

Capitulation and Critics

President's Foes Feel That His Aim In Tapes Dispute Was to Oust Cox

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WASHINGTON, Oct. 23 — President Nixon's capitulation to the courts today strengthened the suspicions of his critics and opponents. They were convinced—or prepared to be convinced — that his purpose in initially refusing to give the Watergate tapes to Federal Judge John J. Sirica was not so much to preserve the confidentiality of Presidential communications as to get rid of Special Prosecutor Archibald Cox.

News Analysis

Once rid of Professor Cox, whom he dismissed on Saturday, the President agreed today to Judge Sirica's demand that he turn over tape recordings of nine conversations in his offices about the break-in

at Democratic National Committee headquarters on June 17, 1972, during the Presidential election campaign.

Previously, the President had proposed to give the judge only a summary of the conversations, verified by Senator John C. Stennis, a Mississippi Democrat and friend of the President.

Mr. Cox was dismissed ostensibly because he refused to accept this arrangement and refused to suspend his efforts to obtain these and other White House communications through judicial proceedings.

According to the President's opponents, and some of his supporters as well, the confrontation over the tapes was either contrived or happened to give the President and his legal advisers a reason to discharge Mr. Cox.

"Here was this guy," said one of the President's friends, "with 80 lawyers swarming all

Continued on Page 32, Column 6

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Capitulation and the Foes of President

Continued From Page 1, Col. 7

over the Government and trying to nail Richard Nixon. They were not out to discover the truth, but to prove a case. The President could not stand for that."

Elliot L. Richardson, who resigned as Attorney General rather than discharge Mr. Cox as directed by the President, remarked at a news conference today that there was "a lot of feeling" in the Republican party, in Congress and among the President's staff "that there was a 'get-the-President' element in this, that the investigative staff itself was heavily aligned in a Democratic direction and that there were likely to be results which would tip bipartisanship."

Mr. Cox is in fact a Democrat, a Harvard law professor and a former Solicitor General in the Kennedy and Johnson Administrations. For his first four top appointments as special prosecutor he chose Kennedy Democrats.

By contrast, Mr. Richardson said today that the President and his staff do not believe that there will be any partisanship on the part of Henry E. Petersen, chief of the Criminal Division of the Department of Justice and a career civil servant, who will now take over the Watergate prosecution.

Rumor on Funds

As long ago as August, it was being rumored among Washington lawyers—a gossipy breed who make it a habit to know one another's business—that Mr. Nixon was uneasy about the special prosecutor, who had been chosen by his own Attorney General with the President's approval.

Mr. Cox, the lawyers observed, was really digging into the Watergate case and its ramifications. He appeared to be making deals with the lesser defendants in the conspiracy—Robert C. Mardian, Frederick C. LaRue, Jeb Stuart Magruder, John W. Dean 3d and others—and was presumably lining

them up as witnesses against the bigger fish.

It could easily appear to the President, according to the theorizing here, that Mr. Cox was out to get him and his friends.

Aside from the Watergate case, it was rumored that the special prosecutor was looking into reports that political campaign contributions had been diverted into an investment company organized by Mr. Nixon's friends with himself as the ultimate beneficiary.

Among the funds mentioned in this context was a contribution of \$100,000 from the billionaire industrialist Howard Hughes. This money was contributed after the 1968 campaign and was allegedly held in a safe deposit box for three years by Charles G. Rebozo, one of the President's closest friends, before being returned to Mr. Hughes.

One of the mysteries in this speculative account of events is why a shrewd businessman such as Mr. Rebozo would keep \$100,000 idle for three years instead of putting it to work in politics or the marketplace. Because of Mr. Cox's looking into such questions, President Nixon—the theory goes—had become the hostage of his friends, eight or 10 of them: If they were going to protect him from the taint of affairs in which they had been involved, he had to protect them from Special Prosecutor Cox.

Other Data a Factor

Among these friends were several who had already been indicted or clearly threatened with indictments: John N. Mitchell, the former Attorney General; H. R. Haldeman and John D. Ehrlichman, former assistants to the President; Herbert W. Kalmbach, his personal attorney, and Charles W. Colson, former special counsel in the White House.

Any one of them is in a position to damage the President, justly or otherwise, if any of these former associates feel

themselves threatened with imprisonment. They are potentially in a situation not unlike that of the friends of former Vice President Spiro T. Agnew, who, according to his own testimony, turned on him to save themselves.

Given the possibility of a broadening inquiry into the affairs of the President and his friends, Mr. Nixon had to be concerned not only with what the tape recordings of the Watergate conversations might disclose but also with what might be disclosed by other recordings and documents.

Former Attorney General Richardson disclosed at his news conference today that one of the reasons that the President had dismissed the special prosecutor was that Mr. Cox was "insisting on assured access to other tapes and memoranda," beyond those originally subpoenaed in the Watergate case.

One of the arguments made against surrendering the Watergate tapes to Judge Sirica was that there were 400 other Federal District judges who could demand access to Presidential communications, and that would represent an intolerable intrusion upon executive privilege.

However, that and all other arguments against surrendering the Watergate tapes to Judge Sirica and allowing him to excerpt material from them for the Watergate grand jury were suddenly and dramatically abandoned by the President's lawyer, Prof. Charles Alan Wright, in Judge Sirica's court this afternoon.

That action suggested that Mr. Nixon was really not concerned about what the Watergate tapes might disclose. It left some questions: What is President Nixon concerned about? Why would he put the courts and the country through all these contortions only to surrender tamely at the end?