

ABA Unit Backs Hill On Probe

Board Urges Court Naming Of Prosecutor

By Joel D. Weisman
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CHICAGO, Oct. 27—

Meeting in an emergency session, the board of governors of the American Bar Association today called upon Congress to pass legislation authorizing the federal district court for the District of Columbia to appoint an independent special prosecutor for the Watergate case.

The board also asked that the life of the special Watergate grand jury be extended at least six months. The panel's term expires in December unless Congress acts.

The stand by the 22-member ABA board of governors came in the form of a formal resolution that was adopted unanimously after a four-hour meeting at a hotel at O'Hare International Airport.

Although the resolution was adopted unanimously, the board of governors was reported to be divided on whether President Nixon should be allowed to name a successor to Watergate Special Prosecutor Archibald Cox whom he fired, as Mr. Nixon proposed at Friday evening's news conference.

Reportedly pleading the President's cause was Mr. Nixon's long-time friend, Lawrence Walsh of New York, a former president of the ABA.

Specifically, the board of governors resolved:

- That the Congress of the United States, consistent with the provisions of Article II, Section 2 of the Constitution...

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stitution . . . create by legislation an independent Office of Special Prosecutor . . . and authorize the appointment of such special prosecutor by the United States District Court for the District of Columbia in the manner as is provided in the filling of vacancies of the office of United States attorneys."

- "That the Congress . . . promptly extend the life of the existing grand jury . . . for a period of six months."

A. Chesterfield Smith of Lakeland, Fla., the president of the ABA, said in a news conference after today's meeting that the ABA's House of Delegates would give further consideration to the Watergate matter at a special meeting scheduled for Washington, D.C., on Dec. 10.

The House of Delegates must have 40 days' notice before it can be convened, Smith said.

Meanwhile, Democratic leaders of the House and Senate branded President Nixon's plans to appoint a new Watergate prosecutor within the administration as unacceptable.

Senate Majority Leader Mike Mansfield of Montana was blunt in his response to the President's plans for another special prosecutor under the wing of the Attorney General.

"No soap," he said. Rep. Thomas P. O'Neill (D-Mass.), the House Democratic leader, said: "I do not believe the new prosecutor will be acceptable to the Congress and the American public under the terms the President outlined."

Mr. Nixon's firing of Watergate Special Prosecutor Archibald Cox last weekend, O'Neill charged, "was an act of obstructing justice and the House must continue with its impeachment proceedings."

Mr. Nixon said at a Friday night news conference that he hoped the administration appointment would dissuade Congress from demanding a special prosecutor appointed by the courts.

The President said the administration's new prosecutor would have "total cooperation from the executive branch," but he will not be given access to "presidential documents" for his investigations. Acting Attorney General Robert H. Bork will make the appointment.

Mr. Nixon said the prosecutor would be given

"information that is needed" from such documents, but the determination of what is needed would apparently be made by the White House. The President indicated that the new prosecutor would not be permitted to take his demands for evidence in White House files into court.

Sen. Sam J. Ervin Jr. (D-N.C.), the chairman of the Senate Watergate committee, who watched Mr. Nixon's news conference on television, predicted that the Senate will move ahead with legislation empowering U.S. District Court Judge John J. Sirica to name a special prosecutor whom the President could not fire.

"I don't see much to be gained by the President appointing another prosecutor who would not be independent," Ervin said in Pinehurst, N.C.

Vice President-designate Gerald R. Ford, the House minority leader, said he thought Mr. Nixon's performance at the press conference was "just superb."

Sen. Strom Thurmond (R-S.C.) said he felt the President's plans should satisfy "any fair-minded person."

However, Sen. Walter F. Mondale (D-Minn.) said it was "incredible" to him that the President should have Bork—the man who fired Cox last weekend after his two superiors refused—appoint the new prosecutor.

"That's a little like Henry II asking Thomas A. Becket's assassin to appoint a new archbishop of Canterbury," Mondale protested in remarks prepared for a Jefferson-Jackson Day dinner in Newark, Del.

Bork met Saturday with White House chief of staff Alexander M. Haig Jr. and White House counsel J. Fred Buzhardt. He will consult the White House before naming the new prosecutor, but, the Associated Press reported, he said: "Nobody at the White House is going to dictate any names to me."

He said the search for a successor to Cox is "in full sway," and that the appointment will be made "as quickly as possible."

Bork declined specific comment on evidentiary limitations the President announced, but the acting Attorney General indicated that he expects to live with them.

"I don't anticipate a confrontation," Bork told AP in an interview.

More than half the Senate

has already joined in sponsoring a bill directing the courts to name an independent prosecutor, free from the direction of the executive branch. In the House,

the bill has 106 cosponsors.

Cox was fired after refusing to accept presidential summaries of Mr. Nixon's secret Watergate tapes under conditions that would

have prohibited Cox from any further court attempts to obtain the recordings or any other "tapes, notes or memoranda of presidential conversations."