February 7, 1973

CONGRESSIONAL RECORD — SENATE

The legislative clerk called the roll, and the following Senators answered to their names: [No. 12 Leg.]

Allen
Alaska
Nelson
Pastore
Allen
Arkansas
Parson
Baker
Arkansas
Pasko
Baker
Arkansas
Pasquin
Bentinck
Georgia
Pasquin
Byrd
Georgia
Pasko
Byrd
Idaho
Pasko
Cranston
Rhode Island
Perham
Domino
Tennessee
Poncher
Donnelly
Washington
Porter
Engelhard
Manitoba
Porter

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the sergeant at arms be directed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Sergeant at Arms to execute the order of the Senate.

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

Ahmann
South Dakota
McIntyre
Allen
Arkansas
McIntyre
Bartlett
Alaska
McIntyre
Beall
Arkansas
Mkule
Bellmon
Oklahoma
Mun
Benett
Florida
Mun
Beitel
Wisconsin
Percy
Billings
Montana
Percy
Biskind
Wisconsin
Percy
Brook
New York
Percy
Bucy
North Carolina
Percy
Burke
Rhode Island
Percy
Burr
District of Columbia
R ،Sorkoff
Cannon
Georgia
Rhodes
Case
Missouri
Robertson
Chiles
Florida
Taft
Clark
Washington
Tangil
Cook
Illinois
Weick
Cromwell
Connecticut
Weick
Cotton
Mississippi
Williams
Currie
Mississippi
Young
Dole
North Dakota
McGovern
Dole
North Dakota
McGovern

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from Washington (Mr. Magnuson), the Senator from Minnesota (Mr. Mawb), the Senator from New York (Mr. Fascon), the Senator from Connecticut (Mr. Risoff), and the Senator from Alaska (Mr. Gravel) are necessarily absent.

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

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

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. Brooke), 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 Kansas (Mr. Pearson), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

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

The PRESIDING OFFICER. A quorum is present.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, February 7, 1973, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 42) to extend the life of the Commission on Highway Beautification established under section 126 of the Federal-Aid Highway Act of 1970.

Establishment of Select Committee to Investigate and Study Certain Activities in the Presidential Election of 1972

The Senate continued with the consideration of the resolution (S.J. Res. 42) 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, or any campaign, canvass, or other activity related to it.

The PRESIDING OFFICER. The question is on the adoption of the resolution.

Mr. BAKER. Mr. President, I have an amendment to the chair, and I ask the clerk to report.

The PRESIDING OFFICER. The chair will report the amendment.

The legislative clerk read the amendment, as follows:

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

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

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 Republicans and three Democrats.

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 inquiry of the Senate; that I thought it was superior to one of the standing committees doing this inquiry. I thought it offered a greater opportunity to illuminate 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 it would enhance and reinforce the position of absolute objectivity and freedom from personal consideration if we were to follow that precedent in this instance.

I also indicate to you to-day 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 is in no way impugns 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 the case previously on other occasions, and the Senate has dealt with it, I think, in a very commendable way.

Precedents 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 McCarty allegations. A resolution was passed in the Senate in 1954, constituting a committee, on the basis of equal distribution, of three Republicans and three Democrats.

The Senate was the Select Standards 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.

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

That 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 when we are encumbered with the rigors of civil procedure the rules of criminal procedure, it is incumbent on us that we guard against any question on partisanship in the inquiry on the part of the parties are about to embark. It is for that reason that I offer this amendment to change the composition of the committee of 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 perform. 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 are ordered.

Mr. ERVIN. Mr. President, I have studied the precedents, and virtually without exception every select committee
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 86th 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 Reconstruc the Senate Roof and Skylights and Remodel the Senate Chamber. The membership of the committee consisted of three Republicans and two Democrats.

We are going to have a majority on the majority party on the Select Committee To Study the Recons truction 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 by Senate Resolution 60 to function in the event of disagreements between the members of the 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 82d Congress, they retained the Special Committee on the Recons truction 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 consisted 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 with a 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 picture should hang on the wall, I do not know. There is no room for disagreement 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 Select Committee on National Water Resources. Surely there is not much room for disagreement about water, unless we are going to have a little bit of engineering work for it. This select committee consisted of 10 Democrats, with 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 a membership of 11 Democrats and six Republicans constituting its membership.

During the same Congress, the Senate continued 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 Equal Educational Opportunity with a membership consisting of eight Democrats and six Republicans, and continued the Special Committee on Aging with 11 Democrats and nine Republicans.

I think the records will show that the membership of these select committees was composed of members of the Democratic and Republican proportionate to the respective membership in the Senate of Members of the two parties. It is true that there have been shared by the four members of the committee, and the membership was equally divided. 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 representation on the committee. The committee virtually no room for tie votes or differences of opinion, because Members of the Senate of both parties certainly would not entertain the idea of what constitutes ethical conduct on the part of a Senator of the United States. So that is totally unlike the Select committees on which I have said 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 Reorganization of the Watkins Committee which was appointed to study the question of whether Senator Joseph McCarthy, of Wisconsin, should be permitted to remain 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 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 from the Committee on Government Operations and from the Committee on Labor and Public Welfare. This is 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 one seat, and it was recognized that if there were 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, but the membership would cross party lines to get the necessary support from the minority.

The Select Committee was established by the Senate on August 1, 1947, and, as I understand it, the committee was reconstituted by the Senate on August 1, 1950, and the Senate ultimately in 1951.

I would like to share with the Senate that in 1947, the Select Committee was established by the Senate on August 1, 1947, and, as I understand it, the committee was reconstituted by the Senate on August 1, 1950, and the Senate ultimately in 1951.

