

Hill Still Seeking Special Prosecutor

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President Nixon's appointment of a new Watergate special prosecutor yesterday did nothing to lessen congressional demands for legislation making the prosecutor independent of the President.

Many members of both parties appeared unpersuaded by White House assurance that Leon Jaworski would be given a free hand in pursuing the truth of Watergate and would not be fired unless congressional leaders agreed. Unsatisfied lawmakers recalled that very firm assurances of independence were given for the first Watergate prosecutor, Archibald Cox, who was fired when he insisted on going after Mr. Nixon's tapes of his Watergate conversations.

"The truth is we cannot have any faith in the President on this matter," said Rep. Robert Kastenmeier (D-Wis.), a senior member of the House Judiciary Committee considering the legislation.

"The special prosecutor's independence must be guaranteed by law," said Rep. John C. Culver (D-Iowa), chief House sponsor of a bill under which the prosecutor would be appointed by the U.S. District Court here and be free from any presidential control.

"This administration cannot be trusted to investigate itself," said Sen. Adlai E. Stevenson III (D-Ill.) at a Senate hearing on such legislation. "If President Nixon is guilty of obstruction of justice . . . there is a risk that he will try to cover up the cover-up. If he is not guilty, he has nothing to fear from an independent special prosecutor."

There is no unanimity on what approach the legislation should take, but there now appears to be broad support for some action to assure the integrity of the investigation. Disclosure that two of the nine presidential tapes do not exist has raised new doubts about the President's credibility.

Asked about the missing tapes, House Speaker Carl Albert said: "I have passed the point of reacting."

Fifth-five of 100 senators

and 111 House members have co-sponsored the court-appointment bill. Some Republicans are getting behind a bill for presidential nomination and Senate confirmation of a prosecutor, with strong protection of his independence written into the

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law. Bork appointee Jaworski does not need Senate confirmation.

Chesterfield Smith, president of the American Bar Association, joined with the congressional debate yesterday and, despite his friendship with Jaworski, who was one of his predecessors, came down strongly on the side of court appointment of the prosecutor.

The "appearance of justice" has now become as important as justice's being done, Smith told a House Judiciary subcommittee considering the issue. "I wonder if the American people can, under the circum-

stances, have confidence in the President picking a man to investigate himself and then have confidence that the job is being well done."

Whitney North Seymour Jr., former U.S. attorney in New York City and now vice president of the New York State Bar Association, also endorsed the court appointment bill at the House hearing. "I have no doubt that if it served White House purposes he (Jaworski) would be removed," said Seymour.

Both Speaker Albert and Senate Majority Leader Mike Mansfield said they expected consideration of the legislation to move forward despite the appoint-

ment of Jaworski. Mansfield added that he expected "no erosion" in Senate support for a court-appointed prosecutor.

Rep. Peter W. Rodino (D-N.J.), chairman of the House Judiciary Committee, gave his strong support to the court-appointment bill and said he believed a majority of his committee supports it. Rodino earlier had raised questions about the constitutionality of creating a prosecutor's office in the executive branch which would be free of presidential control, but said yesterday the arguments supporting its validity appear equally compelling.

The House Judiciary subcommittee will hear from Cox and acting Attorney General Robert H. Bork Monday and begin voting on a bill Wednesday.

Several Republicans on the subcommittee indicated they would support some kind of bill.

"The bill should have very strong language assuring the independence of the special prosecutor," said Wiley Mayne (R-Iowa).

David Dennis (R-Ind.) indicated his support of a bill providing for presidential nomination, Senate confirmation, and restrictions on the power of removal.

"We still have the prob-

lem of control of the prosecutor and the right to discharge him," said Rep. Henry P. Smith (R-N.Y.), senior Republican on the subcommittee, after announcement of Jaworski's appointment.

Rep. Gilbert Gude (R-Md.), not a member of Judiciary but a co-sponsor of the court-appointment bill, said nothing had happened to lessen his support for the bill.

The division on the Senate Judiciary on the issue could make crucial the vote of Sen. John L. McClellan (D-Ark.), who has not sponsored any of the bills. He said yesterday that, above

all, he wants Senate confirmation of the prosecutor, whether he is appointed by the President or by the courts.

Sen. Robert Taft (R-Ohio) told the Senate Judiciary Committee at its hearing on the issue yesterday that he will introduce a bill providing for nomination of the special prosecutor by the Attorney General and confirmation by the Senate. The prosecutor could be removed only for neglect of duty, malfeasance in office or violating the law creating the office.

Staff writer George Lardner Jr., also contributed to this report.