

An Explanation: Cox Ouster Spurred House Inquiry

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The catalyst that brought about the House impeachment inquiry was President Nixon's dismissal last October of the first Watergate special prosecutor, Archibald Cox.

Before Mr. Cox was discharged, impeachment had been advocated by only a few of the most outspoken liberal Democrats in Congress.

But the dismissal gave rise to what the President's chief of staff, Gen. Alexander M. Haig Jr., called a "firestorm" of protest. Within 10 days, a score of impeachment resolutions had been introduced in the House, and the Judiciary Committee had begun a formal preliminary investigation.

Today, the committee started a two-day exploration of Mr. Cox's ouster and the subsequent disclosures that three of the tape recordings he had subpoenaed either did not exist or were defective.

The question the committee was trying to resolve was this: By dismissing Mr. Cox, was President Nixon intentionally furthering the Watergate cover-up?

An affirmative answer might mean that an impeachable offense was committed.

What follows is an explanation of the circumstances surrounding the Cox dismissal.

Background

On April 30, 1973, President Nixon announced the resignation of Richard G. Kleindienst as Attorney General and the nomination of Elliot L. Richardson to succeed him. In a television address, Mr. Nixon said that Mr. Richardson, if he thought it "appropriate," would have "the authority to name a special supervising prosecutor for matters arising out of the [Watergate] case."

At first, Mr. Richardson was reluctant to name a special prosecutor. But it quickly became apparent that the Senate Judiciary Committee would not approve his confirmation if he did not agree to do so.

On May 18, Mr. Richardson picked one of his former law professors at Harvard, Archibald Cox, who had been Solicitor General in the Kennedy and Johnson Administrations, for the job. President Nixon was not consulted on the appointment.

The next day, Mr. Richardson and Mr. Cox signed and gave to the Senate Judiciary Committee a set of guidelines that described Mr. Cox's duties and authority. The guidelines, which became part of the official regulations of the Depart-

ment of Justice, stated that "the special prosecutor will not be removed from his duties except for extraordinary improprieties on his part."

Cox Investigation

Mr. Cox immediately began an extensive investigation not only of the Watergate case but also of dozens of other allegations of scandal in the Nixon Administration.

He was resented by officials in the White House because of his aggressiveness and his style. He was a product of Harvard and the Eastern Establishment and had close personal and political ties to the Kennedy family. And he hired a staff composed primarily of young Democratic lawyers with Ivy League backgrounds.

Within days of the disclosure last July that Mr. Nixon had tape-recorded his White House conversations, Mr. Cox issued a subpoena for the tapes of nine meetings and telephone calls. The President refused to comply, and Mr. Cox went to court.

On Aug. 29, Judge John J. Sirica of the United States District Court directed the President to turn over the tapes to the court, where the judge planned to review the recordings and to excise irrelevancies and other matters covered by executive privilege.

Judge Sirica's ruling was satisfactory neither to Mr. Cox nor to the President. Mr. Cox wanted the tapes turned over directly to the grand jury; Mr. Nixon wanted no disclosure at all. Both appealed the ruling.

On Friday, Oct. 12, the United States Court of Appeals here upheld Judge Sirica's ruling by a vote of 5 to 2. At the time, rumors were circulating that Mr. Cox was planning imminently to indict Mr. Nixon's former top aides and that the special prosecutor's office had focused on dealings between Mr. Nixon's friend, Charles G. Rebozo, and Howard R. Hughes, the billionaire.

Saturday Massacre

President Nixon spent the weekend of Oct. 13-14 at Camp David, reportedly considering his next move. According to Mr. Richardson, Mr. Nixon called the Attorney General to the White House on Monday, Oct. 15, and told him that Mr. Cox would have to be dismissed. However, Mr. Richardson objected and threatened to resign, and later in the day Mr. Nixon changed his mind.

There ensued a week of negotiations between the White House and the special prosecutor, with Mr. Richardson acting as the intermediary. 19 Oct

On Friday night, Mr. Nixon

announced what he called a compromise. He would prepare summaries of the nine tapes and would allow Senator John C. Stennis, Democrat of Mississippi, to listen to the tapes and to verify that the White House summaries were accurate. Furthermore, Mr. Cox would be prohibited from making "further attempts by the judiciary process to obtain tapes, notes or memoranda of Presidential conversations."

The next day—Saturday, Oct. 20—Mr. Cox held a news conference, said he could not accept Mr. Nixon's proposal and promised to continue to pursue tapes and documents in court.

Mr. Nixon immediately ordered Mr. Richardson to dismiss Mr. Cox. Mr. Richardson refused and submitted his resignation, saying that he could not break his pledges to the Senate Judiciary Committee and to Mr. Cox. The Deputy Attorney General, William D. Ruckelshaus, was then asked to carry out the order. He, too, refused, and he was instantly ousted.

Finally, in mid-evening, the No. 3 official in the Justice Department, Solicitor General Robert H. Bork, was made Acting Attorney General and he discharged Mr. Cox.

AFTERMATH

Among those who seemed most stunned by the developments were three senators—Mr. Stennis; Sam J. Ervin Jr. of North Carolina, chairman of the Senate Watergate Committee, and Howard M. Baker Jr. of Tennessee, that committee's ranking Republican.

Mr. Stennis said that he had been led to believe that he would be acting only as an intermediary between the White House and the Watergate committee. He was never told, he contended, that he would play any role in the dispute between Mr. Nixon and Mr. Cox.

Senator Ervin and Senator Baker, who had agreed to the President's proposal on the night of Oct. 19, said that they had never been informed that Mr. Cox would be prohibited from seeking further tapes and documents.

At the White House, the President and his aides were admittedly surprised by the level of protest that followed the discharging of Mr. Cox.

The President's stated reason for ordering Mr. Cox ousted was that Mr. Nixon, like any

other executive, could not tolerate a subordinate's defying his instructions.

On Oct. 23, declaring that "the President does not defy the law," Mr. Nixon's lawyer, Charles Alan Wright, announced in court that the President would turn over the nine tapes to Judge Sirica.

Mr. Wright did not mention that two of the nine subpoenaed tapes did not exist. Nor did he say that, on a third tape, an 18-minute discussion of Watergate had been obliterated by a buzzing sound.

On Nov. 1, the President announced that Leon Jaworski would succeed Mr. Cox as special prosecutor. Mr. Jaworski inherited Mr. Cox's staff, and the investigation continued, barely breaking stride.

Two weeks later, Judge Gerhard A. Gesell of the United States District Court ruled that the ouster of Mr. Cox had been illegal because the regulations specified that he could be discharged only for "extraordinary improprieties."

Judge Gesell's ruling was purely academic, however, and he did not order Mr. Cox reinstated.