a definitive investigation of this matter but we have lessened the effectiveness of the Senate as a body. I think the issue is that broad and that important to our future as an institution.

The Senate being as a whole can deal with this matter. The Senate is the best prepared of all departments of Government to undertake it. It is far better prepared than the judiciary and it's not dealing with specific indictments against specific defendants; we are not cluttered by the criminal rules of procedure or the civil rules of procedure which prevail in the Federal courts.

We can sweep as far and wide as we wish to make sure that the searchlight of our scrutiny will be legitimate and not a nook and cranny. We should get off on the right foot. This amendment provides for a six-man committee, equally Democrats and Republicans, and it provides that in any case where there might be a tie in the issuance of subpoenas the chairman would have the right to break the tie.

Mr. ERVIN. Mr. President, despite the good manners of my friend, the Senator from Tennessee, I am compelled to oppose this amendment for the same reasons hereafter.

This committee, with a three and three membership, would raise the possibility of a paralysis in the action of the committee. The mere fact that the chairman would be allowed to break a tie vote on whether a subpoena should be issued would not take care of the issue. Possibly other questions will come before the committee for determination: Selection of counsel, determination of members of the staff, what disbursements should be made on vouchers, which one of many areas authorized to be investigated shall be investigated. This would not cure 1 percent of the problems that would probably arise.

Therefore, I ask the Senate to vote no on this amendment.

Mr. BAKER. If there are 100 areas where we might have an impasse—I would hope we could be handled by the major ones, but if we cannot—then there is one way to change that objection, and I understand it is the only objection of the Senator from North Carolina. The only objection he has made is that we might come to a deadlock, an impasse. I would suggest then that that could be resolved if we said, on all issues, whether substantive or anything else, the distinguished chairman would cast the tie-breaking vote.

As far as I am concerned, I am willing to do that, if the Senator from North Carolina is willing to accept it on that basis.

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

Mr. BAKER. I yield.

Mr. STEVENS. I rarely participate in debate on the floor, but I would like to say to the Senator from Tennessee I think he is absolutely correct. It appears to me that the resolution costs those who are in the minority in the Senate as being a portion of the defendants in the case, instead of being a portion of those who are dedicated to finding out what led to the Watergate incident, who was involved, and to turn over every rock and every stone to expose the total trail of this incident to the American public. I think it is entirely equivalent to the Ethics Committee. I congratulate the Senator from Tennessee in his dedication to try to make it start out as a nonpartisan effort.

I am almost afraid the total result of the committee may not be in the hands of the Senate. The House is going to be that we are starting off with a concept that there would be a difference of opinion between Democrats and Republicans on the matter, and it is in fact casting us in a position where we will be portrayed as the attorneys for the defense, which I think is most unfortuitous.

I wish there were some way in which we could work it out. I think the Senator from Tennessee has a very good suggestion, which is to give the distinguished chairman of the committee the power at any time to break the deadlock. That would seem to me to be sufficient. But the mere presence of an equal number of majority and minority members on the committee, it seems to me, would assure the public that this is a matter in which the Senate is united in setting forth before the American public the total information available about the Watergate incident.

Mr. CASE. Mr. President, will the Senate yield?

Mr. BAKER. I yield.

Mr. CASE. I am glad to associate myself with the Senator from Tennessee. I hope it would still be possible to change the mind of the majority, and particularly the Senator from North Carolina. It will add so much to the dignity and to the conduct of this committee and to the authority which its findings will carry if they will accept the idea that it should be bipartisan. If they do not, I am terribly sorry, because it will turn into a situation, I am afraid, which, however hard Senators may try, will still have the context of a parliamet. That is the last thing we want.

The last thing I want would if I were a member of the majority here. In a very real sense, from the standpoint of the majority itself, the Senator from Tennessee has the Senate from Tennessee prevail on this amendment, with any further amendments that the Senator from North Carolina may make. I would hope that, on this matter, an
Mr. ERVIN. Mr. President, if I had time.

The PRESIDING OFFICER. The Senator from Tennessee still controls the time.

Mr. BAKER. Mr. President, we do not have any controlled time.

The PRESIDING OFFICER. The Senator is correct. The Senator from Tennessee had the floor.

Mr. BAKER. I thank the Chair very much.

I have at the desk now a proposed modification of my amendment, which will require unanimous consent since the yeas and nays have been ordered. Before I ask unanimous consent to modify the amendment, I would ask the clerk to report the proposed modification.

The PRESIDING OFFICER. The clerk will report the proposed modification.

The clerk reads as follows:

On page 3, line 11, strike "five" and insert in lieu thereof: "six."

On page 3, line 14, strike "two" and insert in lieu thereof: "three."

On page 3, between lines 6 and 7 add a new subsection as follows:

"(d) In the event of a tie vote in the select committee, the position taken by the chairman shall be the prevailing position.

"Mr. BAKER. Mr. President, the net effect of this proposed modification is simply that in all instances where there is any tie, to avoid any possibility of a stalemate in a committee made up of six members, equally divided, the chairman shall have the deciding vote. That is an extraordinary confidence in the chairman of the committee in such a sensitive matter, but I have that confidence. I am not trying to flatter the Senator from North Carolina. I am trying to meet the stated objection that he fears, that an equally divided committee may result in a stalemate. I think this amendment would provide a solution.

Mr. President, I ask unanimous consent to modify my amendment in that respect.

Mr. ERVIN. Mr. President, I have no objection to the unanimous consent request, but I want to make a parliamentary inquiry. As I understand it, if the amendment is modified in the way suggested by the Senator from Tennessee, the order for the yeas and nays still stands.

The PRESIDING OFFICER. The Senator is correct.

Is there objection to the unanimous-consent request? The Chair hears none, and the amendment is so modified.

Mr. BAKER. Mr. President, I am opposed to this amendment. There is some rumor abroad that I may be chairman of this select committee, and the effect of this amendment is to say that I will control all the disagreements among the committee. It would not change having one more of the majority party on the committee. It would simply say I constitute two members of the committee, and I do not want to have the power and responsibility, if I were selected to be chairman of the committee. I do not want to act in a dual role and have two votes in the committee in case of a tie. I do not want that power. I hope the Senate will reject the amendment.

I appreciate the compliment the Senator from Tennessee pays me in proposing this amendment, but I am like Caesar—if I am chairman, I want to refuse the crown.

Mr. BAKER. Mr. President, I appreciate the analogy. If there is any Senator in this Chamber who deserves to be compared to Caesar, it would be the Senator from North Carolina. But let me hasten to say that he is declining to accept the responsibility he has already gained for himself. As I understand the Senator from North Carolina, he is reluctant to accept the grave responsibility of breaking a tie, but that is infinitely preferable to having a stacked committee of three to two to begin with.

Mr. CASE. Mr. President, if the Senator from North Carolina will yield to the will of the Senate, if he is a man of the discipline, I understand the modesty of the Senator from North Carolina to judge himself incompetent to assume this great responsibility, but let him vote "No," let him abstain, let him, on this Democratic side, join all of us on the Republican side in doing its good job.

