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IN MEMORIAM: ARCHIBALD COX

To Professor Archibald Cox, whose courage and integrity inspired a nation, the editors of the *Harvard Law Review* respectfully dedicate this issue.

Introduction

Justice Stephen G. Breyer[*]

Many years ago Archibald Cox recommended that I read a set of lectures by Lord Radcliffe, *The Law and Its Compass*. Radcliffe argues that law needs a "point of reference more universal than its own internal logic."[1] The layman, if not the lawyer, insists that the law "stand for something more, for some vindication of a sense of right and wrong that is not merely provisional or just the product of a historical process,"[2] but is "rooted in that great tradition" of individual freedom and humane civilization that has produced the "institutions" of our modern "liberal world."[3] That is the "compass" that the law must "steer by."[4] And over the years I have understood it as the compass that guided Archie Cox as well.

Archie was a great lawyer. He combined an unusually good mind with both learning and common sense. He knew how institutions work, and he understood the practical virtues that can, and should, govern public life. He put his knowledge and skills to work toward public ends, with energy and with effect. As a scholar and govern-

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[*] Associate Justice, United States Supreme Court.

[1] CYRILE JOHN RADCLIFFE, THE LAW AND ITS COMPASS 40 (1960).

[2] *Id.* at 77.

[3] *Id.* at 93.

[4] *Id.* at 77.

ment advisor, he helped to create modern labor law. As Solicitor General, he helped to shape the constitutional decisions of the Warren Court. And, of course, as Special Prosecutor, he advanced the cause of integrity and honesty in government. His own behavior made him a public symbol of those very virtues.

At his last Watergate press conference, he explained clearly and in detail why, as a prosecutor, he needed the White House tapes. Then he pointed out that the matter had nothing to do with him personally. He disliked confrontations, he "worried a good deal . . . about problems of imposing too much strain upon our constitutional institutions,"[5] he was "certainly not out to get the President of the United States,"[6] and he was worried about getting "too big for my britches."[7] It all rang true. He was a lawyer, a skilled lawyer, trying to perform a difficult public assignment with integrity. That is what the public believed, and it was right to do so. That is the man Archie Cox was. Those are the values he lived by.

Archibald Cox was a hero of mine. Over the course of these tributes, you will learn why. You will come to know something about him. You will encounter common themes: integrity, duty, legal skill, and a certain nimbleness of mind that allowed him to see the way when others could not. You may find a deeper impulse that drove his professional life — a belief that law is tied to life and that our institutions must reflect our society's sense of what is right. For him these beliefs were basic truths. Archibald Cox helped teach those truths to many, including me. I am very grateful for his guidance.

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[5] *Excerpts from Transcript of Cox's News Conference on Nixon's Decision Tapes*, N.Y. TIMES, Oct. 21, 1973, at 60.

[6] *Id.*

[7] Warren Weaver, Jr., *Cox News Conference*, N.Y. TIMES, Oct. 21, 1973, at 60.

*Derek C. Bok**

I first encountered Archie Cox just over fifty years ago when he returned to Harvard from Washington, D.C., to teach his course in labor law. He proved to be a formidable professor in the grand Law School tradition — persistent in his questioning, demanding of his students, and in total command of his subject. My memory of his classes has dimmed after so many years. But I vividly recall his final exam. I arrived for the occasion on a sparkling blue afternoon in my top-down Chevrolet convertible. Halfway through the exam, a peal of thunder rolled unexpectedly through the room. The sky blackened, the heavens poured, and I had visions of my car filling up like a bathtub. What to do? Save the car or make sure I had time to finish the exam?

At that moment, I recalled Archie telling our class with obvious disapproval of a previous student who had run out of time, torn 100 pages out of his casebook, and attached it to his exam with the words: "the answer is somewhere in here." Clearly, handing in an incomplete exam was not a viable option. I stayed put, finished the exam, and smelled the aroma of decaying seat covers for the next several months.

I could never have guessed then that in five short years Archie and I would be colleagues on the faculty at Harvard. As I worked through the summer of 1958 to prepare myself to teach in the fall, I quickly realized just how thoroughly Archie dominated the development of labor law. In the 1950s, the National Labor Relations Act was still relatively new, and the Taft-Hartley Act was in its infancy. Over the decade, the Supreme Court had a series of opportunities to clarify the meaning of good faith bargaining, the scope of mandatory negotiation, the legal status of arbitration, and other important issues of policy left open by Congress. In case after case, when the majority reached the critical point of decision, the Justices would rely on one of Archie's articles. At the end of the 1950s, as a close advisor of then-Senator John F. Kennedy, he shaped the field in another way as a principal architect of the Landrum-Griffin Act, creating democratic procedures and safeguards for the internal governance of unions. As the author of the leading labor law casebook, he influenced future generations of practitioners. Looking back on these accomplishments, I suspect that Archie left a greater mark on his chosen field of law than almost anyone then on the faculty.

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* President Emeritus, Harvard University.

Although the acknowledged master of his subject, Archie was not especially outgoing or approachable as a colleague. When I came to him for advice, I often left with the sense of having bothered a very busy man with niggling questions unworthy of a Law School professor. I recall this only to highlight the remarkable change that came over him during his memorable career as Solicitor General. Perhaps as a result of working closely with a small, devoted group of outstanding government lawyers, Archie returned to Cambridge much warmer and more outgoing toward students and colleagues alike. It was then that we became good friends, regularly eating lunch once or twice a week at the Midget Delicatessen to discuss the Supreme Court, the Law School, or some event in the outside world.

As I came to know Archie better, I discovered unexpected facets of his life. For example, he occasionally remarked that he had been up early that morning pitching hay or digging squash. Observing him impeccably dressed in his usual three-piece suit and bowtie, I found these barnyard allusions quite implausible and told him so. The very next morning, he walked into my office unannounced and deposited a large basket overflowing with vegetables too encrusted with dirt to have been purchased for the occasion from a supermarket. I ate the vegetables and never again questioned anything he said.

