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Dear Fellow Citizen:

Fuel shortages threaten the country. The dollar declines or rises in the foreign markets, not in consequence of economic or fiscal policies determined by the United States government, but in response to decisions on oil exports made by the officials of the governments of the Arab countries. Unemployment remains high and threatens to rise even higher. Inflation continues. The stock market hangs on the edge of panic. Many former top-ranking officials of the Nixon administration are under indictment. Cabinet members and other agency heads are shifted from posts. Some resign in protest. Secrecy and suspicion grow. Not only are governmental agencies spying on private citizens and political enemies outside the government; they are spying on each other. The Nixon administration remains in office but as a hollow shell of government without power except in a negative or residual way over domestic problems and with little respect either at home or abroad. Despite repeated attempts to separate the President from Watergate, it is not clear that he was not involved -- particularly in the attempts to cover it up. Moreover, the President's tax returns and fiscal operations are being challenged. Preliminary inquiries into the possibilities of impeachment have been initiated by a Congressional committee.

"To impeach or not to impeach?" That seems to be the question.

President Nixon may well be impeachable on several counts. It is my opinion that he should not be impeached. Now that we have been reassured that the courts will curb the excesses of Presidential power and protect the integrity of the Constitution, little good would be served by impeachment, with or without subsequent conviction by the Senate. Public outrage over Watergate and related activities would be at least partially satisfied. (This might be sufficient reason if there were not more pressing national needs.) Impeachment would give those politicians who were responsible for the election of Richard Nixon, especially the liberal Republicans who endorsed him, and the Democrats who were unable to defeat him, an appearance of purgation and of justification.

If impeachment would result in bringing down the current government, it would be good to pursue it. Certainly, if the United States had a parliamentary government, this administration would have fallen months ago. Now that Gerald Ford has been confirmed and installed as Vice President, the possibility of achieving any significant change in government following the removal of President Nixon has been reduced to near zero. With the exception of a few demurs and second guesses, Mr. Ford has been a consistent supporter of Richard Nixon and of his policies for years.

The Democrats in Congress, with the support of Republicans critical of the Nixon administration, could have withheld confirmation of Ford, and impeached and convicted President Nixon, thereby removing him from office. They could have by this action established the Speaker of the House as the next President and effectively changed the government. If there were serious reasons for not having the current Speaker of the House, Carl Albert, as President, or if he did not wish to assume that office, he could have stepped down to be replaced temporarily by someone else. Neither the Constitution nor the law requires that the Speaker of the House be a member of that body. The new Speaker could then have become President and the former Speaker been reinstated.

It has been suggested principally by columnists and editors and by a few politicians that the President resign. This was suggested by some, even when there was prospect that Spiro Agnew would succeed to the Presidential office. There is little likelihood that the President will resign, but even if there were possibility, there is little reason to believe that much good would come from the act.

There is a further point to be made against resignation which is this: it is highly questionable whether a President should be permitted to resign except for obvious reasons of bad health or mental incapacity. In my opinion, the recent resignation by the Governor of New York could have and perhaps should have been challenged under the Constitution and the laws of New York State. Nelson Rockefeller was elected for a four-year term. If he had moved up to a higher office within the state government or in the service of his party, even in the national government, resignation might have been accepted or excused. To resign with no political, that is higher political, reason and with no personal condition of incapacity, is difficult to justify. This action could set a precedent to be followed by other governors -- to resign before the end of their terms in order to give their lieutenant governors the advantage of incumbency in anticipation of subsequent elections. The practice could be transferred to the national level and Presidents nearing the end of their second term in office might step down to be succeeded by their Vice Presidents before the next election.

The original Constitution of the United States lists Presidential resignation as one of the conditions under which the Vice President succeeds to the office of the Presidency, but lays down no conditions or procedures under which resignation was either to be sought or accepted. There was a built in defense against resignation when the Constitution was adopted in that the Vice President was the man who had been runner-up in the election and therefore quite likely to be an opponent or at least a critic of the victor.

The 25th amendment to the Constitution, adopted in 1967, a most unclear amendment, provides for Presidential resignation on a temporary or contingent basis when the President transmits to the President pro tempore of the Senate and to the Speaker of the House of Representatives a written declaration that he is unable to discharge those powers and duties of this office. The amendment also provides that the President may at a later date ask that his powers be restored to him, a request which may or may not be honored by the Congress.

The amendment should not have provided for the automatic acceptance of the Presidential declaration of incapacity, but rather made any resignation temporary or permanent contingent on its acceptance by the Congress.

