

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

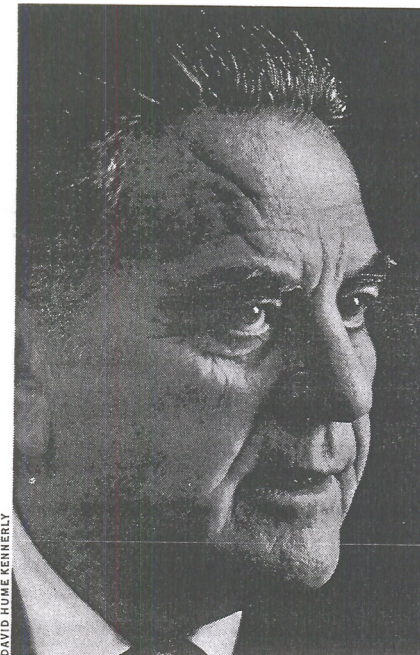
The focus of discontent with Nixon now shifted directly to the Cox firing. More than 20 resolutions were introduced in both chambers either directing Nixon to reinstate the special prosecutor's post, or directing Judge Sirica to do so, or creating the job under the authority of Congress alone. Either 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 turnabout.

#### 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."