

Richardson Urges Nixon To Drop Privilege Claims

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Special to The New York Times

11/7/73

WASHINGTON, Nov. 6—Former Attorney General Elliot L. Richardson said today that President Nixon should agree to drop all claims of executive privilege in the wide-ranging investigations of the Watergate scandals.

In an appearance before the Senate Judiciary Committee, Mr. Richardson stated:

"I see no other way of this juncture of providing the reassurance necessary to the Congress and the American people that the special prosecutor can get to the bottom of all these matters."

He continued, "we have reached the point where it seems to me, any further conversation about privilege ought to be eliminated."

It was Mr. Richardson's first appearance before Congress since his resignation Oct. 20 in the tumult surrounding Mr. Nixon's orders to dismiss the special Watergate prosecutor, Archibald Cox.

Senator William B. Saxbe, Republican of Ohio, who has been named to succeed Mr. Richardson, will come before the Judiciary Committee for confirmation hearings as the new Attorney General. Senator Edward M. Kennedy, Democrat of Massachusetts, asked if Senator Saxbe's confirmation should be held up until the President makes a solid agreement on executive privilege.

"I think that would be a good idea," Mr. Richardson

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said.

He stated that although there was no legal way to force such a commitment from the President, Mr. Nixon's refusal to do so "should be taken into account with regard to the whole situation."

Under questioning by reporters later, Mr. Richardson said his reference to "the whole situation" had to do with "a deeply eroded confidence" in public officials and the Presidency itself.

Asked if that "erosion" was

reflected in moves to seek a Presidential resignation or impeachment, he said, "That's a fair conclusion."

Guideline Sought

Senator Hiram L. Fong, Republican of Hawaii, asked Mr. Richardson how far the President should go in waiving privilege and if Mr. Nixon should turn over everything.

"In substance, yes," Mr. Richardson said, but added that some evidence of material value to the criminal investigations should be shown to guard against "fishing expeditions."

Mr. Richardson brought along with him a number of memos and letters that the committee had sought.

One was a memorandum dated Aug. 21, from Robert H. Bork, the Solicitor General and now the Acting Attorney General. It outlined a "special consultant" to be set up between Mr. Cox and the White House to look into "national security" matters involving the White House special investigation unit, known as the "plumbers."

The working paper attached to it suggested the sharp curtailment of the "plumbers" investigation but limiting it to "the commission of criminal offenses."

"In judging criminality," the memo stated, three criteria will be employed.

It listed these as whether the actions taken by the plumbers were standard operating procedures, whether they involved physical entry and not merely wiretapping, and "the plausibility of the belief at the time that national security was involved."

It said that a "strong showing" of "plausibility" would possibly "eliminate the importance" of the other two.

In his opening remarks to the committee, Mr. Richardson stressed that the major problems during Mr. Cox's tenure as special prosecutor were a lack of personal Presidential commitment to the terms of charter for the job that was worked out with the committee.

He also said that the charter, as he called the guidelines laid down last May, "did not and could not purport to guarantee access to Presidential memoranda and notes."

He said he thought that the President's statement on May 22 waiving privilege in testimony from White House aides on Watergate matters covered the ground. He learned later, he said, that the statement only had covered testimony, not documents, and only the main Watergate break-in case at Democratic national headquarters at the subsequent cover-up, not the related matters being investigated by Mr. Cox.

Questioned by Kennedy

Senator Kennedy asked him who had been misled in believing that there was a firm commitment to the independence of Mr. Cox.

"Were we? Do you feel you were? Quite clearly the American people understood . . . that this special prosecutor was to be independent, only to be fired for gross impropriety," the Senator stated.

Mr. Richardson seemed reluctant to place any blame and said instead that he had thought he was acting with "full authority."

Mr. Richardson's reception by the committee was a warm one. He was generally praised for having carried out his duties well and his commitment to the Senate.

He agreed generally with the position of many Republicans in the Senate and of Acting Attorney General Robert H. Bork that the naming of a court-appointed special prosecutor might be unconstitutional.

He said he would prefer to have the naming left with the President, but subject to Senate confirmation.

Asked by Senator James O. Eastland if Mr. Cox had been dismissed because he was "on the verge of discovering sensational stuff," Mr. Richardson replied that he did not think so.

"Nothing essentially new or radically different than what had publicly emerged was in the works that I knew of," he said.

Mr. Richardson was asked by Senator Kennedy about an Oct. 23 article in The New York Times that quoted Mr. Richardson through associates as saying the President had not been in the best of mental condition.

"There was a period from around early July in which I thought the President showed a considerable sense of strain," Mr. Richardson said.

He said the President had telephoned him from Key Biscayne, Fla., saying he wanted Mr. Cox to issue a public state-

ment saying the Nixons' San Clemente, Calif., residence was not under investigation.

He said he had talked to Mr. Cox about the matter.

Mr. Cox had told the committee earlier of the same conversation but said he did not think it represented pressure on him. He said his only action in regard to San Clemente was to ask an aide to get him newspaper clippings on the subject, since he was sure it would come up in a news conference and he wanted some knowledge of what reporters might ask.

Mr. Richardson said that "sometime in September or early October" he met with Mr. Nixon in the Oval Office to discuss the problems surrounding former Vice President Spiro T. Agnew.

At the close of the meetings, he said, Mr. Nixon spoke to him and "it had something to do with getting rid of Cox."

"I didn't take it seriously," Mr. Richardson said. "I thought it was an expression of irritation."

Senator John L. McClellan, Democrat of Arkansas, said that many in Congress felt an independent prosecutor was needed and asked if the new arrangement with Leon Jaworski, Mr. Cox's successor, gave Congress a veto power over a Presidential dismissal.

Under the arrangement, eight senior Senators, with six agreeing, would have to agree to any such dismissal.

"Is that constitutional?" Senator McClellan asked.

"There is some question about that," Mr. Richardson replied.

Senator Birch Bayh, Democrat of Indiana who is a leader of a Senate drive for a court-appointed special prosecutor, said in an interview later, "I don't care what the legal niceties are as long as the President can hire and as long as he can fire, people aren't going to believe."

He said the committee had been "burned once" and added, "We'd be foolish to let the same thing happen again."