Mr. BAKER. I thoroughly applaud the suggestion. I think it is an eminently practical one.

Mr. ERVIN. I could not vote or abstain from voting on this proposal. I do not think, if I am to be chairman, or if anybody else is to be chairman, or if he ought to be permitted to break a tie vote which is cast by his own vote.

Mr. BAKER. Mr. President, my observation in that respect is that I am far more willing that the Senator from North Carolina have that power than I am for him to have the responsibility of the jury. I have no fear in that respect. I think that the Senator from North Carolina will be impartial and judicial. But in the event of any case in which I have any doubt he would have permitted the impanelling of a jury where there was any taint or suspicion that any juror, let alone two-fifths of them, had already made up his mind—not that they had, but even a suspicion that they had would be enough to disqualify those jurors.

The Senator from North Carolina has indicated on any number of occasions in the last 2 days that he intends to approach this undertaking, if he is chairman, with the cold, calm deliberation that he believes is proper. I believe that to be the case. The first obligation of a trial judge, the first obligation of a jurist is to see that there is a fair and impartial jury. I am opposed to this amendment, and I am opposed to having an amendment to the amendment.

Mr. President, I yield the floor.

Mr. BAKER. Mr. President, it is difficult to get away from raw partisanship. Given the Constitution, practice, tradition, or what have you, I think question at all as to the exercise of power because the Democrats have the votes. The only difficulty is that this is not a matter that belongs to the Democratic Party or the Republican Party. It belongs to the American people. I have difficulty with my own party with regard to what I think is improper, just as I do with the Democratic Party.

As has been pointed out so ably by the Senator from New Jersey what is presented all I would say is that I see no reason why the taxpayers' money should be used in this particular case since this is a bipartisan effort. Let the Democratic Caucus go ahead and appoint an ad hoc committee and let them do it and let the work product come from the Democratic Party.

On the other hand, if it is a resolution to achieve something for the American people and root out some of the cancer in the political system in both parties, the work should be done by both parties. If it is to be believed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. James Flug, Mr. William Purley, and Mr. Robert Smith have the privilege of the floor during rollcall votes on this resolution.

The PRESIDING OFFICER. Without objection, it is ordered.

The question is on agreeing to the amendment of the Senator from Tennessee. On this question the yeas and nays having been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Byrd), the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from Alaska (Mr. gravel), the Senator from Washington (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.
I further announce that the Senator from Louisiana (Mr. Johnston) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson), the Senator from Connecticut (Mr. Brien), and the Senator from Indiana (Mr. Bayh) would each vote "nay.

Mr. GRIFFIN, I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Colorado (Mr. Domenick), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Pearson), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent on official business.

If present and voting, the Senator from Arizona (Mr. Goldwater) and the Senator from South Carolina (Mr. Thurmond) would each vote "yes.

The result was announced—yeas 36, nays 44, as follows:

[No. 14 Leg.] 3814-

Alaska
Allen
Allen
Baker
Bartlett
Beall
Beall
Bellmon
Bennett
Biden
Gurney
Brook
Buckley
Burns
Byrd
Harry F., Jr.
Carter

[20

Abourezk
Baldoven
Bannister
Barnes
Bryan
Chaffee
Chambliss
Chiles
Clark
Clarkston
Engel
Engel
Fulbright
Hart
Harlin
Harken
Hatch

[20

Bayh
Beebe
Bouck
Bryan
Butler
Butler
Domenick
Eastland
Fong
Goldwater

[20

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"two" and insert in lieu thereof the word "three."

This would have the effect of increasing the membership of the committee from five to six and having four members from the majority and three members from the minority.

This, it seems to me, is a wise suggestion the distinguished minority leader has made to me, and so I will modify the resolution accordingly.

Mr. TOWER. Mr. President, will the Senator from North Carolina yield for a question?

Mr. ERVIN. I yield.

Mr. TOWER. The Senator from North Carolina is himself modifying his own resolution?

Mr. ERVIN. Yes. Mr. TOWER. Have yeas and nays yet been ordered? Mr. ERVIN. No. Mr. TOWER. I thank the distinguished Senator. The PRESIDING OFFICER (Mr. McCLELLAN). The resolution is so modified.

Mr. GURNEY. Mr. President, I have an amendment which I send to the desk and ask that it be placed.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 1, insert the following: strike "Presidential election of 1972" and insert in lieu thereof "last three Presidential elections."

On page 2, lines 4 and 5, strike "elections" and insert in lieu thereof "election."

On page 5, line 24, strike "in 1972."

On page 7, lines 17 and 18, strike "the Presidential election of 1972," and insert in lieu thereof "any of the last three Presidential elections."

On page 7, line 10, strike "election" and insert in lieu thereof "elections."

On page 7, line 24, strike "in 1972."

On page 9, lines 2 and 3, strike "Presidential election of 1972" and insert in lieu thereof "last three Presidential elections."

Amend the title of the resolution by striking "in the Presidential election of 1972, or any campaign, canvass, or other activity related to it" and inserting in lieu thereof "in the last three Presidential elections, or any campaign, canvass, or other activity related thereto."

Mr. GURNEY. Mr. President, what amendment would we broaden the scope of the investigation. The resolution now, of course, has within its scope the presidential election of 1972. This amendment would increase the scope of the investigation to the past three presidential elections, which would include the one in 1968 and the one in 1964.

Before I go to the argument on the merits of the amendment, I should like to make a few general remarks about the whole business of Watergate. As I stated yesterday, I think nearly all my colleagues on this side of the aisle agree, we are not unhappy about proceeding with this investigation. We would like to discover not only what has been uncovered and get to the bottom of what happened and who was involved.

But I think one observation should be made, and that is the Watergate affair was really never much of an affair in this last election. It did not figure in the election at all, really. I do not think it changed a handful of votes in any part of the country.

I can speak with some authority on that because one of my jobs since September 1972, following the Republican Convention in Miami, was to act as one of the surrogates for the President in the election and I campaigned extensively in the 13 States and spent much time in my own home State of Florida campaigning continuously for a period of 3 months and then extensively for a period of 4 weeks prior to the election. I really never heard anyone say much about the Watergate affair. If it ever was raised, it was raised in something that might make the Democratic candidate something to hang on to, like a strap-hanger—and certainly he needed it—no question about that. But in spite of all this drummed up interest in Watergate, of course it played no part in the election. People really did not think much about it at all.

One of the interesting things, of course, was what the polliwogs had to say or found out about it. The Harris poll ran a poll less than a month before election, during the height of the Watergate affair—It was about the middle of October—and I would like to refer to some of the results of that poll because I think they are interesting and show us that people really did not think much about it. Seventy-six percent of the voters polled and this was before any information, taken nationwide in one of the larger polls on the whole election process of 1972—a little better than three-quarters of the voters polled, agreed that they know about Watergate but were not following it closely. They were interested in it, but then, by a margin of 70 percent to 30 percent—of course, there were some that did not express an opinion on this—but the 70 percent of those polled said that the wiretapping of Democratic Headquarters was a case of political spying.

