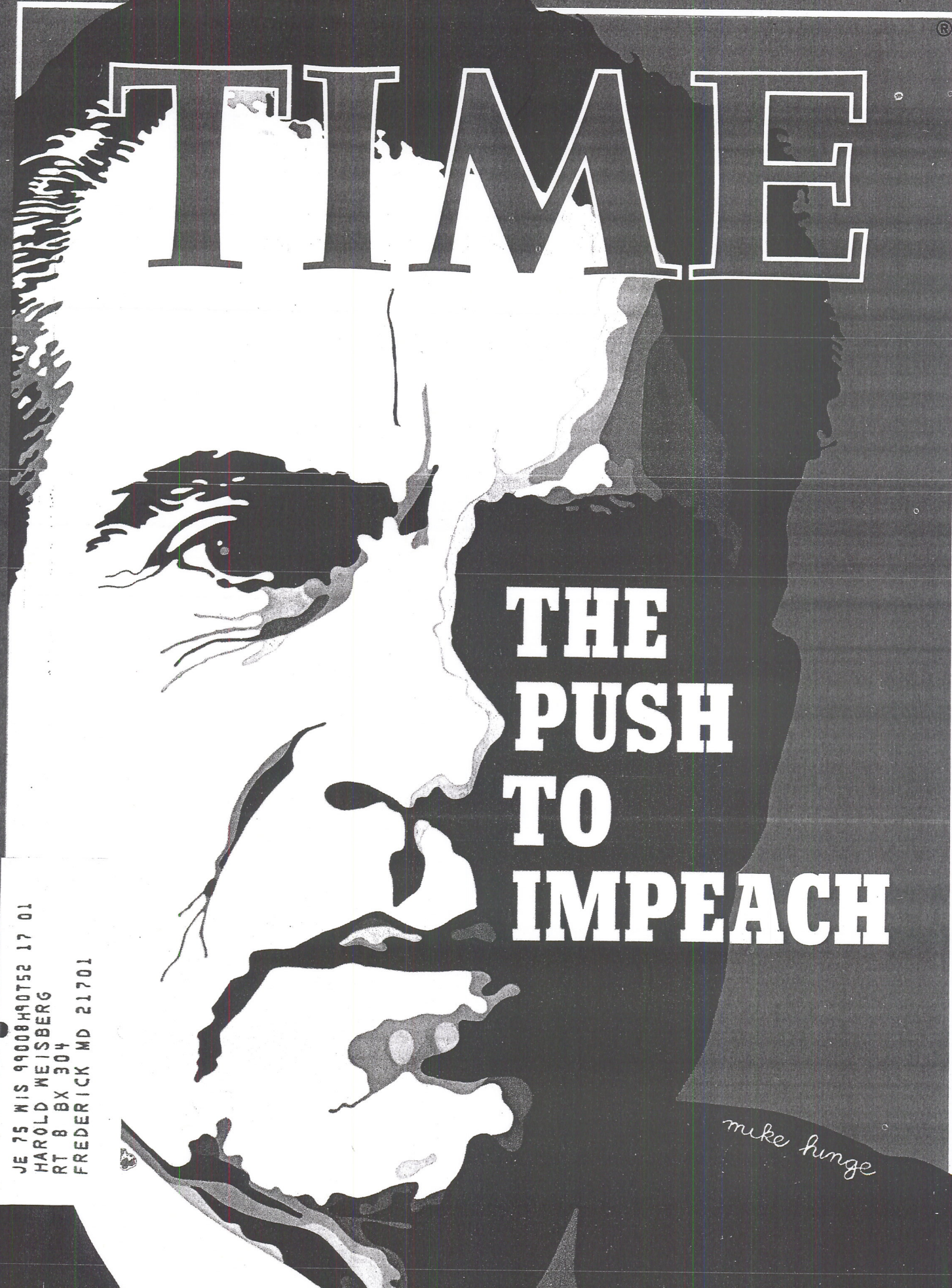


TIME

THE PUSH TO IMPEACH

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THE CRISIS/COVER STORY

Seven Tumultuous Days

In a year surfeited with surprise, in a month of successive shocks, it was by any reckoning the most tumultuous week of modern U.S. political history. Richard Nixon's survival as President was in grave doubt, and—by Nixon's account—so was the peace of the world for a few tense hours. The foreign crisis was resolved, but the unmaking of the presidency of Richard Nixon gathered such momentum as to almost ensure even more crises in the days ahead.

The week was propelled through its course by public protest against the President unprecedented in its intensity and breadth. Individual Americans demanded Richard Nixon's resignation or impeachment in 275,000 telegrams that overloaded Western Union circuits in Washington. Much of the legal profession, most of organized labor and many key religious leaders joined the assault. Nearly two dozen resolutions to at least begin impeachment proceedings were introduced in the House of Representatives. At the shocked White House, even the President's loyal chief of staff, Alexander Haig, termed the conflagration "a fire storm."

The massive denunciation was directed at the President's abrupt dismissal of Special Watergate Prosecutor Archibald Cox and the resultant departures on principle of two of the scandal-ridden Administration's untainted remaining officials, Attorney General Elliot Richardson and Deputy Attorney General William French Smith. It was aimed too at Nixon's original refusal to turn over tapes and documents of his Watergate-related communications as ordered by a U.S. court of appeals.

Fixed Smile. Buckling under the massive pressure, the President once again abandoned a position that he had repeatedly proclaimed as inviolate, dramatically agreeing to yield up his long-guarded tapes. Once again turning about, he announced that a new special prosecutor would be appointed. He seemed almost eager to seize on a new crisis in the Middle East to claim his indispensability and strength, but such was the low state of his credibility that an emotional and unfortunate controversy erupted over whether he had ordered a global alert of all U.S. military units at least in part to divert attention from his own grave problems.

