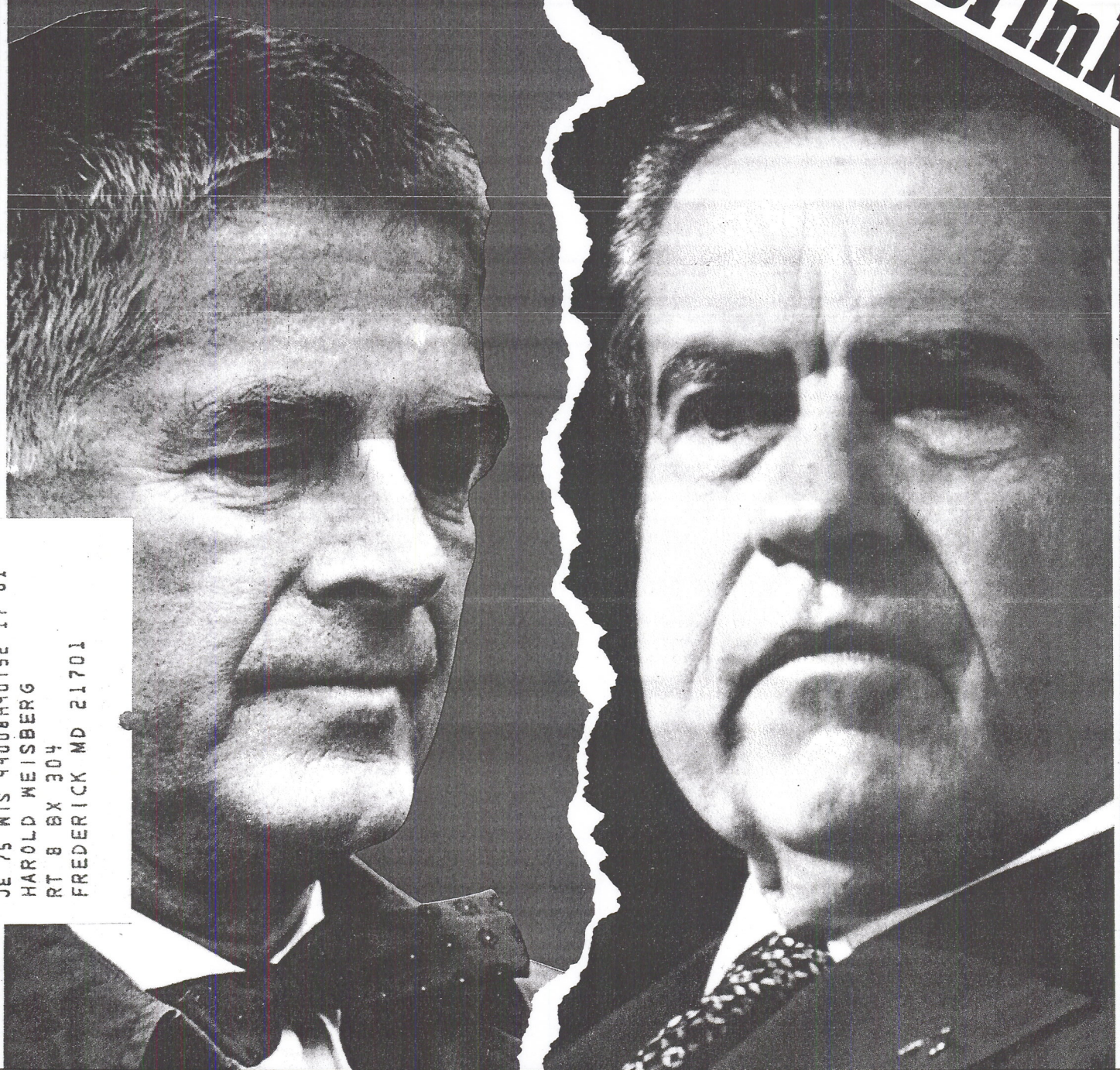


FIFTY CENTS

OCTOBER 29, 1973

Nixon on the Brink

TIME

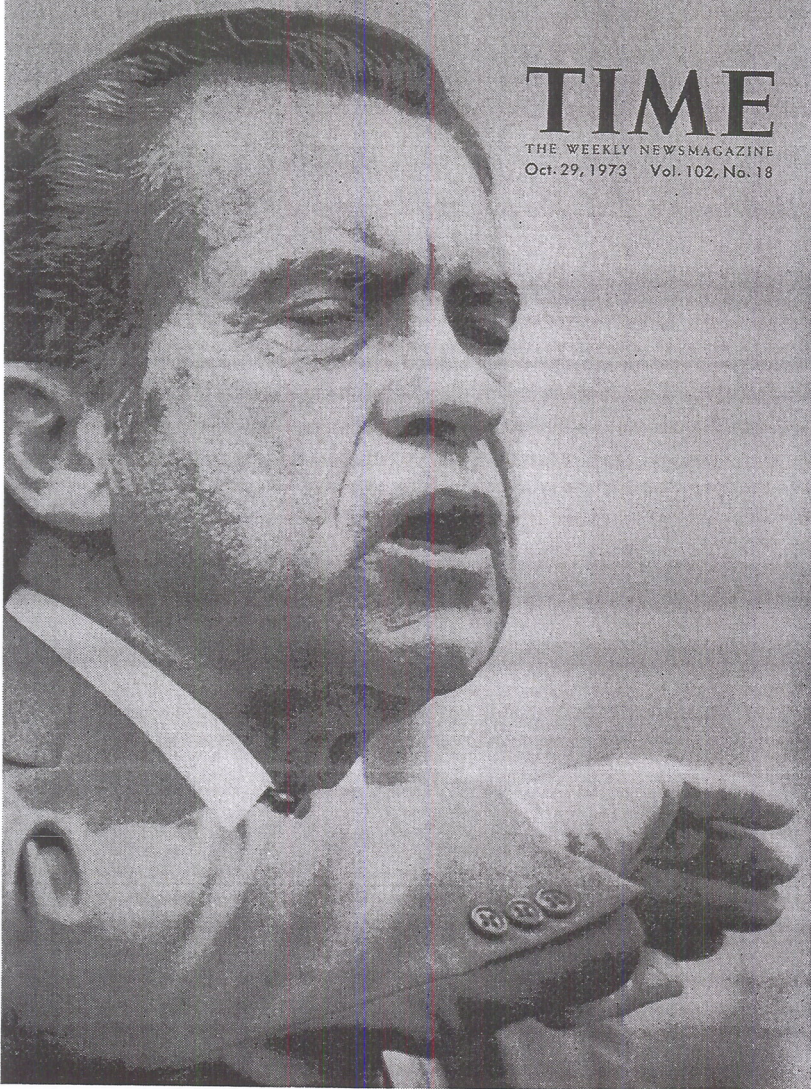


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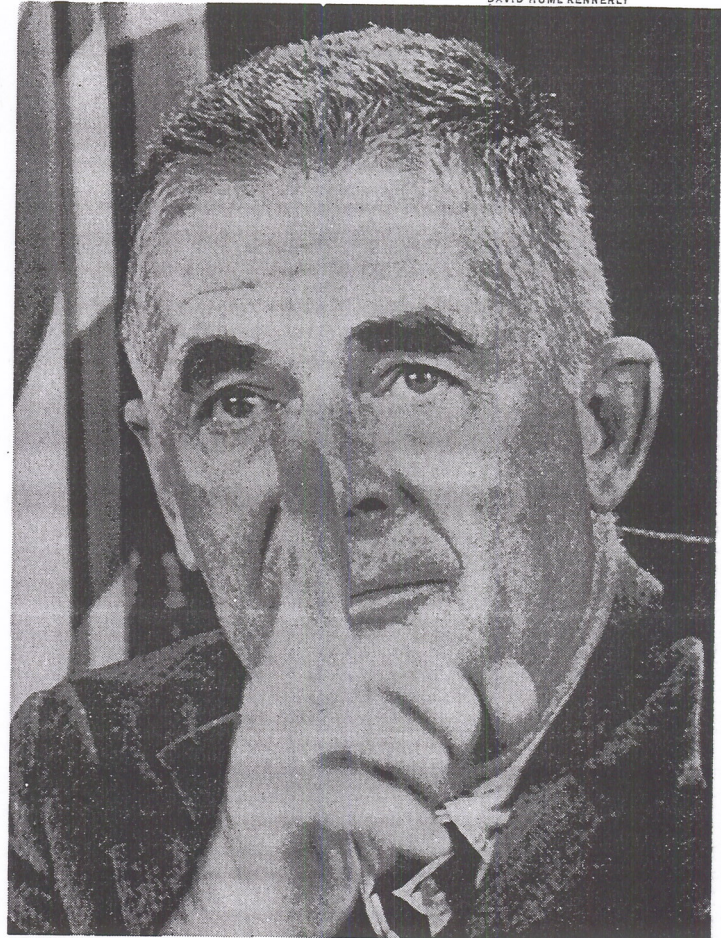
SPECIAL SECTION: Mideast Showdown

DIRCK HALSTED

DAVID HUME KENNERLY



PRESIDENT RICHARD M. NIXON STRIKES A DEFIANT POSE



FORMER WATERGATE SPECIAL PROSECUTOR ARCHIBALD COX

THE PRESIDENCY/COVER STORY

Richard Nixon Stumbles to the Brink

"Whether ours shall continue to be a government of laws and not of men is now for Congress and ultimately the American people to decide."

Archibald Cox (on being fired)

With astonishing speed in a frantic Washington weekend, an effort by President Nixon to compromise in the battle for his tapes and to preserve the authority of his office crashed toward a fateful climax, leaving his survival in the Oval Office in grave doubt and pitching the nation into one of the gravest constitutional crises in its history. There were these stunning developments in rapid sequence:

► Nixon revealed that he would refuse to comply with an appeals-court order directing him to yield his controversial tapes and documents to Federal Judge John J. Sirica for *in camera* inspection. Nor would he carry his case to the Supreme Court. Instead, he proposed to make available summaries of relevant portions of the tapes. These

would first be authenticated by Senator John C. Stennis, whom he would let hear the tapes in their entirety.