Moreover, a very large percentage of them dismissed it as being no encroachment on civil rights. Sixty-two to 28 percent, the voters polled, were not too worried about civil liberties. Fifty-seven to 25 percent said it was political spying, a common occurrence in politics.

The same poll, on another matter, which I suppose is connected with Watergate, the campaign contribution aspect—there were many charges that the Republicans and the Committee to Re
elect the President were receiving huge amounts of money from special interests and from business and were concealing the source and was going to make a great difference in the campaign—
showed that only 18 percent of those polled gave any credence to that charge. This is, of course, other, which is important, that the voters are across the country thought this was a practice that both political parties indulged in during political campaigns, presidential campaigns, or other campaigns.

So that is why I think this amendment is in order. If we are going to give objectivity to this investigation, to give the report, whatever we plan to do by way of recommending legislation, it seems to me it must be done with a bipartisan—what I would call a bipartisan approach. I know I have read about this. I think I have probably used that expression—but at least a bipartisan tinge or aroma to this whole thing. I do not think we can do that or that it is working in purely on the Watergate, which is obviously oriented in one direction. That is one investigation of spying, and on the other we should seek to find out what happened in the other elections.

What are we trying to do here, anyway? To find out if any of this happened in the Watergate affair, yes. That is the No. 1 objective of this. But not the chairman, not the author of this bill who, certainly, I hope, will be chairman of the committee when it is appointed. I feel very strongly that his object is broader than just the Watergate affair. himself, and on the other we should seek to find out what happened in the other elections.

There is no one in the Senate, all 100 Senators and, for that matter, all 435 Members of the House of Representatives, who would not say, if they were quizzed somewhere where they would not be quoted, that both political parties do that. We all know as well as Republican we are all at fault to a certain extent. I have heard some observations made that we, Republicans, are not nearly so good at it, or else we would have more representation in the House and Senate. So the other side must be more effective than we are. But, be that as it may, we are all at fault at spying as the other, I think it is a case where both political parties, candidates of both political parties or their followers—in more cases than not. When it comes to the Watergate and the other candidates themselves—do do these things that most of us would prefer not to see done.

I would think the best way to find out all we can about this and get all the knowledge we can garner and learn all the tricks of the trade, would be to investigate not just one incident but more than one incident and make the investigation as broad as we can make it, which I as Senator, certainly should include the two prior political campaigns, the one in 1968 and the one in 1964. Incidentally, in that case there would be a very fair bipartisan approach, because the losing candidate in 1968 is a Democratic Member of this body and the losing candidate of 1964 is a Republican Member of this body. So I would suggest the greatest sense of impartiality and objectivity, to get into these campaigns and find out what happened there, also.

The reason for offering the amendment—and I want to make this as clear as I can—is not to try in any way to make a donkeybrock out of this matter or to try to make it a strictly "You did this" and "No, you did that" matter. That is not the point of the time. The point is to broad en this whole business so that we can get some knowledge of what happens in these campaigns and from there hopefully, come up with suggestions and legislation, and perhaps we may do away with some of our ills.

Mr. President, I reserve the remainder of my time.

THE PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, the Senator from Florida is to be commended for offering an eminently fair amendment.

I note that the function of this committee is to determine whether, in its judgment, certain occurrences which may be revealed by the investigation and study into the necessity and desirability of the enactment of new congressional legislation to safeguard the electoral process by which the President of the United States is chosen. Considering, I think, it seems to me entirely relevant to look into the campaigns of 1964 and 1968.

As a matter of fact, less is known about what happened during those campaigns than was during the 1972 campaign with respect to personal surveillance. There have been strong indications and evidence and assertions by people in responsible places that there was, indeed, electronic eavesdropping in those two campaigns. It was not involved in any litigation; it was not public brought to light, except to the extent that it may have been written about by a reporter or two. I do not know. I do not recall seeing any press accounts of it, but I think every Senator who might know a great deal of knowledge in that matter on which we have a great deal of knowledge, which has been and is still the subject of litigation, with the prosecution still in business on the whole issue of the Watergate.

Of course, I hope that this committee will not engage in any kind of activity that might affect the rights of any people currently involved, defendants involved, in that matter, or people who might become involved in the future.

In any case, we do know more about what went on in the 1972 campaign, and we do not know what went on in 1964 and 1968—at least, not general knowledge.

I think that if the majority were to accept this amendment, it would tend to negative any claim of partisanship that could be made against the committee. It would be adequate evidence of impartiality and a genuine desire to get at the whole matter of personal surveillance or other illegitimate acts that might in some adverse way affect the electoral processes in the selection of the President of the United States.

So I trust for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. TOWER. I think we would lay to rest many of the doubts that have been expressed if we consider this amendment that if there is any basis for such charges.

On the contrary, the resolution undertakes to investigate matters that are fresh, that are current, with this presidential campaign of 1972. From the night of June 18, last year, when five men were caught redhanded in an act of burglary in Democratic National Headquarters, in the Watergate building in Washington, down to the present moment, the news media of all kinds have had articles dealing with charges and insinuations of one kind and another of illegal or improper or unethical conduct in connection with this election.

The question is on the amendment, the amendment to the amendment to the resolution that the Senate will reject this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceed ed to call the roll, and Mr. As controverted, if it is adopted, to investigate the matter concerning which there is no concern or apprehension and about which no charges have been made.

So I trust that the Senate will reject this amendment.

Mr. GURNEY. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. I have a motion that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Bilde), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Chrus), the Senator from Mississippi...
Mr. TOWER. Mr. President, I call up my amendment, and ask that it be read.

The PRESIDING OFFICER. The clerk will read the amendment, as follows:

The assistant legislative clerk read the amendment, as follows:

> On page 13, line 23, insert at the end of section 6 the following: "Not less than thirty-three and one third percent of the monies made available pursuant to this resolution for the purpose of employing personnel shall be made available to the minority members of the select committee."

Mr. TOWER. Mr. President, the purpose of this amendment is to simply assure the minority of something approaching adequate staffing. Actually, the minority will have more than one-third of the membership of the committee, and there would be a requirement that they have at least one-third of the monies available for direct compensation for personnel on the committee.

I think it goes without saying that in a matter of this sort, certainly minority staffing is eminently desirable. I know there are many standing committees of the Senate with substantive matters that have staffs in which the majority, and minority staffs are not readily identifiable; they work for all. There are several committees like that.

But if the argument of the Senator from North Carolina that the majority members be a majority on the committee is valid, then it is equally valid that there should be adequate staffing for the minority members of the committee.

The amendment I have offered is in the spirit of the Legislative Reorganization Act, which requires that two out of six of the professional personnel be members of the minority. This amendment would be in the spirit of the Legislative Reorganization Act.

It would be my hope that the distinguished Senator from North Carolina and his colleagues would accept the amendment.

Mr. ERVIN. Mr. President, this committee is supposed to investigate the same thing. It is not supposed to have two separate committees, one conducted by the four majority members and another by the three minority members. They are supposed to investigate exactly the same thing.