Striding with a fixed smile into a solemn gathering of newsmen, Nixon confronted television cameras and declared that he had been the victim of reporting that he assailed variously as "outrageous, vicious, distorted, frantic and hysterical" (see *Hugh Sidey on the press*

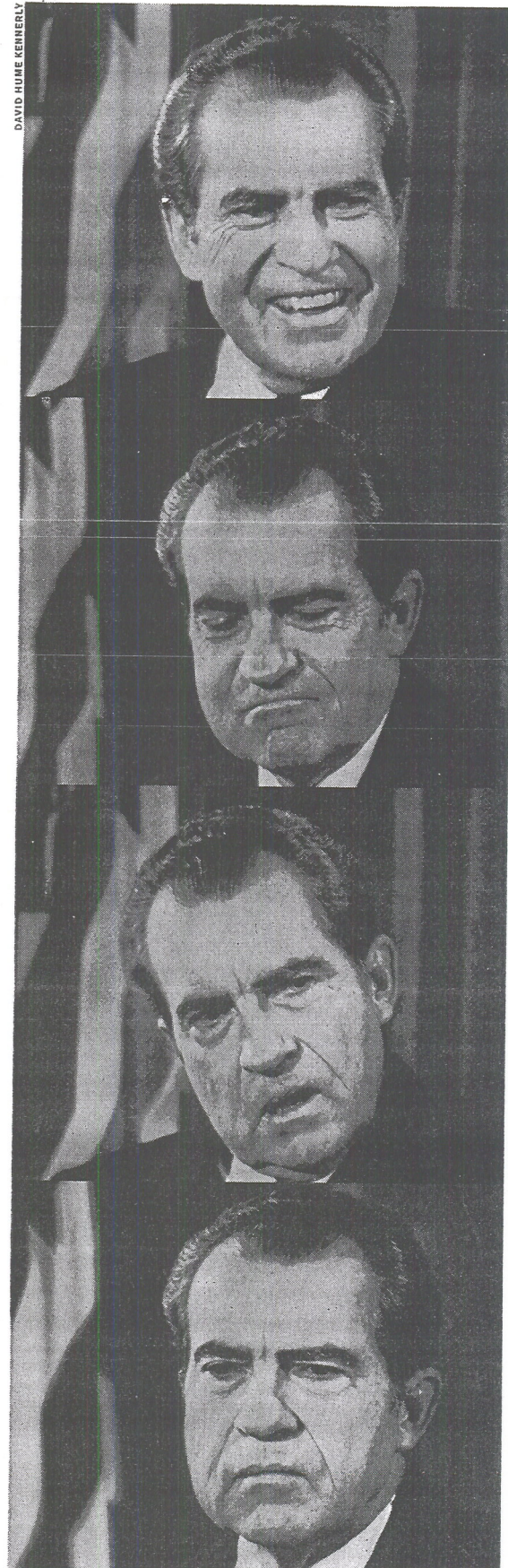
conference, page 23). Perspiring and barely containing his anger at times, Nixon insisted that "the tougher it gets, the cooler I get." The recent scandal-inspired shocks that have so jolted the nation "will not affect me and my doing my job," he said. He had been through so much controversy ("it has been my lot") that "when I have to face an international crisis, I've got what it takes." He vowed that "as long as I can carry out that kind of responsibility, I'm going to continue to do this job." With dozens of reporters still shouting "Mr. President!" Nixon abruptly left the podium.

Although the flood of protest telegrams hardly abated after the announcement that Nixon would hand over the tapes, this move plus the President's emphasis on international crisis might help slow his slide in public esteem. It was hard to see how it could be reversed. Perhaps irrevocably, he seemed to have moved past the limit of what vast segments of the nation will tolerate in its President. The overworked tactic of blaming the press could not obscure the fact that much of the public perceived Nixon's decapitation of Cox and the Justice Department (widely called "the Saturday Night Massacre") as an attack on justice and the rule of law in the U.S.

Disastrous Week. Nixon's unilateral "compromise" plan of the week before to surrender only summaries of the subpoenaed tapes, verified by Mississippi Senator John Stennis, was generally seen as an attempt to evade the courts' more demanding order. But for the public outcry, Nixon was prepared to cling to that plan, and had he done so, he almost certainly would have been declared in contempt of court by Federal Judge John J. Sirica and, as a result, impeached. In a sense, the public outrage may have helped save Nixon from himself in the tapes case.

Nixon's announcement at his press conference—again a result of irresistible pressure—that he would let Acting Attorney General Robert Bork appoint a new special Watergate prosecutor was not reassuring. In declaring flatly that the new man, yet to be named, would never be given any "presidential documents," but only "information" from such documents, Nixon seemed to give him even less authority than Cox had been promised. Cox had been assured—falsely, as it turned out—that he could have access to any evidence he requested "from any source."

Moreover, there was no assurance that the new prosecutor could not be fired by Nixon if he pushed too hard for evidence that the President did not

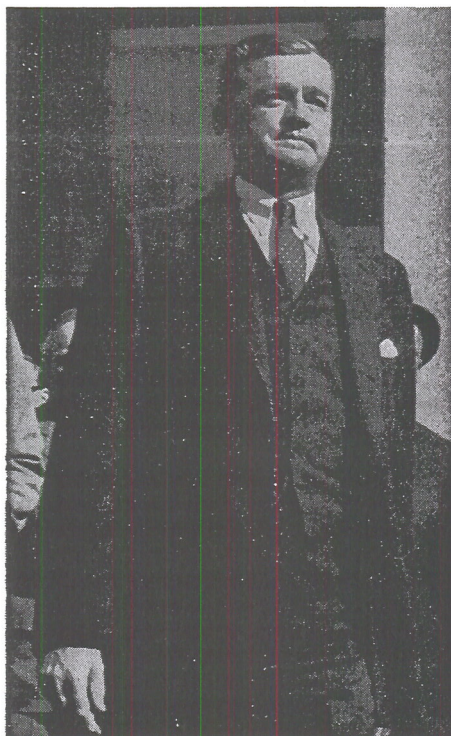


NIXON AT PRESS CONFERENCE
An abrupt departure.



DENNIS BRACK—BLACK STAR

RICHARDSON AT PRESS CONFERENCE



RICHARD THOMAS

WRIGHT AFTER COURT SESSION



DAVID HUME KENNEDY

KISSINGER EXPLAINING CRISIS ALERT
Concealing a sense of insult.

want to reveal. Even more than the objectionable Stennis proposal on the tapes, it had been Nixon's direct order to Cox to stop seeking more tapes and presidential documents in court that led to the Justice Department resignations.

What the President still seemed unable to comprehend in all of these maneuvers was the gravity of his predicament, especially in the Congress, which holds his political future in its hands. Sensing a fateful new determination on Capitol Hill, TIME Veteran Congressional Correspondent Neil MacNeil reported last week: "The blunders of the President have absolutely altered the Congress. What is seen as the arrogance and disregard for law on the President's part have stiffened the members of the House and Senate—Republican as well as Democratic—in a firm resolve simply not to tolerate what he has done."