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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 Senate's efforts to break the party affiliation and adopt a bipartisan, non-partisan system, it is clear that the Senate will have to look into 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 who is going to be a candidate for the presidency of the United States—Mr. President, the distinguished Senator from Texas who is going to be a candidate for the presidency of the United States. I was having a conversation about the elections which had just gone by. I remember the Senator telling his travel plans. I do not remember any of the information about the trips he has taken. That telephone was electronically bugged and somebody 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 added, but the majority does not want to know what the minority 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 issuance of false information to the general rhetorical hoo-hawing with regard to Mr. Tuck's boyish pranks, always at the expense of his party. Let us find out.

But let us equally find out whether or not virtue is the proper property of an individual, of a party, of a group. Let us find out what is a majority of the Senate. 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 forms, it would have difficulty to find out. Let us try. We will cooperate even if we lose, even if we are overrun, even if the majority exercises the full force of its power because it is afraid to let us go into the 1984 campaign and the 1968 campaign; and that is what is bugging them and not electronic surveillance. That is what is bugging them. That is why they say, "Let us confine this study to a discussion of something we know the only political benefit to be gained would be gained by us, and let us not put this in the public dimension where we can see it against what has long been going on in this country," and that is a lot of undesirable, 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 admirable 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 one's 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 this resolution had called originally for an equal division of Republicans and Democrats, and had ample precedent for doing so in other equally, sensitive matters, we would not have that attitude now growing up. I
think the minority leader has bespoken the attitude that will arise throughout the country. In the final analysis, it is not the Senate that will decide if this should be three and two, two and three, or two and two. We 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 look to this body to inquire into the full scope of the election process, unfettered by the judicial process. We expect the Senate to 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 decide the issues and implications and all the activities, and to ascertain all the patterns of conduct to which we may wish to direct ourselves 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 into the 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, on the basis of our methods of our methodology starting with this unequal distribution.

I shall not prolong this much longer except to say this: The distinguished 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.

Rey noted yesterday that the senior Senator from North Carolina, I believe very correctly, amended his resolution to delete the legislative reporting recommendation committee. There is the suggestion that it be a fully effective and investigatory committee, and on a matter of this importance it ought not to report unless the Senate is satisfied.

Where is the stalemate in that respect? On the matter of writing a report? Surely not, because it is inconceivable 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 no one 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 any third or fourth party on the select committee would have any objection to any subpoena that had the most remote connection or the most minor possibility of producing any 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 those 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 inconsideration to the emotion of the debate that will rage not only in the committee, but in the Senate. 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 views that are being expressed in subsection of section 3 as to the powers of examination to all agencies of Government and all documents, no matter how raw and raw in every respect. I 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 completely counter to the rights of the people affected.

It may be that if this privacy is invaded and it is involved the securities 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 yours, 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 that can be found in order to drag up filth on which no proof exists, and no one ought to be exposed to this kind of proceeding. I yield the floor.

Mr. WEICKER. Mr. President, I want to commend the Senator from Tennessee for putting his finger on the real issue of the day. Before us is an issue that issue is credibility—credibility as far 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 Senator from Tennessee providing that to have the committee 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 T.T.T. 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 these transgressions were not issue with the American people. Why were they no issue? Because, in the mind of the average citizen, they all do it. It is done all the time by both parties. A plague on both Houses.

That is why it ought to be 3 to 3, so the committee can do its work, and so when it comes forth with the result of its work, it will be believed. But to have the aftermath with this partisan approach is no better than not to go ahead and investigate as far as the public is concerned.

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 should feel the same way. Yet the way this committee is constituted, the way the whole affair is started, this committee will do its work, and the result will be a partisan one. Last time it was the Republican Party; this time let it be 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
the work done to have credibility to it. A
3-3 committee renders the work product of
that committee a partisan one. I attribute
no motives to a 3-3 committee, but that
is the way the partisan, and the work
product is meaningless, and the mem-
bers on that committee are involved in
that partisanship on an individual basis.

That is no longer the case. This system
has been smeared and judged 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, so work product is some nonsense
there are Watergates and ITT’s and
whatever anyone wants to bring up does
not in my mind change the gleam or
shame. It is all still 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 as hand,
ot to gain points one over the other,
but gain points for the American
political system.

Mr. ERVIN. Mr. President, I will make
one or two observations. If I had any feel-
ing that three Democrats on this com-
mittee or the committee itself would seek
to create a problem for political pur-
pose, 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 Sen-
ate. This is still the only way
by which decisions can be made.

The minority has the opportunity to
evade wisdom and convince the major-
ity of the cause of, and the decision
has to be made by the majority.

The Senator from Texas said that
this 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 major-
ity—set up a select committee to inves-
tigate those charges which, like this
one, too have political overtones. 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.

My 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
impeach or lynch or commit
improper conduct. It does not change anyone
with improper con-
duct.

If we establish a mechanism of a
committee, the members of which are three
Senators who are Democrats and
two Republicans, some people may be suspicious of all human
canal. The Senate wanted to whitewash this whole thing and so
the members of the committee which was set up and the
committee would not be prevented from mak-
ing any decision or taking any action.

I am opposed to the amendment. I do
not say it will accomplish this purpose.

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

The point made 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 Con-
necticut thinks of his.

The fact is that we have an opportu-
unity to restore the faith of the American
government in this kind of process. And the
way in which we are going to accomplish
that in the most successful fashion 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
win absolutely nothing by doing it in
that manner.

This partisanship quite frankly has be-
come quite a serious national problem.
Mr. BAKER. Mr. President, I commend
the Senator from Connecticut for a very
sincere and, I think, very appropriate
point here. It is not the final judg-
ment of the Senate, but rather the judg-
ment of the people of the United States
that should control as we debate this
resolution and how to do this.

