

Cox Vowed Fight for Tapes, Hinted at Contempt Move

COX, From A1

decide what to do with the records.

A spokesman for Cox said he was told that the paper dismissing him had been signed by Solicitor General Robert H. Bork, after Attorney General Elliot L. Richardson had resigned and the White House said Deputy Attorney General William D. Ruckelshaus had been fired. (Ruckelshaus said he resigned.)

A spokesman indicated cryptically that Cox would seek a way of continuing the investigation. Asked if Cox might contest being fired by the Justice Department's No. 3 man, Bork, the spokesman said: "He (Cox) is not thinking that that's going to be his way to stay in office."

At his news conference yesterday afternoon, Cox said he had hoped to avoid a confrontation with the President over the Watergate tapes. But he said he could not accept the compromise Mr. Nixon had offered Friday night. He said it violated the promises he and Richardson had given to the Senate to pursue evidence even if it meant testing the President's asserted executive privilege.

Cox told the news conference he was planning to go into court "promptly" this week to press the case.

First, he said, he planned to tell the court that he did not regard the President as being in compliance with Judge John J. Sirica's original order to hand over the subpoenaed tapes for inspection in his chambers.

After that, Cox said, one of his obvious options would be to seek an order requiring the President to show cause why he should not be held in contempt of court.

Cox had won two court battles—before Sirica and the U.S. Circuit Court of Appeals—in his effort to subpoena the tapes, which contained conversations the President held between June 20, 1972, and April 5, 1973.

Cox told the news conference, "I am not looking for a confrontation and I am not out to get the President of the United States."

Nevertheless, he said that his role all along had been one of an independent prosecutor with instructions to seek evidence on the Watergate scandal even if his search led behind the wall of executive privilege and into the White House files.

He said that his efforts to get information from the White House has been the "subject of repeated frustrations" since May and that subpoenaing the tapes and certain papers in the White House is vital to the investigation.

"Nearly all evidence on the Watergate and the cover-up is in the White House papers and files," Cox added. "Unless you

that he might be appointed by the court to continue the investigation in some capacity.

More immediately, Cox's dismissal raised the question of what would happen to the files of information his staff had developed not only on the Watergate case but on a number of other criminal prosecutions on contributions and activities in the 1972 campaign.

At 9:06 p.m., two FBI agents entered the special prosecutor's office on K Street and said they were sealing the offices. Staff members would be allowed to take only obviously personal papers out of the building, they said. The staff members had been waiting there for Cox to come and

See COX, A18, Col. 5



ROBERT H. BORK
... persuaded to fire Cox

William Chapman

Washington Post Staff Writer

Six hours before he was fired yesterday Watergate Special Prosecutor Archibald Cox vowed that he would press his case to subpoena the President's tape recordings and might ask that the President be held in contempt of court.

He said he was prepared to tell a court this week that the President is "not in compliance" with a court order requiring him to turn over the tapes of nine conversations.

Last night he issued a one-sentence comment: "Whether ours shall continue to be a government of laws and not of men is now for Congress and ultimately the American people."

But Cox's abrupt dismissal last night left the future of his prosecution—and especially the subpoenas of the White House tapes—in a cloud of confusion.

By White House order, Cox's office went out of existence last night and he declined to comment on his immediate plans.

However, in the news conference earlier yesterday Cox raised the possibility that the District Court which issued the initial order on disclosure of the tapes might assume jurisdiction. He said that "very probably" the court would have authority to move on its own to seek the tapes. Cox even raised the possibility in the press conference

have access to them, you are not able to get the type of information a prosecutor must have."

But his efforts had been met with delays and refusals, he said. "The record is pretty much one of frustration," he said.

In addition to the tapes, Cox indicated he is also seeking other White House material, including the papers of former White House aides John D. Ehrlichman and H. R. (Bob) Haldeman.

He said he was told only a few weeks ago that an inventory of papers he had requested would not be supplied to him.

