

The New Prosecution

Three days before President Nixon bowed to congressional demands for a new special Watergate prosecutor, Assistant Atty. Gen. Henry Petersen privately agreed to run the prosecution from the Justice Department in exactly the way that caused Archibald Cox to be fired as special prosecutor.

In a secret meeting Wednesday with Cox's senior staff, Petersen indicated he would demand from the White House the same documents denied to Cox. Now, Cox's lieutenants will expect precisely the same cooperation from the new special prosecutor to be named by acting Atty. Gen. Robert Bork. If he does not cooperate, Cox's lieutenants will cry cover-up. If he does, the new special prosecutor will be on the same collision course with the President traveled by Cox and begun by Petersen last week.

So far, then, Mr. Nixon has emerged from last weekend's crisis with no gain other than the departure of Prof. Cox. Even with the tremendous cost to his prestige, the President has not deflected the Watergate prosecution from ominous paths down which Cox was taking it.

When Petersen briefly resumed the Watergate prosecution after Cox was fired, Cox's aides expected the worst. However, a preliminary meeting last Tuesday between Cox's senior staff and Petersen was most harmonious. On Wednesday, chiefs of Cox's task forces went to Petersen's office in the Justice Department to get down to details. They came away convinced to the man that Petersen would follow Cox's lead in these critical areas that led Mr. Nixon to move hard against Cox.

(1) Calling before the grand jury new witnesses close to the President.

(2) Asking the White House for more documents, including presidential papers that Mr. Nixon forbade Cox to subpoena. This includes information mentioned by Cox but also other material whose refusal to Cox by the President has not previously been disclosed—such as documents concerning the infamous Plumbers unit.

(3) Continuing Cox's investigations that range far from the Watergate burglary itself, much to the dismay of the White House. Responsible Justice Department officials believe the President became insistent about sacking Cox when his investigators moved into financial operations of Nixon crony Charles G. (Bebe) Rebozo and when ex-Nixon chief of staff H. R. Haldeman was pressed hard before the grand jury to reveal details of the ITT affair.

(4) Finally, making full use of anti-Nixon testimony that deposed White House Counsel John W. Dean III will give the grand jury after his eleventh-hour deal with Cox to plead guilty on one count. Cox's lieutenants believe the White House would like to suppress testimony by Dean, potentially the star witness for the prosecution.

Cox's lieutenants were pleasantly surprised in the Tuesday and Wednesday meetings to find that Petersen, nearing the end of his service as a career civil servant, was eager to run a tough investigation.

Had he been otherwise, however, the Cox task force chiefs would have immediately gone public. Had Petersen refused to request sensitive documents from the White House, the appropriate task force chief probably would have announced this and then resigned. But having agreed with the Cox team, Pet-

ersen faced trouble at the White House from a President still reluctant to surrender documents. Thus, based on last week's meetings, there was mounting speculation that Petersen would either resign or be fired within two weeks.

The still unnamed special prosecutor faces precisely the same alternative threats: a revolt by Cox's prosecution team if he plays the White House game or a confrontation with Mr. Nixon if he does not.

Although the President blandly told his Friday night press conference that "I think our cooperation will be adequate" with the new special prosecutor, he also reiterated he would not provide special presidential documents—presumably the same documents denied Cox, that Petersen was going to request and that the new special prosecutor will be pressed to request.

Some members of the Cox prosecution team now fear the new special prosecutor may be considerably less independent and cooperative than Petersen and could be in Bork's own image: honest, respectable but so ideologically committed to Mr. Nixon, that he will be consistently receptive to the President's wishes.

Such a special prosecutor would generate a new storm in Congress, where there remains considerable support for a special prosecutor appointed by Judge John Sirica and therefore removed from all presidential control. Accordingly, whatever pleasure removing Kennedy Democrat Cox afforded the President, it has not yet succeeded in narrowing or limiting the scope of the Watergate investigation.