A few years later, after I had moved to Massachusetts Hall, Archie called unexpectedly from California asking whether he could see me the next morning in my office. He arrived with the news that Elliott Richardson had asked him to serve as Watergate Special Prosecutor. As we talked over the pros and cons of this unusual request, he also told me that he had woken up in California having totally lost the hearing of one ear. The doctor had informed him the next day that he was the victim of a rare, incurable disease and that there was a significant chance he would lose the hearing of his other ear within two weeks. What to do? After much soul-searching, as we know, he accepted Elliott's offer; his other ear continued to function; and the rest, as they say, is history.

Now that Archie has been taken from us, what meaning can we draw from the life of this remarkable man?

One lesson, surely, is his loyalty to Harvard University and its Law School and his keen sense of the duties and obligations of a Harvard professor. Early in the 1960s, he told me that any member of the faculty who chose to be active and visible in public life should take pains to teach more and publish more than his colleagues so that no one could gain the impression that outside activities came before academic responsibilities. Even when we talked about the offer to serve as Watergate prosecutor, his principal concern was whether his departure for Washington would set a bad example for younger members of the faculty.

There was no chore that Archie would not undertake for the institution. When we decided that second-year students at the Law School should receive more feedback, Archie was the first to volunteer for the arduous task of assigning and personally correcting a series of papers for his constitutional law class of 140 students. When the entire University was plunged into chaos and disruption after the spring of 1969, Archie accepted the thankless, nerve-wracking job of directing all Harvard's efforts to cope with demonstrations, building takeovers, and protests of every kind. Only Phyllis and I know how close he came to collapse under the strain of living under those inhuman pressures. Yet over the ensuing years, whether we asked him to argue for race-based admissions before the Supreme Court, or to resolve a protest over Harvard's rental policies, or to advise us on whether to recognize the Clerical Workers' Union, Archie was always willing to help. I will never forget his reply when I asked whether he would examine the facts and legal precedents and tell me whether to continue contesting the election of the Union. "I'm afraid," he said apologetically, "that I won't be able to get to it until this afternoon."

A second lesson from Archie's life is the importance of integrity. For those who knew him, Watergate was not an isolated act of moral courage — only the most visible. It is impossible for me to imagine Archie intentionally misleading someone for personal advantage, or breaking a promise, or putting his own interest above the common good. Without ever flaunting his principles, he simply lived up to them, however difficult and onerous it was.

For Harvard, his integrity was a precious asset in an era when cynicism was rampant. Periodically, controversial problems would arise in the University for which there were no clear, demonstrable answers. The only possible way of arriving at a result that everyone would accept was to call upon that rare person whose honesty and fairness were universally acknowledged to be above question. Archie was always the obvious choice for such assignments, whether it was persuading minority students in the Medical School that the University had to abide by a Supreme Court decision or rendering a judgment about Harvard's rent increases that would satisfy a group of angry tenants. On these occasions, he always had good arguments, but in the end, it was respect for his good character that carried the day.

The third lesson I draw from Archie's life involves his significance as a teacher. By teacher, I do not merely mean his performance in the classroom nor even the exceptional interest he increasingly took in his students — after class, in his office, over lunch or coffee at Harkness Commons. What I mean most of all is the force of his example at a time when much of what he stood for was in danger of being drowned in a flood of cynicism, ideological excess, and general disillusionment with public life.

Harvard offers courses in moral reasoning and professional ethics that can help students recognize moral problems and think more carefully about ethical dilemmas. What is *not* possible in such classes is to teach students to care enough about their character to do the right thing even when it is difficult or costly to do so. That kind of teaching must come primarily from personal example — by demonstrating in compelling ways why it matters to have integrity, to affirm clear values, to sacrifice oneself for principle.

By his actions, Archie persuaded many people, including many he didn't even know, that integrity in public life *did* matter, that reason *could* prevail, and that very few things in life are more inspiring than moral courage. He accomplished this at the very moment when such a message was needed most. In doing so, he became the most influential and important Harvard teacher of his time. I will miss him more than words can possibly express.

Clark Byse[*]

For many Americans the name Archibald Cox evokes memories of the "Saturday Night Massacre" and Richard M. Nixon's resignation of the presidency. When I think of Archie, my friend and colleague of nearly half a century, I recall in addition how he excelled in every aspect of the law teacher's role: teaching, research and publication, commitment to the welfare of the law school and university, and public service. In all the roles Archie played — from Solicitor General to labor law scholar to mediator of student unrest — he brought to bear two qualities that I believe most accurately characterize this singular man: integrity and responsibility. The question for Archie was always clear: What is the right thing to do? Whatever the costs, the answer to that question dictated his conduct.

In all things in his long and distinguished career, Archie manifested these qualities of integrity and responsibility. He demonstrated to all who would observe that, as Holmes said, one "may live greatly in the law as well as elsewhere." It is because of his qualities of integrity and responsibility and his outstanding record of public and professional service that long ago I became convinced that his life story could be an inspiration to countless scores of law students and young lawyers to do their best to adhere to these precepts. But for that objective to be achieved, it would be necessary that a record of his life be made

[*] Byrne Professor of Administrative Law, Emeritus, Harvard Law School.

widely available. Accordingly, in the late eighties I urged him to write his autobiography. His response was that he really couldn't do it, he didn't have access to all the needed materials, he hadn't kept a diary, many influential actors in the story were no longer with us, and so on and so on. Appealing to his sense of rectitude I urged that it was his duty, and I suggested he could enlist the services of a young historian. But my efforts were unavailing.