The push to impeach is firmly under way in the House of Representatives, and the measured and deliberate way that it is being conducted is all the more ominous for Nixon. Leaders of the Democratic majority are determined that the inquiry will be unhurried, cautious and complete, both to ensure its fairness and to provide ample time at each stage to educate the American people on what is being done.

The impeachment proceedings are being conducted by the Judiciary Committee, headed by New Jersey's Peter Rodino Jr. Already he has started canvassing law-school deans for recommendations on the most able and nonpartisan lawyer available to head the investigating staff and conduct impeachment hearings. Rodino has been guaranteed by the House leadership all of the staff and financing he needs. Steps will also be taken to give him full power to subpoena any witness and evidence he wants.

While congressional Republicans were understandably less committed to an all-out impeachment inquiry, the disenchantment with Nixon in G.O.P. ranks was extensive, augmented by the outpouring of anti-Nixon mail that the Republicans were receiving in a volume that astonished them. Only a majority vote is required in the House to bring the impeachment charges—the equivalent of an indictment. The charges would then be tried in the Senate, acting as the equivalent of a jury. The complex procedure requires a two-thirds vote in the Senate to remove the President from office.

Throughout the disastrous week, Nixon merely reacted to these historic events rather than controlled them. For the nation, the events constituted an incredible, frightening, novelesque seven days in October.

Outside the ousted special prosecutor's office, where Watergate criminal files were guarded by FBI agents at the time, Consumer Activist Ralph Nader posed near a protest sign: SAVE THE PEOPLE'S EVIDENCE FROM THE BURGLAR-IN-CHIEF. From the pulpit of the Cathedral Church of St. John the Divine in Manhattan, Paul Moore Jr., liberal Episcopal Bishop of New York, said that he was "stunned by the arrogance of power displayed by the President." Consulting by telephone, the deans of 17 law schools agreed on a statement to Congress claiming that there was evidence that "associates of the President, and possibly the President himself, have engaged in a deliberate effort to obstruct justice." Congress, the deans wrote, should set up a Watergate prosecutor completely independent of the Execu-

SUNDAY, OCTOBER 21

News of Nixon's reckless dismissal of Cox, the resignation of Richardson, the firing of Ruckelshaus and the President's refusal either to comply immediately with the order to produce his tapes or appeal to the Supreme Court created massive headlines in Sunday newspapers. The previous night, the television networks had carried special programs on the events and reported heavy and irate telephone response to what Nixon had done. Millions, too, had been moved by the previous day's televised objections to Nixon's tapes decrees by the deceptively mild-mannered Cox. Public anger was rising.

The depth of feeling was not yet appreciated in the White House. Nixon's aides continued to assure him that the crisis was under control. His domestic affairs adviser, Melvin Laird, appeared soothingly on *Meet the Press* to predict that there would be no serious impeachment moves. The President's tapes compromise, he said blandly, was "a tremendous victory" for Cox, but the prosecutor had demanded "total surrender."

This coincided with the claim to newsmen by other White House aides that it was Cox who had caused all the trouble, not Nixon. By refusing to accept the Nixon plan or bow to Nixon's restrictions against further pursuit of the tapes, the line went, Cox had made his firing mandatory. Actually, these aides had been almost certain that Cox would balk but hoped that he would resign quietly. Nixon, in fact, had been fed up with Cox for a long time; he was too independent and was pushing too hard for evidence of any crimes committed by Nixon officials (see story page 23).

Away for the Veterans Day weekend, many members of Congress were outraged but wanted to talk to their colleagues before deciding what steps to take. Yet the mood was typified by Democratic Senator Robert C. Byrd, a conservative from West Virginia. "I'm profoundly shocked," he declared. "The President has defied the courts, defied Congress . . . This sounds like a Brown-shirt operation 30 years ago; these are Gestapo tactics."

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ON ALERT: TRUCKS & TROOPS AT FORT BRAGG, N.C.; PLANES AT ELLINGTON AIR FORCE BASE, TEXAS

Was the Alert Scare Necessary?

No sooner had Richard Nixon put 2,000,000 U.S. servicemen round the world on stand-by alert than many Americans were asking whether the war scare was really necessary. Undoubtedly, most previous Presidents would have received wholehearted public backing, at least initially; as Secretary of State Henry Kissinger said, it was a symptom of the times that Nixon did not. Instead, the suspicion arose that the President had overreacted to Soviet tough talk, either because his Watergate woes had impaired his judgment or because he wanted to divert public attention from them with a show of brinkmanship.

Without releasing much solid evidence, the Administration tried to squelch such notions, insisting that the Soviets had been on the verge of sending troops to the Middle East. Defense Secretary James Schlesinger reported that U.S. officials had been watching Soviet moves with increasing misgivings. The Russians had built up their naval forces in the Mediterranean from 60 to 85 ships since the war began, put about 50,000 airborne troops on "comprehensive alert," and mobilized two mechanized divisions near the Black Sea. They then abruptly ended their supply flights to Egypt, leading U.S. analysts to fear that the transports had been called home to be used to move Soviet troops into the Middle East.

More directly, Soviet Party Chief Leonid Brezhnev had sent Nixon a note that was described as "brutal" by Senator Henry ("Scoop") Jackson of Washington and by the President as a message that "left very little to the imagination as to what he intended."

The note was kept secret, but TIME has learned that, instead of beginning in the usual diplomatic salutation "Dear Mr. President," it started out with a harsher "Mr. Nixon." It also threatened the "destruction of the state of Israel" by Soviet forces if Israel did not stop violating the cease-fire (*see* THE WORLD). One member of the Johnson Administration recalled that the Russians made similarly harsh threats toward the end of the 1967 Arab-Israeli war; Johnson correctly decided that they never intended to act and ignored them.

The discrepancy in the accounts as to when the alert was signaled added to the doubts. Secretary Kissinger said that it came at 3 a.m.; the Pentagon claimed that the time was more like midnight. The sequence gave rise to suspicions among some that Nixon might have decided on the alert, then presented it to the council to be ratified.*

Even Schlesinger's evidence of Soviet military preparations left some intelligence experts unconvinced. They described it as "flimsy," "inconclusive" and "not materially different from what was going on throughout the crisis." For example, they said that the Soviet airborne units had been on and off alert ever since the end of the war's first week and that they had always had their own aircraft for transport.

