

# The Man Who Fired Archibald Cox

By Joel Dreyfuss

Robert Heron Bork, Jr., 46, is understandably at a loss when asked to compare the pressures of recent weeks with another period in his life. All else seems to pale before the events that began on Oct. 22, when he was wrenched from the relative obscurity of the post of United States Solicitor General and thrust into the national spotlight.

He thinks back to the time—only a few months ago—on the Yale campus when he was a conservative law professor in a sea of liberals, taking Nixonian Republican positions although he had not yet been granted tenure.

"At the time," he says, "those events seemed large."

But how can they compare to the resignations of Elliot Richardson and William Ruckelshaus, the sudden elevation of Bork to the post of acting Attorney General and his decision to follow President Nixon's order to fire Watergate prosecutor Archibald Cox?

"The degree of anxiety has declined," admits Bork, who selected Leon Jaworski to replace Cox and who must now wait until Congress acts on the nomination of Sen. William B. Saxbe as Attorney General.

On the evening of the interview it is raining outside the Bork house. "It's the first night in days he's been home before 11 o'clock," explains Mrs. Bork, who sits near him on the edge of a sofa. He has shed his jacket, opened his collar and sips a drink, worrying that the photographer will give the world an unfavorable impression of his habits.

The house still has that "just-moved-in" look. The furniture is nondescript but utilitarian. Relief is provided by metal sculptures by his 18-year-old son, Robert, who is at Carlton College in Minnesota. On the wall are brass rubbings by his wife, Claire, done during his sabbatical in England. There are two other children, Charles, 15, and Ellen, 12, who attend public schools in McLean.

At this point he can afford to look back and recall that Saturday when he was in the Justice Department working on the appeal recommendation in the Watergate tapes case. He stopped writing a letter to a 3rd-grade class on the importance of Bill of Rights Day to listen to Cox's news conference.

He was then called to Richardson's office for a dis-

BORK, From B1

cussion of possible plans to discharge Cox: "It hadn't really occurred to me what this kind of development meant until late that afternoon."

Because he was not bound by the other two men's commitment to the Senate, Bork decided he could fire Cox. But he also thought of resigning.

"I was thinking of resigning not out of moral considerations," he says, but out of selfish motives. "I did not want to be perceived as a man who did the President's bidding to save my job."

Richardson and Ruckelshaus persuaded him to stay to prevent the Justice Department from falling apart. "I realized there wouldn't be a presidential appointee in the place."

These were his thoughts, but in the eyes of some he became the hatchet man willing to carry out an order others would not perform.

"I've had some time to think about it since," he says. "I think I did the right thing."

That answer would hardly surprise anyone who knows Robert Bork, son of a Pittsburgh steel mill employee. "My mother was Pennsylvania Dutch, my father was half-German, half-Irish."

"He still is," interjects Claire Bork, a native of New York, pointing out that Bork's parents are both alive and, in fact, have just moved nearby.

"You're being very lawyerlike tonight," he notes wryly. Mrs. Bork smiles, not the least bit intimidated by the 6-foot, 200-pound red-bearded man several feet away. She breaks in often during the conversation to make a point or to introduce a topic.

"My parents had relatively little influence on my life," says Bork, dismissing further discussion of his family.

Life begins, in a sense, on the campus of the University of Chicago in 1947, where Bork was one of the many war veterans enrolling at the college.

(He had enrolled in the

Marines just after he graduated from high school, but the war ended before he saw action.)

"I had been a left-wing kid," said Bork. "I always had thought the left wing had the best arguments."

Bork met Claire Davidson the first day of classes but didn't see her again for a couple of years. "Bob had been a Marine and I was 17. It was very exciting," Mrs. Bork recalls. "You couldn't walk across campus without running into 10 groups all engaged in discussion. They were really intense."

The undergraduate years hadn't changed Bork much politically, it seems. "I went to law school wanting to be a labor union lawyer."

Marvin Chirelstein, who is now on the Yale Law faculty, met Bork at the University of Chicago Law School.

"He began as a garden variety liberal. Over a period he came under the influence of some very strong conservative thinkers," said Chirelstein. "He plunged into that and persuaded himself that he was a 'classical conservative.' Over the years, he's become less dogmatic."

