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Congressmen Suggesting Grant of Immunity to Nixon

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Members of Congress from both parties suggested yesterday that President Richard M. Nixon be offered a congressional grant of immunity against criminal prosecution if he resigns from office.

The suggestions, offered by some congressmen as an inducement to the President to resign, drew no response from the White House and a declaration in opposition from a key Senate Democrat, majority whip Robert Byrd of West Virginia.

"I personally would be opposed to presidential amnesty," Byrd told a breakfast meeting with reporters. "How can we tell our young people that they ought to respect the law if a man who commits a most heinous crime is granted immunity. Even if he resigns and admits guilt, I'd be opposed to any grant of immunity."

Later in the day, however, Sen. Robert P. Griffin (R-Mich.), who had called for Mr. Nixon's resignation on Monday, said he was considering drafting legislation that would offer Mr. Nixon immunity from any criminal prosecution that might follow his removal or resignation from office.

"The offenses—I mean the alleged offenses—with which he is charged may not be so serious that people want to see a former President go to jail," Griffin said. Griffin added that any immunity legislation would need bi-partisan support.

Congressional Democrats appeared unwilling to take the lead in offering Mr. Nixon immunity in the event he resigned. Rep. Wilbur Mills (D-Ark.) who first suggested the plan months ago, said through aides yesterday that he would have nothing further to say about his proposal.

A source close to Mills

said the Arkansas Democrat still stood behind his offer, which would remain open "any time up to trial by the Senate." The source added that chances of Congress passing immunity legislation were fading with every day. He, too, said Mills had received no response from the White House.

Congressional sources said the immunity idea was the subject of much discussion in the cloakrooms, but no action. One key Republican senator said the time may already have passed for the plan.

"Frankly, I don't think it would pass if it were proposed," the senator said. "That train may already have left the station."

Similarly, a Democratic source said that the Democratic leadership had not been approached by the White House on an immunity plan and there was growing reluctance on the part of some Democrats to favor one.

"They don't want to stand up and vote on a resolution or a bill," he said. He said the Democrats would prefer to work out an informal agreement with Special Watergate Prosecutor Leon Jaworski, Attorney General William Saxbe and possibly Vice President Gerald R. Ford rather than submit the issue to a formal vote.

Despite the reported reluctance of some Democrats to endorse an immunity plan for President Nixon, House Majority Leader Thomas P. O'Neill (D-Mass.) said he personally would not oppose such a plan and believes most Americans would accept it.

"I would say there would be a small element of the American people who feel this should go all the way forward," O'Neill said, "but I think the overall feeling is that . . . Nixon would have

suffered enough by losing the presidency."

House Speaker Carl Albert (D-Okla.) said he would not comment on any immunity plan until he had a chance to review the legislation.

If he resigned or was impeached and convicted by the Senate, Mr. Nixon could be criminally prosecuted like any other citizen. Congressional leaders and leading lawyers think that only an act of Congress—or an agreement with Jaworski—could hold the President immune from possible criminal charges once he is out of office.

The precedent for such a deal—a possible plea bargain of sorts—exists in the resignation of former Vice President Spiro T. Agnew. He pleaded *nolo contendere*—no contest—to a single charge of tax evasion in exchange for a guarantee from then Attorney General Elliot L. Richardson that he would not be sentenced to jail. In return for that pledge, Agnew resigned and pleaded.

While Congress could protect the President from any criminal action after he left office, legal scholars questioned by The Post yesterday agreed that it could not afford him the same protection when it comes to civil suits.

Similarly, Congress could not forbid a local or state prosecutor from instituting legal action against the President for alleged crimes committed within the prosecutor's jurisdiction, although in the Agnew case no Maryland prosecutor has moved against the former Vice President.

While the Agnew case remains a precedent of sorts, some lawyers consider it distinctly different because they believe the President has the power to pardon

himself in advance for all Watergate-related offenses.

As far-fetched as the proposition may sound, neither a spokesman for the office of the legal counsel in the Justice Department nor its pardon attorney was willing to strike it down out of hand.

"We've discussed it," said Lawrence M. Traylor, the Justice Department's pardon attorney. "I guess it's been discussed by the staff. All I can say is that presidential powers (to grant pardons) are not limited by the Con-

stitution. I have no precedent for this. I would say that the only restriction in the Constitution has to do with impeachment."

Mary Lawton, a deputy to Robert Dixon of the Justice Department's office of legal counsel, which last summer researched the question of whether Agnew could be indicted, said her office had not yet researched whether a President could pardon himself. Like Traylor, she did not dismiss the notion out of hand.