The puzzle of Kissinger's somber

*Last week's alert was what the Pentagon calls "Defcon 3" for Defense Condition Three, in which troops report to barracks for possible movement and stand by for action. Under Defcon 2 they would proceed to staging areas. In Defcon 1 they would be deployed and engaged.

press conference also remained. He described the U.S.-Russian confrontation as one that could still go either way. Yet Nixon in his press conference left the impression that he and Brezhnev had resolved the crisis during the night before Kissinger's appearance. In fact, soon after Kissinger had finished outlining the reasons for the U.S. alert, the Soviets approved a Security Council resolution for a U.N. force to police the cease-fire. Thus, Kissinger could be accused of being unduly alarmist in his televised appearance, if indeed he knew by then that the Russians had agreed to back down.

A final complexity was added when Brezhnev intimated in a Moscow speech that the Administration had been spreading "fantastic rumors." Brezhnev's suggestion does not settle the matter, of course; Americans are not yet ready to accept the word of a Russian leader over an American President, no matter how much credibility Nixon has lost. It is very difficult for anyone without direct knowledge and responsibility in a crisis to judge those charged with the national defense.

But the question that can properly be asked is whether a worldwide alert, with all the inevitable anxieties that attended it, was necessary. In view of the Brezhnev letter, obviously some response seemed called for. While Lyndon Johnson got away with calling the Soviet bluff, Nixon might not have. And Nixon's policy did work, in the sense that the Russians did not send troops to the Middle East. That pragmatic measure does not, however, rule out the possibility that perhaps some less dramatic action might have ended the crisis, particularly if Brezhnev and Nixon understand each other as well as the President insists they do.

tive Branch. If the President would not cooperate with him, impeachment should be considered.

Nixon watched the Washington Redskins defeat the St. Louis Cardinals on television and telephoned his congratulations to Coach George Allen. If he had listened closely, Nixon could have heard automobile horns honking outside the White House in response to the signs of protesters: HONK FOR IMPEACHMENT.

MONDAY, OCTOBER 22

The outcry grew louder. Standing, shouting and cheering, some 1,600 representatives to the AFL-CIO convention in Miami Beach unanimously approved a resolution calling upon Nixon to resign and urging the House to impeach him "forthwith" if he did not. Democratic Senator Daniel Inouye, a member of the Senate Watergate committee, told the convention: "Like many of you, I have sadly concluded that President

Nixon can no longer effectively lead our country." He said that the President should resign.

Returning to Capitol Hill despite the holiday, key Democratic House leaders huddled with Speaker Carl Albert, currently the presidential successor. Among the strategists were John McFall, the Democratic whip, and Judiciary Chairman Rodino. The floor leader, Thomas P. ("Tip") O'Neill, was consulted at his home in Massachusetts. All were aware

WELL, FIRST LET ME EMPHASIZE MY COMPLETE FAITH IN JUDGE SIRICA (PAUSE) A GREAT JURIST (CLICK).... WHY, GOOD MORNING, BEBE (PAUSE) I WAS JUST SITTING HERE THINKING WHAT A (CLICK) GREAT GUY (CLICK) THAT OLD (CLICK) JUDGE SIRICA IS (CLICK) (PAUSE).... ER, WHY YES, RICHARD, A WONDERFUL HUMAN BEING, I ALWAYS SAID (PAUSE)....

DENVER POST



O'NEILL
THE DENVER POST
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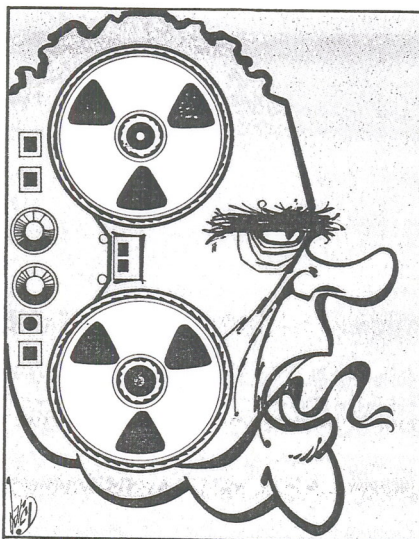
that impeachment resolutions would be introduced the next day, and they feared a flood of sentiment for an immediate vote. Such a vote might backfire politically and quite probably would fail.

Unless there were quick parliamentary countermeasures, any member could force an impeachment vote by taking the floor to declare: "Mr. Speaker, I rise to a question of constitutional privilege . . . I impeach Richard M. Nixon, President of the United States, for high crimes and misdemeanors. I specify the following charges . . ." O'Neill and McFall decided to monitor the floor, ready to demand immediate referral of any such motion to the Judiciary Committee. Thus it was eventually decided that the Judiciary Committee would control all impeachment proceedings; any move to create a special impeachment committee would be resisted, since the partisan struggle to select the members could touch off a political hassle.

President Nixon asked Elliot Richardson to stop by the White House. The former Attorney General had announced that he would hold a farewell press conference the next day, and Nixon wanted to explore what he intended to say. He suggested that Richardson might emphasize the integrity of the new man in charge of the Watergate investigation, Henry Petersen, head of the Criminal Division of the Justice Department. White House aides hinted that Richardson might have some warm words for the President. Nixon left for Camp David to spend the first of several nights away from Washington.

TUESDAY, OCTOBER 23

Telegrams, letters and telephone calls continued to inundate congressional offices and the White House. Democratic Senator John Tunney said that he had counted 1,299 telegrams for impeachment, just one against. Republican Senator Barry Goldwater reported that he had received 279 telegrams for impeachment, six against. The White House, which has always been quick with counts of pro-Nixon support, said that it had not tabulated the sentiment for or against him.



"Simple, I fired Cox because he wanted me to give up the tapes that I'll now give up because I fired Cox!"

The understandable reluctance to consider impeachment suddenly faded on the House floor. No fewer than 24 resolutions, enlisting more than 100 sponsors, called for either impeachment or preliminary inquiries. No one, however, took the drastic "I impeach" step; all the resolutions were routinely routed to the Judiciary Committee as planned. Typical of the harsh explanatory speeches was that of California Democrat Jerome Waldie, who said: "The President's incredible and bizarre actions this last weekend have culminated a long pattern of pure and unmistakable obstruction of justice. His arrogance and lawless activity can no longer be tolerated." A Republican, Connecticut's Stewart McKinney, argued that "a cloud hangs over the very beliefs that this building stands for. If we, as the representatives of the people, allow that cloud to remain, I seriously question the future of our nation as we love and know it."