I preferred a suggestion a moment ago
to the Senator from North Carolina, and
I hoped it might eliminate some of his
neurosis and obtain an equal balance on
the select committee. That suggestion
was to provide that in the case of
subpoena power, if there was an equal divi-
dion 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 al-
ternative by which we could avoid the
stalemate which he fears without creat-
ing a distorted effect.

Mr. ERVIN. I would 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 matter or impose any burden on the Senator
from North Carolina, as far as that is
concerned.

Mr. BAKER. I know it would not make
any difference.

Mr. ERVIN. But the Senator from
Florida yesterday asked me about the
subpoena power. And I was very pleased that the resolution does not
give the chairman the power of issuing
subpoenas without the concurrence of
the rest of the committee members which I am
concerned, I would not want to issue
subpoenas 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 dif-
terence to the Senator from North Caro-
olina?

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 subpoena issued, I would
not want to have two votes on the ques-
tion.

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 commit-
tee 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 Su-
preme Court, Baker against Carr, came
courts of the States. 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 Sen-
ator has grown wiser since that occasion.

Mr. BAKER. I have never doubted his
wisdom. I am happy to have his sup-
port now.

I wonder if it would serve any
pur-
pose, or if we could find any 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 can
consider the unanimous consent, since
the year

Mr. BAKER. And of course as to the
precedent that we had in the McCarthy
case of equal representation, and the
precedent established later in the case
of national emergency, which also has
equal representation, and the precedent
in the select committee relating to se-
crect and confidential documents, which has been equal representation, plus the Committee on Improper Activities in the consultation or conference that took place between the Joint leadership of both parties, which suggested the expedient of a 3-to-3 makeup of the Labor-Management Field, which was committee, and that the vote on any such tie should have the power to cast the deciding vote. the same as well as the result of the vote on Standards of Conduct, I wonder whether it does not serve as a precedent to the Senator on important issues when there is an area of discussion in which those present consider 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 Senate from North Carolina has other problems about which he is concerned.

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 in the Senate today, and we insisted on three and two.

Mr. ERVIN. 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 partisanship, 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 agree to do so.

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

Mr. BAKER. I yield.

Mr. ERVIN. The only reason that the Senator from New Hampshire asked the Senator from Tennessee to yield was that, without pride of authorship—because the whole 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 Tennessee. But I do call your attention to the fact that 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 the 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 this 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 cry that "It was a partisan issue, 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, I think this is 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, I think I should be as far as I possibly can concerned, that I am going to vote for the investigation, but it was, to me, very clear in our conference that the Senate majority is disposed of the investigation. The other members were pledged to it, and that this 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 in the President.

I shall, of course, vote for the amendment of the Senator from Tennessee, but when I walked out of the room last night, after something 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 Tennessee. But I do call your attention to the fact that 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.

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I shall, of course, vote for the amendment of the Senator from Tennessee, but when I walked out of the room last night, after something to avoid the necessity of even a debate on this
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 "five" 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 subpoena should issue, the position taken by the chairman shall be the prevailing position."

Mr. EASTLAND, of course, is ex-s "(d)" and insert in lieu thereof: "(e)".

Mr. BAKER, Mr. President, this thing, as Senators can see, is the embodiment, by many titles, of the suggestion I made in our previous colloquy.

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

Mr. MURPHY, if the Vice 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 is 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.

I yield the floor.

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. GRUEL), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MOSBY), the Senator from Connecticut (Mr. RISCH) are necessarily absent.

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

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

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Connecticut (Mr. RISCH), the Senator from Louisiana (Mr. JUNGER) from Washington (Mr. MAGNUSON), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRISHAM. I announce that the Senator from Massachusetts (Mr. BROOKS), the Senator from Colorado (Mr. DOMINICI), the Senator from Hawaii (Mr. FOW), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PAPPAS), and the Senator from South Carolina (Mr. TAYLOR) are necessarily absent.

The Senator from Maryland (Mr. MATTHEWS), 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. TAYLOR) would each vote "yea."

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

[No. 13 Leg.]

YEAS—35

Allen
Alten
Baker
Bartlett
Beall
Bellomy
Benjamin
Brooks
Buckley
Byrd
Byrd, P. J.
Case
NAYs—45

Abourezk
Bentsen
Bible
Biden
Burdick
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Eagleton
Ervin
Fusiliar
Hart
Hartke
Baxh
Brooke
Brooks
Brockman
Brockman
Byron
Dominick
Eastland
Fong
Goldwater

So Mr. Baker's amendment was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 1, Public Law 523, 78th Congress, the Speaker had appointed Mr. SATON, Mr. BYRON, and Mr. MIKELL as members of the National Memorial Stadium Commission, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 1, Public Law 523, 78th Congress, the Speaker had appointed Mr. NIX, Chairman, Mr. WRIGHT, Mr. GONZALES, Mr. DE LA GARZA, Mr. KAASE, Mr. USALL, Mr. WALSH, Mr. WIGGINS, Mr. LUTJAN, Mr. STEUER of Arizona, Mr. BROOMFIELD, and Mr. STEELE as members of the U.S. Delegation of the Mexico-United States Interparliamentary Group, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 301, Public Law 89-81, the Speaker had appointed Mr. MAZOLI, Mr. DULKI, Mr. CONTE, and Mr. SYMMES as members of the Joint Commission on the Cause, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 601(a), Public Law 91-613, the Speaker had appointed Mr. CARTER as member of the Commission on Marihuana and Drug Abuse, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 5, Public Law 420, 83rd Congress, as amended, the Speaker had appointed Mr. CASS of New York and Mr. QUINZ 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. BLAKE, Mr. BENNETT, Mr. CHAPMAN, Mr. JOHNSON of California, Mr. RANDALL, Mr. KYNES, Mr. STRATTON, Mr. MEES, Mr. CULVER, Mr. HAYEF, Mr. MCEWEN, Mr. HORTON, Mr. WITT, and Mr. WOOLSEY as members of the U.S. Delegation of the Canada-United States Interparliamentary Group, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 2(a), Public Law 86-874, as amended, the Speaker had appointed Mr. THOMPSON of New Jersey, Mr. ROSEN of Wyoming, and Mr. FELDMAN of Pennsylvania 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 202(a), Title 2, Public Law 90-417, as amended, the Speaker had appointed Mr. GRAY, Mr. BLATNIK, Mr. HOWARD, Mr. MCEWEN, Mr. ZON, and Mr. MIKELL 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 92-505, 78th 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. WHITTEM, and Mr. CEDERBERG.

