

53 Back Bayh Bill On Probe

Measure Tells Sirica to Pick Cox Successor

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More than half the Senate joined yesterday in sponsoring a bill directing the courts to name a new independent Watergate prosecutor whom the President couldn't fire.

The legislation, backed by 53 senators and introduced by Birch Bayh (D-Ind.), differs sharply from the arrangements announced by President Nixon last night.

Bayh and other key Senate backers said after the President's press conference that they will press forward with their legislation, since they consider Justice Department appointment of a new prosecutor who can be fired by the President "totally inadequate" to assure an independent investigation of the Watergate scandal and related matters.

A telephone survey last night found no immediate defections from the 53-member bloc behind the bill, indicating it will have a good chance of Senate passage.

Prospects in the House, however, are cloudy. While about one-quarter of the House members have introduced legislation to establish a special prosecutor to succeed the fired Archibald Cox, opinions vary on whether the prosecutor should be independent of the executive branch or be a Justice Department appointee.

Under the Senate bill, the new prosecutor would be selected by Chief Judge John J. Sirica of the U.S. District Court here and would be independent of direction from the executive branch. He could be fired only by Sirica.

Under the President's announced plan, a new prosecutor will be named next week by Acting Attorney General Robert H. Bork and will be under the general authority of the Justice Department. The President or the Attorney General presumably would retain the

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*Democratic National Committee backs impeachment.
Details on A11*



United Press International

AWARD TIME—U.S. District Court Judge John J. Sirica talks with reporters after receiving award Thursday night from the

American Judges Association for "manifestations of judicial courage." The judges gave Sirica a standing ovation.

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right to fire the new prosecutor, although Mr. Nixon said he would have "independence" of action and "total cooperation" from the executive branch.

Whether the Senate bill or the President's plan prevails may well depend on the reputation of the man Bork names on behalf of the administration next week. A selection reassuring to Republicans and middle-of-the-road Democrats could conceivably derail the Senate bill in one chamber or the other, or assure that a possible presidential veto would be sustained.

The politically crucial nature of Bork's selection of a prosecutor was emphasized by a comment last night from Sen. Bob Dole (R-Kan.), former GOP national chairman, who said, "I thought the President did pretty well, but I'd like to see the name. It would make a great difference. It's important that there be someone of significant stature."

Reaction from sponsors of the Bayh bill last night showed them holding firm and unsatisfied with the President's plan.

Bayh, pronouncing Mr. Nixon's arrangements "totally inadequate," said "he hasn't learned any lesson from the near-tragic events of the past few days."

Sen. Edmund Muskie (D-Maine) called Mr. Nixon's plan "disappointing and disturbing. People need to be assured he will not use his power to block the truth. He did not give us reassurance tonight."

Robert C. Byrd of West Virginia, Senate Democratic Whip, said, "We're right back where we were earlier this year—the executive branch investigating itself." He added, "Mr. Nixon fired Mr. Cox. Obviously, he can fire Mr. Bork's nominee."

Adlai E. Stevenson (D-Ill.), the first senator to draft legislation for a special prosecutor independent of the White House, said, "President Nixon insists on retaining control of the investigation of the Nixon administration, including the power to remove the prosecutor. The public cannot be confident that justice will be done and neither am I."

The same point was made earlier in the day by Sen. Philip A. Hart of Michigan, senior liberal Democrat on the Judiciary Committee and leader of the bloc behind the bill introduced by Bayh. Hart said a prosecutor who might be dismissed by Mr. Nixon, for whatever reason, wasn't sufficient to reassure the American people.

Sens. Mark Hatfield (R-Ore), Alan Bible (D-Nev.), Howard W. Cannon (D-Nev.) and Charles H. Percy (R-Ill.) said they found the President's plan unacceptable. "The emotionally charged confrontation between the President and the press this evening will not restore the people's trust and confidence," Hatfield added.

A highly favorable response to Mr. Nixon's plan came from Sen. James L. Buckley (Cons.-R-N.Y.), who said, "I'm just delighted the President sees the necessity to appoint a special prosecutor." Buckley favors having the prosecutor confirmed by the Senate, so that "the public is satisfied that he actually is an independent-minded, competent person." Confirmation wouldn't be required by law.

Senate GOP Leader Hugh Scott of Pennsylvania said, "I am glad the President has agreed to name a special prosecutor. It should be done under such arrangements as to assure his total independence."

Sen. Howard Baker (R-Tenn.), a member of the Senate Watergate committee, suggested that to avoid political partisanship, it might be well to appoint two special prosecutors, one a Republican to be named by Mr. Nixon, one a Democrat to be selected by Congress. Neither could be fired except by Congress. Baker said there were precedents for this in the Teapot Dome scandal of the 1920s.

Senate Minority Whip Robert P. Griffin of Michigan said of the press conference as a whole, "It was a cool, reassuring performance in a very tense, hostile atmosphere. He demolished myths about his ability to govern under fire." Griffin made no direct comment on the prosecutor issue.