Why did Archie resist my entreaties? Although the unavailability of research materials may have played a role, I believe the more persuasive reason is Archie's modesty. He simply did not think it appropriate to write about himself. He could write about others with eloquence and style. But to write about one's self would be pretentious, a course of action inconsistent with the values of this man of rectitude.

This attribute of modesty or humility is confirmed by his wife, as reported by Ken Gormley. In December 1960, Archie, along with Carl McGowan and Morris Abram, was under consideration by President-elect Kennedy for the position of Solicitor General. Gormley reports: "Archie knew nothing of this. As Phyllis would describe her husband's frame of mind [at that time], 'You know Archie is such a humble soul really. If it had even entered his head, I think he'd have felt embarrassed even having such a thought.'"[1]

Whatever the reason, Archie did not write his autobiography. Fortunately, Ken Gormley has given us his perceptive, inspiring, and highly readable biography. I hope that readers of this work — especially law students and young lawyers — will number in the tens of thousands, for I am convinced that the exemplary life depicted in those pages would motivate youthful readers to seek to emulate Archibald Cox, Conscience of a Nation.

Much has been written — and appropriately so — concerning the man we honor. But there would be a serious gap in our report if we did not note the role of Phyllis, his wife of sixty years. An outsider can never know how important, indeed how vital, spousal support can be. Fortunately, Ken Gormley has provided the testimony of the Coxes' two daughters on this matter. Said daughter Sarah, "On a purely practical level, as I told my father in Mother's presence, Dad owes a great deal of his success to his support system — specifically his wife. Mother took care of every day-to-day worry. This gave him the freedom to devote his time outside. Mother kept it all together."[2] Daughter Phyllis's report is similar, "To know there's unconditional love has

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[1] KEN GORMLEY, ARCHIBALD COX: CONSCIENCE OF A NATION 142 (1997).

[2] *Id.* at 431 (1997) (internal quotation marks omitted).

to be a support that most people don't have, in a way they have had each other."[3]

Archie's perception is perhaps the most significant and certainly is the most poignant. He wrote to Phyllis on June 10, 1961, sending the letter so it would arrive on June 12, their twenty-fourth wedding anniversary. He wrote in part:

> Our wedding is getting to be quite a long time ago — longer than I like to realize sometimes. Time wasn't needed to teach me how lucky for me that day was . . . . Sometimes, if I let my mind dwell on it, I have an awfully guilty feeling of giving too little and taking too much.
>
> How can I tell you . . . [t]hat my universe, despite the time we are apart and the depth of my professional interests revolves about you? That knowing you are there and we will be together is my absolute dependence? I don't know how to say it very well. You are me, for without you there would be no me.[4]

Ken Gormley[*]

In the summer of 1990, I took an unpaid leave from law practice and moved into a deserted dorm at Harvard so that I could begin interviewing my former constitutional law professor, Archibald Cox, with an eye toward writing his biography. I remember driving back to Pittsburgh with my wife, Laura, at the end of that summer, and telling her that I didn't think I had much of a book. I concluded that Cox was a "bit player in a lot of big events." But he hadn't done much of importance himself.

It was only after I had completed a year or two of research that I realized I had much more of a book than I had imagined. After sitting down with President Gerald Ford, Senator Edward Kennedy, Ted Sorensen, Nicholas Katzenbach, Derek Bok, Phil Heymann, Elliott Richardson, Arthur Schlesinger, Jr., and others, the picture sharpened. It turned out that Cox had played major roles in major events. He simply did not tell me about them; he had understated his role from start to finish.

This was the essence of Archibald Cox. The man I had expected to be aloof and pompous turned out to be shy and self-effacing, an old-

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[3] *Id.*

[4] *Id.* at 154.

[*] Professor of Law, Duquesne University School of Law; author of ARCHIBALD COX: CONSCIENCE OF A NATION (1997); Harvard Law School, Class of 1980; teaching assistant to Professor Archibald Cox, American Constitutional History, 1979.

school gentleman. I had expected to find Cox covered with warts and imperfections once I began to scrape away at the surface, but he turned out to be more impressive than I had thought possible of mortals. He was the real deal.

Some described Cox as a New England patrician or a Boston Brahmin, but he defied easy categorization. He was a direct descendant of Roger Sherman, signer of the Declaration of Independence and the Constitution. He grew up in Plainfield, New Jersey, the son of a distinguished New York patent attorney. He spent summers hiking mountains in Windsor, Vermont, living at the homestead built by his great-grandfather, William M. Evarts — a noted nineteenth-century lawyer and statesman who had represented President Andrew Johnson during his impeachment trial (even though he and Johnson belonged to different political parties). Archibald Cox was an amalgam of America's richest elements. His family was steeped in respect for law and public service. He always prided himself in the streak of independence that came with that genealogy.

Harvard supplied a crucial ingredient in Cox's formation. It was, as one of his mentors, Austin Wakeman Scott, had once said to him, more like a religion than a place. He enjoyed the College as a place to come of age; yet it was at the Law School that he found his niche. In the musty but wondrous Langdell Hall where he would later occupy an office for fifty years, Cox was shaped by professors, including Felix Frankfurter, and developed a passion for legal education that would last a lifetime.

At a Harvard football game in 1935, Cox discovered a different passion: he met and fell in love with Phyllis Ames — granddaughter of noted Dean James Barr Ames — to whom he would remain devoted for seventy years. Cox's life would have looked quite different without Phyllis. He could become stiff and serious when left in a room stacked with books; Phyllis was a live wire with a sparkling wit who brought out the lighter side of his personality and kept him cheerful, optimistic, even adventurous. Together they shared a love for the outdoors, a simple passion for gardening and horses, and an unpretentious New England desire to drive pickup trucks that carried them to and from Maine each summer (eventually bringing along ponies, horses, chickens, dogs, cats, assorted animals, and the three children that constituted the extended family).