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

The Senate continued with the consideration of the resolution (S. Res. 80) to establish a select committee of the Senate to conduct an investigation and
February 7, 1973

CONGRESSIONAL RECORD—SENATE 3839

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, or any campaign, canvas, or other activity related to it.

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

Mr. BAKER. Mr. President, may I 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 rollcall vote on the next amendment in 10 or 15 minutes. I have an amendment at the desk which I ask the clerk to bring.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 2, line 14, strike "five" and insert in lieu thereof: "six".

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

"(c) 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."

On page 3, line 7, delete "(c)" and insert in lieu thereof: "(e)"

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

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 I 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 tie-breaking authority in case of a tie in a three and three committee in issuing subpoenas.

In previous colloquy I said, and I reiterate 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 this 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 stalemate amendment related to the issuance of subpoenas; if there are others, I hope they are suggested.

On the question of legislative authority, the select committee has none because of the amendment of the Senate from North Carolina yesterday. On the question of filing a report, there is no language in this which should include majority and minority views. I assume the general precedent under legislative reorganization would prevail so that no one's right to file will be added to the resolution. Mr. President, I am honestly seeking a way to avoid the objection stated to an equal division of this select committee. I will not try to collogue much further 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 is the best prepared of all departments of Government to undertake it. It is far better prepared than the judiciary, and it is 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 falls on the legitimate corruption in the Congress, the FBI, and the Department of Justice. We cannot be cocky and arrogant. 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 motives of my friend, the Senator from Tennessee, I am compelled to oppose this amendment for the same reason herefore.

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. Probably 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 accommodate 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 power 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 that I think 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 conduct of the Senate committee 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 unfortunate.

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 unified in setting forth the American public the total information available about the Watergate incident.

Mr. CASE. Mr. President, will the Senator 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 is possible to tune 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 partisan operation. That is the last thing we want.

It is the last thing I would want if I were a member of the majority here. In a very real sense, from the standpoint of the majority itself, I think the Senator from Tennessee should prevail on this amendment, with any further amendments that the Senator from North Carolina may recommend. 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 2, 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.""

"On page 4, line 7, delete "(d)" and insert in lieu thereof: "(e)."

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 is a reluctant compromise.

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 is to say that I will control all the disagreements among the committee. It would not change having one or more of the majority party on it, but 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 myself, 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 will yield, I have a point of order. I believe it is a point of order. The Senator from North Carolina, in his deliberation,引用 the proceedings of the House to the Senate. The Senator from North Carolina, in his deliberation,引用 the proceedings of the House to the Senate.

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February 7, 1973

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

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

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

Mr. GRIZZINN, I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMMENIC), the Senator from Hawaii (Mr. FONDO), the Senator from Arizona (Mr. GOLDBERG), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. PEARSON), and the Senator from South Carolina (Mr. TURNBULL) are necessarily absent from official business.

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

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

At 11:44 A.M.

TAYLOR—36

Alban

Cook

Javits

Allen

Cotton

McClure

Balister

Dole

Reed (by]

Baskett

Dunford

Stevenson

Bellmon

Fannin

Scott, P.

Bennett

Griff

Scott, V.

Biden

Gurney

Stevens

Brook

Hamas

Twijn

Buckley

Hedges

Towle

Byrd

Heims

Weicker

Harry F. Jr.

Hruska

Young

Casse

No
day

NAY—44

Abourezk

Baldwin

Binnion

Bonneville

Byrd

Cassidy

Chambliss

Chafee

Chambliss

Clark

Clay

Clayton

Conyers

Cryer

Curtis

Culver

Davids

Davis

DeConcini

Domenici

Dorgan

Dodd

Ehrlichman

Evans

Fulbright

Gardiner

Gardere

Harke

Harken

Hartke

MCAFFIE

McNary

Meyers

Morgan

Beyh

Gravel

Pearson

Broker

Johnston

Bibbott

Church

Maguire

Sainte

Deming

Mathias

Stafford

Davidson

Mondale

Stennis

Feingold

Mosby

Thurmond

Go Mr. BAKER's amendment was rejected.

The PRESIDING OFFICER, the resolution is now open to further amendment.

Mr. ERVIN. Mr. President, it has been suggested to me by the distinguished minority leader that the resolution should be amended as follows:

On page 2, line 11, strike out the word "two" and insert in lieu thereof the word "three."

On the same line of the same page, strike out the word "and" and substitute in lieu thereof the word "four."

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

This would have the effect of increasing the membership of the committee from five to seven 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 the yeas and nays yet been ordered?

Mr. ERVIN. No.

Mr. TOWER. I thank the distinguished Senator.

The PRESIDING OFFICER. The resolution is so modified.

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

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 "elections."

On page 2, 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 19, 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 last 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—what amendment would do to 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, and 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 have as many as possible as many as we have not uncovered and get to the bottom of what happened and who was involved.