I see no reason to put in a resolution of this kind, something that has never been put in a resolution establishing a select committee in the history of the U.S. Senate, so far as I can ascertain.

If the minority members felt that they must act as sort of a counsel for the defense of some of these parties, this proposal might be appropriate. I do not think that is their function. I think it is the function of the majority minority members to investigate independently the same thing, to determine what the truth was with reference to these matters.

I oppose this amendment. I recognize that minority members of this committee should have some assistants to enable them to keep up with what the committee is doing, and I will assure the Senate that if the amendment is adopted and I should become chairman of the committee, I will do everything I can to see that the minority has equitable representation.

Mr. GRIFFIN. Mr. President, will the Senator yield to me?

Mr. ERVIN. I yield.

Mr. GRIFFIN. What does the Senator consider equitable, if provision for a larger number of the committee staff is not equitable?

Mr. ERVIN. I will say to the Senator that I do not know what it is until we get down to discussing the matter. I am not able to make that decision. I did not think I had to make it here today, because such a provision has never been put in any resolution establishing a select committee before in the history of the U.S. Senate. So I am not in a position to make that decision.

Mr. GRIFFIN. It is already in the law, in the Legislative Reorganization Act, as to all standing committees.

Mr. ERVIN. I disagree most emphatically with the distinguished Senator from Michigan.

All the Reorganization Act says is that standing committees of the Senate shall have six professional employees, and that two of them shall be designated to the minority. It does not say they will have one-third of all the remainder of the people who work for the committee.

Mr. GRIFFIN. That certainly establishes the spirit—

Mr. ERVIN. I cannot understand why the Senator from Michigan thinks it should have two separate investigatory staffs.

Mr. GRIFFIN. Well, if the Senator will permit me, earlier in his argument today he referred to a committee that was established when Republicans controlled the Senate—a committee which was chaired, as I understand it, by Senator McCarthy. I was not here at that time, but I seem to recall, that there was a minority counsel of the committee representing the Democrats; his name was Robert Kennedy.

Mr. ERVIN. I never made any reference to any committee chaired by Senator McCarthy.

Mr. GRIFFIN. I thought he did earlier today.

Mr. ERVIN. No, not today. I mentioned two so-called McCarthy investigations, one of them the Army-McCarthy hearing, which was investigated by a committee headed by Senator Karl Mundt, and the so-called censure committee, which was headed by Senator Watkins of Utah. This amendment says it would be divided down at least to 33 percent, even in cases of employees who are purely clerical, and there is nothing in the Reorganization Act to that effect. I can assure the Senator that I will give the minority adequate assistants.

Mr. GRIFFIN. But that would be something less than one-third, I take it?

Mr. ERVIN. I do not know what it would be. I did not think it was an amendment that should ever be raised, because since the time George Washington took his oath of office the President of the United States in the first session of the first Congress of the United States assembled, such a proposal as this with reference to any select committee has never been made. I did not anticipate it. Therefore, I did not study
in advance what would be equitable. But I assume the majority that I should certainly see that they get an equitable, reasonable proportion of the staff. But I will not accept any kind of theory that we are two investigators in a committee by this committee, one on behalf of the majority members and one on behalf of the majority members. I think there should be one investigation for the entire committee.

I ask the Senate to defeat this amendment.

Mr. TOWER. Mr. President, certainly I am very amazed, because what we have asked for here is certainly not unreasonable. No one has envisioned in offering or speaking for or supporting this amendment two separate investigations— conducted by the majority and one by the minority—anything more than we offer separate legislation by the majority and the minority—any more than we offer separate legislation by the majority and the minority. It does not happen.

What we are suggesting here is that the minority be adequately staffed. It has been pointed out that we are going into politically sensitive matters. We are establishing a precedent here of using the Senate of the United States as a vehicle for the investigation of alleged political unethical conduct of members of another party. No one can tell me that anyone who views this objectively that this thing is completely fair and impartial and objective, if we are not even going to establish the right of the minority party to have adequate staffing.

We have only asked for three, and that is indeed in the spirit of the Legislative Reorganization Act. I know it is not spelled out by the letter of the act, but it is certainly in the spirit of that act.

I say that the Senate would reflect great discredit on itself if this amendment were rejected. I think it is going to be far more difficult for the majority to make a case that this is a fair and impartial investigation if we are not to be denied adequate staff on the minority.

Mr. STEVENS. Mr. President, I again join with the Senator from Texas. I think the Senator from North Carolina, who will look to the past and should look to other times and the size of the committee staffs in the period he is talking about.

Since I have returned, I have heard a hue and cry for reform of the Congress. And if there is any one area where there is probably no question about the disparity—strength or weakness of the members of the Senate to conduct their business, it is on the staffs of the committees. We ask for one-third of the staff support on a committee that will have, as outlined, two of the five members from the minority. That is too little. We should have 40 percent of the committee support. We should have the ability to know that the people who are working with the Republican members are working with them.

We believe in the concept of a professional staff. However, this is turning very much into a bipartisan concept that I personally abhor. I was prepared—and I told the minority leader that I was prepared—on a committee that was balanced, three members to each side, in which the Senate was going to investigate this mess. However, if it is the Democratic Party that is going to investigate the matter, then I join the others in saying that the Democratic Party ought to investigate it.

I have an amendment that would delete the membership on the committee and let the Democrats investigate it if they wish to do so. However, I thought that I was a Member of the U.S. Senate and that the Senate was obligated to investigate this.

It is highly improper in my opinion to turn it into such a partisan political process. However, it seems to me that we are running the 1976 campaign in 1973. But if we are professional Members of this body, we ought to have a professional staff on this. I am even willing, with a proportionate distribution, the staff of the majority would have 60 percent of the staff. And I think that would be sufficient.

As we look around at some of the members of the professional staff and the full committee staffs, we can find instances where there are even 100 staff members and we have a minority staff of six who serve the minority.

If anyone in the United States can expect us to do our share and carry our load under these circumstances, I do not see how it can be done.

I have called on some of my friends to turn to an organization such as Common Cause with the mission of the American people to what is going on. When I came to this town in 1958 as a young lawyer and watched the McCarthy committee, I slurred some of the things that they did. However, I still noticed that there were minority staff members and what they did.

When I was a lawyer, I know that there was a minority staff and they were fairly well balanced. However, in the last 3 or 4 years, I have gotten considerably out of it. This is what is wrong with the U.S. Senate.

When people ask me what should be reformed, I tell them that we ought to give each Senator the right to perform the services that he has to perform. We are equal in the Senate when it comes to voting, but not in the committee.

This committee will be nothing but a political witch hunting committee unless there are some changes, I say that ad- viously, as one who has been in the middle of the road in this body. I have never seen anything that will turn Senate around and split it as much as this committee will if it continues to be constituted as presently outlined.

Mr. COOK. Mr. President, I have been listening to the debate. What bothered me was the colloquy between the Senator from North Carolina and the Senator from Michigan, because the Senator from North Carolina said he would make the decision that there was no equitable representation on the part of the minority. He would say what kind of representation they would have, and he would see if that certain staff would be made available.

