

Bork, Demos take hard line on prosecutor

Examiner News Services

WASHINGTON — The White House was faced yesterday with the possibility of a new revolt at the Justice Department and another fight with the Senate over President Nixon's intended appointment of a new special prosecutor in the Watergate case.

The developments:

- Apparently putting his job on the line, Acting Attorney General Robert H. Bork, who will announce the appointment, vowed that "nobody at the White House is going to dictate any names to me" and was reported to be demanding guarantees of independence for his appointee.

- Joined by other Democrats, Senate Majority Leader Mike Mansfield pronounced a prosecutor named by the administration unacceptable and threw his support to legislation empowering Chief U.S. District Judge John Sirica to name a new prosecutor whom only Sirica could dismiss.

- A Justice Department spokesman said that Bork had no intention of appointing either former Attorney General Elliot Richardson or his deputy, William Ruckelshaus, who resigned a week ago last night in protest when Nixon fired Archibald Cox, the original special prosecutor.

At his press conference Friday night, Nixon insisted that the new prosecutor would be independent and would receive full cooperation from the White House.

But he avoided saying whether the new prosecutor would be installed under the same restrictions that Cox had declared intolerable and — in defying them — had cost him his job.

All Nixon would say was that he did not "anticipate that we will come to the time when (the prosecutor) would consider it necessary to take the President to court."

At another point he said that the prosecutor would not be permitted to receive what he termed presidential documents.

Bork said he will consult with the White House on the appointment, but he left open the possibility that his choice might be submitted in some way for a congressional judgment in the face of growing Capitol Hill support for a prosecutor appointed by the courts.

"Things are kind of fluid," he said, declining to elaborate on procedures under consideration. Unlike other top executive branch positions, the prosecutor does not require

Senate confirmation.

"I don't anticipate a confrontation (with the White House)," Bork said in an interview.

He suggested he is trying to negotiate around a clash with the President by working out other ways of obtaining the White House information a prosecutor may need.

But he declared, "I stand by my position. These investigations will not be compromised."

Bork hinted that he, like Richardson and Ruckelshaus, might resign if backed into a corner over the issue of the prosecutor's freedom to pursue a thorough investigation. "If his independence were interfered with, I would feel that my position would be intolerable . . . morally untenable," Bork said.

Bork, who fired Cox on Nixon's orders after Richardson and Ruckelshaus refused, said he did not believe "any reputable man would take the job unless he has as much of a guarantee as possible of his independence."

Mansfield said he will support legislation introduced

Friday by Sen. Birch Bayh (D-Ind.) and backed by 53 other senators, that would direct Sirica to name a prosecutor the President could not fire. A similar bill in the House has 106 co-sponsors.

"It has to be a special prosecutor who had the same kind of authority that Cox had," Mansfield said. "He must have independent authority so that he could not be removed except for the gravest improprieties."

Asked if the result might be two prosecutors, one appointed by Sirica and the other by the administration, Mansfield replied: "Well,

let's face that if and when it happens."

Senate Democratic whip Robert C. Byrd said the dual prosecutors situation would not arise because any legislated solution would "pre-empt" Nixon's attempt to appoint one.

Sen. Sam J. Ervin (D-N.C.), chairman of the Senate Watergate committee, said he didn't "see much to be gained by the President appointing another prosecutor who would not be independent."

And Rep. Thomas P. O'Neill of Massachusetts, 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. His action of firing Cox was an act of obstructing justice, and the House must continue with its impeachment proceedings."

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