But I think one observation should be made, and that is that 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 in all the States and spent much time in my own home State of Florida campaigning continuously for a period of 3 months and I can vouch for the fact that it was raised not extensively for a period of 3 months prior to the election. I really never heard anyone say much about the Watergate affair. If it ever was raised, it was raised playing political football, to wit, the Republicans are spying on Democrats."

I am sure that if the Republicans knew what was going on in the Democrat camp, the whole thing would be happening there.

I think another very interesting point in this whole Watergate affair is how certain of the news media tried to make a tremendous political issue out of something that might make the Democrat 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 polisters 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 this 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—this was 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 33 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 Democracy 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 56 percent, the voters polled. I am not worried about civil liberties. Fifty-seven to 25 percent said it was political spying, a common occurrence in politics. It is pretty much what I expected.

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
elect the President were receiving huge amounts of money from special interests and from business and were concealing the source of that money, and going out to make a great difference in the campaign—showed that only 18 percent of those polled gave any credence to that charge. That was, of course, 1968.

So, Mr. President, I make these general remarks simply to point out two things: One, that the Watergate affair was really never even a big as a political campaign issue. But the other point, so important, is that the voters all 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—and a good, impartial, thorough, honest report, whatever we plan to do by way of recommending legislation, it seems to me it must be done with a bipartisan—I was a supporter of a bipartisan approach. I think I probably have used that expression—but at least a bipartisan tinge or aroma to this whole thing. I do not believe we can do that or we are serioing 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, if we try to find out what 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. Itself but to find out generally what happens in political campaign, fund raising, and surveillance, and all the rest of the shenanigans that are sort of some of the side-shows in our political campaigns. If we do get an honest contribution, to find out how we can improve political campaigns and certainly cut down on the aspects of it, then we should have the investigation as well as we can make it.

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 queried somewhere where they would not be quoted, that both political parties do that. Democrats as well as Republicans. 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, whether one is better at spying than the other, I think it is a case where both political parties, candidates of both political parties or their followers—in more campaigns than the 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 as I say, certainly should include the two prior political campaigns, the one in 1968 and the one in 1964. Incidentally, that certainly 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 show the greatest sense of impartiality and objectivity, to get into those 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 damnybrook out of this matter or to try to make it a strictly "You did this" and "No, you did not." Matter. That is not the point of the point. The point is to broaden this whole busines so that we can get the same kind of some knowledge can happen in these campaigns and from there hopefully, come up with suggestions and legislation, and perhaps we may do away with some of our problems.

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 under the new legislation 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 that fact, it seems to me especially 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 what happened during the 1972 campaign with respect to electronic 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 never involved in any litigation; it was not publicly 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. It seems to me that we might even show some greater degree of interest in what might have happened in those campaigns which is not widely known and is a matter of concern. We know little knowledge and it is less involved in the matter on which we have a greater deal of knowledge, which has been and still is the subject of litigation, with the Government and the prosecutors still in business on the whole issue of the Watergate.

Of course, I hope that this committee will not engage in any kind of acuity of 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—a least, not general knowledge.

I think that if the majority were to accept this amendment, it would tend to negate 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. Mr. President, I think this might in some adverse way affect the electoral processes in the selection of the President of the United States.

Mr. TOWER. I think 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 proceeded to call the roll, and Mr. Anderson voted yes.

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

The PRESIDING OFFICER. The roll call is complete.

The assistant legislative clerk concluded the roll call.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAVL), the Senator from Nevada (Mr. BIBLE), the Senator from Nebraska (Mr. CANON), the Senator from Idaho (Mr. CHUCK), 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 29, 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 that have serious, 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 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 things. It is not supposed to have two separate select committees conducted by the four majority members and another by the three minority members. They are supposed to investigate exactly the same things.

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 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 members to investigate identically 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 this amendment is adopted 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 proper minority is made by the committee staff is not equitable?

Mr. ERVIN. I 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 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 to at least 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 equitable or ever been raised, because since the time George Washington took his oath of office as 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 assure you publicly that I shall certainly see that they get an equitable, reasonable proportion of the staff. But I will not accept any kind of theory that we can have two investigations conducted by this committee, one on behalf of the minority 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 really amazed, because what we have asked for here is certainly not unreasonable. No one has envisioned in offering or speaking or for or supporting this amendment two separate investigations—one conducted by the majority and one by the minority—any more than we offer separate legislation by the majority and the minority. It is not happening.

What we are suggesting here is that the minority be adequately staffed. It has been established 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 conduct of members of another party. No one can tell me that anyone who views this objectively could believe that this is a 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 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 going to be denied adequate staff on the minority.

Mr. STEVENS. Mr. President, I again join with the Senators from Texas. I think the Senator from North Carolina 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 in the ability or reports out of the committees, 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 minority support. We should have the ability to know that the people who are working with the Republican members are working with them.

I do 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 he would see it to that certain staff would be made available. And I must say 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 pauperism 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 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 Civil Rights Act. However, I think it’s clear 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 if he does say it, 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 minority and we will find 18 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, they will understand it. But that does not mean that the minority party ought to be prepared unless it does it on its own.

I can only say that if we find ourselves in a situation where there was no Senate on the committee that is going to be established by this body and that this 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.

What I meant to say, and as the Senator has pointed out, I probably failed to say, is if that I were a member of the committee I would do everything I could to persuade the committee to make 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 contrite spirit the very eloquent chastisement which the Senator from Kentucky has given me.