What I do say is that I have heard about the seniority system in the U.S. Senate. I lack a great deal of seniority. However, if there was ever an opportunity to prove that seniority is just about as right as it can be, this is the time. For one individual to say that he can determine how the $500,000 that will be appropriated is going to be handled from the beginning to the end would not do so. I can only plead paucity and say that even the public defender has staff, as does the Commonwealth attorney.

Mr. President, let us proceed with at least some degree of legal logic. We do not have to play games with what has been done done since the time of Washington. We may be able to play games with regard to the Constitution in this regard. And we might even do it in the case of the Criticization. However, I think that the Chief Justice of the United States would not say when he goes into that room, `Here is what we are going to do.' And for him to say whether they are adequately staffed on the committee is rather shocking to me.

I say to the Senator from Alaska that we can look at the staff of the majority and we will find 16 percent of all of the staff are on the minority side. Some committees are different. Some committees are even over and above the provision of Section 202 of the Legislative Reorganization Act. And one of them is the Public Works Committee, chaired by the Honorable Jennings Randolph of West Virginia. But on some committees there are 24 members of the staff and not one minority staff member. And that is not uncommon. So I can only say that when people listen to this debate and to who is prepared and who is not prepared, I am sure they will understand it. But that does not mean that the minority party ought to be prepared unless it does do its own.

I can only say that if we find ourselves in a situation where we are not prepared and the Members of the Senate and on a committee that is going to be established by this body and that is the decision that I will make, then I will say to the Senate that it is seniority at its worst. And it ought to be looked into very seriously. It ought to be debated for a long, long time.

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

Mr. COOK. I yield.

Mr. ERVIN. Let me confess that the inexact language I used rightly subjected me to the verbal chastisement which the able and distinguished Senator from Kentucky has given.

And what I meant to say and, as the Senator has pointed out, I probably failed to say, is that if I were a member of the committee I would do everything I could or reasonably and conscientiously could do to make arrangements so that there would be a reasonable allotment of staff to the members of the minority, and that is what I intended to say; but perhaps I phrased
it somewhat inexcusably, and, therefore, I accept in a conritie spirit the very eloquent chastisement which the Senator from Kentucky has given me. I agree to the appeal of the Senator from North Carolina, and he knows this, that without any equivocation this Senator has all the respect in the world for him. I accept those words, and I am delighted that they are in the Record, because that means that there will be a decision.

Unfortunately, again I say to the Senator from North Carolina, it is why his amendment is before this body now—that decision will be made by the majority. And even with all of the pleading of the Senator from North Carolina, if the other two members decide that the minority shall have nothing, then the minority shall have nothing.

Mr. WADAS, I vote with the minority on this point, they will have a majority on their side.

Mr. COOK. I must say to the Senator from North Carolina, the amendment will not be made by the four, but it will be made by the three, and if the three decide or the four decide 3 to 1, that will prevail. So I would not suggest that it will not be done to a body by which it is to be done by the four who constitute the majority, and I think even then, the Senator from North Carolina will agree that on any committee in the Senate of the United States, when it comes to organization and when it comes to what kind of staff will be available, that decision is not made by the committee as a whole, but it is made by the majority side of the table; and the majority side of the table can vote with one voice in distinction between them, but they do not so join the other side to see that it is overcome, and I think the Senator from North Carolina will have to admit that.

Mr. President, I yield the floor.

Mr. COTTON. Mr. President, a great deal has been said in the Senate this afternoon about establishing precedents. I would like to ask the other Senators who have addressed themselves to this amendment, I think all of them on our side have expressed their confidence in the fairness of the Senate from North Carolina, and repeated. But I found myself a little shaken by the opposition to this particular amendment.

If I read this resolution correctly, as far as the resolution is concerned, the minority members of this select committee council to advocate them; and I cannot conceive of the Senate now ceasing to be partisan. Frankly, I have not expected these omissions to be adopted, but I cannot conceive of the Senate establishing that kind of a precedent.

Mr. BURVIN. Mr. President, I wanted to offer an amendment to the Tower amendment.

Mr. BAKER. Let me make these remarks first, then I will be most happy to yield the floor so that the Senator from North Carolina can do that.

Mr. President, in furtherance of the point developed by the distinguished minority leader, "Where are we at?" I recall yesterday he predicted that unless we came to terms with absolute objectivity, impartiality, and no partisan inquiry, the whole matter would evolve into a great shouting match, it would engage us in the fiercest sort of political strife, and create a great deal of confusion.

I have not stated that with the exact precision of the distinguished Republican leader but I believe that is the burden of my argument. And that is why I am now at that place where, demonstrably, there is uncertainty in our minds about the fairness, the impartiality, and no partisan inquiry into which we are about to launch.

I can conjure up an entirely different
I hope that the Senator from Pennsylvania (Mr. Scott) will not feel offended if I say that I do not think that he will not mind if I recall a story that he stated in that respect. I believe that the rhetorical slip of the tongue by the Senator from New Hampshire about breaking into Republican headquarters brings to mind the story that the Senator from Pennsylvania related, that he was once approached by a Republican in Pennsylvania and that he could not recall ever having had anything that anyone would want to steal.

Mr. SCOTT of Pennsylvania. Still do not.

Mr. BAKER. And he still believes that story now.

I reiterate what the Senator from Alaska has so ably said, and which I honestly believe every member of the minority believes. Assurances will be given on this matter. If we proceed on a basis of a subjective inquiry into what happened, because the Democratic Party may have something of a short-term gain politically by trying to embarrass Republican officials; but until the Republican party in the United States has a lot more to gain by expunging that spot from its reputation. And we will do that, but we will not do it at the sufferance of the majority who stack the committee, who deprive us of staff potentialities, and who create the initial impression that it is something other than an objective inquiry.

I think that this scenario I have tried to describe would have occurred. I hope it can still occur, but the chances are slim of any wholesome cooperation into this inquiry, and we will be, I fear, greatly weakened and dis-served from what we have seen in the past day and a half.

"Where we are at" is the question, as the minority leader has pointed out. Where we started out was with 3-3. We tried to go to 3-3. We tried to give a tie-breaking vote to the chairman—to give a tie-breaking vote to the chairman in case 3-3 any tie vote 1-4. We could not agree on how we would handle the date and the scope of the inquiry, whether 1971 or any other time.

Now we have qualified staff. We hear a lot of talk about the President’s being in the “smell of the isolation of the White House” and a “captain of his staff,” or the bureaucracy being an autonomous agency of Government that is responsible to no one.

The Senate is frequently a captive of its staff. I doubt if there is a man in this Chamber that will deny that the staff has extraordinary power in the course of our deliberations and the staff’s efforts to help us in the discharge of our duties simply because we have such a diverse role to play and so many things to accommodate that the staff must be called upon to act, in many cases, almost independently. So it seems to me that if we are ever to protect against that in sensitive matters we have to have a clear delineation of staff responsibility.

Mr. President, I thought the chances of having an accommodation had been dashed. I do not think they have been destroyed. I think we can still do that. It will take some doing, but we can.

