

Watergate Prosecutor Cox

By John P. MacKenzie
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Can Archie Cox run an independent prosecution of the Watergate crimes, leaving no one in doubt about who's in charge?

Few persons who know the tall, patrician Harvard law professor would deny that Cox is one of the most independent of men who, like his onetime pupil Elliot Richardson, does not lightly surrender power.

President Harry S. Truman found that out in 1952 when Cox, after four months as chairman of the Korean War Stabilization Board, quit the job because the President overruled his decision to chop 40 cents a

day from a controversial soft coal miners' contract.

A decade later as U. S. Solicitor General during the Kennedy-Johnson administrations, he showed no lack of confidence in his ability to bang heads together and submit the position of "the United States" to the Supreme Court.

While arguing one case that had split the executive branch as well as the courts, Cox was challenged by the late Justice Felix Frankfurter: "How do you expect to decide this matter if you can't even get an agreement inside the Justice Department?"

"Oh, Mr. Justice," Cox replied, "if the dispute were only inside the Justice De-

partment, I'm sure I could settle it."

Cox, 61-years-old on Wednesday, appears boyish in his gray crew cut, but he has always addressed the justices as equals and he has proved very persuasive, both as the government's top courtroom advocate and on appearances as a private attorney in high court cases.

Although he was far from personally committed to the principle of "one man, one vote" in reapportionment cases—and was prodded by Attorney General Robert F. Kennedy to give the idea a sympathetic hearing—he appeared for the government as a friend of the court and gave prestigious support to

the rule the court adopted in 1964.

His most recent Supreme Court appearance was as attorney for a New Hampshire man convicted of murder. He persuaded the court that the evidence had been gathered illegally, provoking a bitter law-and-order dissent from Chief Justice Warren E. Burger.

Last year when Richardson's Department of Health, Education and Welfare cited Cox as authority in support of the constitutionality of the Nixon administration's busing bill, Cox signed a letter vigorously opposing the bill on principle.

Skeptics yesterday pointed to Cox's lack of criminal trial practice. Supporters said the

Is Independent, Confident

gap is partially filled by experience in investigative work. In 1968, he headed a commission of inquiry into the Columbia University disorders. Last year he was counsel to a Massachusetts legislative committee which studied allegations of bribery and fixing of a court case involving two state judges.

Cox said that he would name an experienced criminal trial man as his principal assistant.

Richardson's talent scouts considered it a plus for the special prosecutor to be a Democrat, and in Cox they found a Massachusetts Democrat long associated with the political fortunes of the Kennedy family.

Cox shuttled from his

Harvard post to Washington during the late 1950s to help Sen. John F. Kennedy write major labor reform legislation. During the 1960 presidential race against Richard M. Nixon, he was dubbed the "dean" of the campaign "brain trust," preparing position papers on key issues.

He was offered the major post of Solicitor General after it was turned down by his Harvard colleague, Paul A. Freund, which only enhanced the gratitude of the Kennedy brothers, President and Attorney General. Yesterday's acceptance showed the same ability to take a job without fretting over its rejection by others.

The new special prosecutor avoided extensive com-

ment on the Watergate case yesterday, calling it a major challenge to public confidence in government. Supporters said he would have no qualms about pursuing the probe to its utmost, but Cox opened up new questions by saying any presidential infractions "would be reported" if discovered.

Lawyers who knew Cox in the academic setting and later in government prefer the government servant. As a teacher, one Harvard alumnus said yesterday, Cox was "a terror, insufferable, condescending. But he was good to work for, a perfectionist."

Cox was born in Plainfield, N.J., and attended St. Paul's School in Concord N.H., before attending col-

lege and law school at Harvard, graduating with honors in both places.

He was married in 1937, the year of his law school graduation, to the former Phyllis Ames. As Richardson was to do a decade later, he served as law clerk to Circuit Judge Learned Hand in New York and worked briefly for the Ropes, Gray law firm in Boston.

In 1941 Cox joined the Solicitor General's office in Washington. Later he worked with the National Defense Mobilization Board and was associate solicitor in the Labor Department. He first joined the Harvard faculty in 1945. He and his wife lived in Wayland, Mass., and have three children.