

GOP, White House Split On Special Prosecutor

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An effort by Senate Republicans and the White House to reach agreement on a Watergate special prosecutor bill failed yesterday, leaving the Republicans split and prospects of getting any bill out of the Senate Judiciary Committee in doubt.

The White House surprised senators by proposing its own version—a bill calling for the Attorney General to appoint a special prosecutor and containing the language in the original Watergate special prosecutor charter saying the prosecutor could only be fired for gross impropriety.

The White House version would not allow Senate confirmation of the prosecutor—though many Republicans have called for that. Moreover, it would require a resolution giving the Senate's stamp of approval to the whole procedure.

Hill sources say Sen. Roman Hruska (R-Neb.), ranking minority member of the Judiciary Committee, may introduce the White House version when the committee takes up the question again today. But they say Senate Republicans are "not enthusiastic" and "not sure it's going to sell."

In what has come to be called the Saturday Night Massacre, President Nixon on Oct. 20 ordered Attorney General Elliot L. Richardson to fire Watergate special prosecutor Archibald Cox. Richardson refused, and he and his deputy, William French Smith, resigned. Outraged members of Congress introduced more than 35 bills with more than 200 co-sponsors seeking to insure that the President could not fire another special prosecutor and that he would be independent of the executive branch.

A bill calling for the court appointment of a prosecutor

has already been reported out of the House Judiciary Committee. In the Senate committee, eight of the 16 members favor a similar court-appointment bill sponsored by Democrats Philip A. Hart (Mich.), Birch Bayh (Ind.) and Edward M. Kennedy (Mass.). But eight committee members are opposed, and a tie vote would not be enough to report out the bill.

In addition, the court-appointment proposal suffered a severe blow when U.S. District Court Judges Gerhard Gesell and John J. Sirica spoke out against the bill, which calls for the court to do the appointing.

Opponents of the court-appointed prosecutor favor a variety of alternatives, including letting the President appoint the prosecutor with Senate confirmation and restrictions on removal. Sen. John J. McClellan (D-Ark.) suggested last week that the committee report out two bills—the court-appointed-prosecutor bill favored by a majority of the Democrats, and an alterna-

tive that the majority of the Republicans could support. He suggested that Sen. Charles Percy (R-Ill.), who favored presidential appointment, and Sen. Robert Taft (R-Ohio), who favored appointment by the Attorney General, get together on a single bill.

Last Wednesday at the White House, Percy read to the President part of the Gesell decision, which declared that Cox was illegally fired.

Percy suggested that the President should recognize that Congress was determined to pass a bill insuring the new Watergate prosecutor's independence. It would help the Presidents' image if he supported some version of that, Percy said. The President said he would "consider" it.

According to Hill sources, the White House legislative liaison staff contacted sena-

tors and staff members the next day, saying they were interested in working out a bill.

A meeting was set up for Monday in Minority Leader Hugh Scott's office. Taft, other Republican senators, Tom Korologos of the White House and acting Attorney General Robert H. Bork attended.

Bork, according to Hill sources, found constitutional flaws in both the Taft and Percy bills. Senators then asked for guidance on what the GOP could support, and late Monday afternoon the White House presented its version of the bill.

Hill sources said none of the Republican senators involved was pleased with that. Instead, Percy and Taft revised their bills, and the committee meets behind closed doors today to try to find a way out.