But this staff business I believe to be important, if not more important, than any other item we have been talking about, including the 2-3 distribution, or the 3-4 distribution. I believe that we have got to find a way out of this dilemma.

I recall that in the McCarthy hearings, which have been referred to, an independent counsel was hired, a distinguished trial lawyer from my home city in my State, Ray Jenkins, who represented the committee. I recall that there was private counsel for the parties who were involved. But I cannot even conceive of that undertaking having been done by a majority staff, even though the staff at that time would have been a Republican staff; and I cannot conceive of this being done that way.

One gentle remonstrance of the Senator from North Carolina that he will do the right thing when it comes to staff reminds me of some of the sharp traders in Tennessee and Kentucky States who always put you on notice that your pocketbook is about to be lifted, when they say, “Don’t worry about that. We’ll do the right thing.”

This is far too important a matter to depend on somebody’s assurance that they are doing the right thing. I have expressed oneself in the good will of the Senator from North Carolina, but this is too important a matter to leave this loose end untied.

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

Mr. BAKER. I yield.

Mr. COOK. In my part of the country, we say, “That dog won’t hunt”; and I think the Senator from West Virginia understands that phrase.

Mr. BAKER. I am not going to offer an amendment at this time, but I would like to know the reaction of the distinguished Senator from North Carolina about a proposal that the staff be done on an independent basis, that outside counsel be employed. It is on a basis not similar to that to which we do with standing and select and special committees.

Mr. JERNIGAN. If the Senator will yield, that is the reason why I said sometime ago that I propose an amendment to the Tower amendment.

I say to the Senator from Tennessee that there was some outside counsel in the McCarthy hearings, but every one of them, I think, was a Republican. I think Mr. Jenkins was. That is beside the point.

I would like to offer an amendment to the Tower amendment, as follows:

Strike out everything between the words “not less” and “and select committee,” and insert in lieu thereof, “The minority members of the select committees shall have representation on the staff of the select committees equal at least to one-third thereof.”

I agree with the Senator from New Hampshire that they are certainly entitled to the word of Mr. COTTON. I thank the Senator.

Mr. TOWER. My amendment provides that 33 1/3 percent of the moneys available
for direct compensation to personnel be allotted to the minority, and the Senator is suggesting one-third of the personnel. In other words, the Senator wants to put the Democrats more than the Republicans.

Mr. ERVIN. Not necessarily. I just do not want to divide the money. I think we could very well agree on the staff. I do not know whether the Senator wants a lot of doorkeepers and messengers and things like that.

Mr. TOWER. No. We envision professional personnel, because this is an investigative procedure and requires people of considerable skill and experience; that effect is what we envision as staff members.

Mr. ERVIN. Yes. I think that one-third.

Mr. TOWER. One thing that worries me about that—would the Senator read that again, please?

Mr. ERVIN. It reads:
The minority members of the select committee shall have representation on the staff of the select committee equal at least to one-third thereof.

Mr. TOWER. That worries me a little, because that means that the majority might have all the professional staff and the minority might get all the secretaries. Under certain circumstances, that might be desirable. (Laughter.) But in this particular instance, I think that what we are concerned about is that we are to be assured of approximately one-third of the professional staff, and I think that is fully within the spirit of the Legislative Reorganization Act. I concede that there is no legal requirement to that effect, but I see no reason why we cannot operate within the spirit of that act, which was considered to be pretty good at the time we passed it.

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

Mr. ERVIN. I yield.

Mr. PASTORE. I think that at this point we are going to be in somewhat perilous condition going from the sublime to the ridiculous.

The argument made by the Senator from North Carolina is that if the money is to divide into two, it might create the impression that there is a double investigation, and he is trying to avoid that. The minority demands that is the purpose.

This modified amendment would accomplish exactly what the Senator from Texas wants to do, and that is that he is entitled to one-third of the staff, without mentioning the matter of the money. Naturally, if we are going to give the minority the janitors and we are going to take the lawyers, that would be a disgrace and a scandal for the Senate. No one intends to do that, and there must be reliance on the integrity of a man like Sam Ervin.

If the Senator wants to write the word "professional" in there, I think that is agreeable and should be acceptable. The fact remains that we should not become ridiculous.

Mr. TOWER. I do not think anybody has impugned the honesty or good intentions of the Senator from North Carolina. On this side has done that. I want to make sure we get one-third of the professional staff. I am not interested in mere numbers of people. I am interested in the percentage of the professionalism on the staff.

In the Banking, Housing and Urban Affairs Committee, Republicans have almost one-third of the compensation. We have only 26 percent of the staff.

Mr. PASTORE. But does not the word "adequate" take care of that—adequate staff equal to one third? Adequate staff achieves equality.

Mr. TOWER. I believe the Legislative Reorganization Act uses the word "professional," and I am willing to accept that.

Mr. ERVIN. I would suggest, in deference to the statement of the Senator from Texas, that the minority members of the select committee shall have one-third of the professional staff of the select committee.

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

Mr. PASTORE. Of Pennsylvania. Professional and clerical.

Mr. ERVIN. I would not want to divide the clerical. I do not think we ought to decide right here. I would add to this, "one-third of the professional staff of the select committee and such proportion of the clerical staff as may be adequate." Mr. TOWER. That is good. We will take that.

Mr. STEVENS. The total staff.

Mr. ERVIN. The staff is a totality. Mr. TOWER. Will the Senator read that as it has been further amended?

Mr. ERVIN. In other words, this is really in the nature of a substitute to the Senator's amendment. I would strike out everything in the Senator's amendment and substitute in lieu thereof the following:
The minority members of the select committee shall have one-third of the professional staff of the select committee and such part of the clerical staff as may be adequate.

Mr. TOWER. Let us make a little legislative history at this point.

In the opinion of the Senator from North Carolina, does this reserve the right of the minority to a minority counsel?

Mr. ERVIN. Oh, yes.

Mr. PASTORE. After the words "professional staff," before speaking of clerical, why not say "including a minority counsel"?

Mr. ERVIN. That is all right.

I have now rewritten this, at the suggestion of the distinguished Senator from New Hampshire, so as to read:

The minority members of the select committee shall have one-third of the professional staff of the select committee (including a minority counsel), such part of the clerical staff as may be adequate.

Mr. TOWER. Let me ask the Senator from North Carolina a question about consultants. For the purposes of this amendment, would consultants be considered professional staff?

Mr. ERVIN. I think they should. I have no objection.

Mr. PASTORE. Of Pennsylvania. I do not see any reason why not.

Mr. TOWER. With that understanding, we are prepared to accept.

Mr. ERVIN. If anybody should hold that it is not sufficient to cover them, I would try to get the committee to appoint consultants all on the same basis.

Mr. TOWER. I thank the Senator from North Carolina. Having made that legislative history, I am prepared to accept the amendment of the Senator from North Carolina to the amendment.

The PRESIDING OFFICER. The Senator's amendment will be so modified.

Mr. ERVIN. I will read this again.

