

Special Prosecutor, Faced With Move

NYTimes

By ANTHONY RIPLEY
Special to The New York Times

WASHINGTON, July 23—Special Prosecutor Archibald Cox, who said last May 21 that he would either resign or seek "some public recourse" if anyone attempted to block his criminal investigation of the Watergate scandals, ran into a block today. He did not resign. He went to court.

Mr. Cox announced at a brief meeting with newsmen that he would seek to subpoena tape recordings of eight specific White House conversations he considered important to the case. He also said that he had been seeking other documents, presumably without success,

and would comment further on the matter at a news conference in the next few days.

"There are other pending requests for information from the White House," he said, adding that he would discuss those requests "when we're in a better position to put the whole thing in front of you."

Mr. Cox did not say who would be the target of his subpoenas, nor did he add any other details.

He said he would try to resolve the problem through the legal process. Mr. Cox added, "Of course, I'm not going to resign," although no one had asked the question.

Before he read his brief

statement, the prosecutor emphasized three points in his July 18 letter to J. Fred Buzhardt, counsel to President Nixon.

Those points were that the requests for tapes were part of an investigation into "serious criminal misconduct," that such a request for information on possible charges of criminal conspiracy would set no damaging precedents and that he would be willing to have them go solely to a grand jury in secret.

In turning down Mr. Cox, Charles Alan Wright, a University of Texas law professor who is serving as a \$125-a-day White House consultant,

to Block Inquiry, to Subpoena Tapes

said the matter involved executive privilege based on the separation of powers among the courts, the Presidency and Congress.

Because a President has the right to hold confidential his personal communications Mr. Wright argued, only the President can decide if it is in the public interest to make some of those communications public.

The President must weigh whether the public interest is better served by withholding information from a criminal investigation or preserving the confidentiality of his personal communications, Mr. Wright continued.

"In this instance, the Presi-

dent has concluded that it would not serve the public interest to make the tapes available," the professor said.

Last May 21, during Senate hearings on the confirmation of Elliot L. Richardson as Attorney General, Mr. Cox spoke of executive privilege and the possibility that someone might try to block his investigation into the Watergate scandals.

"I take a dim view of the doctrine of executive privilege, particularly in this matter," Mr. Cox said at that time. "It is not soundly based in law."

The majority whip, Senator Robert C. Byrd, Democrat of West Virginia, questioned him at the time asking, "If you were overruled by [Mr. Richardson],

would you resign?"

Mr. Cox answered:

"If it were a matter of the slightest importance, yes — unless you are talking simply about the budgetary matter.

"But if I thought it was a matter of the conduct of the investigation and was in any way an attempt to block something that I thought was not only less than important, even significant, well, I would either resign or find some public recourse.

"I'm not sure that I would be prepared to confine myself to resigning. I might try to seek recourse somewhere else so that I was able to do what I thought my responsibility required of me."



Associated Press

Archibald Cox, special Watergate prosecutor, telling reporters that he would subpoena the Presidential tapes.