► Special Prosecutor Archibald Cox held a televised news conference to object to this Nixon "compromise" on the tapes and to declare that he would ask the courts either to cite Nixon for contempt or to clarify why the President's out-of-court offer was unacceptable.

► Nixon ordered Attorney General Elliot Richardson, who under heavy Senate pressure had appointed Cox and given him a free hand to investigate all Watergate-related crimes, to fire Cox. Richardson refused and resigned on principle.

► Nixon ordered Deputy Attorney General William Ruckelshaus to dismiss Cox. Ruckelshaus also in conscience declined. So Nixon fired him.

► Nixon then appointed Solicitor General Robert Bork acting Attorney General and directed him to fire Cox and abolish Cox's entire operation, including his staff of more than 60 attor-

neys, who have been investigating the pervasive scandal for five months. Bork obeyed, and within hours the nation witnessed the spectacle of FBI agents sealing off the offices and papers of the two top Justice Department men as well as those of Cox and his aides.

In these historic events, the President was acting in direct defiance of a court order. By abolishing the independent arm of the Justice Department that was created at the insistence of the Senate, Nixon was challenging the Congress that holds the power to impeach and try him for violating his oath of office.

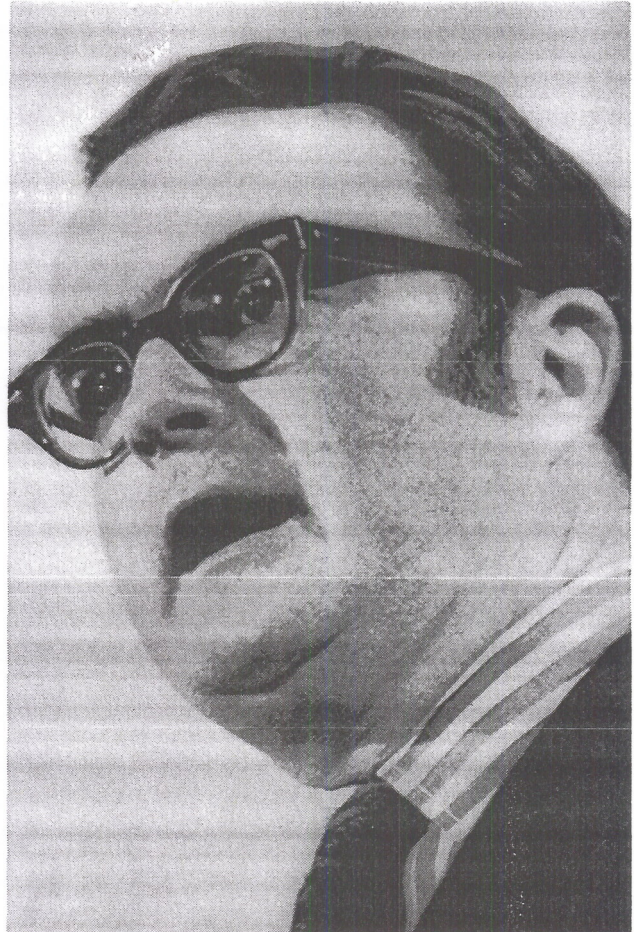
In just a few dizzying hours, a plan that Nixon had presented as a means of preventing a constitutional crisis had actually speeded a dual confrontation between the Executive and both other branches of Government. The question was how the public and Congress would perceive the President's actions and how much pressure would arise for the House of Representatives to begin impeachment proceedings against him.

WALTER BENNETT



FORMER ATTORNEY GENERAL ELLIOT RICHARDSON

UPI



FORMER DEPUTY ATTORNEY GENERAL WILLIAM RUCKELSHAUS

The first shocked reactions of Congressmen and Senators indicated that the pressure would be considerable and perhaps irresistible. Republicans were among Nixon's severest critics. Senator Mark Hatfield observed that a move to impeach could come "like a flash flood sweeping down over the pasture land." Senator Robert Packwood argued that there was "no justification" for Nixon's action. "The office of the President does not carry with it a license to destroy justice in America. His deeds are dishonorable." Predicted Freshman Congressman William H. Hudnut of Indiana: "If Nixon gives the impression he is above the law, he is going to have an impeachment problem on his hands of considerable magnitude."

Democrats, too, talked ominously of impeachment. Senator Edmund Muskie urged the House to begin the painful proceedings. Senator Edward Kennedy decried the firing of Cox as "a reckless act of desperation by a President who is afraid of the Supreme Court, who has no respect for law and no regard for men of conscience. The burden is now on Congress to nullify this historic insult to the rule of law and to the nation's system of justice." Argued West Virginia Congressman Ken Hechler: "Impeach-

ment proceedings must be initiated at the earliest possible moment." California Congressman Don Edwards urged Nixon to admit that he had made "a terrible mistake" and resign.

Nixon could hardly have anticipated that his bid to resolve the Watergate tapes controversy short of the Supreme Court would take such a dangerous turn. After being petitioned by Prosecutor Cox, Judge Sirica had ordered that the tapes of White House conversations and Watergate-related papers be given to him so that he could decide what portions should be relayed to the grand jury directed by Cox. Sirica's ruling had been sustained on Oct. 12 in a sharply worded 5-to-2 decision by the U.S. Court of Appeals for the District of Columbia.

