

Cox Says Nixon Lawyers Raising 'Bogus Fears'

Washington

Archibald Cox, the Justice Department's special prosecutor, accused President Nixon's lawyers yesterday of raising a "bogus fear" in order to block delivery of the Watergate tape recordings to a grand jury.

In final legal papers filed with the U.S. Court of Appeals, Cox rejected the contention by White House attorneys that delivering parts of the tapes to a grand jury would automatically make the full record available to defendants in some of the forthcoming Watergate criminal trials.

The special prosecutor also urged the appellate

court not to "shrink from entry of a coercive order" against the president in the case because such delicacy might create "confusion or doubt about the status of its judgment."

ARGUMENTS

During arguments before the court Tuesday, Charles Alan Wright, the president's lawyer, suggested that something less than a court order, perhaps a declaratory judgement, would be more "appropriate" in resolving the controversy.

"While in some circumstances, that course might be preferred as a matter of discretion," Cox declared, "and while such a judgement would legally be just

as binding as a direct order, we suggest that approval of a direct order is warranted here.

"The President has publicly stated that he will comply with a 'definitive' ruling, suggesting that some adjudication of his legal powers and duties might not be definitive. In this setting, the court should not shrink from entry of a coercive order . . ."

CONTENTION

The special prosecutor went to some length to counter Wright's contention that a 1969 decision by the Supreme Court would permit criminal defendants in future Watergate prosecutions to obtain, on demand, the full White House tapes, if portions are now opened to grand jury scrutiny.

Cox noted that the supreme court denied then that "any defendant will have an unlimited right to rummage in the files of the department of justice" and said that subsequent decisions made it clear that extraneous or national security material could be excised by the trial judge.

The court of appeals yesterday gave the White House attorneys, who had requested additional time, a week after Cox filed his final papers for their reply, which will thus be due next Wednesday. The court's decision will probably not be handed down for at least a week after that.

New York Times