

One Day In October

By Anthony Lewis

Two years ago tonight millions of Americans felt that their country's experiment in freedom under law hung in the balance. Is it really only two years? So distant has it become for most of us, and so unlikely, that it feels more like ten since the Saturday Night Massacre.

The report of the Watergate special prosecution force, just issued, encourages us to reflect on the meaning of that extraordinary episode. There is, first, the inescapable conclusion that President Nixon assured his own destruction when he ordered the firing of Archibald Cox as special prosecutor, and Elliot Richardson and then William French Smith resigned as Attorney General.

The immediate response was an avalanche of telegrams pouring in on Washington. Congress was impelled to begin the process of impeachment. The telegrams helped persuade the troubled members of Mr. Cox's staff to stay on the job. Two years later, they remain moved by the experience. Their report speaks of the telegrams and says "Americans rose in anger," offended in their "sense of justice."

Bending to the storm, Mr. Nixon agreed to comply with the court order that he had schemed so hard to avoid. He produced some of the tapes subpoenaed by Mr. Cox, and one turned out to be devastating. On March 21, 1973, the President had told John Dean to get hush money to keep the cover on Watergate. Once that tape reached the prosecutors, and then Congress, there was no turning back on the road to Richard Nixon's fall.

In retrospect it all seems inevitable. But it was not so—far from it. The special prosecutor's report makes clearer than any previous publication

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the immense amount of thought and professional legal work that preceded that confrontation with the President of the United States.

Within a week after taking office as special prosecutor on May 25, 1973, Mr. Cox, by telephone and letter, had begun meticulous efforts to obtain the White House evidence on Watergate. It was grinding work, met with delays and unkept promises by White House counsel, by a pattern of evasion and deception.

Mr. Cox never sought confrontation. But when the White House barred him from the evidence, he pushed on. Against much advice, he decided to press for some of the tapes as soon as their existence was disclosed. He and his staff did massive research and analysis in a largely uncharted area of the law, executive privilege. And the careful work mattered when he went to court.

Because Richard Nixon's criminality eventually became clear to just about everyone, the difficulty of the special prosecutor's legal battle may be underestimated. In the summer of 1973, the Washington mind was still clouded by awe of the Presidency. The notion of compelling evidence from a President seemed far-out to many. The idea of impeachment was fantasy to all but a few.

Moreover, the White House had immense power over the bureaucracy. Mr. Nixon's Chief of Staff, Gen. Alexander Haig, did not stop at bullying to try to protect his master. Attorney General Richardson felt that pressure, and the report paints him as ambiguous in his relationship to Mr. Cox. It discloses a most dubious Richardson proposal that Cox agree in secret to new, narrower guidelines for his office.

The prosecutors also had to reckon with the fact that lawyers on the other side did not always have a nice sense of propriety—a condition that continued after Mr. Cox was succeeded by Leon Jaworski. The report reminds us that after the tape of March 21 had been turned over, but before the public knew its contents, Mr. Nixon's lawyer-publicist, James St. Clair, issued a statement saying "categorically" that the tapes did not support John Dean's sworn testimony against the President. But they did.

What, then, are the lessons of that October weekend two years ago?

One is that professional skill and patience and hard work have their reward. If Mr. Cox and his staff had not been so able and dogged, they could easily have fallen in a dozen procedural holes along the way in the tapes case. The staff and the standards continued under Mr. Jaworski, until the second tapes case led directly to Richard Nixon's fall. So in a sense the episode speaks for a system of law, not men.

But plainly there was more to that Saturday night and its aftermath. It all depended on public attitudes—and they in turn depended on the public's reading of one man's character. I am convinced, myself, that the character of Archibald Cox was essential to the result. Richard Nixon and his men never understood it; they assumed that Archibald Cox must be a conspirator, like them, when he was so straight as to approach naiveté.

When he first took the job, the Washington mill dismissed Archibald Cox as too soft—as not nasty enough. When a friend told him that on June 3, 1973, he said: "I think sometimes it is effective not to be nasty, in a nasty world—although it may take a little while for people to realize that."