A "Summary." Given five days by the appellate court to file his notice of appeal to the Supreme Court, Nixon faced a deadline of midnight on Friday; he had to act before then or the lower court's order would go into effect. Instead of filing, Nixon cited the crisis in the Middle East and appealed to an overriding national interest in first announcing that he would personally prepare a "summary" of information on the tapes that he considered relevant to the multiple Watergate investigations.

This summary, Nixon declared, would be given to both the Senate Watergate committee and Judge Sirica. It would not, however, be a verbatim transcript. Nor would any portion of the tapes or any papers be given to Sirica.

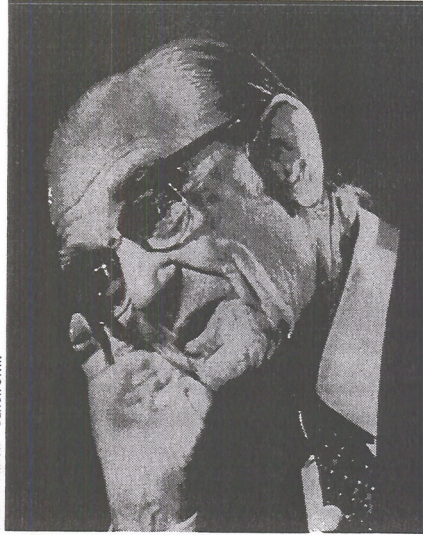
The sole check on whether the Nixon summary was complete and fair would be Nixon's personally selected auditor of the tapes: Mississippi Senator John Stennis, 72, a conservative Democrat who only recently recovered from critical bullet wounds sustained in a street robbery. Stennis would be given "unlimited access" to the tapes to verify Nixon's account of them, according to this plan. The selection of Stennis was perhaps the only unflawed element in Nixon's design. To his colleagues, it was inconceivable that he would have anything to do with a scheme to mislead the Senate. It might be argued that Nixon's offer to let Stennis judge the tapes was the most powerful evidence yet that they may indeed exonerate Nixon, as he has claimed all along. Yet Stennis had publicly praised Nixon earlier for standing fast against his critics on Watergate, and had suggested that he had the ability "to tough it out."

Nixon seemed to have one advantage in the tumultuous tapes controver-

sy. Surprisingly, he had been able, only hours before the appeals-court order became effective, to persuade two of the Senate's most prestigious Watergate investigators, Senate Select Committee Chairman Sam Ervin and the committee's Republican vice chairman, Howard Baker, to go along with his scheme. But both men insisted that their concurrence was narrowly based on the committee's interest in getting any evidence at all of what the tapes contain and was meant to be totally unrelated to the court struggle.

Ervin, moreover, protested that he had been misled into believing that the committee would get full transcripts of the tapes, not edited summaries. The White House placated him by assuring him that he would get verbatim transcripts, though that was not what Nixon announced. It was all very confusing, and just how the full membership of the seven-man committee would regard the plan in view of the upheaval on the criminal side of the Watergate investigation was not yet clear.

Even Stennis, who had agreed to undertake what he described as merely "a mechanical job" of verifying Nixon's version of what is on the tapes, indi-



DENNIS BRACK—BLACK STAR

STENNIS LISTENS TO A QUESTION *Technical help needed?*

cated some reservations. He insisted that he had never been told that Cox was so adamantly opposed to the scheme or that it would have any devastating effects on the criminal prosecution. Stennis had in fact agreed to audit the tapes only after Ervin and Baker had agreed to the plan. There were strong signs that Nixon had craftily attempted to use the three Senators in order to achieve his

priority goal: to frustrate judicial attempts to pry loose those tapes.

Yet, ironically, it was Nixon's attempted abuse of Attorney General Richardson that may have wounded the President most seriously. By his strong proclamation that justice must not be subverted in handling Agnew's graft and contract kickbacks, Richardson had only the week before enhanced his already considerable reputation for rectitude and propriety. The Agnew stand undoubtedly was taken at Nixon's behest. Now, by resigning rather than bowing to Nixon's bludgeon tactics against Cox, Richardson may have dealt the President a mortal political blow.

Cox's somewhat fey professorial manner conceals a backbone of steel. Summoning newsmen the morning after Nixon's statement on the tapes, he declared: "I'm certainly not out to get the President. I hate a fight." Contending that the legal argument must not degenerate into a clash of personalities, Cox insisted that Nixon's refusal to provide any of the tapes or documents was just another in a series of "repeated frustrations" in his attempts to get vital information from the White House.

The strongest Cox argument against

The Three Men of High Principle

Short profiles of the three men who stood on principle, defied the President and lost their jobs:

ARCHIBALD COX. A registered Democrat, Cox, 61, has worked for five Administrations—as a lawyer in the Departments of Justice and Labor (1943), head of the Wage Stabilization Board (1952), Solicitor General (1961-65) and special Watergate prosecutor. His reputation as a brilliant, almost arrogantly self-confident legal scholar was acquired during his 22 years on the faculty of Harvard Law School, where he took his law degree in 1937. In 1968 he headed a panel that investigated the causes of student riots at Columbia University. A year later he advised school officials during similar disturbances at Harvard.