Finally getting the message, the White House dispatched two aides, Bryce Harlow and Bill Timmons, to talk to Republican House leaders. Minority Leader Gerald Ford, who had been

nominated to succeed the convicted Spiro Agnew as Vice President, conveyed the fact that most Republican Congressmen were "disturbed," particularly about the President's failure to release his tapes. They frankly could not "go to the wall" for Nixon against impeachment if he clung to his tapes. Ford made no objection to sending all impeachment motions to the Judiciary Committee. At a later meeting, House G.O.P. leaders also told White House aides that a new special prosecutor must be appointed.

Nixon could hardly have been pleased when Richardson held his planned press conference and received an ovation from his former Justice Department colleagues. With urbane diplomacy, Richardson declared: "I strongly believe in the general purposes and pri-

WASHINGTON POST



"Look—nice tapes—okay, boy?—Okay?"



"And now for the latest stunning development..."

orities of this Administration." But he shattered White House claims that Cox alone had arrogantly scuttled Nixon's tapes compromise. Richardson said that if he had been in the prosecutor's position, he too would have refused to comply with the President's orders. At stake, said Richardson, was "the very integrity of the governmental processes I came to the Department of Justice to help restore."

There was more bad news for Nixon in the charge by Judge Sirica to the two grand juries considering many Watergate-related indictments. Solemnly, Sirica told the jurors that "the grand juries of which you serve remain operative and intact. . . . You are not dismissed and will not be dismissed except as provided by law." Although he did not mention it to the jurors, Sirica had already received a four-page White House memo urging him to accept the "Stennis compromise" and had been gathering legal research for a probable contempt citation against the President.

When Nixon heard from Harlow that House Republican leaders were insisting that he turn over the tapes and appoint a new prosecutor, he summoned Haig and two of his counsel, J. Fred Buzhardt and Len Garment, to the Oval Office. The discussion, said Haig, was "very painful and anguishing." Confronted with the enormous public demand for impeachment, the President reversed field. He told Buzhardt to instruct Nixon's top tapes counsel, University of Texas Law Professor Charles Alan Wright, to inform Judge Sirica that he would comply with the judge's decision and turn over the tapes.

Wright, who was preparing to argue the Stennis compromise before Sirica at noon, was astonished. Nixon was surrendering in a battle he had waged for three months, causing the wear and tear of national controversy plus immense injury to his own reputation as one who wanted the full truth of Watergate exposed.

It was only 45 minutes before court time when Wright reviewed this turn-about announcement with Nixon in the Oval Office. No word of the switch had leaked out when Wright sat down quietly in Sirica's crowded courtroom at 2 p.m. At a table opposite him were eleven lawyers from the ousted Cox staff, apparently prepared to argue against the Stennis plan. Sirica entered, read tediously for 15 minutes from his original order demanding the tapes, and from the sustaining appeals court decision. Then he put down his papers and asked Wright: "Are counsel prepared at this time to file the response of the President to the modified order of the court?"

The courtroom was hushed. Everyone expected Wright to present the Nixon alternative plan—and everyone expected Sirica to reject it. Said Wright slowly: "I am not prepared at this time to file a response. I am, however, authorized to say that the President of the United States would comply in all re-

Could the President's Tapes Be Altered?

Since President Nixon agreed to hand over the Watergate tapes, a consuming question in Washington has been whether tapes can be altered without detection. The answer is a qualified yes. The right man with enough time and with access to the original tape recorder could, in the opinion of audio experts, make substantial changes that would defy detection.

There is no reason to assume that the Watergate tapes have been tampered with; that would be a major undertaking. Most experts believe that the necessary know-how could not be found in the U.S. Government, not even among the engineers of the Army Strategic Communications Command. Such skills are scarce even outside Government. Estimates of the number of people able to accomplish the task range from half a dozen to 1,000. Moreover, not even a qualified man with the nerve and skill of the Jackal would be enough. He would also have to be willing to leave himself open to criminal charges of tampering with evidence. "Whoever would do that would have to be crazy," says Mortimer Goldberg, technical operations supervisor at CBS Radio. In an Administration where apparently no skulduggery has been safe from exposure, it is more than likely that sooner or later the man's name would be leaked.

All an expert would need in the way of equipment to alter tapes would be a recording studio, two to four quality tape recorders, a variety of auxiliary gadgets and perhaps an echo chamber. First he would listen to the tape over and over again until he felt at home with the speech patterns—voice modulation as well as breathing space. When he was satisfied that he knew the voices as well as his own, he would do the easy part first—simply cutting out certain words or sentences with a razor blade and splicing the tapes together. This would probably constitute the bulk of his work. From there he would move on to the more complicated tasks: rearranging passages, constructing new words out of word fragments.

Once the tape was recomposed, he would have to make sure that it flowed smoothly from beginning to end, with no telltale shift in tone of voice. Inflections can now be modified with a device known as a variable-speed constant-pitch tape recorder. "When we increased the speed in the past," says Goldberg, "we increased the pitch too. The voice sounded like Donald Duck's. Now we can pick up or slow down without changing the pitch." Background noise can be simulated by playing a second tape behind the voice tape. Thus, if in the original tapes, doors are slamming, buzzers buzzing, asthmatics wheezing or pipes clinking against ashtrays, all of these sounds can be per-

fectly duplicated. Such background noises can be used to blur over any foreign sounds caused during the editing of a tape. Says Goldberg: "This kind of masking covers a multitude of sins."

When the tape is completed, it is recorded on another, unspliced tape. This is done on the original machine, since each recorder leaves its particular markings on tapes. As exacting as open-heart surgery, the process of altering a tape is extremely time-consuming. It may take as long as an hour to change a word; to alter a one-hour tape could consume a full day. The result of all this fastidious enterprise can be startling. A record is available of one of Nixon's speeches defending his role in Watergate; on the flip side is a doctored version of the speech in which Nixon confesses that he was to blame for Watergate. Same speech, same words—only differently arranged.

Aware of these doctoring techniques, Judge John J. Sirica has indicated that he would like experts to examine the Watergate tapes. But there is a problem; anyone who listens to the tapes will learn what is on them—a breach of confidentiality. Under the U.S. Court of Appeals order, only Sirica is supposed to hear the tapes initially. Even if Sirica wins authorization to have the tapes examined, the fact remains that the technology of detection is not so far advanced as the technology of deception.* The detector must rely on an oscilloscope, which translates electrical impulses of sound into visual patterns—green wavy lines—on a screen. These patterns are altered by erasures or breaks in a tape. But a skillful masking job does not interrupt the pattern and leaves the impression that no editing has been done.