Archie and Phyllis were married three days after his last tax exam and moved to New York City, renting a little walk-up apartment. ("To see what kind of a day it was," Phyllis told me, "I had to stick my head outside the window and turn upside down.") Cox had earned a top honor — a Second Circuit clerkship with the famous Judge Learned Hand. He sat in a room with Judge Hand who painstakingly filled his ink pen and labored over opinions. On one occasion, Judge Hand raised his huge eyebrows and asked urgently: "Sonny, to whom am I

responsible?" He pointed to the volumes of U.S. Reports on the shelves. "To these books about us, that's to whom I am responsible." It was a lesson Cox would carry with him throughout his own extraordinary legal career.

No finite tribute to a great man or woman can summarize each achievement that deserves special mention. Archibald Cox's life in law and public service, spanning much of the twentieth century, reads like a chronicle of American virtue, integrity, and honest determination. Cox was a lawyer at the prestigious Boston firm of Ropes & Gray, but he left his lucrative practice for an appointment to the Harvard Law faculty in 1945, favoring the quiet independence of academic life. He taught torts and labor law, wrote prolifically, and established himself as the premiere labor law scholar in America.

In 1952, President Harry Truman appointed Cox to head the Wage Stabilization Board, which might have propelled him into the national limelight; but Cox resigned after only six months when Truman buckled to United Mineworkers President John L. Lewis and overturned a key decision of the Board. Cox felt he could not, in good conscience, stay.

Nor did he worry about sinking his own future opportunities as an arbitrator or in government. For Cox, integrity and adherence to principle were their own rewards.

Later in the 1950s, Cox was asked to provide labor advice to the junior senator from Massachusetts, John F. Kennedy. Cox soon became a key draftsman of the Landrum-Griffin Act, Kennedy's most significant legislative accomplishment before running for President in 1960. He also headed JFK's "Brain Trust," a collection of academic "eggheads" that pumped out speeches and position papers for the candidate.

So greatly did Kennedy trust Cox that he dispatched him to Hyannisport to sit with his pregnant wife, Jackie, during the first Presidential debate. During this period JFK discovered that the Coxes didn't own a color television, and decided to ship them one. Archie sent a note of thanks to JFK, then he called the department store and cancelled the shipment, adhering to the New England precept that one "must never accept any money or any other material thing . . . that will put you in debt." Yet Archie did accept an umbrella, a set of cufflinks, and a watch from JFK. These were "personal" gifts, of the sort "friends might exchange."

This was how Cox made decisions, big and small. Employing this same intricate set of principles, he was able to surmount crises by applying wisdom coupled with firm resolve. He worked tirelessly while navigating by his internal compass, becoming one of the nation's most distinguished Solicitors General; bringing calm to the Columbia and Harvard campuses during the wrenching riots of the Vietnam War era; standing up to President Nixon during the darkest days of the Water-

gate crisis; arguing landmark cases like *Bakke* in the Supreme Court; and making innumerable contributions that are touched upon, by those who knew him best, in these tributes.

During my seven years of research for the Cox biography, I discovered that notions of "principle" and "integrity" were real for Archibald Cox. It was how he had lived his whole life, from the time he was a boy.

Many biographers face the harsh realization that they have learned so much about their subjects that they have grown to disrespect them or even to hold them in disdain because they discover that much of the public persona is a façade. I had the unusual privilege of discovering the opposite. I grew to respect, admire, and even to love the subject of my book (and his wife Phyllis) far more by the end of the project than when I had begun.

What struck me most in authoring the story of Cox's life was that he would have lived the same honorable, exemplary existence whether or not his name ever appeared in American history books. Even if the searchlight of history had not shone upon Cox due to his heroic role in Watergate, his life would have been just as noble, his contributions would have been just as great.

Archibald Cox has left us with a legacy that is more valuable than a towering building or a statue of pure gold. He has given us reason to believe, and to hope, that our society will continue to endure by producing more silent heroes like him, in each successive generation, who are built not upon the fleeting desire to achieve fame and ambition, but rather upon a more enduring quality called integrity.

Philip B. Heymann[*]

Much of my professional life has been spent working for and with Archibald Cox. That all started soon after he began a historic tenure as Solicitor General in 1961, continued through the time he became a national hero as Watergate Special Prosecutor, and lasted until his death. He was my mentor and close friend. What was he like in his role as a government lawyer? How did he think and decide?

If Archie Cox were writing this, he would begin with a yellow pad. Others would begin writing a brief or an article by kicking around with colleagues a wide variety of ideas or by quickly dictating parts of drafts to be published and combined later. Archie said he could only

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[*] James Barr Ames Professor of Law, Harvard Law School.

think longhand on a yellow pad. That was because, for him, the parts of an argument flowed in a quite logical order from the starting premises, and each part bore a fairly determinate relationship to every other.

It is hard to separate the mind of Archie Cox from a far broader understanding of the law in the 1960s. Several years ago I asked a very distinguished and brilliant successor Solicitor General whether he was concerned about political interference from a procedure that routinely involved the White House Counsel in decisions about what position the federal government should take on cases in the Supreme Court. He said, "not at all," and explained that more than one position was very arguable and defensible in almost every case, and the President, as client, had a right to choose among them. If, as had not happened, he was ordered to argue a position that wasn't defensible, then he would refuse.

When Cox was Solicitor General, he made all the decisions about the government's position, often after hearing legal arguments in his office from different contenders. He had, of course, no plausible claim to determine policy contrary to the wishes of his superiors. But since he and his superiors believed that law trumped policy, they also believed that the federal government was obligated to argue what the law required. On reflection, in a very high percentage of cases Archie found the law to be clear. Beyond that, his superiors believed in and therefore accepted his legal conclusions. When Cox left office to return to Harvard Law School, Robert Kennedy described, perhaps apocryphally, having received, several years before, a call from President Kennedy raising an important question as to his legal powers: "I said in my most authoritative way, 'Mr. President, you have ample powers to do that.' The President responded, 'Bobby, just ask Archie.'"