I appeal to 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 these 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, this 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. President, I yield to 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, then that will be asked. So I would not suggest that it will not be done to a body it may 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 an organization and when it comes to what kind of staff will he have 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 want to say those 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 Senator 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 shall have the right to a minority counsel to advise them; and I cannot conceive of the Senate now ceasing to be partisan. Frankly, I had not expected these or any amendments to be adopted, but I cannot conceive of the Senate establishing that kind of a precedent.

I am confident that the Senator from North Carolina would give us a minority counsel; but it should not be given to us, it should be a matter of right. This is an extremely serious investigation, and it is essential that the people of this country be satisfied with it. For the first time, I think, since I have been in this body with the Senator from North Carolina, whose ability I respect so much and whose integrity I respect so much, he has made a statement I cannot even comprehend.

That the mere fact that the minority members of a staff of a select committee that is dealing with something that you can talk all you want to and whitewash all you want to, is partisan, if the minority members have anything to say, it constitutes two separate investigations. If it were anyone other than a great constitutional lawyer, I would have to characterize that as nothing but nonsense.

I would take the Senator's word on this matter of toil, but it is not a matter of taking someone's word. It is not a matter of putting a crumb on the table. It is a matter of establishing a precedent and maintaining the precedents of the past that at least the minority, and some members of such a committee are entitled to a minority counsel. They are also entitled to assistants in reasonable proportion to the duties, and it should not be a matter of a gratuitous gift from anyone, it should be a matter of right and justice, not a matter of the resolution.

Mr. SCOTT of Pennsylvania. Mr. President, will the Senator yield at that point?

Mr. COTTON. I yield.

Mr. SCOTT of Pennsylvania. I think we can see now where we are at and where we are getting.

What we seek is a power of the majority which, first of all, says that you cannot have equality in a Senate decision on a matter of ethical conduct and proper standards of public office which says that you must give them unheard of power beyond that ever granted to another committee; that you must allow them to go wherever they wish and for whatever they choose, and pursue any rumor or unsubstantiated allegation to the point where they would hope that the House would rest on the rumor rather than on substance; and now, a further blow to the equity of the situation, in their refusal even to admit that under the Reorganization Act, which we voted on and passed, and that it replaced an equitable division to the minority.

We are 43 percent of this body. In order for the majority to work its will, it insists in the Congressional staff, that the minority shall have 33 1/3 percent, and not the 43 percent which our representation entitles us to and which the people of the United States voted, in their own exercise of their judgment, should constitute the Senate of the United States. We are to be denied the assurance that we will be provided for under the statutes of this land and under the equitable distribution intended to be assured by that act.

So now we are going through the processes of power personified, the process of overwhelming arrogance exceeded even to a point where they do not wish us to be adequately equipped to determine the truth or falsity of the allegations of witnesses.

That is going pretty far, and, Mr. President, it seems to me it is going entirely too far. Go ahead and work your will; tell the people of the United States that the minority has no rights; that all our minority rights does not extend to the Senate; that Senators have no minority rights; that we have no civil rights; that we have no rights except to abide by your procedure as you go ahead with your inquisition into rumor, into substance or lack of substance, and to force us to sit about while it is done.

That seems to me to be not only ridiculous, and I regret very much that we cannot even agree on this. I do not think the actual resolution of the matter was on the table. I think it was the issue here, because much of that could be worked out depending on the good will and what the British call the grace and favor of the chairman. What we are arguing about is a very important principle: Is the law going to be followed? Is the Reorganization Act, in word and in spirit, in fact, being violated? Are we going to be given any chance whatever to bring out what may be important information bearing on the whole political process of party, and elections?

Well, it seems, we are not. If we are not, perhaps we should leave the whole thing to the majority. Let them hold their proceedings. Let them be as "star chamber" as they wish, and let them make all the charges they want. Then let the United States see for itself, that what is going on is not a bipartisan inquisition, but a partisan political effort to extract the last bit of juice from an already considerably squeezed lemon—and lemon it is, and I make no defense for it; lemon it is. To extract the very last citric benefit from a situation which should be approached by this body in an even, equitable, judicious, and judicial examination of the truth. That is all we are asking for here.

It is obvious that in vote after vote, what we are getting is a determination to ride us down, to roll us over, to seek the maximum political benefit which can be obtained from a single incident, without the slightest scintilla of curiosity as to what may have happened at another time and another place in other elections.

If it is fair, Mr. President, then, indeed, this body has descended to a very, very unfortunate nadir.

I thank the Senator.

Mr. BRYN. Mr. President, I wanted to offer an amendment to the Tower Amendment—

Mr. BAKKER. Let me make these remarks briefly 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 a number of us.

We are 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. Scoop) will not feel offended that I do not name him—nor will the reader if I do not feel insulted. If I recall a story that he stated in that respect, I believe that the rhetorical slip of the tongue by the Senator from Alabama is more than the determining factor in this debate about breaking into Republican headquarters brings to mind the story that the Senator from Pennsylvania related, that he was once asked by a Republican Congressman 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 refer to what the Senator from Alaska has so ably said, and which I honestly believe every member of the majority believes. Assurances will be given on this matter, if we proceed on that basis, for an objective inquiry into what happened, because the Democratic Party may have something of a short-term gain politically by trying to ambush Republican officials; but I think the Republican Party in the United States has a lot more to gain by exposing 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 potentiality, 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 start 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 of any tie vote to 3-4. We could not agree on how we would handle the date and the scope of the inquiry, whether 1972 or any other time.

Now we have no qualified staff.

We hear a lot of talk about the President's being in the "splendor 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 there is a man in this Chamber that does not know that the White House Democratic headquarters 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 the 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.

The gentle remonstration 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 and 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 going to do the right thing. I have expressed confidence 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 staffing 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. JERVIN. If the Senator will yield, that is the reason why I said sometimes ago that I propose an amendment to the Tower amendment.