An expert in labor law, he has pursued a career, both in and out of academe, that has been distinguished by an inflexible dedication to principle. Once, as U.S. Solicitor General, he refused to argue before the Supreme Court a case involving the right of Government officials to search automobiles brought to police headquarters because he believed there was no justification for the Government's position (the Government lost the case). Accepting the post of special Watergate prosecutor just after ending a speech at Berkeley on the importance of faith in Government, he pledged to do all he could to help "restore a sense of integrity and honor throughout our Government."

ELLIOT L. RICHARDSON. A lifelong Republican, Richardson, 53, was born into a Boston Brahmin family and educated at Harvard (LL.B., '47), where he was a student of Cox's. As U.S. Attorney for Massachusetts, he prosecuted Boston Industrialist Bernard Goldfine, who provided Sherman Adams' famous vicuña coat. After serving as Lieutenant Governor and attorney general, he joined the Nixon Administration in 1969 and became its most versatile handyman. In five years, he served successively as Under Secretary of State; Secretary of Health, Education and Welfare; Secretary of Defense and, finally, Attorney General. He had been working hard to restore the morale and image of the Justice Department, both badly mauled by the Watergate scandals.

Although Richardson was regarded as an Administration loyalist, his chief allegiance throughout his career has been to law. "Law is the indispensable attribute of an ordered society," he once observed. As Attorney General, he said his goal was a "clearing of the air to ensure that there is fairness, one system of justice for the rich and the poor, the white and the black."

WILLIAM D. RUCKELSHAUS. A third-generation Republican politician, Ruckelshaus, 41, also took his law degree at Harvard (1960) and served for five years in the Indiana attorney general's office. Elected to the state house of representatives, he was soon chosen majority leader. In 1969 he joined the Justice De-

partment as Assistant Attorney General in charge of the civil division, and became the Administration's unofficial emissary to radical young people. He negotiated with student leaders on logistics for the massive 1970 antiwar demonstration in Washington, quietly calmed a potentially explosive confrontation over a trial of Black Panthers in New Haven in 1971, and frequently spoke on college campuses to improve the Administration's image.

President Nixon named him the first administrator of the Environmental Protection Agency in December 1970, and Ruckelshaus won a wide reputation as tough, fair and unusually independent of the White House. For three years he walked the narrow line—without a serious misstep—between suspicious environmentalists and hostile businessmen. He compromised in his most publicized struggle, giving automobile manufacturers a one-year extension of a 1975 deadline for the installation of antipollution devices on cars while slapping on tough interim standards. Nonetheless, his tenacious fight and his insistence that presidential aides stay out of it enhanced his prestige. Last April Nixon named him acting director of the FBI, whose morale had been shattered by L. Patrick Gray's controversial tenure as acting director. Finally, Ruckelshaus was persuaded to become Richardson's top assistant last month. When asked about the Watergate scandal last spring, he told an interviewer: "There are a lot of people who understand private morality who have no understanding at all of public morality."

Nixon's proposal was that no trial court would be satisfied with a summary of evidence when the complete tapes and documents existed. Failure by the prosecution to produce them would allow defense attorneys to seek dismissals on the ground that evidence was being withheld by the Government.

Such an impasse could lead to a complete perversion of justice in the varied Watergate crimes. The Watergate figures who have cooperated with prosecutors, admitted some of their own illegal acts and already entered guilty pleas, could wind up as the only principals to face punishment. Thus John Dean, Jeb Stuart Magruder and Fred LaRue, for example, might be jailed, while such adamant professors of innocence as John Ehrlichman, Bob Halde- man and John Mitchell might go free. While this outcome might not displease the White House, it would hardly reassure the public.

Nixon certainly did not see the situation that way as he presented his case for evading the court's directives. Citing "this critical hour" in world affairs, Nixon argued that "there are those in the international community who may be tempted by our Watergate-related difficulties at home to misread America's unity and resolve in meeting the challenges we confront abroad." The Middle East crisis, he contended, made it imperative that the lingering tapes controversy be settled promptly.

Thus, said Nixon, he had decided to take "decisive action that will avoid any possibility of a constitutional crisis." To carry an appeal to the Supreme Court would eventually bring a decision favorable to his claims of Executive privilege, he concluded, contrary to the estimates of most constitutional scholars. Yet that would take too long. So he was acting now "with the spirit" of the appeals-

STEVE NORTHUP



SOLICITOR GENERAL ROBERT BORK
He would and did.

court decision by offering a "compromise." It was only "with the greatest reluctance" that he was permitting "a breach in the confidentiality that is so necessary to the conduct of the presidency" and allowing Senator Stennis to monitor the tapes.

Nixon then anticipated a most appropriate question. "Why, if I am willing to let Senator Stennis hear the tapes for this purpose, am I not willing merely to submit them to court for inspection in private?" Nixon's unpersuasive answer: "To allow the tapes to be heard by one judge would create a precedent that would be available to 400 district judges."