Though some audio experts believe that they can uncover almost any kind of tampering, the hard evidence seems to dispute this. Last August the Canadian Broadcasting Corp. put on a radio show in which nine audio specialists were asked to identify parts of a tape that had been doctored. They were unable to detect 90% of the edits—but reported finding numerous nonexistent changes. Producer Max Allen explained: "In a speech by Roy Cohn [Joe McCarthy's onetime protégé], they said they had looked at their oscilloscopes and swore they saw edits. But it was just Cohn's pattern of speech, which sounded naturally as if it had been edited." At the program's end, all the participants agreed that they would never be willing to testify in court on whether a tape had been doctored or not.

*Sirica will have no difficulty identifying the voices on the tapes, since the White House is supplying him with a log indicating the participants at each of the meetings, which were usually attended by only a few persons.

spects with the order of August 29th as modified by the order of the court of appeals." He paused to let the meaning be absorbed, then continued: "It will require some time, as Your Honor realizes, to put these materials together, to do the indexing and itemizing as the court of appeals calls for."

Obviously surprised, but calm, Sirica interrupted: "As I understand your statement, that will be delivered to this court?" Replied Wright: "To the court, *in camera*."

Reporters stood to rush for telephones. Sirica ordered them to sit down. Still seeming suspicious, he asked: "You will follow the decisions or statements delineated by me?" Said Wright: "We will comply in all respects with what Your Honor has just read." Moments later, Wright added: "This President does not defy the law, and he has authorized me to say he will comply in full with the orders of the court." The

judge smiled broadly. "Mr. Wright," he said, "the court is very happy the President has reached this decision."

This turnover of tapes, White House aides revealed, meant that the earlier offer to provide summaries of presidential tapes through Stennis to the Senate Watergate committee was dead. Senator Sam Ervin, who had come to realize that he had been lured into accepting the plan by a presidential plea to end the controversy because of the Middle East crisis, had been trying to get out of the plan and was not displeased.

Some of Ervin's associates contended that the committee's vice chairman, Senator Howard Baker, had helped mislead the chairman. Baker discussed the plan with Nixon's aides for an hour before Ervin agreed to it under presidential pressure, and Baker clearly had a better understanding of its larger impact on Cox and the criminal cases. Rufus Edmisten, deputy counsel to the Ervin

committee, felt that the White House had taken advantage of Ervin's "good faith." Said Edmisten: "He's always operated that way; he assumes everyone else does too."

Announcing that he would make a speech on the affair the next night, Nixon again went to Camp David.

WEDNESDAY, OCTOBER 24

The Nixon staff, confident that the willingness to release the tapes had taken the steam out of the impeachment drive, was dismayed to find that criticism of the President continued. The drastic reversals in policy by Nixon even seemed to worry some critics anew. In a particularly unkind cut, AFL-CIO President George Meany not only said that his union still wanted Nixon out of office, but added: "The events of the last several days prove the dangerous emotional instability of the President." The White House felt obliged to dignify this with a reply. Deputy Press Secretary Gerald Warren called it one of "the most incredible, inexcusable and irresponsible statements ever made by anyone who is in a position to have his comments and remarks carried in the national news media."

Despite the settlement with Sirica, the number of telegrams had soared past 220,000; White House officials reported receiving "mountains" of messages. The Senate Watergate committee had counted 8,000, only ten favoring the firing of Cox. The special prosecutor's former office got 10,000. Senator Tunney's tabulation had passed 8,000, while Senator Goldwater said that even after the tapes reversal the ratio of protests was running 80 to 1 against Nixon.

As the possibility of impeachment loomed more seriously, the fate of Ford's nomination as Vice President became more urgent. Rodino said that the Democratic majority on the House Judiciary Committee had decided to proceed with hearings on Ford simultaneously with its impeachment inquiry. While no timetable was set, the Democratic majority wants to cushion the impact of possible impeachment by keeping the White House in Republican hands and assuring the continuation of Nixon's general foreign and domestic policies. Ford's elevation also would avert a bitter partisan fight over succession; Speaker Albert has no longing for the presidency. The Senate Rules Committee had also decided to move promptly on Ford, awaiting only a full background check by 70 FBI agents before setting hearings.

Rodino, the man on whom both the Ford and impeachment hearings most directly fall, is 64, a silver-haired liberal Democrat and 25-year House veteran who represents a Newark-area district with a majority of black voters. A lawyer who writes poetry and loves opera, he nevertheless is popular in a tough-talking city where politics is rough. He voted against such technological projects as the ABM and the SST. He succeeded New York's Emanuel

Bork: A Professor Caught in the Storm

Nominated last January by President Nixon to become Solicitor General in June, Robert Bork grew more and more impatient to get to Washington. He had taught at Yale Law School for more than a decade, and Washington, he told friends, was "going to be pure pleasure." It would offer "a lot of intellectual fascination." Last week was indeed a fascinating one for Bork. Having been catapulted into the position of Acting Attorney General as a result of the Cox affair, the professor who came to Washington to gain firsthand knowledge of the Supreme Court found himself at the center of a political storm. It was Bork who fired Cox on Nixon's orders, and it was Bork who was given the all but impossible job of finding a successor satisfactory to the President, the Congress and the public.

The Acting Attorney General is no stranger to controversy. In an institution dominated by liberals, Bork was proud to be known as the most conservative member of the law-school faculty. An admirer of Nixon's "remarkably organized mind," he supported the President in both the 1968 and 1972 elections and helped prepare the constitutional case for Nixon's antibusing proposals in 1972. As the Government's chief advocate in cases before the Supreme Court, Solicitor General Bork promised to follow existing policy.

Bork says that he agreed to fire Cox, after Elliot Richardson and his former deputy William Ruckelshaus refused, because "I believe a President has the right to discharge any member of the Executive branch." At first he thought that he should tender his own resignation after carrying out the order, as proof that he was not merely clearing his own way to a better job. Richardson urged



ACTING ATTORNEY-GENERAL ROBERT BORK

Bork to stay on "to keep the department running," but Bork has made it plain that he has no desire to make his arrangement permanent. The post no longer looks inviting "after the last several days," he said at a press conference last week, his spotty red beard dripping with perspiration. To underscore that feeling, Bork has remained in his Solicitor General's office and declined both the Attorney General's more sumptuous quarters and his official limousine. The professor from New Haven continues to drive himself to work in his 1968 Volvo.