Cox didn't construe the law narrowly or literally. He considered it very closely related to broadly accepted moral judgments embodied in a national legal tradition. I remember him struggling for weeks or months to find an argument, convincing to himself, that the Constitution forbade private businesses from excluding African Americans from places or activities otherwise open to the public. If such discrimination was deeply wrong, for reasons so close to the Civil War amendments, he thought there must be an argument that it was unconstitutional. When he couldn't find it, he brought his immense prestige to the writing of the Civil Rights Act of 1964 and later to its defense before the Supreme Court.

In his own mind the arguments always included important premises about the proper roles of various institutions. The institution about which he cared most was the Supreme Court, whose capacity to issue conclusions binding on chief executives and legislatures Archie, like Justice Frankfurter, considered always at some risk. He, too, had

lived through the contests between President Roosevelt and the Court. I watched him move cautiously and with real doubts about the Court's role from endorsing the limited judicial powers to deny random or arbitrary legislative apportionment in *Baker v. Carr* to a commitment to one-person, one-vote in *Reynolds v. Sims*. He later worried about a court ordering President Nixon to deliver tapes of Oval Office conversations, fearing that, if the President failed to comply, the authority of the judicial branch would be undermined.

On both these occasions his policy views were clear; it was the institutional implications that he questioned. At this very high level of institutional concern, he combined law and politics, but nowhere else. I never heard a mention of politics while he was addressing issues as Solicitor General. Indeed, his personal presence would quickly quash the interest of others in the partisan effects of a decision. Robert Kennedy believed that an apportionment rule tending to equalize voting power would benefit the Democratic Party, but he would not ask Cox to consider that factor. In the ominous days before the Saturday Night Massacre when Cox might well have been busily marshaling political support, he did not, and found himself quite alone among the responsible figures in insisting on access to the crucial tapes when the Senators most involved had accepted an inadequate substitute. He didn't think a prosecutor should be marshaling Congressional support. Indeed, he regretted deeply the few hesitant steps he had taken in that direction when he earlier had reason to fear interference with the execution of the law. When he did fight back, it took the form of a news conference explaining to the American people why the role of the Special Prosecutor required him to subpoena the tapes, and why no one could honorably accept that much-needed role and not pursue all the evidence.

Both the role of Solicitor General and the role of Watergate Special Prosecutor carried with them great political power. After all, Archibald Cox played major roles in shaping our fundamental state and federal election rules, in pushing forward the Civil Rights revolution of the 1960s, and in ending the career of a very powerful but dishonest President. Yet he sought moral constraints on his own powers and found them in his obligations to the role of government advocate. Wanting all power to be constrained by what is expected of various institutions and what the law provides, he never felt that his own power was free of such obligations. That seems quaint in an age when executives assert unprecedented and unlegislated powers to deal, often secretly, with the risks of terrorism. But the importance of exercising powers within self-recognized constraints, even when there are no effective outside checks, is what lawyers with power have to teach politicians and experts about governing. We have no better example of this than Archibald Cox.

Charles J. Ogletree[*]

On May 29, 2004, I lost a dear friend and great mentor. Professor Archibald Cox was a world-renowned scholar, teacher, and lawyer. His impact on our nation shall long be remembered, and those of us privileged with the opportunity to know him as a friend have been enriched in uncountable ways. Professor Cox has been appropriately recognized as a leading constitutional scholar and teacher, and one of America's most successful lawyers. In tributes to him, by the national press and by his colleagues and former students, there is frequent mention of his role as the scrupulous Watergate Prosecutor of President Richard Nixon who was fired while insisting that the President's staff turn over evidence crucial to his investigation.[1] He is also regarded as a formidable scholar of labor law, with his important work being cited prominently in cases and other writings for its clarity and vision.[2]

As a scholar, he was in an exclusive club of constitutional law giants, having taught the subject for decades, and written some of the most respected books and articles on the subject. What is less obvious, however, is his role as a lawyer who thought hard about serious matters of race and how those topics could and should be dealt with in our increasingly diverse society. It is through this prism that I met Professor Cox, and it is as a result of our meetings and discussions that I learned much and shaped my own career as a student of the intersection of race and law.

Cox was not only an important figure for arguing a number of civil rights cases before the Supreme Court and winning them.[3] He also played a pivotal role helping to draft the Voting Rights Act of 1965[4] and, while at Harvard Law School, was the principal author of an

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[*] Jesse Climenko Professor of Law, Harvard Law School.

[1] *See, e.g.*, KEN GORMLEY, ARCHIBALD COX: CONSCIENCE OF A NATION at xi-xii, 227–377 (1997); *Archibald Cox, 92, Is Dead; Helped Prosecute Watergate*, N.Y. TIMES, May 30, 2004, at 32; Bart Barnes, *Watergate Prosecutor Faced Down the President*, WASH. POST, May 30, 2004, at A01; Carl B. Feldbaum, Letter to the Editor, *A Lincolnesque Moment*, S.F. CHRON., June 5, 2004, at B8; Claudia Luther, *Special Prosecutor Fired by Nixon over Watergate Probe*, L.A. TIMES, May 30, 2004, at A1; Daniel A. Rezneck, *In Their Country's Service: Watergate Icons Archibald Cox and Samuel Dash Defended Right with Personal Flair,* LEGAL TIMES, June 7, 2004, at 78.

[2] GORMLEY, *supra* note 1, at x, 48–78.

[3] *See* Baker v. Carr, 369 U.S. 186 (1962); Reynolds v. Sims, 377 U.S. 533 (1964); Katzenbach v. Morgan, 384 U.S. 641 (1966); South Carolina v. Katzenbach, 383 U.S. 301 (1966) (representing Massachusetts in an amicus brief).