Mr. TOWER. Let us make sure we get it right.

Mr. ERVIN. Strike out everything between the words "not less" and the words "select committee" and insert in lieu thereof the words:
The minority members of the Select Committee shall have one-third of the professional staff of the Select Committee (including a minority counsel) and such part of the clerical staff as may be adequate.

The PRESIDING OFFICER. The Chair wishes to ask the Senator from North Carolina if this is in lieu of the language proposed by the Senator from Texas, in toto.

Mr. ERVIN. Yes. It is really a substitute. No, not quite. He states in his amendment:

Page 13, line 53, insert:
I would keep that part of the language of the amendment.

The PRESIDING OFFICER. The Senator from Texas has a right to accept the modification.

Mr. TOWER. I accept the modification.

The PRESIDING OFFICER. The question is on the amendment as modified. (Putting the question.) The amendment was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ERVIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:
On page 11, line 19, after the word "committee," strike all through the word "member" on line 21 and insert in lieu thereof: "or the majority or minority counsel, when authorized by the chairman or ranking minority member."

Mr. GRIFFIN. Mr. President, I ask that the amendment be read again for the benefit of the Senator from North Carolina.

The PRESIDING OFFICER. The amendment will be read.

The amendment was read as follows:
On page 11, line 19, after the word "committee," strike all through the word "member" on line 21 and insert in lieu thereof: "or the majority or minority counsel, when authorized by the chairman or ranking minority member."

Mr. ERVIN. Mr. President, I do not object to a modification, but it seems to me you should be able to serve somebody besides the general counsel.

Mr. GRIFFIN. Would the Senator allow me to have a few minutes to state the case for this amendment. I believe it is...
a very important amendment, and I
committed the distinguished Senator from
North Carolina for making some modi-
fication himself in the language of the
resolution as originally introduced. He
does not himself have any such remarks with
respect to the number of people who will
have access to the raw FBI files con-
taining all kinds of hearsay comments
and unverified, unevauluated statements.

The experience of other investigatory
committees of the Senate, including the
Committee on the Judiciary has demon-
strated the importance of being very
careful in this area for the protection of
innocent people. If a lot of staff mem-
bers are going to have access to raw
files of this kind, there will be a great
risk of abuse, and I think it would be best to
say to the chairman, this committee and the
ranking minority member, instead of
having the counsel of both groups. They
could agree on some investigator and
have the assurance of protection, and re-
quire both the chairman and the rank-
ing minority member to make the joint
selection.

Mr. POWELL. I think that is an
improvement.

Mr. ERVIN. If the Senator will agree
to that I will modify the amendment
and so provide.

Mr. GRIFIN. Unless I hear some ob-
jection from this side of the aisle, I am
inclined to accept that modification. I
was surprised that the Chairman of the
committee to be and whoever is ap-
pointed to be the ranking minority
member to exercise this responsibility with
great caution and I would hope that the
number of people who would have such access
will be small and judiciously limited.

Mr. ERVIN. I agree with the Senator
on that.

Mr. President, I modify the amend-
ment by striking everything after the
word "committee" on line 19, page 11,
through the end of the sentence on line 21,
and insert in lieu thereof the following:

"Chief minority counsel, minority
counsel, or any of its investigative
assistants designated jointly by the
chairman and the ranking minority
member."

That makes it the chief counsel and
the minority counsel member. It has to
be a joint agreement.

The PRESIDING OFFICER. The
Senator sent that language to the
desk, please.

Does the Senator from Michigan ac-
cept the modification?

Mr. GRIFIN. I accept the modifi-
cation.

The PRESIDING OFFICER. The
amendment is so modified. As soon as the
Senator sends it to the desk, it will
be modified.

The amendment, as modified, is as
follows:

On page 11, line 19, after the word "com-
mittee", strike all through the word "mem-
er" on line 21 and insert in lieu thereof:"chief minority counsel, minority counsel, or
any of its investigative assistants jointly
designated by the Chairman and the rank-
ing minority member."

The PRESIDING OFFICER. The ques-
ton now is on agreeing to the amend-
ment, as modified. (Putting the ques-
tion.)

The amendment, as modified, was agreed
to.

Mr. HELMS. Mr. President, the dis-
tinguished senior Senator from North
Carolina (Mr. ERVIN), has presented a
proposal which, in other times and other
places, might be discussed with more ob-
jectivity and greater purpose than at
present. He has presented his analysis
with a great deal of force and support-
ed his amendment. In his amplification,
I think it would be better to say
this: Strike the Senator proposes to
strike and say: "or the chief majority
counsel or minority counsel, and such
of its investigatory assistants as may be
designated jointly by the chairman and
the ranking minority member."

That would fix the chairman and the
ranking minority member, instead of
having the counsel of both groups. They
could agree on some investigator and
have the assurance of protection, and re-
quire both the chairman and the rank-
ing minority member to make the joint
selection.

Mr. TOWER. I think that is an
improvement.

Mr. ERVIN. If the Senator will agree
to that I will modify the amendment
and so provide.

Mr. GRIFIN. Unless I hear some ob-
jection from this side of the aisle, I am
inclined to accept that modification. I
would suggest a change in it. Under the Senator's amendment,
and I think I had it pretty tight be-
fore.

Mr. GRIFIN. Yes, the Senator
improved it.

Mr. ERVIN. But I think I unimproved it
because first it was more restrictive.
But we need not argue about that.
I think it is a mistake to say the only
people who can see this are members of
the committee, or the majority counsel
and minority counsel.

Mr. GRIFIN. When authorized by
the chairman or the ranking member.

Mr. ERVIN. We would have investi-
gatory people who might have served in
the FBI who should be able to see the
files. In the section, I would think it
would be better to say this: Strike what the Senator proposes to
strike and say: "or the chief majority
counsel or minority counsel, and such
of its investigatory assistants as may be
designated jointly by the chairman and
the ranking minority member."

That would fix the chairman and the
ranking minority member, instead of
having the counsel of both groups. They
could agree on some investigator and
have the assurance of protection, and re-
quire both the chairman and the rank-
ing minority member to make the joint
selection.

The PRESIDING OFFICER. (Putting the ques-
tion.)

The amendment, as modified, was agreed
to.

Mr. HELMS. Mr. President, the dis-
tinguished senior Senator from North
Carolina (Mr. ERVIN), has presented a
proposal which, in other times and other
places, might be discussed with more ob-
jectivity and greater purpose than at
The distinguished senior Senator from Massachusetts had the staff of his Judicial Subcommittee make on-the-spot investigations in this matter, and has apparently not pursued it further.

The Senator from Missouri, Senator Brookes, the Senator from Colorado (Mr. Domenici), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr.迅猛), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

The Senator from Maryland (Mr. Maeder), the Senator from Ohio (Mr. Saxe), and the Senator from Vermont (Mr. Stafford) are absent on official business.

The Senator from Alaska (Mr. Stevens) is detailed on official business.

If present and voting, the Senator from Massachusetts (Mr. Brookes), the Senator from Arizona (Mr. Goldwater), the Senator from Alaska (Mr. Stevens), and the Senator from South Carolina (Mr. Thurmond) would each vote "yes."