Celler as judiciary chairman last January after Celler was defeated for re-election.

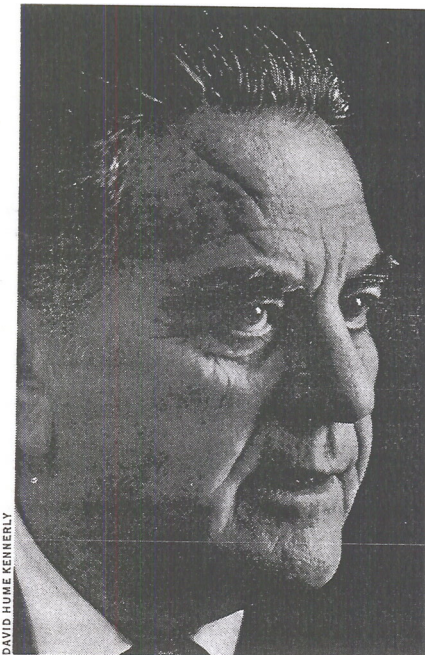
The focus of discontent with Nixon now shifted directly to the Cox firing. More than 20 resolutions were introduced in both chambers either directing Nixon to reinstate the special prosecutor's post, or directing Judge Sirica to do so, or creating the job under the authority of Congress alone. Either of the latter two moves would prevent Nixon from restricting—or firing—the prosecutor in the manner in which he handled Cox.

One bill granting authority to Sirica to appoint a prosecutor has 53 co-sponsors. Edward Kennedy's staff discovered a fascinating precedent for such authority. A bill was introduced in 1951 to allow judges to appoint "special counsel and investigators" to assist grand juries; although it died in committee, its sponsor was Senator Richard Nixon.

At the same time, the Senate Judiciary Committee scheduled public hearings on the Cox dismissal. A demand by some Democratic Senators to begin them immediately was barely averted; they are to start this week, with Cox as the first scheduled witness.

The 10,000-member Association of the Bar of the City of New York called the Cox firing "disgraceful and cynical" and urged Congress to give the appointment power to the courts, declaring: "No man can be the servant of this Administration and at the same time prosecute it for flouting the country's laws."

The White House announced that Nixon would not deliver a speech after



FEDERAL JUDGE JOHN SIRICA
The court was very happy.

all, explaining that he was too involved in the Middle East events to take the time to prepare a text. He would hold a news conference instead, and it would be scheduled for Thursday night. The President seemed to be having difficulty framing a persuasive explanation of his Justice Department revolt and tapes turnaround.

THURSDAY, OCTOBER 25

Then suddenly the critical attention directed at the President was diverted to the alarming developments in the Middle East. Overnight, the President ordered all U.S. military units through-

out the world on a stand-by alert—a move not undertaken since the Korean War. The action was taken in response to notes from Soviet leaders and "ambiguous" movements of Russian military units, all of which seemed to raise the possibility of a unilateral introduction of Soviet troops into the Middle East.

However genuine the emergency, it also provided dismaying evidence of how vast the suspicions of the President's actions have become. When Secretary of State Henry Kissinger held a televised press conference to emphasize that the U.S. action was purely a precautionary move against what the Soviet Union might do rather than anything it had done, at least three newsmen felt obliged to ask in effect whether the alert was contrived to ease Nixon's Watergate and impeachment problems at home. Barely concealing his sense of outrage and insult, Kissinger coldly replied: "There has to be a minimum of confidence that the senior officials of the American Government are not playing with the lives of the American people." Kissinger was also forced to answer a question about Nixon's personal stability in making his decision to call an alert. Kissinger's defense was that the National Security Council had unanimously recommended the action that the President took.

The unseemly debate flared widely, particularly after the Soviet Union promptly joined the U.S. to help pass a U.N. resolution sending an international peace-keeping force into the war zone. Pending release of the diplomatic exchanges between Nixon and Commu-

Presidential Election in '74?

Among the unique and troubling aspects of the nation's political crisis is that President Nixon's impeachment now would place in the White House for three long years a man who had not been elected to national office. Since the resignation of former Vice President Spiro Agnew three weeks ago, there have been two possible successors to Nixon on the scene: his Vice President-designate Gerald Ford, or, should Nixon's departure come before Ford is confirmed, House Speaker Carl Albert. An Administration headed by either could not fail to seem somehow less legitimate than one headed by one of a party's two candidates in the previous election. Last week Boston Mayor Kevin White and two Harvard scholars reached into history to propound a fascinating and seemingly workable alternative: a mid-term presidential election in 1974.

The founding fathers debated such a plan at the Constitutional Convention, and the Second Congress wrote it into law in 1792. The law remained on the books for 94 years. Under 1 U.S. Statute 240 the President pro tem of the Sen-

ate—a presiding officer chosen by majority vote—was designated to become President if the offices of both the President and Vice President should become vacant, but only "until . . . a President shall be elected." The law went on to detail how and when a special election would be called: new electors would be chosen in each state by the end of October, and the election held the following December. "The original intention of the framers was absolutely clear in debates in the Constitutional Convention," says Harvard Government Professor Samuel Huntington. They wanted new national elections held at the next regular opportunity, which, applied to present practice, would mean the first Tuesday of November 1974.

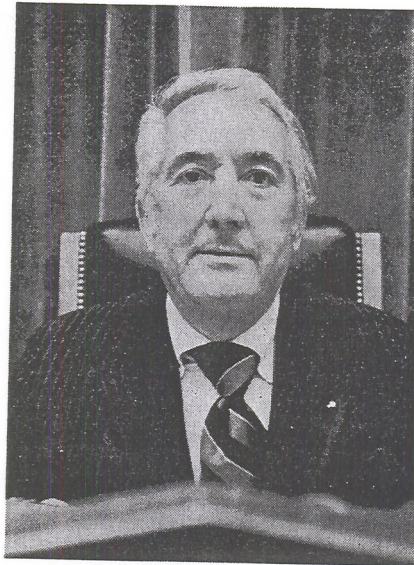
The provision was in effect made optional in the Presidential Succession Act of 1886 and dropped altogether in a 1947 succession law because many legislators thought it cumbersome. Yet Huntington and Harvard Law Professor Paul Freund are convinced that if and when a double vacancy occurs, an amendment to the 1947 act would enable the nation

to schedule a special election to fill both offices. Such an amendment could be passed by a simple majority in both houses of Congress. It could of course be vetoed by Nixon or either Ford or Albert, if one of the two had by then succeeded Nixon. But had events moved far enough for Congress to feel the election was necessary, it would be a perilous veto for a President to exercise and one that Congress would likely override.