The key figure in Bork's political metamorphosis was Aaron Director who taught Bork a course in economics at Chicago. Bork recalls having his pat liberal arguments devastated by Director's logic and he gradually embraced his views.

My first election (when he could vote) I was for Truman," he said. "In my second election, Claire and I went out and worked for Adlai Stevenson." His views began to change after that.

After another stint in the Marines—he was a reserve lieutenant called up during the Korean war—Bork worked for a couple of law firms, first in New York,

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then back in Chicago between 1954 and 1962.

"After awhile I saw I was going to be doing the same thing for 35 years for more money," Bork says. "I used to ride the commuter train in the morning and as Chicago got closer I would have a sense of despair."

He joined the Yale faculty in 1962 and stayed there until this June when he took a two-year leave of absence to become Solicitor General.

He was probably hired as a sort of token conservative but soon flowered into a prominent voice fond of criticizing "liberals." (He loves to put quotes around the description.) There was an article in the New Republic in June, 1968, "Why I am for Nixon" an attack on Earl Warren's court in Fortune magazine that same year; in Fortune the next year, an attack on the administration's antitrust policies as too removed from the philosophy of the "open market and free competition."

In October of last year he was one of 45 academic figures who endorsed Richard Nixon in a full-page New York Times advertisement. He also helped draft the President's antibusing position last year.

Bork's Yale associates go to great lengths to separate their opinions of Bork the man, from their opinions of Bork, the law professor.

"I find him a lovely man," says Yale law professor Alexander Bickel, who disagrees with Bork on most issues. "I've always thought that when a man has made a decision that involves moral considerations and takes the difficult course he is two-thirds of the way home. The easy thing for him to do would have been to follow Richardson."

The recurrent adjective attached to Bork's name is "strong."

"I've never noticed him to flinch," says Bickel. "He's a strong man but he's not an insensitive man by any means."

His old friend Chirelstein, musing on the decision to fire Cox: "One of the most notable things about him is he has considerable trust in his tendency to do the right thing. His willingness to trust himself has grown over the years. He's gone from success to success."

Yale law school colleague Clyde Summers offered another theory on the Cox firing.

"I thought Bork might have been moved by his loyalty to the administration much like the loyalty a man might feel toward an adulterous wife."

In a sense, then, his years at Yale and his political positions have served him as trials by fire. He was not always liked, but was always respected.

When he left Yale, another associate recalls, Bork was presented with a hard hat by his students. "It was a marvelous statement of affection and courteous disagreement," said Prof. Louis Pollak.

The picture one draws from various members of

the Yale faculty is that Bork is also a bit far idealist.

"Aren't you going to ask about the beard?" queries Chirelstein. "One reporter wanted to know if it was a hippie beard. It's a ship captain's beard. He's to be seen on the deck giving firm orders to the men below with his eyes firmly set on the horizon."

Bork, the father, contends it's much less than symbolic. "The beard is (his 12-year-old daughter) Ellen's responsibility. I had trouble shaving for six or seven days and it began to look good. The only time I'll shave now is when I want to disguise myself."

He may have wanted to do that a few times in recent days. There were some unpleasant telephone calls after the firing of Cox (he had his number changed), and a load of hate mail (he hasn't had time to see it). There were also favorable calls and telegrams.

Now he's waiting for the spotlight to shift away so he can return to his old (four months) job. "It combines the best of academia and the best of government. And besides, I've bought a new suit for arguing before the Supreme Court."

Bork says he borrowed a formal vest and tails for an argument a couple of months ago. The garments were a bit too tight. "It gave me a certain tension in my voice as I spoke."

After all the attention and the political tightrope-walking he's engaged in during the past few weeks some wonder if Bork can really return to the relatively faceless position he held in the department.

The descriptions of Bork attach "ambition" to "strength," and some say he is being groomed by Mr. Nixon for the Supreme Court, where he would be the next "strict constructionist."

Chirelstein says Bork left his law practice from more than just boredom. "He felt that what he wanted to do was to be a great man."

The Borks must then sit and wait. Mrs. Bork complains they haven't had a chance to really see Washington. Haven't they done the cocktail party tour? "Not really," Bork answers, "can you get us invited to some?"