[4] GORMLEY, *supra* note 1, at 190–91.

amicus brief submitted by Harvard University in an earlier affirmative action case, *DeFunis v. Odegaard*,[5] wherein the "Harvard Plan," which considered race as one of many factors in selecting a diverse and qualified class among a pool of graduate school applicants, received national attention. Although the *DeFunis* case did not receive full attention from the United States Supreme Court,[6] it was clear that challenges to affirmative action would continue.

In September 1976, the California Supreme Court declared the UC-Davis special admissions program unconstitutional by a vote of six to one.[7] In December, the University of California appealed to the U.S. Supreme Court. The *Bakke* case generated significant public debate and national interest, and it was no surprise that, as the University of California found itself with one setback after another trying to defend its affirmative action program, the University eventually placed a call to Professor Cox.

As someone who had the opportunity to discuss the *Bakke* case in particular with Professor Cox in the 1970s, I am keenly aware of his important contributions to the developing jurisprudence in this area. In my second year at Harvard Law School, I was elected national chairman of the Black Law Students Association. In that capacity, I requested a meeting with Professor Cox to discuss what I thought was a matter of grave importance: the future of affirmative action in higher education. Knowing that he was going to represent the University of California before the United States Supreme Court, I was concerned about how the case would be handled.

To my pleasant surprise, Professor Cox agreed to meet with me, and listened to my novice views about what was at stake in this seminal case. I explained the importance of this case to the future of affirmative action and asked whether we, as Harvard law students, could do anything to help him. I also told him that other law students around the country were deeply concerned about the case and that we were available to assist him in any way he deemed appropriate. Cox, with whom I had not taken any classes, listened intently, even taking notes on his legendary yellow pad, and was incredibly respectful. I don't know what he was thinking at the time, but when I left his office, I realized the utter arrogance of my attempting, as a second-year law student, to influence the thinking of one of our nation's greatest legal minds! Nevertheless, I felt compelled to tell him that the *Bakke* decision was important for the generations of young African-American and other minority students like me, who wanted to have meaningful

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[5] 416 U.S. 312 (1974).

[6] *Id.* at 319–20. (dismissing a challenge to the University of Washington's affirmative action plan on mootness grounds).

[7] Bakke v. Regents of Univ. of Cal., 553 P.2d 1152 (Cal. 1976).

opportunities to attend professional schools and to be able to serve our communities when we graduated. If Professor Cox felt that I was out of line even to seek to discuss the *Bakke* case with him and to share my concerns, he certainly never expressed it then in 1977, nor during the ensuing twenty-seven years of our friendship.

We were able to discuss the case as he prepared, and I was very pleased to see the strong brief he submitted on behalf of the University of California. It was quite an experience to see his craftsmanship as he tried to draft a brief that would simulataneously support the University's program and persuade a Supreme Court that was increasingly conservative, particularly on matters of race.

As Professor Cox stood before the Supreme Court, in perhaps the most difficult case he had argued, he wasted no time in focusing the Court's attention on the central question of the day:

> This case . . . presents a single, vital question: whether a state university, which is forced by limited resources to select a relatively small number of students from a much larger number of well-qualified applicants, is free, voluntarily, to take into account the fact that a qualified applicant is black, Chicano, Asian, or native American, in order to increase the number of qualified members of those minority groups trained for the educated professions and participating in them, professions from which minorities were long excluded because of generations of pervasive racial discrimination.[8]

By stating the question in this way, Professor Cox wanted to move the issue of race and diversity forward from where it had rested after *Brown v. Board of Education*. Professor Cox's question was met with a wide range of responses by the Court. Indeed, the Court's consideration of *Brown* and its progeny in the *Bakke* case raised more questions than it answered. *Bakke* ultimately resulted in a plurality opinion from Justice Powell, upholding the narrow point in the UC Davis plan that permitted the school to consider diversity as an appropriate consideration, among others, in selecting a medical school class of otherwise qualified applicants.[9] The *Bakke* decision was a mixed blessing, at best.

I graduated from Harvard Law School in 1978, went to practice for several years in Washington, D.C., and did not have any meaningful contact with Professor Cox during those years. However, when I returned to Harvard Law School, initially as a visiting professor, and then as a full-time faculty member, we renewed our friendship. He

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[8] Argument of Mr. Archibald Cox for Petitioner, Regents of Univ. of Cal. v. Bakke, 438 U.S. 265 (1978), *in* 100 LANDMARK BRIEFS AND ARGUMENTS OF THE SUPREME COURT OF THE UNITED STATES: CONSTITUTIONAL LAW, 1977 TERM SUPPLEMENT 623 (Philip B. Kurland & Gerhard Casper eds., 1978).

[9] Regents of Univ. of Cal. v. Bakke, 438 U.S. 265, 315–20 (1978) (opinion of Powell, J.).

was kind enough to speak to members of the Harvard community about *Bakke* and the continuing significance of the Harvard Plan and diversity as part of the Saturday School Program I initiated in 1988. He was quite proud that his alma maters, Harvard College and Harvard Law School, as well as the Harvard Law School faculty, were far more diverse than when he was a student or a young faculty member.

Professor Cox was required to retire "officially" from Harvard Law School after reaching his early seventies, but he continued to teach at Boston University Law School and maintained his office at Harvard Law School. His public interest work actually increased substantially, as he responded to calls to work for Common Cause and to offer advice on local and national issues. He would regale his colleagues during his frequent attendance at faculty lunches in Pound Hall, and it was an overwhelming feeling being at Harvard Law School then, not as a former student, but as a friend and colleague.

