

Some New Questions

Despite Nixon's Appearance on TV, Issue of Prosecutor Stirs Concern

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WASHINGTON, May 2—

President Nixon's second attempt in two weeks to calm the nation's anxieties about the Watergate scandal has encountered grave problems here. Like his statement on April 17 reporting "major new developments" in the case, his television speech on Monday night—and his acceptance of the resignations of two of his "most trusted associates and closest friends"—was followed by new revelations from investigators and insistent new demands from his friends as well as his foes. The new questions center on the demand for a special prosecutor in the case, which has been voiced by the Senate (in a resolution passed yesterday), by leading bar association officials, by Republican politicians out in the country, and today, in an Associated Press poll, by 32 of 40 members of the American Society of Newspaper Editors polled at Random.

Although unstated, or only partly stated, the reason for the demands for another prosecutor is the conviction that with the prosecution answerable to the Justice Department, and the Justice Department answerable to the White House, impartiality is impossible.

"No one wants to think it, much less say it," one Senator said. "But people wonder whether the President was involved in this. He didn't answer

'It Has to Be Answered'

"It has to be answered, or this thing will never die down. And it can be answered only if you bring someone in whom nobody suspects of being under the President's thumb."

Mr. Nixon tried to deal with the problem in three ways Monday night — by flatly denying that he had been involved in the Watergate episode or its cover-up; by turning the Justice Department over to Defense Secretary Elliot L. Richardson, and by authorizing Mr. Richardson to appoint a special supervisory prosecutor.

The attempt fell short, it appears to be serious here, because Mr. Nixon provided few new details of events inside the White House over the last 10 months; because Mr. Richardson, although widely regarded as a man of impeccable integrity, is also identified closely with the President through more than four years in the Administration and because Mr. Richardson's authority to appoint a prosecutor seems somewhat ambiguous.

At this morning's White House press briefing, Ronald L. Ziegler, the Presidential press secretary, fielded more than a dozen questions on the scope of that authority.

Authority Retained

At one point, he said that Mr. Richardson had been given "total authority and total flexibility." At another he said that Mr. Richardson had been told that the President "ruled nothing out." But he also said that when the President delegates authority to someone, as he has done with Mr. Richardson, "he also retains that authority" as President.

He left the impression among many that Mr. Nixon had retained at least the implicit right to veto the creation of a special prosecutor's position or the choice of someone to fill it. And that, of course, leads back to the conflict-of-interest problem.

Asked to provide a fuller account of the President's views on a background basis, White House officials said that he was sensitive to the need—if the investigation is not to be

seen as a whitewash—to provide some "insulation" between the Presidency and the Watergate prosecution.

But Mr. Nixon is also eager, these officials said, not to "disrupt an ongoing investigation" by removing from the prosecution the team, headed by Earl J. Silbert, that has handled it from the start. One official remarked in addition that the President was worried about "disintegrating the department of justice"—that is, ruining morale by suggesting that it is untrustworthy.

These were among the reasons that the President used the expression "supervisory" prosecutor. His thought, aides suggested, was that Mr. Silbert and his team might be left in place but insulated from White House influence by inserting a new man between them and the Justice Department.

However, the sources warned that the President had not ruled out the thought that it might be necessary to replace Mr. Silbert to gain public confidence. A final decision, they said, is unlikely before late next week.

Some Talk of Candidate

There were veiled suggestions in some White House quarters that preliminary investigations of candidates for the prosecutorial position have begun. The Philadelphia Inquirer reported that William T. Coleman, who served as a clerk to Supreme Court Justice Felix Frankfurter with Mr. Richardson, was being checked out there.

Even a solution to the special prosecutor issue, however, may not solve all the President's difficulties. There is also the question of Presidential even-handedness.

In his speech Monday night, Mr. Nixon heaped praise on Mr. Haldeman and Mr. Ehrlichman, though we knew that Mr. Ehrlichman had told the Federal Bureau of Investigation of his involvement in the investigation that led to a burglary in the office of a psychiatrist who once treated Dr. Daniel Ellsberg, a defendant in the Pentagon papers case.

He said nothing about John W. Dean 3d, the White House counsel, moreover, Mr. Dean was discharged, and the other two were permitted to resign. In Mr. Ziegler's briefings, the former counsel is always referred to as "Dean" or "Mr. Dean," the others are "Bob" and "John."

Asked repeatedly this morning whether such differences in treatment did not suggest that the President and his staff thought Mr. Dean more culpable than the others, Mr. Ziegler declined to comment.

The ultimate questions of Presidential conduct have been slow to form, even on the lips of Mr. Nixon's enemies. But they are now being asked, however sadly, however quietly.

One example was the newspaper column of William F. Buckley Jr. that was distributed this week. After stating flatly that he did not believe that Mr. Nixon had prior knowledge of the bugging episode, the conservative columnist suggested that the President knew "way before April 17 that people surrounding him . . . were in fact conspiring — a word used here with precision—to obstruct justice."

"It is critical," concluded Mr. Buckley, "to begin now to focus on what punishment should be meted out if it should be established that President Nixon was guilty, as so widely believed, of obstructing justice."