

# Prosecutor Decision Is Left to Richardson

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The White House emphasized yesterday that it is taking a hands-off attitude towards appointment of a special prosecutor in the Watergate scandal.

President Nixon said at his Cabinet meeting yesterday afternoon, according to several present, that he was leaving the decision entirely up to Attorney General-designate Elliot L. Richardson.

The powers of any such prosecutor, presidential press secretary Ronald L. Ziegler told newsmen earlier, would also be up to Richardson to determine.

Richardson, who is winding up his affairs as Defense Secretary at the Pentagon, gave no hint of his plans. Former Defense Secretary Melvin R. Laird, who spoke with Richardson on Monday, told reporters that he felt a special prosecutor would be appointed, but stressed that his hunch was not based on anything Richardson told him explicitly.

"I think it's what he's going to be doing, but . . . he didn't tell me," Laird said. He called the decision "a tough one to put on Elliot. It looks like he doesn't feel he's capable and competent to make the investigation, but Elliot thinks he is."

Laird said he was sure, in any event, that Richardson would make a full public report on the results of the broadening investigation. "As the attorney for the President, (Richardson) has to bring this thing out now," Laird said.

Rep. Henry S. Reuss (D-Wis.), one of the first to demand appointment of a prosecutor from outside the administration's ranks, said he supposed that even a thoroughly independent lawyer-investigator would remain tied to the Attorney General in a limited way, for example, in seeking permission to propose immunity for any suspects whose testimony is deemed essential.

Reuss said, however, that he foresees no problems on that score. "I can't imagine the Attorney General, specifically Elliot Richardson, thinking more than 10 seconds before agreeing to an immunity request from a special prosecutor in this case," Reuss said.

The actual grant of immunity must come from the courts, but under the laws governing it, a Justice Department spokesman said yesterday, the request must be authorized by either the Attorney General, the deputy attorney general, "or a designated assistant attor-

ney general," a lineup that would seem to exclude delegation of that power to a special prosecutor.

In the Watergate investigation, Mr. Nixon said April 17 that he did not want immunity granted anyone "holding, in the past or at present, a position of major importance in the administration. . ." Since then, however, White House counsel John W. Dean III, who was fired Monday has reportedly been pressing for immunity in return for telling all he knows.

Immunity aside, it remained unclear just what the President meant in his Monday night address when he said he was giving Richardson authority to name "a special supervising prosecutor for matters arising out of the case."

Departing Attorney General Richard G. Kleindienst, in an appearance at the U.S. Courthouse for Law Day ceremonies, told The Washington Post that he had no idea precisely what Mr. Nixon had in mind. Robert G. Dixon, assistant attorney general for the Justice Department's Office of Legal Counsel, added in a telephone interview that his office has not yet been asked to draw up any charter for a special Watergate prosecutor. Dixon and his staff would normally be assigned that chore.

"We haven't thought down the road that far," Dixon said. "Each one of these situations is *sui generis*" (one of a kind), he said of such appointments.

The government has often resorted to outside lawyers and jurists to handle major controversies and scandals involving potential conflicts of interest.

During the Teapot Dome scandal of the 1920s, the Coolidge administration, after several nominations that proved unsatisfactory, named two outside prosecutors, Republican Owen J. Roberts and former Ohio Democratic Sen. Atlee W. Pomerene, under a congressional resolution calling for Senate approval of the choices.

Coolidge said at the time that employment of outside counsel was "in accord with former precedents."

Former Interior Secretary Albert Fall was subsequently convicted of taking a bribe to lease government oil lands, but oil magnates Harry Sinclair and Edward L. Doheny were acquitted of all charges except for a pair of contempt citations, one of the Senate and another of the courts, involving Sinclair.

Special prosecutor Roberts, who was later named to the Supreme Court, also headed a special five-man board of inquiry named by President Roosevelt on Dec. 16, 1941, to investigate the surprise attack on Pearl Harbor. The board, reporting the next month, accused Adm. H.E. Kimmel and Lt. Gen. Walter C. Short of "dereliction of duty," charges that both officers disputed until their deaths. Adm. Kimmel maintained he had taken "a bum rap" and blamed President Roosevelt and other high U.S. officials, saying they withheld vital information that would have alerted him and Short.

Charges of corruption in the Truman administration also brought appointment of an outside prosecutor although his tenure was short-lived. President Truman named New York attorney Newbold Morris to direct a probe of government corruption early in 1952, but he lasted only two months. Friction developed between Morris and Attorney General Howard McGrath over a questionnaire Morris circulated inquiring into the outside sources of income of various federal officials. McGrath fired Morris and Mr. Truman then announced the resignation of McGrath.