

Cox Says Nixon's Lawyers Raise 'Bogus

By WARREN WEAVER Jr.

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WASHINGTON, Sept. 12 — Archibald Cox, the Justice Department's special prosecutor, accused President Nixon's lawyers today of raising a "bogus fear" to block delivery of the Watergate tape recordings to a grand jury.

In final legal papers filed with the United States Court of Appeals here, Mr. Cox rejected the contention of 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."

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

Direct Order Urged

"While in some circumstances, that course might be preferred as a matter of discretion," Mr. Cox declared, "And while such a judgment would legally be just as binding as a direct order, we sug-

gest 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.

The special prosecutor went at some length to counter Professor 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.

Mr. Cox noted that the Supreme Court denied then that "any defendant will have an

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Fear' to Bar Use of Tapes

unlimited right to rummage in the files of the Department of Justice" and said that the subsequent decisions made it clear that extraneous or national security material could be excised by the trial judge.

The Court of Appeals gave the White House attorneys who had requested additional time, a week after Mr. 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.

Some legal authorities believe that little or no time would be lost if the Court of Appeals did not rule until the end of the month, for the Supreme Court does not return from its summer recess

until Oct. 1 and does not officially begin considering until then the backlog of cases filed over the last three months.

Mr. Cox also included in his final appeal to the court a rejection of the argument that the President should not be the subject of a valid court order merely because it would be difficult if not impossible to compel his compliance.

"The possible difficulty in enforcing an order here by 'physical' compulsion is legally irrelevant to the power of the court to enter such an order in this justiciable controversy," Mr. Cox declared, "and also ignores the other remedies open to a court in the exercise of its power to hold recalcitrant official in contempt"