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A Commission to Probe Watergate?

The deeper becomes the pit which Special Prosecutor Archibald Cox is digging for himself, the more urgent and obviously necessary it becomes for a fresh start altogether.

What is required is still just what was required in the first place. This is the appointment by the President—solely upon the recommendation of the most distinguished figures of the American Bar—of a high national commission of inquiry similar to that which investigated the assassination of John F. Kennedy.

To avoid having his own attorney general, Elliot Richardson, be the agent for investigating illegal acts charged to his own administration, President Nixon leaned over backward. He leaned backward so far that the country has wound up with a prosecutorial system of fatal weakness.

Richardson was given the task of finding somebody equipped for an immaculate pursuit of a form of justice aseptically free from, and indeed quite out of, this world. So Richardson chose his old Harvard law professor, Archibald Cox, whose academic distinction has not prevented him from making two errors that are scarcely credible.

Item: He has issued absurd challenges to the Ervin committee's undoubted right to conduct its own inquiry in its own time and in its own way. The notion that the Supreme Court would ever grant a ukase limiting a committee of the United States Senate, a part of a co-equal branch of government owing no bended knee to either the judiciary or the White House, would flunk a first-year law student in any Slippery Rock College.

Item: Having many times proclaimed his fierce independence from Attorney General Richardson (and vice versa), Cox has in fact been moving closer and closer to Richardson, a fellow wearer of the old school tie. Richardson, who had taken a stout oath to stay out of this whole business, then proceeds to make two extraordinary observations. The first of these is proper, though it was at this juncture hardly necessary to trumpet it to the nation.

This observation was to the effect that if Cox should run afoul of President Nixon on the issue of what White House inner communications were properly confidential, the President would surely have to look to some other lawyer than Elliot Richardson.

The ironic consequence of this is that whereas every other defendant in this shabby mess is literally ringed with counsel, the only defendant who really matters—a man named Nixon—has in a practical way no lawyer at all except for a good but not too eminent White House assistant called Leonard Garment.

Unlike the first, the second of these Richardson incursions into an affair that he was going to stay out of is by no possible standard either necessary or proper—and certainly not so long as he continues to sit in the Cabinet and accept the favor of his patron.

Gratuitously and under no form of

compulsion, Richardson goes out of his way to strike at the heart of the President's defense, which is that cloak-and-daggerism for national security which was right and necessary in itself was perverted by eager-beavers into common and witless crimes such as the Watergate burglary. The defense doesn't impress Richardson.

Given a national commission like Earl Warren ran in the Kennedy tragedy, none of this current nonsense would have occurred. Such a body would have found the right kind of

prosecutor. And Elliot Richardson could have still found a means to get off what he may see as the sinking Nixon ship and of returning to Massachusetts as the very model of virtue betrayed.

The great point here is this: A Warren-type commission working with the Ervin panel—which is positively stuffed with courtroom, as distinguished from classroom, lawyers—would have cleaned up this whole mess for the one true client. That client is the American people.

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