Presidential resignation, if allowed at all, should not be easy.

Rather than wait for a resignation or give much time pursuing impeachment, the Congress should concern itself first with the serious problems of the country and seek to establish conditions which will make it easier for the President to meet his official responsibilities and more difficult for him not to do so. Congress must create vacuums and pressures. There are two critical areas to which the Congress and political leaders should direct their attention. One is the economy and the other that of the administration of justice and the protection of the individual liberties guaranteed in the Bill of Rights.

Over four years, the Congress passed legislation providing for stand-by wage and price controls. President Nixon announced that he was opposed to the passage of the bill and also that he would not put it into effect. Two years ago, he set up the Wage Price Control Board and began to use the authority he said he would not use. A similar but more comprehensive approach should be adopted by the Congress today. The Congress should pass new legislation providing for stronger, more comprehensive, more equitable controls, should provide selective excise taxes either on a scheduled basis or as stand-by authority. It should give the President the discretionary trade and tariff authority he is asking for and, most important, pass legislation giving the President the authority within both time and percentage limitations to impose a surtax on individual incomes and on corporate profits. It also should pass an income support program for the poor since Nixon is already committed in principle to such a program.

Action in the areas of justice and individual liberties is more difficult because it requires a more positive response from the Administration. First, the Attorney General should be above politics. The ease with which Attorney General Saxbe was confirmed does not indicate that the Senate is ready to make any very serious challenges to Cabinet nominees. Continuing investigations, or the threat of them, may be the last and only resort.

At the same time as the Congress is attending to these official matters, political leaders -- including members of Congress -- should concern themselves with reordering the processes by which Presidents come into power and by which they exercise power when in office. For too long, we have been playing a kind of Presidential roulette in which the question of who is President has been answered more by chance, by accident, by highly personal decisions, rather than by careful and defined democratic procedures.

At least five possible actions should receive attention:

1. The office of Vice President should be eliminated. It confuses elections through the device of the balanced ticket as well as in other ways. It puts men in line to become President who would otherwise not be chosen. It is,

if we are to believe former Vice Presidents and some commentators, a frustrating office and one in which great talent is wasted.

2. The 22nd amendment should be repealed and Presidents permitted to run for as many four-year terms as they may be chosen to run for or choose to run for. The Constitutional limitation to two four-year terms is a prescription for two irresponsible and possibly contradictory terms. The first one carefully calculated to assure the second, and the second lacking the restraint that the anticipation of a third term election or the rejection by one's own party might bring to it.

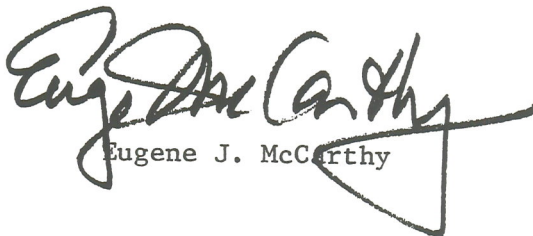
3. The 25th amendment should be repealed. The determination of Presidential disability should not be left to the Vice President, the Cabinet and the Congress but should, I believe, be vested in the Supreme Court. Presidents should not be allowed to resign either temporarily or permanently without Congressional approval.

4. By statute or by Constitutional amendment, procedures for the appointment of an interim President in the case of death, disability, or displacement of the President should be provided; preferably the interim President should not be drawn from the Congress but from the executive branch. Almost any Cabinet member would do.

5. By statute or by Constitutional amendment, two procedures for filling a Presidential vacancy should be provided; one to be used in the event of death or disability (I suggest a simple reconvening of the same electoral college which formally had chosen the President); and a second to be used following impeachment and conviction or resignation (accepted by Congress) because of failure in office -- that under these conditions, the House of Representatives be made the body of choice in the manner now provided in the Constitution for the election of a President when no candidate receives the majority vote of the electoral college.

6. Procedures for changing Presidential politics short of impeachment or the cutting off of funds should be provided.

It has been observed that it may have been the historic role of the Nazis to show the mind of evil before it had the capacity to achieve its objectives. Watergate, the enemies list, and other related activities, whereas not revealing a comparable mind of evil in America, must stand as a warning to us. It is more important that out of the confusion, the corruption, and the general failure of governmental and political institutions, there comes a reexamination of those institutions and of their functioning, and a searching reflection upon the meaning of democracy and of citizenship than that Richard Nixon be impeached.


Eugene J. McCarthy