

Justice Dept. Sets Up A Line of Succession

By John P. MacKenzie
Washington Post Staff Writer

The multiple firings and resignations at the Justice Department have forced Acting Attorney General Robert H. Bork to create the first detailed line of succession to the top post in the department's recent history.

If Bork, like Attorney General Elliot L. Richardson and his deputy, William D. Ruckelshaus, had vacated the top post rather than carry out President Nixon's order to fire Special Prosecutor Archibald Cox, there would have been no clearly established official to do the job.

Now, under a regulation issued by Bork on Tuesday, Bork himself would be succeeded by Assistant Attorney General Henry E. Petersen if Bork should vacate the office.

For at least a generation before Saturday's chain of firings and resignations, the department had been content to operate with a line of succession that did not specify any officials below the rank of deputy attorney

general and solicitor general.

Under the new regulation, five assistant attorneys general would succeed the job of acting attorney general if the men above them vacated the post. In order of succession, they are:

Thomas E. Kauper, chief of the antitrust division; J. Stanley Pottinger, civil rights; Robert G. Dixon, legal counsel; Scott P. Cramp-ton, tax, and Wallace Johnson, land division.

The line of succession would make it likely that if there were a recurrence of Saturday's series of presidential orders met by the refusals of subordinates, the President would have to fire several more top assistants before his orders were carried out.

At the same time Bork rescinded several published department regulations under which Special Prosecutor Cox had operated since May.

The regulations, which assured Cox that he would not be fired except for gross improprieties, are the subject of a suit by Ralph Nader and his Public Citizen, Inc., to nullify the firing of Cox.

Citing cases in which the Supreme Court has held that government agencies must abide by their own published rules, Nader argues that Bork violated the regulations as well as the administration's promises to the Senate when he removed Cox while admitting that no gross improprieties had been committed.

Cox, saying he would not engage in a personal battle for power, is not expected to make those legal arguments on his own behalf. The Justice Department is expected to seek dismissal of Nader's suit on grounds that Nader lacks legal standing to make such an argument.

Nader contends that he and other citizens have legal standing because the rules were made for the public's benefit, not solely for Cox's benefit. His attorneys said some members of Congress have expressed interest in joining Nader as plaintiffs in the suit, which was filed Tuesday in U.S. District Court here.