That reasoning ignored the fact that Stennis, as one of 535 Senators and Representatives, is a member of a branch of Government that is often even more eager than the Judiciary to contest the President's prerogatives. Moreover, as the appeals-court decision noted, Nixon had already breached his privilege by allowing his former aides to testify as to the content of the disputed Watergate conversations. Indeed, Nixon has publicly given his own version of some of these talks.

The Nixon tactic raised other troubling questions. If he was indeed so dedicated to principle, why not carry the matter to the highest court and get the favorable ruling that he said he so confidently expected? Or did he really expect the decision to go against him? The argument that international pressures arising in the Middle East would not permit such a delay seemed superficial. Nixon was not at all likely to be more seriously wounded by Watergate pending such a decision than he already had been—and the war crisis might well have abated by the time the tapes issue was resolved. In fact, at a time when the fighting abroad was still indecisive, Nixon had precipitated the very weakened condition that he so decried.

Broken Agreement. The President's legal evasions dismayed even some of his previous defenders in the law profession. Yale Law School's Charles Black Jr. had stoutly supported Nixon's position that the courts had no right to his confidential conversations or papers. Now Black declared: "I don't see how you can defend the President who first fights in the court, then cuts himself off from the courts and also breaks his agreement with Cox."

In guidelines written by Richardson last May and approved by Nixon, Cox had been given "the greatest degree of independence," and full power "whether or not to contest the assertion of Executive privilege" as well as to review "all documentary evidence available from any source, as to which he shall have full access." It had also been agreed that he could be fired only for "extraordinary improprieties."

Despite the dismissal of Cox, Law Professors Harry Kalven Jr. of the University of Chicago and Gerald Gunther of Stanford both contend, the court of



FEDERAL JUDGE JOHN SIRICA
He said no.

appeals can still cite Nixon for contempt. "The appellate court has already issued its order," said Kalven, "and it may take judicial notice of the President's defiance even without Cox." Other scholars, however, believe that the courts have no independent prosecutorial power; without a prosecutor, there is no adversary relationship. Cox could be appointed a counsel to the court or an agent for the grand jury that is still assigned to consider Watergate and related indictments. "Cox has a right to be heard," said Gunther. Another possibility of further legal action, according to Black, lies in Congress's power to appoint a special prosecutor on its own.

More threatening to the President, however, is the specter of impeachment. Nixon's actions almost certainly killed chances of a quick confirmation by the Congress of House Republican Leader Gerald Ford as Vice President. The appointment had been seen by many as another attempt by Nixon to placate the Congress by elevating one of its own. Now the Senate would almost certainly delay, waiting for a determination of Nixon's own fate.

The climactic weekend had its origins in events that slowly increased in pace from the beginning of the week.

Even before the court of appeals handed down its ruling, it had urged Cox and Nixon's attorneys to try to reach some kind of agreement that would enable the critical evidence to go to the grand jury without forcing a legal showdown over separation of powers. Cox and the President's counsel, Fred Buzhardt, had met for many hours before advising the court that they could not find a mutually acceptable means to do this. Last week Richardson, at the behest of Nixon through his aide Alexander Haig, reopened talks with Cox.

A White House official conceded

that such talk had influenced Nixon to make his move. Nixon, almost totally preoccupied with the crisis in the Middle East, undoubtedly felt the burden of the Watergate suspicions and litigation more keenly than ever. As Senator Baker put it: "You can only be nibbled by so many ducks at a time." Perhaps he even saw the war as a propitious time to try to get rid of Watergate once and for all.

On Monday, members of the Cox staff got a hint at what was up when he asked key men: "What would you think of John Stennis as referee in the tapes dispute?" Whatever position each staff man took, Cox assumed an opposite stance, provoking discussion. By Tuesday, Cox and his staff had reached a consensus: the issue was not really whether Stennis was the right man; the whole procedure was wrong. No court would

Professor Charles Wright, had meanwhile been summoned from Texas to Washington, and was reportedly astonished that Nixon was willing to yield to the extent that he would allow outside examination of the tapes.

On Thursday, Cox wrote to Wright, detailing eleven objections to the procedure. He wanted clearer standards spelled out as the basis for omitting any "slippery" national security matters. He urged that any agreement must include presidential papers as well as the tapes, and cover other, Watergate-related crimes in addition to the Watergate wiretapping and its concealment. But most basically, he said the matter could not be entrusted to "any one man operating in secrecy, consulting only with the White House."

Getting no reply, Cox left his office at 6:30 p.m. to visit a brother. He was sit-

cussions would be futile and declared ominously: "We will be forced to take the actions that the President deems appropriate." Turning restless in the afternoon, Cox wandered over to Brentano's to browse in search of a book for the weekend. But he had forgotten his glasses and returned to his office. By 6:30 p.m. Cox still had no idea what the White House was planning. "The President is going to fire you," said one aide. Cox shrugged and went home.