I say to the Senator from Pennsylvania 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 "select committees," and insert in lieu thereof, "The minority members of the select committees shall have representation on the staff of the select committee equal at least to one-third thereof."

I agree with the Senator from New Hampshire that they are certainly entitled to the advice of the President.

Mr. COTTON. I thank the Senator. Mr. TOWER. My amendment provides that 33½ percent of the moneys available
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for direct compensation to personnel to 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; and that's 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 circumstances, that might be desirable. (Laughter.)

But in this particular instance, I think that what we are concerned about is that we ought 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 extent, 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. FASTORE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. FASTORE. I think that at this point we are asking for clarification.

The argument made by the Senator from North Carolina is that if the money is appropriated, he might create the impression that there is a double investigation, and he is trying to avoid that. The minority deems 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. Undoubtedly this side has done that. I want to make sure we get one-third of the professional staff. I am not interested in sheer numbers of people. I am interested in the percentage of the professionals 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. FASTORE. 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. SCOTT 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 distinguished Senator from New Hampshire, as to read:

Mr. ERVIN. Oh, yes.

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

Mr. FASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The amendment will be stated.

The amendment was as 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 as 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 send 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 commend the distinguished Senator from North Carolina for making some modification himself in the language of the resolution as originally introduced. He did it himself. I am somewhat with respect to the number of people who will have access to the raw FBI files containing all kinds of hearsay comments and unverified, unevulated statements.

The experience of other investigative committees of the Senate, including the Committee on the Judiciary has demonstrated the importance of being very careful in this area for the protection of innocent people. If a lot of staff members are going to have access to raw files of this kind, there will be a great risk that they will not necessarily be used only by individuals who have any real connection with the subject of the investigation. As Senators must realize, such files contain very sensitive, secret statements, and unless there is judicial use of such matter, innocent people can easily suffer irreparable damage.

I am reminded of the experience of the Senate committee from Arkansas (Mr. McCLELLAN) in the Chamber. I know that he, as a veteran investigator, realizes the importance of the point I am making. As I understand the practice of the Committee on the Judiciary, only the chairman and the ranking minority member ordinarily look at material designated as confidential. It is seldom that other Senators who are members of the committee look at such material, and committee staff people are precluded altogether.

This amendment would recognize a right on the part of members of the committee to have access to such files. But it would specify precisely which staff members of the distinguished Senator from North Carolina want additional amendment. Mr. ERVIN. I want to suggest a change in it. Under the Senator’s amendment, and I think I had it pretty tight before —

Mr. GRIFFIN. Yes, the Senator improved it.

Mr. ERVIN. But I think I improved 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. GRIFFIN. When authorized by the chairman or the ranking member.

Mr. ERVIN. We would have investigatory powers of those people who might have served in the FBI who should be able to see the matters in the second 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 investigative 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 require both the chairman and the ranking 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 provide for that.

Mr. GRIFFIN. Unless I hear some objection from this side of the aisle, I am inclined to accept that modification. I would strengthen the language of the Senator in the committee to be and whoever is appointed to be the ranking minority member to exercise this responsibility with great care. I would limit 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 amendment by striking out everything after the word ‘committee’ on line 19, page 11, through and including line 11 on page 11, and insert in lieu thereof the following: “Chief majority 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. Would the Senator send that language to the desk, please?

Does the Senator from Michigan accept the modification?

Mr. GRIFFIN. I accept the modification.

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 “committee,” strike all through the word “member” on line 21 and insert in lieu thereof: “Chief majority counsel, minority counsel, or any of its investigative assistants jointly designated by the Chairman and the ranking minority member.”

The PRESIDING OFFICER. The question now is on agreeing to the amendment, as modified. (Putting the question.)

The amendment, as modified, was agreed to.

Mr. HELMS. Mr. President, the distinguished senior Senator from North Carolina (Mr. ERVIN), has presented a proposal which, in other times and other places, might be discussed with more objectivity and greater purpose than at present. He has presented his analysis with a great deal of force and supported it with his arguments in that connection. However, I regret that he has rejected, one after another, suggestions made to improve upon his original proposal and perfect its mechanism.

If the investigation which the Senator desires does not have the utmost appearance of impartiality and objectivity, then it will not gain the trust of the American people. It goes without saying that partisanship is at the very heart of the original problem. One of our major political parties stands accused of interfering with the privacy of our other major political party. Seven minor figures have been indicted and found guilty by our courts; two are seeking to appeal. The end of the case is not yet in sight.

It is not surprising that feelings are running high.

It is all the more important, therefore, that the investigation be conducted in an atmosphere that inspires confidence and betrays no suspicion that less than the truth has been found. I am disappointed that my colleagues have rejected the suggestion that both major political parties be equally represented in this investigation. Such a rejection will only fuel the fires of those who are charging that this investigation is only a year-long fishing expedition designed to placate as possible, gathering everything and everybody in the net. My distinguished colleagues—and he knows of my great personal and professional respect for him—has often been on the floor of the Senate defending the civil rights of persons whose rightful privacy has been intruded upon. I know that he will be among the first to come to the floor if such a sweeping investigation as this, cruelly brought the names of the innocent in association with the names of the guilty.

I am further dismayed that the cost of this investigation, under these circumstances, will be $500,000. If the subject were one which was of controversy, if new evidence tended to indicate that much more would be unearthed, if there were any hope at all that a definitive resolution would be found, a half million dollars might be a price worth paying. Yet there is no evidence worth considering.

The Watergate situation has received the closest and most penetrating scrutiny of any story in modern journalism. A grand jury has made a thorough investigation and returned indictments. A trial was held in the D.C. District Court in which five defendants pleaded guilty and two others were convicted after an extensive trial. The trial judge himself went beyond the bounds of an adversary proceeding and interrogated the defendants themselves before he satisfied himself that there were no others involved in the crimes.