The result was announced—yeas 77, nays 0, as follows:

[No. 16 Leg.]
YEAS—77

Abourezk
Allen
Allen
Baker
Bartlett
Beall
Beall
Bennett
Bennett
Beshears
Boren
Brock
Brooke
Burdick
Byrd
Byrd, J. Jr.
Byrd, Robert C.
Buchanan
Buchanan
Clase
Chiles
Clark
Cook
Cooke
Coyne
Curts
Dole
Domenici
Eagleton
McGee
McGovern
Mcintyre
McCaffrey
McKoy
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Proxmire
Rand
Randolph
Rhodes
Ritchie
Snow
Smyth
Tait
Talmadge
Tower
Trammell
Williams
Young

So the resolution (S. Res. 60), as amended, was agreed to, as follows:

S. Res. 60

Resolved,
Section 1. (a) That there is hereby established a select committee of the Senate, which may be called, for convenience of expression, the Select Committee on Presidential Campaign Activities, to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting either individually or in combination with others, in the presidential election of 1972, or in any related campaign or canvass conducted by any person seeking nomination or election as the candidate of any political party for the office of President of the United States in such election, and to determine whether in his judgment any occupances which may be revealed by the investigations conducted under the authority of this section, and the necessity or desirability of the enactment of new congressional legislation to safeguard the electoral process and shield the President of the United States from such actions.

(b) The select committee created by this resolution shall consist of seven Members of the Senate, four of whom shall be appointed by the President of the Senate from the majority Members of the Senate upon the recommendation of the majority leader of the Senate, and three of whom shall be appointed by the President of the Senate from the minority Members of the Senate, upon the recommendation of the minority leader of the Senate. For the purposes of paragraphs 6 and 8 of rule XXIV and Rules XXI and XXVII of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account.

(c) The select committee shall select a chairman and vice chairman from its members, and adopt rules of procedure to govern its proceedings. The vice chairman shall preside over meetings of the select committee during the absence of the chairman, and discharge such other responsibilities as may be assigned by the select committee or the chairman.

Sec. 2. That the select committee is authorized and directed to do everything necessary or appropriate to make the investigation and study specified in section 1(a), Without abridging or impairing in any way the authority conferred upon the select committee by the preceding sentence, the Senate from other express authorities, and to make the select committee to make a complete investigation and study of the activities of any and all persons or groups of persons or organizations of any kind which have any tendency to reveal the full facts in respect to the following matters or questions:

(1) The breaking, entering, and bungling of the headquarters of or offices of the Democratic National Committee in Washington, District of Columbia.

(2) The monitoring by bugging, eavesdropping, wiretapping, or other surreptitious means of conversations or communications occurring whole or in part to any headquarters or offices of the Democratic National Committee in the Watergate Building in Washington, District of Columbia.

(3) Whether or not any printed or written document or paper or other material not surreptitiously obtained from headquarters or offices of the Democratic National Committee in the Watergate Building in Washington, District of Columbia, and thereafter copied or reproduced by photography or any other means for the information of any person or political committee or organization;

(4) The preparing, transmitting, or receiving by any person for himself or any political committee or any organization of any report or information concerning the activities mentioned in this section, or in section 3 of this resolution, or in section 5 of this resolution.

(5) Whether or not any printing individually or in combination with others, planned the activities mentioned in subsection (1), (2), (3), or (4) of this section, or any of the participants in such activities or any of the persons having any connection with them or their activities, and, if so, the source of the moneys used in such
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payments, and the identities and motives of the parties involved in any such activities or employing the participants in them;

(6) Whether any persons participating in any of the activities mentioned in subdivision (1), (2), (3), (4), or (5) of this section have been induced by bribery, coercion, threats, or any other means whatsoever to plead guilty or to refrain from testifying; and in what manner and under the same conditions as a standing committee of the Senate may procure such services or documents of any kind or character or other aids or assistance from any person or group of persons or committees or organizations; and with whom or for what purposes such services, documents, or other aids or assistance were rendered or will be rendered; and whether any such service, documents, or other aids or assistance were rendered or will be rendered for a reimbursement basis, with the prior consent of the Government department or agency concerned and the Committee or subcommittee, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise without the prior consent of the chairman of any of the Senate committees or the chairman of such subcommittee of any expense to the Senate the facilities or services of any member or of the staffs of any such Senate committees or any subcommittees of such other Senate committees whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to make the investigation and study authorized and directed by this resolution; (11) to have access through the agency of any members of the select committee, or chief majority counsel, or any of its investigatory assistants jointly designated by the chairman and the majority counsel or any member of the Senate's Committee on Finance, information, report, analyze, or document or papers relating to any of the matters or questions which are the subject of this resolution and directed to investigate and study the custody or under the control of any department, agency, office, or employee of the executive branch of the United States Government having the power under the laws of the United States to investigate or alleged criminal activities or to prosecute persons charged with crimes against the United States of America; or to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to receive, examine, and determine if it determines necessary or appropriate any money made available to it by the Senate to perform the duties and exercises the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpoenas may be issued by the select committee acting through the chairman or such member designated by the chairman as other members may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

Sec. 4. The select committee shall have authority to recommend the enactment of any new congressional legislation which its investigation considers it is necessary or desirable, for the Senate at the next session, but not later than February 28, 1974. The select committee may also submit to the Senate such interim reports as it considers appropriate. After submission of the final report, the select committee shall have three calendar months to close its operations.
The PRESIDING OFFICER, Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARKER. Mr. President, now, we are to consider the FAA antihijacking regulations, and I say they constitute: a serious invasion of civil rights, and an unconstitutional encroachment of the Executive upon the legislative functions of Government; and I believe evidence will show that the FAA regulations do not, cannot, the clerical part of the clerical staff may be adequate.

Mr. ERVIN. Mr. President, I move that the vote by which the resolution was agreed to be reconsidered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, for a reconciliation of the difference in the House and Senate in the House amendments to S. 3103, Public Law 91-452, the Speakon amendment, Mr. Kastenmeier, Mr. Edwards of California, Mr. Hutchison, and Mr. Sandman as members of the National Commission on Individual Rights, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 123(a), Public Law 91-605, the Speaker had appointed Mr. Wurzer, Mr. Gray, Mr. Don H. Clausen, and Mr. Snyder as members of the Commission on Highway Beautification, on the part of the House.

The message announced that the House had passed, without amendment, the joint resolution (S.J. Res. 37) to designate the Manned Spacecraft Center in Houston, Tex., as the “Lyndon B. Johnson Space Center” in honor of the late President.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SKYJACKING

Mr. HARTKE. Mr. President, it is my plan to bring to the attention of this body a series of issues concerning the operations of the Federal Aviation Administration.

I have made a statement for the Congressional Record, listing some 27 charges organized under seven categories. These run through the whole gamut of FAA operations and policies. At this time I ask unanimous consent that an article appearing in the Washington Star of February 4, be printed in the Record following my remarks.