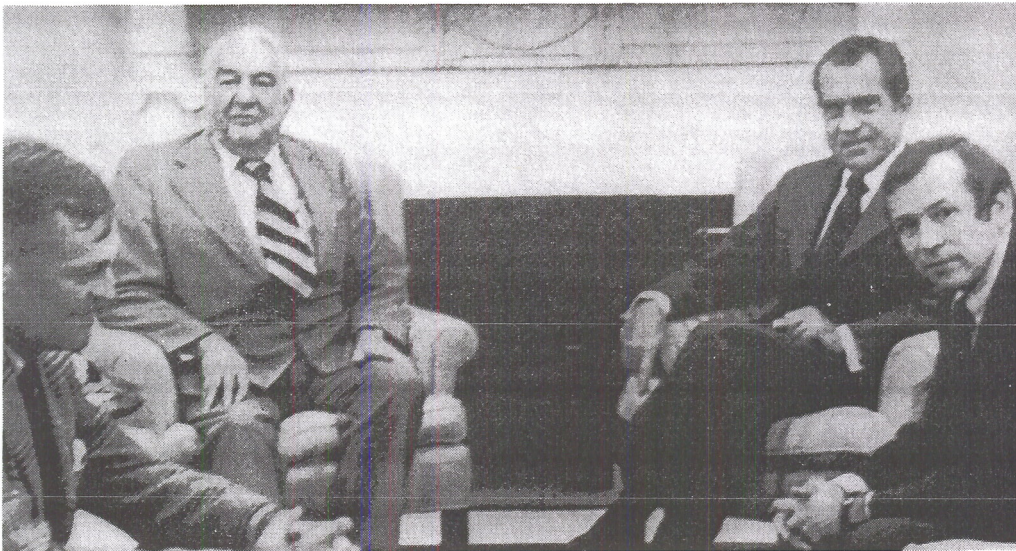
Cooperative Attitude. Earlier Stennis had been telephoned by Presidential Counsel Buzhardt, who had said that he and Haig would like to come to the Senator's office to see him. Stennis gave them 20 minutes, in which they outlined Nixon's plan. "My attitude," Stennis explained later, was "one of cooperation." Stennis said that he would never personally verify "the authenticity" of the tapes, however; if he found any signs of tampering he would have to "seek some technical advice."

As negotiations with Cox continued, Stennis was consulted three more times by Haig and Buzhardt. But he later said that he had not been told that Cox was objecting to the entire plan; he knew only that Cox had not yet accepted it. Stennis insisted that he would not agree either unless the Senate Watergate committee's Ervin and Baker also approved. Since the Ervin committee's suit for the tapes had been thrown out of court by *Sirica* (on the narrow ground that the committee had not demonstrated a legal standing to bring the suit), Stennis thought the Nixon offer might be the best the Senate could obtain.

His resistance set off a frantic last-minute effort to find Ervin and Baker and summon them to the White House. Baker was located at a symposium in Chicago, Ervin at an airport in New Orleans. Both flew immediately to Washington. They were ushered into the Oval Office and urged by Nixon, Haig and Wright to accept the proposal.

Whenever Ervin asked a question about how the agreement might affect court cases and how Cox felt about it, the conversation was diverted to the Senate committee's problems. Repeatedly one of the White House participants pleaded: "The President needs a strong hand in order to deal effectively with the Middle East crisis." Ervin, a longtime hawk in military matters, and Baker, an ideological ally of the President's, decided to go along.

It turned out that they had been had. Preoccupied with getting the tapes for their committee, they did not see the implications of their assent. Nor did Nixon and his aides help them to. As Baker now says, that assent was not intended to underwrite the President's refusal to abide by the appellate court's decision and to order Cox out of the arena. Cox, they felt, had "a different set of problems than we have," and, incredibly, they felt that Nixon was simply making an overture to them concerning their desires for the tapes and that this did



WRIGHT, ERVIN, NIXON & BAKER AT WHITE HOUSE MEETING ON TAPES
The President's pitch was all too persuasive.

accept summaries of tapes as evidence. Any judge would insist on the tapes.

By Wednesday, the Cox team had thoroughly studied a three-page proposal written by Richardson. It suggested that Nixon appoint a "verifier" of the tapes, an individual of "wide experience, strong character and established reputation for veracity." He would be given the tapes "for as long as he considered necessary," as well as a transcript of the tapes that would omit portions that "were not pertinent." His job would be to play the tapes and correct the transcript as needed. He could paraphrase any "embarrassing" language—an apparent reference to Nixon's propensity for coarse phrases. This verifier could also delete references harmful to "national defense or foreign relations."

The Richardson plan then called for the finished transcript to be submitted to the courts, which would be asked to accept the whole procedure. Accompanying the verified documents would be sworn affidavits that the tapes had not been altered in any way. The President's outside expert, University of Texas Law

Wright called from the White House. Wright rather coldly declared: "You won't agree with these." Then he cited several stipulations, which Cox took as an ultimatum. They included the insistence that Nixon be allowed to name a single tapes auditor—and, indeed, he had already selected Stennis—that under no circumstances would any portion of the tapes be given to any court, and that Cox must agree not to seek any additional tapes or documents. Richardson's proposal for supplying transcripts had been definitely changed to allow only Nixonian summaries. The Attorney General later contended that his plan had not precluded Cox from pursuing more tapes in court. Cox asked Wright to put it all in writing.