Both Scott and Griffin, as well as the other GOP leaders in both the House and the Senate, had urged Mr. Noxon earlier in the week to name a special prosecutor of his own immediately to still public clamor over the firing of Cox. Democrats, while anticipating that the President would do so, read-

ied their own bill for an independent prosecutor.

Among the cosponsors were five of the seven members of the Watergate committee and seven Republicans including Maryland's Charles McC. Mathias.

Under the bill, both the prosecutor and his deputy would be appointed by Judge Sirica. They would have a full congressional mandate to investigate the Watergate break-in, the allegations of "dirty tricks" during the 1972 election campaign and all related matters.

The prosecutor would be entirely free of presidential control and could be dismissed only by Sirica, and then only for "willfully" violating the provisions of the bill or committing extraordinary improprieties."

Sen. John V. Tunney (D-Calif.) said he hopes the Judiciary Committee will bring the bill out in 10 days to two weeks.

In a statement from Brussels, where he is fulfilling a speaking engagement, Sen. Edward M. Kennedy (D-Mass.)—like Bayh and Tunney a member of the Judiciary Committee—said the prosecutor must be court-appointed and "totally, completely and unquestionably free from White House influence," because "it is the influence, interference and other actions of the White House and the President which have carried the nation to the brink of a constitutional crisis."

Most of the 53 senators sponsoring the bill yesterday are Northern Democrats. The seven Republicans are Mathias, Clifford P. Case (N.J.), Mark Hatfield (Ore.), Jacob K. Javits (N.Y.), Richard S. Schweiker (Pa.), Robert W. Packwood (Ore.) and Lowell Weicker (Conn.).

Weicker is the only Republican on the select Watergate committee to cosponsor the bill, but all four committee Democrats are sponsors: Chairman Sam J. Ervin Jr. (N.C.), Herman E. Talmadge (Ga.), Daniel K. Inouye (Hawaii) and Joseph M. Montoya (N.M.).

In both the House and Senate, there had been broad support in recent

days for the appointment of a new prosecutor to replace Cox, but most Republicans have backed the idea of having the President make the appointment and retain the power to fire the new man.

Most Democrats have favored making the new prosecutor a court appointee entirely independent of the President.

In the House, 14 bills with 143 cosponsors have been introduced calling for a new special prosecutor to be named either by the President or Judge Sirica.

A bill introduced by Rep. John Culver (D-Iowa), head of the liberal Democratic Study Group, has 106 cosponsors and is close to the Bayh-Hart bill in the Senate, establishing a special independent prosecutor to be named by Sirica. The judge would also have supervisory powers.

President Nixon's announcement that he would have Bork name a new prosecutor pleased some House Republicans but left House Democrats still critical, if not more so.

Culver said he would push ahead for passage of his bill:

"The President made it clear that a new, special prosecutor would have no more real independence than Mr. Cox did with regard to legally essential access to presidential papers and memoranda required for prosecution of criminal wrongdoing. The President's definition of independence means either accept his offered compromise or be fired. The tenacious pursuit of the truth cannot be compromised."

Rep. William Hungate (D-Mo.), whose Judiciary subcommittee will begin hearings Monday on extending the life of the Watergate federal grand jury and on the bills to establish an independent prosecutor, said he was not satisfied with President Nixon's plan. "The key word is independent," Hungate said. "If he really means he wants an independent prosecutor we can reach a harmonious solution. But everybody who talks about heaven isn't going there." He predicted Congress will insist on legis-

lation that would have the court appoint the prosecutor.

Rep. Don Fraser (D-Minn.), head of Americans for Democratic Action, said, "I think it's clear the new special prosecutor will be handcuffed."

"He won't be able to get the presidential documents voluntarily and he won't be able to go to court to get them. And I would think the people would be more apprehensive than before" the President's press conference, Fraser said. "It appears he's determined not to let the courts interpret his constitutional power any further and this gets back to the thing that really disturbed people—that he set himself above the law."

Rep. Robert McClory (R-Ill.) said the President's speech satisfied him regarding the special prosecutor.

"I think the way the President is doing it is the way to do it—to appoint a special prosecutor through the executive branch," McClory said. "We don't need any legislation to have Bork name a special prosecutor and in fact we don't need any legislation for Sirica to appoint a special prosecutor. He could do that without legislation."

McClory thought the President's assurances that the new prosecutor would have White House cooperation would satisfy Hill Republicans. "I don't like special prosecutors bringing suits against the President either."

But McClory did not feel the President made any progress as far as public opinion was concerned. "I was sorry he expressed his underlying hostility to the media and the press. That was unfortunate, but understandable, I guess."

Rep. Paul Findley (R-Ill.) said he thought Congress would wait to see Bork's choice before acting further on its own bills. Findley added that he would want Congress to play a role at least by having the prosecutor confirmed by the Senate.

But Rep. Charles Whalen (R-Ohio), who introduced a bill calling for Sirica to name the special prosecutor, was not satisfied.