I often wondered whether the question raised by Professor Cox in 1977 would ever be answered, and as we entered the twenty-first century and Professor Cox had completely retired from teaching, it seemed doubtful. It took the Supreme Court more than twenty-five years before it finally answered the question that Professor Cox raised in the *Bakke* case. Speaking on behalf of a majority of the Court in the 2003 Michigan Law School diversity case, Justice Sandra Day O'Connor provided the affirmative answer to the question that Professor Cox had raised decades earlier. Moreover, Justice O'Connor's language is eerily similar to that of Chief Justice Earl Warren in *Brown* in 1954, and affirmed Professor Cox's view of how important it was for the Court to review its race jurisprudence: "Justice Powell emphasized that nothing less than the nation's future depends upon leaders trained through wide exposure to the ideas and mores of students as diverse as this Nation of many peoples."[10] Justice O'Connor went further though, by stating unequivocally the legal significance of *Bakke* twenty-five years after it had suffered withering criticism by lower courts,[11] legal scholars,[12] and public commentators.[13] She concluded:

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[10] Grutter v. Bollinger, 123 S. Ct. 2325, 2336 (2003) (quoting *Regents of University of California v. Bakke*, 438 U.S. 265, 313 (1978) (quoting *Keyishian v. Board of Regents of University of State of New York*, 385 U.S. 589, 603 (1967))) (internal quotation marks omitted).

[11] *See, e.g.*, Hopwood v. Texas, 78 F.3d 932, 944 (5th Cir. 1996); Peters v. Moses, 613 F. Supp. 1328, 1335 (W.D. Va. 1985).

[12] *See, e.g.*, William Van Alstyne, *Rites of Passage: Race, the Supreme Court, and the Constitution*, 46 U. CHI. L. REV. 775, 799–803 (1979); David M. White, *Culturally Biased Testing and Predictive Invalidity: Putting Them on the Record*, 14 HARV. C.R.-C.L. L. REV. 89, 90–95 (1979); Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1770 (1993); Wendy Brown-Scott, *Unpacking the Affirmative Action Rhetoric*, 30 WAKE FOREST L. REV. 801, 814 (1995); L. Darnell Weeden, *Yo,* Hopwood*, Saying No to Race-Based Affirmative Action Is the Right Thing To Do from an Afrocentric Perspective*, 27 CUMB. L. REV. 533, 548 (1997).

> In the wake of our fractured decision in *Bakke*, courts have struggled to discern whether Justice Powell's diversity rationale, set forth in part of the opinion joined by no other Justice, is nonetheless binding precedent[.] . . . [F]or the reasons set out below, today we endorse Justice Powell's view that student body diversity is a compelling state interest that can justify the use of race in university admissions.[14]

Justice O'Connor was not only expressing support for Justice Powell, but embracing and affirmatively answering the question initially raised by Professor Cox. Professor Cox was pleased that, twenty-six years after he posed the seminal question to the Supreme Court about the importance of preserving a racially diverse class of students at America's great universities, Justice O'Connor, who was not a member of the Court then, provided a clear answer.

I too was pleased that my friend and mentor was alive and well when that historic decision was rendered. The *Grutter* decision was perhaps the capstone of an already brilliant career and solidified his place in history on issues that many forget are a part of the Cox legacy. As he was during the civil rights cases in the 1960s, in drafting legislation to establish the principle of one-person, one-vote, and in arguing *Bakke*, Professor Cox was a masterful teacher, asking his students — in *this* case, the Supreme Court — a difficult question, and ultimately, decades later, he was able to rest assured that they got it right. I know that in a very real way, the Supreme Court's twenty-six year journey that led to the embracing of Justice Powell's views in *Bakke*, also properly places Professor Archibald Cox in the forefront of carving the proper path for our Constitution to consider race. As a constitutional scholar who was respectful of the Court's need to move slowly on these important matters, Professor Cox will long be remembered for asking the right questions that would presumptively, and inevitably, lead the Court, and our nation, to the right conclusion. For me, he will always be cherished as a teacher who took the time to listen to the problems that perplexed his students and as someone deeply committed to the principle that a diverse nation is a strong nation.

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[13] *See* Carl Cohen, *Winks, Nods, Disguises — and Racial Preference*, COMMENTARY, Sept. 2003, at 34; Peter Elkind, Bakke *Aftermath: Reverse Discrimination Case: A Legacy of Legal Confusion*, WASH. POST, July, 3, 1980, at A13; Jeannye Thornton, *An Agonizing Reappraisal for Minorities*, U.S. NEWS & WORLD REP., Aug. 14, 1978, at 26.

[14] *Grutter*, 123 S. Ct. at 2337.

Fred Wertheimer[*]

Archibald Cox was one of the legal giants in our nation's history. A man of the highest ideals and unswerving integrity, he became a national hero as Watergate Special Prosecutor. For Archie, there was no higher professional calling than teaching his law students and no more important democratic principle than the rule of law. And there never was just Archie; it always was Archie and Phyllis. She was his touchstone. They shared sixty-seven years of marriage together, and that shared life extended as well to all of Archie's accomplishments and triumphs.

His extraordinary contributions to our nation as a lawyer, teacher, scholar, and public servant are honored in other remembrances in this journal. Less well known is his exemplary contribution as a citizen leader and activist.

Archibald Cox served as Chairman of Common Cause from 1980 to 1992. Starting in May 1981, I served with him as President of the organization — one of the greatest joys and professional experiences I have had. As Common Cause Chairman, Archie was a powerful voice and symbol for the 250,000-member citizens' lobby — and for the nation — in the cause of honest, accountable, and fair government. He was a natural successor to John Gardner, the remarkable and inspirational leader who founded Common Cause and the modern-day movement for government and political reform.

But Archie's leadership went beyond symbolism. He rolled up his sleeves and for twelve years traveled throughout the country, meeting with Common Cause members and state organizations, mobilizing and inspiring citizen action. He wrote letters to Congress, testified before congressional committees, and lobbied Senators and Representatives. He published op-ed articles and held countless meetings with reporters and editorial writers to advance the Common Cause reform agenda.