On Friday morning, Cox dispatched a letter to Wright, declaring that to agree to the conditions would be to break his public pledges to pursue all evidence of "criminal wrongdoing by high White House officials." Wright replied bluntly in another letter that any further dis-

not affect Cox's demands. For two savvy Senators, it was a naive performance, and for Nixon a devious one.

Learning that the White House planned a major statement on the tapes, Cox returned to his office in the evening. But no message from Nixon or his counsels was conveyed to Cox. Instead, he got a copy of the President's announcement from a newspaper office. Cox quickly dictated a reply objecting to Nixon's plan, and called his press conference for Saturday. He went home, took two sleeping pills, a rare practice for him, and retired for the night.

The Nixon announcement had contained one order aimed directly at Cox. "Though I have not wished to intrude upon the independence of the special prosecutor," Nixon said, "I have felt it necessary to direct him, as an employee of the Executive Branch, to make no further attempts by judicial process to obtain tapes, notes, or memoranda of presidential conversations."

Next day at his press conference, Cox indicated that he simply could not accept this order, since it totally transformed the rules under which he had been hired. Carefully refusing to be drawn into any blanket characterization of the President's action, Cox praised Elliot Richardson for acting with honesty and restraint throughout the high-stakes negotiations over the tapes. Pointedly, Cox noted that because Richardson had been empowered to select and hire him, he figured that only Richardson could dismiss him. He indicated clearly that he had no intention of resigning. Cox returned to his office, sipped a beer, and replied to a lawyer's question about what the staff should do next: "We ought to rest." He relaxed by walking alone in woods near his McLean, Va., home.

Shortly after the Cox press conference, Richardson and his top aides were gathered in his office at the Justice De-



FBI AGENT CLOSES THE DOOR TO COX'S OFFICE AFTER HE IS FIRED
But the problems of Watergate were still wide open.

partment. His White House telephone rang. The caller (apparently Haig) conveyed the message: "Fire Cox." Replied Richardson: "That I could not do." The Attorney General turned to his deputy, Bill Ruckelshaus. "You'll have to do it, Bill." Solemnly Ruckelshaus answered: "I wouldn't do it, either." All eyes in the office turned to the third man in the department's hierarchy, Solicitor General Bork. Said Bork slowly: "I probably would." It turned out to be a prophetic admission.

"No Choice." In a five-paragraph letter of resignation, Richardson cited his pledge to the Senate, given at his confirmation hearings last May, that he would "not countermand or interfere with the special prosecutor's decisions or actions." He added: "I trust that you understand that I could not in the light of these firm and repeated commitments carry out your direction . . . In the circumstances, therefore, I felt that I have no choice but to resign." Nixon accepted with a one-sentence note: "It is with the deepest regret and with an understanding of the circumstances which brought you to your decision that I accept your resignation." In his note to the President, Ruckelshaus wrote: "I am sorry my conscience will not permit me to carry out your instructions to fire Archibald Cox." Ruckelshaus was never directly informed that he had been fired, but he felt obliged to resign.

The FBI on White House orders moved quickly to take possession of the offices and files of the ousted men. One Cox deputy prosecutor, arriving to pick up some personal papers, was denied even that access. Said he: "Perhaps it wasn't *Seven Days in May*, but it was one day in October."

A high White House official defended the President's actions: "In the face of a direct challenge to his authority, the President had no option but to fire Cox. You can't tolerate that kind of thing." Then he repeated the view that any defiance of Nixon's will at home would be taken as weakness abroad, par-

ticularly in the Soviet Union. Added this aide: "This is starchy stuff. We've had six months of hemorrhaging. We had to take terminal action."

Indeed, Nixon's action could prove to be terminal—although not in the way the White House had intended. By firing Archibald Cox, Nixon had removed one of his best hopes of eventual vindication: a final judgment by an independent investigator that the President was in no way criminally implicated in the Watergate deceits and transgressions. Now a decapitated Justice Department, stripped of any independence and trying to continue the investigations, could come to a similar judgment—but with little credibility.

At the same time Nixon, who once proclaimed so emphatically that it was time "to turn Watergate over to the courts," had short-circuited any such course. As Democratic Senator Adlai E. Stevenson aptly summed up the sorry situation last week: "By denying the special prosecutor access to the White House tapes, Mr. Nixon gives the American people no reason for confidence that they will ever know the whole truth about Watergate. By his disdain for the orderly processes of the law, he gives us no reason to believe that justice will be done." The Nixon argument that the real issues were the preservation of the constitutional separation of powers and Executive privilege could have some remotely redeeming merit; but it was hardly enhanced by his dismissal of Cox.

A nation that in many ways had undoubtedly been growing weary of Watergate now finds it impossible to put the matter behind it. To call into question the vital issue of whether its own Government recognizes the primacy of a system of laws over political expediency and personal power is to rock the nation to its philosophic foundations. It is not any imagined White House enemies in the press, the courts or the Congress that have created this situation. Richard Nixon, through his reckless deeds of last week, did it all alone.



Cover-Up III, Phase II

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