

A White House-Cox Showdown?

TAPES

The showdown between the White House and special prosecutor Archibald Cox, a prospect particularly ominous even on President Nixon's bleak horizon, may be hastened by Monday's revelation of the Nixon tapes.

Even before the taping bombshell, backstage negotiations over Cox's request for White House papers threatened deep trouble for the President. Now that the prosecutor will also request the tapes and may well be refused them on Mr. Nixon's order, the possibility of a public break between the White House and Cox is enhanced. Such a rupture could be lethal in seeming to confirm a guilty Mr. Nixon hiding the truth.

To Mr. Nixon's worried advisers, the apparently accidental revelation of the presidential tapes has hardened Watergate politics from difficult to nearly impossible. With the President now determined to deny the tapes to the Senate Watergate Committee, its Republican members privately ask: why would Mr. Nixon write his July 6 letter denying all his papers to Congress if he possessed tape recordings of conversations with John W. Dean III that would exonerate him?

The tapes pose greater problems for Mr. Nixon's relations with the special prosecutor. Whereas the President denies documents to the Senate on grounds of constitutional separation of powers, Cox's prosecution is part of the executive branch. On what grounds, then, can the tapes be denied? "We can't have government lawyers rummaging around in presidential papers," a senior presidential aide told us lamely.

In fact, the underlying relationship between the White House and Cox exudes tension. Mr. Nixon agreed to a special Watergate prosecutor only after irresistible congressional pressure. Nor was he pleased when his new Attorney General, Elliot Richardson, selected Cox—Democratic, liberal, Harvard, Kennedyite.

The relationship went downhill from there. Presidential aides complained privately when lawyers first named to Cox's staff were liberal Democrats. Mr. Nixon boiled over when told of a published report, greatly exaggerated, that the prosecutor was studying the financing of the President's San Clemente estate.

But all such quibbling pales before this basic question: can Cox obtain documentary evidence he wants from the White House? The prosecutor's office erred originally in asking for material informally over the telephone. The material was not supplied. After that, Cox's lawyers were formal and precise in requesting specific papers (in contrast to the Ervin committee's shotgun approach).

The response was not a blunt refusal that might have triggered an embarrassing public break with the White House by Cox but rather a lesiurely stall. The stall, in turn, generated secret negotiations for release of the papers. Cox, trying to avoid a rupture with the White House, maintained a tight secrecy lid. But White House spokesman Gerald L. Warren revealed last week that talks were under way.

Adding new clarity to these talks was Monday's stunning revelation of the White House tapes—particularly

recordings of conversations between the President and ousted counsel Dean. Cox is certain to call for the tapes. Moreover, if the tapes are not released, even Nixon advisers concede that an indicted Dean could claim in his defense that evidence proving his innocence was suppressed.

If the tapes are refused, presidential lieutenants believe Cox may resign, to the immense embarrassment of Mr. Nixon. Nixon men even now try to minimize the embarrassment by suggesting that Cox might be preparing for prospective failure to win Watergate convictions by a face-saving decision to quit.

But prior to any resignation, Cox might make matters hot. Refusal of the tapes could be followed by Cox going public with his confrontation and then going to court to secure the tapes. If that fails, Cox might, in fact, resign. That would also undermine Attorney General Richardson's continuation in office.

Such a sequence, far more than the confrontation between White House and Senate, would poison the President's efforts to prove his innocence. Whereas Mr. Nixon has courted trouble with the Ervin committee, he wants badly to avoid any public break with Cox.

Any such break would be prevented by dispatching the tapes to Cox, a transaction unclouded by constitutional questions. All the more reason, then, why a refusal to Cox would raise suspicions even among the President's loyal supporters that he truly does have a great deal to hide.