

Wrangling Marks Cox Hearing

By George Lardner Jr.
Washington Post Staff Writer

The Senate Judiciary Committee turned into a partisan battlefield yesterday with Republican senators accusing ousted Watergate special Prosecutor Archibald Cox of stacking his investigations against President Nixon.

Democratic liberals shot back with charges that the White House was desperately trying to tar Cox's reputation in an effort to divert attention from administration scandals.

At one point, Sen. Birch Bayh (D-Ind.) protested that Sen. Strom Thurmond (R-S.C.) was "browbeating" Cox, who found himself at the witness table for the third day in a row.

Thurmond told Bayh that he was lower than "a snake" if he was impugning Thurmond's motives.

The centerpiece for most of the bickering was the disclosure in the New York Times this week of President Nixon's personal attempt in April of 1971 to get the Justice Department to drop its appeal of an anti-trust case involving the International Telephone and Telegraph Corp.

Cox had been told of the President's intervention in a confidential interview with former Attorney General Richard G. Kleindienst. The former prosecutor admitted Tuesday that he had told Sens. Edward M. Kennedy (D-Mass.) and Philip A. Hart (D-Mich.) about the episode, but the senators' two aides who had been with them all denied leaking it to the press.

The White House seized on the incident as proof of Cox's "partisanship" and suggested that it showed Mr. Nixon was right in firing him.

Mounting a sharp counter-attack, Kennedy yesterday brought out that top officials of the Justice Department's criminal division had also been briefed about the President's intervention with Kleindienst on the ITT case. Cox said that his former top aides and prosecutors briefed Assistant Attorney General Henry E. Petersen and his chief assistant, John C. Keeney, about it last week after Petersen had been put in temporary charge of the investigations.

"So the long track may very well lead to the Justice Department itself," Kennedy charged of the news leak. "I'm perfectly prepared to live with wherever that track leads."

A Justice Department spokesman said that neither Petersen nor Keeney discussed Mr. Nixon's 1971 phone call to Kleindienst with anyone except in a general way with acting Attorney General Robert H. Bork. "Therefore any allegations that this leak could have come from the Department of Justice is unfounded," the spokesman said.

Kennedy said he felt the real issue was the propriety of Mr. Nixon's attempts to get the ITT case dropped.

Protesting the White House attacks on Cox, Kennedy charged to newsmen: "They're reaching, thrashing around for anything they can get. The significant thing is that the President did call Kleindienst."

Kennedy said Cox has always had an outstanding reputation for integrity. "At the final hour," he said of the White House, "They're trying to change that impression."

Undeterred, Thurmond forced Cox to admit repeatedly that his disclosure of Mr. Nixon's phone call to Kennedy and Hart was "inexcusable." Thurmond contended that it might also have been a violation of the legal ethics, court codes and the Federal Rules of Criminal Procedure.

Cox firmly denied it and said the rules that Thurmond recited one by one barred only extra-judicial statements that could reasonably be expected to appear in the press.

"I had every reason to believe that what I said would not be made public," Cox said of his talk with Kennedy and Hart three days after he had been fired.

Thurmond persisted, contending that the rules of Cox's own Watergate Special Prosecution Force called for even tighter secrecy. He also charged that the former prosecutor had filled his staff with so many "partisan Democrats that an impartial investigation was impossible." Eleven of the prosecutors and aides Cox had hired, the South Carolina Republican protested, had held posts in the Kennedy or Johnson administrations and "many were involved in Democratic campaign activities."

Cox replied that of the nine senior members of his staff, about half worked at the Justice Department under Republican attorneys general.

"They were professionals,



By Craig Herndon—The Washington Post

Archibald Cox talks to newsmen after testifying.

and any professional has the ability to prosecute an investigation in its merits," he said.

By late afternoon, Bayh told Cox that he had been growing impatient at listening to "a couple of days' effort to paint you and your staff as wild-eyed, vengeance-seeking impatient individuals out to get the Presi-

dent." He said if witnesses interviewed by Cox and his prosecutors had in fact been subjected to "browbeating" and politically contrived investigations, this would have been raised before now in the courts.

"Is the senator indicating that I tried to browbeat a witness?" Thurmond interrupted.

"Yes," Bayh said after a moment's pause.

Thurmond: "The senator is making a false, malicious and deliberate statement and I want to tell him so."

Bayh said he was making "a very deliberate statement." But he said Thurmond was "entirely within his rights" in questioning Cox the way he wanted.

Thurmond protested that he had not impugned Bayh's motives.

Bayh replied, "I'm not impugning your motives. I'm just saying what they are."

Thurmond: "If you're impugning my motives, you have gotten to below a snake and don't deserve to be a senator. I only say 'If.' I don't impugn the motives of other senators."

Bayh dropped it there. "I hope the time never comes when I respond in kind," he said.

Under questioning by Sen. Edward J. Gurney (R-Fla.), Cox acknowledged making remarks critical of the Nixon administration's policies on civil rights and civil liberties at a news conference in California shortly before he was designated special prosecutor last May. He said he had also criticized former attorneys general Kleindienst and John N. Mitchell.

But he said he had not let his political views color his investigations in any way. "That's one question about which I have had the least uncertainty," Cox said. "It's entirely possible for a man to separate his views on politics from inquiries into whether the law has been violated."