Cox said he had four major objections to the compromise spelled out by Mr. Nixon Friday night. They are:

- When one of the crimes being investigated is obstruction of justice, it is not sufficient to make evidence available to only two or three men. "It's not just a question of Senator Stennis' integrity," he said. "It's the kind of questions where it's terribly important to adhere to established institutions and not to try to reach an accommodation..."

- The proposed standards for deciding what material could be excluded from court perusal are too loose. There was no clear explanation of what could be withheld for "national security" reasons.

- It is "most unlikely" that a summary of the tapes would be admissible as evidence in a trial against Watergate defendants. Furthermore, the government might have to drop prosecutions against defendants who were demanding that the prosecution turn over material needed in their defense.

- The compromise would prevent him from seeking subpoenas for other information in the White House.

Meanwhile, Senate Watergate committee Chairman Sam J. Ervin Jr. (D-N.C.) said that he expects to receive partial, verbatim transcripts of White House tapes, not summaries as outlined in the statement by President Nixon. "I would never accept anybody's summary of anything," Ervin told the Associated Press.

Ervin said he had been told last night by White House counsel J. Fred Buzhardt that his committee would receive a verbatim, partial transcript. The only material deleted from the original tapes would be national security information, Ervin said he was told.

The documents Cox made public yesterday showed there was a substantial difference between Richardson's proposed compromise and the one Mr. Nixon announced Friday evening.

The President said that he personally would prepare a statement from the subpoenaed tapes, including in it

everything dealing with Watergate. The President's version and the tapes themselves would be presented to Stennis, who would be able to certify whether or not that statement included all the Watergate material. The statement would then be given to Judge Sirica.

Richardson's proposal called for the President to appoint a "verifier," whose identity at first would be secret. The "verifier" would be given all of the tapes and partial transcript from them containing pertinent material. The man selected would then use the tapes to make additions or corrections and compile a complete record.

Cox, at the news conference, presented this version of the abortive negotiations for a compromise:

A week ago, he began talks with Richardson, which resulted in the Attorney General's "proposal."

Last Thursday, Cox commented on the plan, making several objections. He said the public could not be asked "to confide so difficult and responsible a task to any one man, operating in secrecy, consulting only with the White House." Furthermore, he said the proposal was "too narrow" because it was restricted to uncovering evidence only about Watergate when his investigation ranged into other matters. The standards for deciding what could be omitted from the final transcript were not specific enough, particularly in defining what was meant by national security information.

There would also have to be assurances, he said, that if a trial judge would not accept a transcript as evidence he would be able to produce whatever evidence the judge wanted—including the tapes.

Thursday night, Cox was called by Wright, the president's special counsel on executive privilege. Wright told him that he would have to make four stipulations before the compromise could be agreed on. "My impression was that I was being presented with things drawn in such a way that I couldn't accept," Cox said yesterday.

Later that night Wright wrote him a letter saying that four of his stipulations "depart so far from that (Richardson's) proposal and the purpose for which it was made that we could not accede to them in any form."

The next morning, Cox wrote to Wright. He said he could not agree to Wright's version "without unfaithfulness to the pledges which I gave the Senate prior to my appointment." One of those stipulations, Cox said, would require him to abandon any further legal challenges to claims of executive privilege.

"I categorically assured

the Senate Judiciary Committee that I would challenge such claims so far as the law permitted," Cox wrote. "The Attorney General was confirmed on the strength of that assurance. I cannot break my promise now."

Wright sent back a letter late Friday saying that Cox had apparently misconstrued two points in contest, but made it clear that negotiations were at an end. "It is my conclusion from (Cox's letter) that further discussions between us seeking to resolve this matter by compromise would be futile, and that we will be forced to take the actions that the President deems appropriate in these circumstances." About 2½ hours later Mr. Nixon disclosed his plan and ordered Cox to cease legal efforts to get the tapes.

Wright said that Cox was incorrect in assuming that no portion of the tapes would be provided under any circumstances. That might have been a subject for future negotiations, Wright wrote. He also indicated that Cox incorrectly assumed he would never be able to subpoena any other White House papers. He said that only "private presidential papers and meetings" were in the category of papers that could not be subpoenaed under the proposal.