

Bob Dole

U. S. SENATOR FOR KANSAS

NEWS

FROM:

SENATE REPUBLICAN LEADER



FOR IMMEDIATE RELEASE
Thursday, November 18, 1993

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DOLE AMENDMENTS DESIGNED TO PREVENT REPEAT OF LAWRENCE WALSH-STYLE EXCESSES

Washington -- Senate Republican Leader Bob Dole today made the following statement on the reauthorization of the Independent Counsel Law and his amendments that were adopted to the bill:

After watching Lawrence Walsh in action for the past seven years and counting, you can put me down as a skeptic of any bill that would reauthorize the independent counsel statute.

Since December of 1986, Mr. Walsh and his army of lawyers have destroyed reputations, harassed families, run up a tab of more than \$40 million billed directly to the taxpayers, even left top-secret documents behind at an airport taxi stand. And now, seven years later, can any objective observer look at what Walsh has wrought and say "congratulations on a job well done?"

Obviously, I'm no fan of Lawrence Walsh, and I'm no fan of the independent counsel statute either. In my view, we ought to have confidence in our nation's Attorney General...confidence that she can conduct criminal investigations with independence and without the intrusion of politics.

Help Prevent Future Abuses

In fact, the Attorney General already has the authority to appoint special counsels in cases that merit an independent review. This authority exists, with or without an independent counsel statute, and it has been invoked by past Attorneys General, including Bush Administration Attorney General William Barr who appointed special counsels to investigate the House bank scandal and the Inslaw case.

I am pleased that the managers of the bill, Senator Cohen and Senator Levin, have agreed to a number of amendments that I have suggested. Although these amendments won't remedy what I view to be a seriously flawed bill, they will help ensure that some of the abuses of the Lawrence Walsh seven-year witch hunt won't be repeated by future independent counsels.

Amendment One: The Final Report

The first amendment narrows the permissible scope of the final report, which independent counsels are required to file prior to terminating their activities.

In my view, this final report requirement is unnecessary...and it certainly can be expensive. Once again, we can look to the Lawrence Walsh experience:

After President Bush pardoned former Defense Secretary Cap Weinberger, Walsh spent nearly eight months drafting his final report. This report has now been filed with the court of appeals here in Washington.

Although the Walsh report is supposed to be protected under a shroud of court-ordered secrecy, portions of the report have been leaked to the press...and judging by news accounts, it appears that the report is a self-serving testimonial to the heroics of the independent counsel's office. Even worse, it is paid for by the American taxpayer.

Over and over again, Lawrence Walsh has failed in the courtroom of law. And now, desperate to revive his own sullied reputation, he is apparently seeking success in another venue--the courtroom of public opinion.

It is never easy for a prosecutor when he loses a case. But when the "not guilty verdict" is read, a prosecutor normally picks up his briefcase, hopefully learns from his mistakes, and moves on to the next file.

He does not spend eight months, at taxpayer expense, writing a report, memorializing his efforts and blasting the very people

(more)

he failed to convict, an approach I suspect Mr. Walsh takes in his still-secret final report.

I had originally intended to offer an amendment that would have eliminated the final report requirement entirely, but I believe that the amendment accepted by the managers goes a long way toward accomplishing my intended goal. This modified amendment would retain the final report requirement, but would eliminate the language in the reauthorization bill that allows the I.C. to describe, in the final report, the "reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel." If retained, this language would have been an open invitation to independent counsels to editorialize on cases that they, for whatever reason, chose not to bring, smearing hard-earned reputations in the process.

As Senator Cohen said yesterday on the Senate floor, "the final report should be a simple declaration of the work of the independent counsel, pertaining to cases in which he or she has sought indictments...the purpose of the [Dole] amendment is to restrict the nature of the [final] report to the facts without engaging in either speculation or expressions of opinion as to the culpability of individuals unless that culpability...rises to a level of an indictable offense."

Amendment Two: Time and Cost Limitations

The second amendment attempts to impose stricter time and cost limitations on an independent counsel.

As originally drafted, the reauthorization bill authorizes the special court to determine whether an independent counsel should be terminated "no later than three years after the appointment of an independent counsel and at the end of each succeeding three-year period." This amendment shortens the termination date, by allowing the court to terminate an independent counsel no later than two years after his appointment, or after the independent counsel has incurred \$2 million in expenses, whichever occurs first. Following this original two-year period, the court could terminate an independent counsel at the end of each succeeding one-year period, rather than the 3-year intervals proposed in the original reauthorization bill.

By tightening up these termination dates and by linking court reappointment to the expenses incurred by an independent counsel, this amendment should strengthen court oversight and make future independent counsels more accountable for their actions.

Amendment Three: Termination For Cause

The third amendment is also about accountability. The current independent counsel statute allows the Attorney General to remove an independent counsel for "good cause," but fails to specify what "good cause" means.

This third amendment makes clear that it is "good cause" to remove an independent counsel if he fails to abide by the written guidelines of the Justice Department or if he violates professional canons of ethics. This modification has real-life consequences, since some experts have suggested that Lawrence Walsh violated professional ethics rules by appearing on national television after the pardon of Secretary Weinberger and hinting that President Bush was the next target of his never-ending investigation.

Amendment Four: Use of Justice Department Resources

The fourth and final amendment makes clear that independent counsels must use the resources of the Justice Department, including the use of Justice Department personnel. This amendment will allow independent counsels to tap into a talented pool of expertise, and reduce costs as well.

If we've learned anything from the Lawrence Walsh experience, it's that no prosecutor should be given an unlimited budget, unlimited time, and unlimited discretion--all in the name of "independence."

Although I applaud some of the improvements that have been made to the I.C. statute--for example, the requirement that independent counsels be housed in federal office buildings, rather than in more expensive commercial office space, and the requirement that independent counsels comply with Justice Department spending policies--I continue to believe that the statute is fundamentally flawed and that we ought to trust the Attorney General to perform sensitive prosecutions, even of high-level government officials.

For this reason, I will vote against reauthorization.

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