White, a Democrat, got the idea of looking for new succession mechanisms by recalling that the Massachusetts Senate seat of John Kennedy was filled by an appointee after Kennedy's election to President in 1960 for only two of the term's remaining four years. In 1962 voters chose the President's younger brother Edward to serve the last two years in a special senatorial election. The Boston mayor asked Huntington, his next-door neighbor, whether a similar plan might be possible on a presidential level, and after an hour's search through his books the Harvard professor was "amazed" to turn up the long-forgotten precedent. Says White: "It is a way to save the electorate from a dilemma that no one could face—divorce from the national leadership."



WALTER BENNETT



DENNIS BRACK—BLACK STAR

HARLOW & FORD DISCUSSING TAPES; HOUSE JUDICIARY CHAIRMAN RODINO
The ominous move was measured, deliberate—and deadly serious.

nist Boss Leonid Brezhnev, there seemed no way to still the argument (see box page 15).

As the international tensions eased, Nixon was forced back on the domestic griddle. Some of Nixon's most ardent defenders in the Congress, including Congressman Ford, Senator Hugh Scott and Watergate Committee Member Edward Gurney, warned Nixon that he must appoint a new independent prosecutor; if not, Congress assuredly would.

For the third time during the week, Nixon retreated to Camp David. Once again his plans to defend himself had changed. Now his press conference was scheduled for Friday.

FRIDAY, OCTOBER 26

When Nixon finally did appear, the tense 40-minute press conference showed neither press nor President at their best. He was tossed questions on the Middle East, even on the oil crisis, which he handled confidently at time-consuming length. On a pointed question about the tapes, Nixon insisted that Cox had to be fired because he alone opposed the Stennis compromise, while Nixon, the Attorney General, Senators Ervin and Baker had approved it—wholly ignoring the fact that both Richardson and Ervin had expressed sharp reservations about the plan in the form that was so suddenly announced by Nixon.

Just when Nixon seemed to be sliding past the few difficult questions, however, he lashed out at television commentators and snapped acidly at a CBS newsman: "Don't get the impression that you arouse my anger. You see, one can only be angry with those he respects." The President hesitated and grinned as shouts for his attention continued. Moments later, he oddly tried to soften the outburst by saying that he had meant commentators, not reporters.

What most disturbed his critics was Nixon's lack of guarantees that the new special prosecutor, to be appointed by

Acting Attorney General Bork, would be any freer than Cox in gaining access to presidential papers or other needed tapes. Nixon said that no litigation will be needed by the prosecutor to get most non-presidential White House evidence because these matters "can be worked out." But there is no real room for compromise, especially on evidence that might possibly implicate the President. Nixon vowed to grant the prosecutor "cooperation" and "independence," but that fell well short of what Cox had once been guaranteed.

Moreover, Bork's search might not prove easy. TIME has learned that his first nominee was rejected by Nixon, apparently on the ground of the man's political leanings. If that is true, both Nixon and Bork still have a lot to learn. Bork had not even been inquiring into the politics of his nominees, on the proper, but apparently naive assumption that after all that has happened Nixon would not dare insert politics into his choice.

SATURDAY, OCTOBER 27

The President's many critics on Capitol Hill were not in the least persuaded by Nixon's press conference, and the Congress seemed determined to approve its own proposals for a special prosecutor totally beyond the reach of the White House. Even Senate Republican Leader Hugh Scott was less than enthusiastic. Said he: "I am glad the President has agreed to name a special prosecutor. It should be done under such arrangement as to assure his total independence." Declared Republican Senator Edward Brooke: "The American people are entitled to and expect the facts. They did not receive the facts. I am extremely disappointed." Added Democratic Senator Birch Bayh: "This new prosecutor has no charter of independence at all. All he has is the President's word." Declared Senator Ervin: "We've heard that before."

Once again, Nixon retreated to his mountain redoubt on Camp David. It

was just as well, since the protesters around the White House might have upset him. The drivers of roughly half of the cars that passed along Pennsylvania Avenue sounded their horns in response to the "Honk for Impeachment" campaign. The din rattled the windows of the White House. Adding insult, one protester's sign said: IF SPIRO WERE HERE, HE'D HONK.

Where does another bewildering week of seemingly uncontrollable events leave the President—and the nation? Certainly, Richard Nixon stands closer to impeachment or being forced out of office by his continued inability to govern effectively than ever before.

Moreover, there are multiple investigations still ahead, some of which almost certainly will further lessen the President's dwindling stature. With so many of Cox's investigators still at work and determined to protest any failure to pursue each known lead, no sustained cover-up of any new scandal seems likely. The Ervin committee is still digging—and apparently is getting tips from the Cox camp.

Nor has Nixon yet put to rest the possibility that Watergate itself, especially the efforts to conceal the real responsibility for the wiretapping of Democratic National Headquarters, can hurt him further. The words of Nixon's fired counsel, John Dean, should be, of course, on some of the tapes that apparently will eventually reach the Watergate grand jury: Nixon indicated in his press conference that delivery of the tapes will be worked out this week. While it is now commonplace to downgrade the tapes as not likely to prove decisive, many of the testimonial conflicts between Dean, Nixon and such other presidential associates as John Ehrlichman, John Mitchell and Bob Haldeman were sharply drawn. The tapes may well prove Dean either right or wrong.

As Cox pointed out last week, Dean was content to plead guilty to a single charge of obstruction of justice without bargaining for immunity against later potential perjury indictments—a strong indication of his own confidence in what those tapes will show. Then, too, as the other former aides face trial, a weakened President may appear a far less appealing figure to protect, if any of them have been doing that.

At times, the nation now seems leaderless. There have been so many switches in presidential policy, so many needless shocks and crises, that a weary public will not readily accept more of the same for three years. Perhaps the week's most reassuring development was the dramatic demonstration that individual Americans, when pushed too far, care enough to complain—and that their opinions can prove both perceptive and decisive. As Michigan's Republican Governor William Milliken observed sadly: "We cannot function without the confidence of the governed any more than we can function without the consent of the governed."