

# Judge Rules Cox Firing Was Illegal

Washington

A U.S. district judge ruled yesterday that the discharge of Archibald Cox as special Watergate prosecutor was illegal.

Judge Gerhard A. Gesell said that Robert H. Bork, the Acting Attorney General who fired Cox upon orders from President Nixon, violated a Justice Department regulation prohibiting such a removal "except for extraordinary improprieties." No one ever accused Cox of such acts.

While the decision in the lawsuit — brought by a number of congressmen — did not order Cox reinstated, it appeared likely to strengthen the independence of the new special prosecutor Leon Jaworski against White House interference and to discourage Congress from

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placing the prosecutor's office under federal court supervision.

At Cambridge, Mass., where he has rejoined the Harvard Law School faculty, Cox made it clear that he would not invoke the decision to try to get his old job back. But the ruling was important, he said, for the impetus it could give to a vigorous Watergate investigation.

## 'DIVERSION'

"For me to make any legal claims under Judge Gesell's decision," Cox observed, "would only divert attention from getting the real job done."

In an expression of personal opinion not required by the issues of the case, Gesell called proposals for giving the courts the power to appoint a new Watergate prosecutor "most unfortunate."

The Justice Department had no comment on the judge's ruling. A spokesman said no decision has been reached as to whether the government would appeal.

In an implied rebuke of President Nixon for ordering the Cox firing, Gesell said the special prosecutor "did not serve the President's pleasure" but was "subject to congressional rather than presidential control."

Cox was discharged on Oc-



AP Wirephoto

JUDGE G. A. GESELL  
Regulation violated

tober 20, according to Gesell. "because he was insisting upon White House compliance with a court order which was no longer subject to further judicial review," the order to surrender secret tape recordings of conversations between Mr. Nixon and his aides.

## RICHARDSON

Attorney General Elliot L. Richardson resigned rather than fire the special prosecutor. Then the Deputy Attorney General, William Ruckelshaus, was fired when he refused to fire Cox. Finally, Bork, the Solicitor General, agreed to dismiss the special prosecutor.

Three days later, Bork rescinded the department regulation prohibiting the prosecutor's discharge except for extraordinary impropriety and attempted to make his action retroactive.

On October 23 Bork issued an order abolishing the office of special prosecutor.

Re-establishment of the office three weeks later demonstrated, the judge declared, that its abolition had been "simply a ruse to permit the discharge of Mr. Cox" and the October 23 order was "arbitrary and unreasonable and must be held to have been without force and effect."

Jaworski, who was named special prosecutor on November 5, is serving subject to the same protection against discharge for anything other than "extraordinary improprieties," plus a guarantee that the President cannot remove him even for such conduct without the concurrence of congressional leaders.

The lawsuit decided yesterday was brought by Senator Frank E. Moss of Utah and Representative Bella S. Abzug of New York and Representative Jerome R. Waldie of California, all Democrats. Ralph Nader, the consumer advocate, had originally been a plaintiff too, but the court said he had no standing to sue.

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