The FBI and the Justice Department made a thorough investigation of their own. Our distinguished colleague from the House of Representatives, the Honorable Waterway Patman, made a staff investigation through his House Banking and Currency Committee.
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.

Mr. STENNIS. I understand the Senator from Mississippi had to reschedule hearings for another year.

If there are matters that need to be pursued further, then they ought to be looked into by the full Judiciary Committee. I know that the Judiciary Committee has a full calendar of proposals; but if there are overwhelming problems yet to be resolved in the Watergate affair, then I know that the public would have far more confidence in a normal standing committee balanced by the regular political process.

Moreover, this body has also established a Permanent Investigating Subcommittee of the Government Operations Committee which could perhaps eventually handle many of these matters. Encouragement could also be given to the Judiciary Committee's Administrative Subcommittee and Fiscal and Appropriations Subcommittee to look further into those matters in its jurisdiction.

Mr. President, I dislike seeing a half-million dollars of the taxpayers' money spent on another investigating mechanism, adding to the Senate's own bureaucracy; when the job could, in my judgment, be done by existing personnel and facilities already available to this body.

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

If there be no further amendment to be proposed, the question is on agreeing to the resolution, as amended.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. Mr. President, I want to inform the Senator from Mississippi (Mr. BAYH), the Senator from Nebraska (Mr. BINKLEY), the Senators from Nevada (Mr. BILLIPE and Mr. CANNON), the Senator from North Carolina (Mr. COCHRAN), the Senator from Ohio (Mr. ECKSTADT), the Senator from South Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. FORD), and the Senator from Vermont (Mr. STENNIS) that the motion for the adoption of the report is in order.

I further announce the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. GOLDBERGER), the Senator from Oregon (Mr. PUCKETT), the Senator from Massachusetts (Mr. STERN), and the Senator from South Carolina (Mr. THURMOND) are absent in official business.

The Senator from Alaska (Mr. STEVENS) is delayed on official business.

If present and voting, the Senator from Massachusetts (Mr. BOOKE), the Senator from Arizona (Mr. GOLDBERGER), the Senator from Alaska (Mr. STEVENS) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea." The result was announced—yeas 77, nays 0, as follows:

[No. 16 Leg.]

YEAS—77

Abourezk  Ervin  McGee
Allen    Glenn    Mc Govern
Allen    Fannin  McNamara
Baker    Gravel  McIntosh
Bartlett  Gilman  Muskie
Beall    Gurney  Nelson
Bellino  Hart  Nixon
Benett  Harck  Nunn
Bennett  Hartke  Pallone
Boren  Hartshorn  Pastore
Boren  Hatcher  Patricelli
Browne  Hartfield  Perry
Buckley  Hefner  Piersall
Burdick  Helms  Randolph
Byrd    Helms  Roth
Byrd, Jr.  Hendzel  Roth
Byrd, Robert C.  Huddleston  Roth
Chase    Hess    Rostenkowski
Chiles    Humphrey    Rothberg
Clark    Inouye  Rothman
Cook    Jackson  Rowland
Cotter  Javits  Rumsfeld
Coton  Kennedy  Ruskin
Curts  Long  Ryan
Dole    Lott  Ryun
Domenici  McClellan  Samford
Eagleton  McClure  Sandlin
NAYs—9

Bayh    Goldwater  Sabin
Byrd    Johnston  Safford
Brooks  Jordan  Saxbe
Brock  Jordan  Saxbe
Brock  Jordan  Saxbe
Cannon  Mathias  Saxbe
Church  Mathias  Saxbe
Dobitz  Monnett  Saxbe
Douglas  Monnett  Saxbe
Douglas  Monnett  Saxbe
Fong    Pearson  Simon
So the resolution (S. Res. 60), as amended, was agreed to, as follows:

S. Res. 60

Resolved, Section 1. (a) 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 canvas 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, to determine whether in its judgment any occurrences which may be revealed by the investigation constitute the necessity or desirability of the enactment of new congressional legislation to safeguard the electoral process and prevent the President of the United States from being chosen.

(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 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 this section, "majority" shall mean the majority 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 to him by the select committee or the chairman. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the select committee shall constitute a quorum for the transaction of business, but the select committee may fix a lesser number as a quorum for the purpose of taking testimony or depositions.

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 any authority conferred upon the select committee by the preceding sentence, the Senate from time to time authorizes and directs the select committee to make a complete investigation and study of the activities of any one or 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 bugging of the headquarters 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 in the headquarters or offices of the Democratic National Committee in the Watergate Building in Washington, District of Columbia;

(3) Whether or not any printed or typed or written document or paper or other material of any kind, 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 organization of any report or information concerning the activities mentioned in this section or any section of this Act.

SEC. 3. (a) Section 1 of this Act may be amended or repealed by a vote of three-fifths of the Members of the Senate. Any amendments or repeals of this section shall be reported to the plenary Senate by the select committee created pursuant to this section.
March 1973

CONGRESSIONAL RECORD - SENATE

February 7, 1973

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

(See exhibit 1.)

Mr. HARRELL. 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 legal 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, via A. H. Laughlin, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 1203, title 12, Public Law 91-462, the Speaker appointed Mr. KASTENMEYER, Mr. EDWARDS of California, Mr. HUTCHINSON, 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 91-405, the Speaker had appointed Mr. WILSON, 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 PRESIDENT 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 PRESIDENT 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 operation of the Federal Aviation Administration.

I have made a statement for the Congressional Record, listing some 27 charges organized under seven categories. They have 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.

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

(See exhibit 1.)

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