

... And the Absence of a Special Prosecutor

There is another vacancy in the government to which Congress must turn its most urgent attention. The cold-blooded firing of Special Prosecutor Archibald Cox leaves leaderless the excellent prosecutorial staff Mr. Cox had assembled. President Nixon is unlikely to fill the vacancy in any way which would threaten to repeat the crisis he created with Mr. Cox. The White House and the Department of Justice, of course, have assured the country that the transfer to the Department of Justice of the investigations which Mr. Cox was pursuing will not diminish either the vigor or scope of their efforts. Given the track records of all involved, that promise is meaningless.

Mr. Nixon has demonstrated again and again his incapacity to mount, let alone sustain, an effective and credible investigation of his own administration.

Item: In the summer of 1972, he informed us that his counsel, John W. Dean III, had conducted a thorough investigation. According to Mr. Dean's sworn testimony, there was no such investigation.

Item: In April of this year, Mr. Nixon told the nation that he took personal charge of the investigation when he received new information on March 21. The trouble is that nothing came of it and nobody—not Richard Kleindienst, not L. Patrick Gray and not Henry Petersen—received any order from the President to do anything different from what they were doing or to report to him "right here in the Oval Office," as Mr. Nixon said he had ordered them to do.

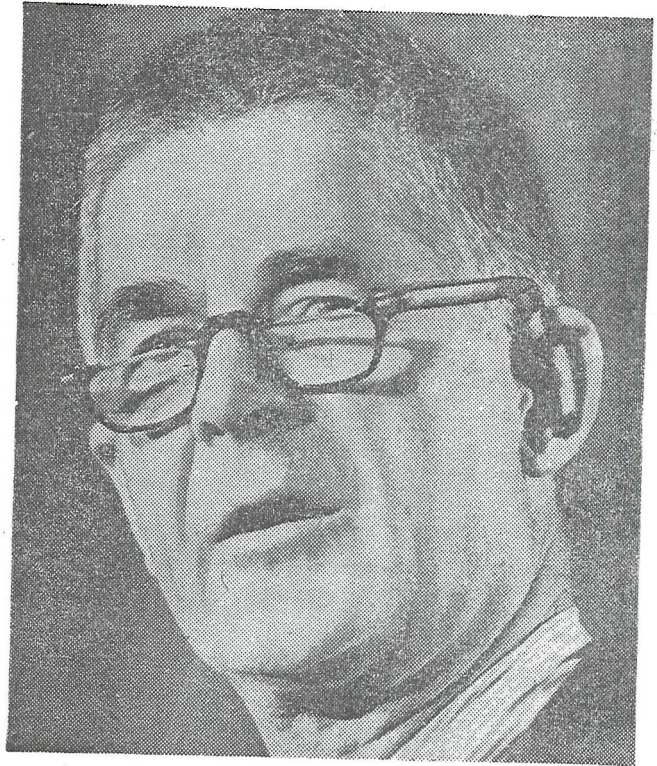
Item: John Dean was later sent off to Camp David to write something which never did get quite finished in the way Mr. Nixon intended. Mr. Dean has subsequently pleaded guilty to charges of obstructing justice, which is some measure of how much of his heart was in his work.

Item: John Ehrlichman, to whom Mr. Nixon said he turned after Mr. Dean, refused—despite repeated opportunities to do so before the Senate Watergate committee—to characterize his efforts as an "investigation." It was no more than a hurried "inquiry," he stated.

Mr. Nixon's record in this matter can be traced by the heavy "national security" haze with which he has attempted to confuse and block the investigation at every critical turn. At first there was the effort to use the CIA to block the FBI's pursuit of the Mexican operation which "laundered" some of Mr. Nixon's campaign money. Then he told Henry Petersen to stay away from the burglary of Dr. Lewis Fielding's office because this too was alleged to be a "national security" matter. Just lately, there seem to have been extraordinary efforts on the part of H. R. Haldeman's replacement at the White House, Gen. Alexander Haig, to impress former Attorney General Elliot Richardson with the seriousness of the Mideast situation by way of trying to persuade Mr. Cox to abandon his insistence on acquiring the evidence he thought necessary. The more things change . . .

Mr. Petersen's record presents a different problem. The public has been presented with a virtually unending stream of assurances about his integrity. It is not his integrity that we worry about, however, but his judgment and his ability to withstand the pressure that the White House has shown every inclination to apply. Mr. Dean has testified of his efforts to encourage Mr. Petersen, in the early pre-Cox days, to contain the investigation.

And Mr. Petersen has conceded that he did some containing. When asked at the Watergate committee



By Margaret Thomas—The Washington Post

Former Special Prosecutor Archibald Cox

hearings if he had participated in a decision not to get into the dirty tricks aspects of the investigation, he replied, "I sure did. I sure did." Donald Segretti has now pleaded guilty to more than one criminal count for his dirty tricks. Mr. Petersen has also told us that though he investigated the burglary thoroughly, he did not think it appropriate to investigate the White House. But, now Mr. Haldeman, Mr. Ehrlichman, Mr. Chapin, Mr. Krogh, Mr. Dean, Mr. Young and Mr. Strachan have departed from that building under a Watergate cloud; some of them have been indicted, one of them has pleaded guilty and a number of others are still being investigated. So much for Mr. Petersen's capacity to stand up to the White House in the past.

Mr. Nixon has already shown us to what extent he is willing to abide by one firm compact he had with the Senate to give a Special Prosecutor "absolute" independence. Only one recourse is left: the creation by law of a Special Prosecutor whose independence and whose scope of authority guarantee the American people that this whole affair will be investigated fully, fairly and relentlessly. The Senate could hold up the nomination of the next Attorney General subject to the appointment of another Special Prosecutor—but Mr. Nixon showed us this weekend what he thinks of that kind of agreement with the Senate.

If Mr. Nixon really wants an unfettered investigation, he can prove it at this point only by giving his support to bills introduced by Sen. Adlai Stevenson (D-Ill.) and Rep. John Culver (D-Iowa) which would set up an office of Special Prosecutor in a genuinely independent way—beyond the White House's reach. Whatever Mr. Nixon decides, Congress' duty is clear. It is to iron out whatever constitutional problems there may be in these proposals, to enact them into law, and thus to give the American people some sense that justice can still be achieved in this country.