

Lawyer Asks Courts to Name Prosecutor in Watergate Case

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WASHINGTON, Sept. 18 —

Charging the Democrats with hypocrisy and the Republicans with bias, a Washington lawyer filed a series of legal motions today to have the Federal courts appoint a special prosecutor to investigate the alleged attempt at bugging the Democratic national headquarters in the Watergate complex on June 17.

John F. Banzhaf 3d, an outspoken consumer advocate and law professor at George Washington University, said that he was "shocked" at the Democrats for calling repeatedly in public for a special impartial prosecutor to handle the investigation while doing nothing in private to see that such a prosecutor is appointed.

He called such action "two-faced" and said he had warned the former Democratic National Chairman, Lawrence F. O'Brien, and lawyers for the party that if they did not act that he would.

"Based on my conversations with attorneys for Mr. O'Brien, I believe that he would rather have the political issue than the appointment of the special prosecutor," Mr. Banzhaf told a news conference today at the university.

The professor was not much kinder to the Republicans. He noted that the Administration-controlled Department of Justice was investigating the alleged break-in at the Democratic headquarters and that members of that same Republican Administration were implicated in the affair.

"Miscarriage of Justice"

"I also strongly believe that it is a shocking miscarriage of justice for the same person whose aides and associates are implicated in those criminal activities, to be in charge of the investigation," he said. "I fear the establishment of a precedent under which high officials in any administration will know that any criminal misdeeds will be investigated only by their cronies and political bedmates."

Last Friday a Federal grand jury returned an eight-count indictment against two former White House aides and the five men seized by the police inside the Watergate complex on June 17.

They were charged with conspiring to break into the headquarters, tapping telephones, planting electronic surveillance devices and stealing and photographing documents



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Prof. John F. Banzhaf 3d at his news conference on the Watergate case.

belonging to the Democratic en, a Justice Department. At the time, John W. Husten, a Justice Department spokesman, said that the indictments had ended the investigation.

Mr. Banzhaf was joined today in the legal action by Peter H. Meyers, also a lawyer and a registered Democrat, who said the interests of all Democrats were not being properly served by Mr. O'Brien's actions.

The file, totaling 38 pages, went before Judge Charles R. Richey in Federal District Court today.

"Motion to Intervene"

Technically it was a motion to intervene in the damage suit brought by Mr. O'Brien against the five men arrested in the Democratic party headquarters.

That intervention, it was said, would be for the "limited purpose of applying for the appointment of a special prosecutor" to insure the integrity of the court and the public's confidence in it.

A spokesman for the Democratic party said that Mr. Banzhaf had got in touch with the party and had spoken to their lawyers.

The Democratic lawyers argued that there was no legal precedent for appointing such a prosecutor and that it could only be done by the Department of Justice or the President.

In his motion, Mr. Banzhaf conceded that there was "no precedent squarely cited for this case" and urged the court to "reach out to a new principle in the legal armory."