

White House Appeals Ruling on Cox Firing

By John P. MacKenzie
Washington Post Staff Writer

The Nixon administration has decided to appeal a court ruling that the Oct. 20 firing of Watergate Special Prosecutor Archibald Cox was illegal.

Solicitor General Robert H. Bork, who as acting Attorney General executed President Nixon's order to fire Cox, yesterday authorized taking the case to the U.S. Court of Appeals.

The appeal will revive controversy over the independence of the special prosecutor's office, now headed by Leon A. Jaworski. It also could produce a major ruling on the right of members of Congress to take the Justice Department to court.

U.S. District Court Judge Gerhard A. Gesell ruled Nov. 14 that although Cox himself was unwilling to fight his ouster, three legislators—Sen. Frank E. Moss (D-Utah), Rep. Bella S. Abzug (D-N.Y.) and Rep. Jerome R. Waldie (D-Calif.) had legal standing to complain about the firing in court.

Judge Gesell then held that Bork violated his own department's legally binding regula-

tion when he dismissed Cox although admitting Cox had committed no "extraordinary improprieties." Under the regulations, former Attorney General Elliot L. Richardson had pledged that only such gross misconduct would justify dismissal.

Richardson, citing similar pledges to the Senate at his own confirmation, quit rather than carry out the White House instruction. Bork said he was not bound by Richardson's promise to the Senate and has said he in effect rescinded the regulations simultaneously with the Cox firing.

A major reason for appealing was that government lawyers want to test the issue of congressmen's legal standing to question executive branch decisions in court.

Judge Gesell dismissed Ralph Nader as a co-plaintiff but said members of Congress have special rights of access to the courts because of their legislative needs. He was following a rule laid down by the Court of Appeals in a congressman's suit challenging military activities in Asia.