

Cox Regrets Breach of Confidence

Discussed Case With Senators

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Former Watergate Special Prosecutor Archibald Cox admitted yesterday that he was guilty of an "inexcusable" breach of confidence with former Attorney General Richard G. Kleindienst.

Testifying before the Senate Judiciary Committee, Cox volunteered the news that he told two Democratic senators and some members of their staffs last week about President Nixon's intervention in 1971 in an anti-trust case involving the International Telephone & Telegraph Corp.

The information was given Cox in confidence by Kleindienst, who has apparently made a complete dis-

closure to Watergate prosecutors of all his dealings in a series of antitrust cases challenging corporate acquisitions by ITT.

The New York Times, quoting "sources close to the case," reported in yesterday morning's editions that the President personally told Kleindienst in an abrasive 1971 phone call not to pursue an appeal of one of the cases before the Supreme Court.

Cox said he still does not know who leaked the story. The two senators, Edward M. Kennedy (D-Mass.) and Philip A. Hart (D-Mich.), and the two staff members who were with them denied

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that they were the source of the article.

The White House, which initially blamed the Cox staff, charged yesterday that the incident illustrated "the partisan attitude that characterized his (Cox) activities in recent months."

"We find no virtue that an attorney, a lawyer who was to have been independent in his pursuit of Watergate matters . . . should have given this information to two outspoken critics of the Nixon administration and to members of their staffs," said deputy White House press secretary Gerald L. Warren. "We find this inexcusable."

Cox attributed the indiscretion to the stresses and strains he has been under since his firing by Mr. Nixon Oct. 20.

The former special prosecutor said he had forgotten telling the two senators and their aides of the Nixon phone call to Kleindienst until yesterday morning when the Times story was out and he "began to rack my brain to see if I had talked more freely than I should have."

"It's quite clear that I broke former Attorney General Kleindienst's confidence," Cox told the Senators. "It was, as the White House said, inexcusable. I feel very badly this morning. It was not done deliberately."

The President's phone call to Kleindienst was made, apparently in April of 1971, after Kleindienst had reportedly rejected a request by White House domestic adviser John D. Ehrlichman to drop the appeal challenging ITT's acquisition of the Grinnell Corp. At the time, Kleindienst was deputy attorney general, but he had final authority for ITT cases since Attorney General John N. Mitchell had disqualified himself because of a conflict of interest.

According to the Times account, Mr. Nixon phoned shortly after that, and after calling Kleindienst a vulgar name, said: "Don't you understand the English language?"

Cox told Sens. Kennedy and Hart and their aides, Kennedy's legislative assistant Carey Parker and Hart's staff counsel Burton Wides, about the episode at a meeting at Kennedy's home Tuesday night, Oct. 23.

"I babbled on a little thoughtlessly," Cox told reporters after yesterday's hearing. "It was carelessness, not malice."

Asked whether it was wise even to meet with Kennedy in light of persistent administration charges that Cox was too close to the Kennedy family and the Democratic Party, Cox said:

"If I were more sophisticated, perhaps I wouldn't have. But this has been a rough time and you like to be with your friends."

Kennedy said in a statement that Cox paid the visit to brief him and Hart on the testimony Cox would present at the Judiciary Committee's hearings on his ouster, which began this week.

As they talked, Kennedy said, the committee's hearings last year on Kleindienst's nomination as Attorney General, which focused heavily on the Nixon administration's controversial out-of-court settlement of the three ITT antitrust suits, came up.

"I mentioned my own strong feelings, then and

now, that the Judiciary Committee had been badly abused, even lied to, by the administration in our effort to find out the truth about the case," Kennedy said. "In this connection, as a single shocking example of how the committee had been misled by the administration, Mr. Cox mentioned President Nixon's extraordinary call to Mr. Kleindienst on the case."

Kennedy said the rest of the discussion dealt "in no other respect" with the facts uncovered in Cox' investigations of the Watergate scandal and other alleged misdeeds involving the Nixon administration. "Neither I nor my staff," the senator said, "was the source of the news article in question . . ."

A spokesman for Hart, who was reported sick with the flu, said that neither he nor his aide, Wides, spoke to anyone about the President's call to Kleindienst.

The former Attorney General had testified under oath at his 1972 confirmation hearings about the ITT cases: "I was not interfered with by anybody at the White House. I was not importuned; I was not pressured; I was not directed."

At the White House, deputy press secretary Warren repeatedly declined to answer specific questions for details of the phone call. He called it "a policy discussion" which "the President of the United States has every right in entering into in determination of the antitrust policy of his administration."

Cox seemed to agree. "I think big antitrust cases are important enough for the President to have a voice in the way they are handled," he told reporters.

Senate Minority Leader Hugh Scott (R-Pa.), a member of the Judiciary Committee, served notice that he would like to call members of Cox's staff to testify in light of what Scott called the daily appearance of news stories embarrassing to the administration. Cox said he was confident that his staff had not been the source of any leaks and a spokesman added that the prosecutors were ready and willing to testify to that effect.

Sen. Robert C. Byrd (D-VW.Va.) voiced his suspicions that Mr. Nixon might be engaged in "the ultimate cover-up" by firing Cox and shielding the evidence in White House files from further disclosure by naming a new special prosecutor without the power to subpoena them. Mr. Nixon has said the new prosecutor would not be given access to "presidential documents."