Archie also returned to the Supreme Court on behalf of Common Cause, filing briefs and arguing before the Justices in support of the constitutionality of campaign finance laws. Archie felt deeply about the dangers to democracy caused by what he called "a fundamentally corrupt campaign finance system."[1] He spoke about how "exchanging

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[*] President, Democracy 21; former President, Common Cause.

[1] *Tenth Anniversary of the Ethics in Government Act and Reauthorization of the Office of Government Ethics: Hearings Before the Subcomm. on Oversight of Gov't Mgmt. of the S. Comm. on Governmental Affairs*, 100th Cong. 53 (Apr. 12, 1988) (statement of Archibald Cox, Chairman, Common Cause) [hereinafter *Cox Ethics Testimony*].

a Senator's or any other representative's votes for the money with which to win reelection violates the basic democratic principle. We are to be equal before the government as individuals, not favored according to the depth of a man's purse."[2] Archie strongly disagreed with those who believed that campaign money is constitutionally protected "speech." He loved to take a $20 bill out of his wallet, show it to an audience, and ask if it looked like "speech" to them.

Archie's hands-on involvement in Common Cause came at a time when his crew cut and signature bowtie were so renowned that people would stop him at airports to thank him for his courageous stand during the Watergate crisis; airline agents routinely would insist on upgrading him to first class. He was a walking icon. And yet to Common Cause members he always presented himself as "Archie," a citizen activist just as they were.

Ironically, Archie ended up as Common Cause Chairman only after President Jimmy Carter elected not to appoint him to the U.S. Court of Appeals for the First Circuit. Senator Edward Kennedy had proposed Archie for the judgeship, but President Carter decided against nominating Archie, concerned that this national hero was "too old" for the job.

So Archie, while disappointed with this result, proceeded to spend the next twelve years as a vigorous citizen activist and national reform leader. His tenure spanned the Reagan and Bush years when the mantra, as articulated by President Reagan, was: "Government is not the solution; government is the problem." Archie challenged that ideology head on. "[We have] the duty to participate in the great business of self-government," he wrote, "and to revive in our fellow citizens the confidence that together we, the people, can use the government to better human lives."[3]

For Archie, self-government was "the great American adventure."[4] He worried about "the decline of the public philosophy that shaped American ideals and long influenced American political life."[5] He saw the need "to restore faith in public service, to infuse dignity, respect and impartial concern for the general public interest into the conduct of government."[6]

Archie was a man of "threes." He always had three reasons at the ready to support a legal argument or make the case for a public policy

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[2] Archibald Cox, Ethics in Government: The Cornerstone of Public Trust, The Charles L. Ihlenfeld Lecture at the College of Law of the University of West Virginia (Mar. 6, 1991) (transcript available at the Harvard Law School Library) [hereinafter Cox, Ethics in Government].

[3] Archibald Cox, *Looking Ahead: Will the Dream Survive?*, *in* 20 YEARS OF CITIZEN ACTION: COMMON CAUSE 1970–1990 at 29, 30 (1990).

[4] *Id.* at 29.

[5] *Cox Ethics Testimony*, *supra* note 1, at 98.

[6] *Id.* at 95.

position. In keeping with that tradition, here are three examples of Archie in action during his Common Cause years.[7]

First, in 1981 Archie led a Common Cause lobbying campaign to defend the judiciary against efforts to strip the courts of their power to protect individual liberties. Senator Jesse Helms had introduced legislation to nullify a Supreme Court ruling limiting prayer in public schools by stripping the Supreme Court and lower federal courts of jurisdiction to hear "any case arising out of any state statute . . . which relates to voluntary prayers in public schools and public buildings."[8] It was a bald attack on the federal judiciary and our constitutional balance of powers.

In testimony before the Senate Judiciary Committee, Archie challenged the court-stripping efforts, stating:

> [T]he very function of the Constitution and Court is to put individual liberties beyond the reach of both congressional majorities and popular clamor.
>
> Any principle that permits Congress, with the approval of the President, to nullify one constitutional right protected by the Constitution, as interpreted by the Court . . . would sanction the nullification of other[s].[9]

In a *Newsweek* column, Archie wrote that the "ultimate bulwark" of our fundamental rights in this country "is the Bill of Rights and the Fourteenth Amendment, interpreted and applied by an independent judiciary — headed by the Supreme Court."[10]

Despite widespread opposition in the country and in Congress to the Court's school prayer opinion, the "ultimate bulwark" prevailed. Senator Helms and his court-stripping efforts were defeated.

Second, Archie led an effort to uphold standards of integrity in public service with respect to the nomination for Attorney General of Edwin Meese. In 1984, Senate confirmation hearings for Meese were suspended when an independent counsel launched an investigation into conflict-of-interest allegations involving Meese. When the counsel concluded there was not a basis to pursue a criminal indictment, the White House declared Meese vindicated and resumed pressing for his confirmation.

But Archie and Common Cause refused to accept the Reagan Administration's standard that as long as conduct wasn't criminal, it was

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[7] For an overview of Common Cause's efforts during the 1980s, see Peter Montgomery, *The Reagan Years: Countering the Political "Me" Generation in the '80s*, *in* 20 YEARS OF CITIZEN ACTION: COMMON CAUSE 1970–1990, *supra* note 3, at 12.

[8] Archibald Cox, *Don't Overrule the Court*, NEWSWEEK, Sept. 28, 1981, at 18, 18.

[9] *The Human Life Bill: Hearings Before the Subcomm. on Separation of Powers of the S. Comm. on the Judiciary*, 97th Cong. 329 (June 1, 1981) (statement of Archibald Cox, Harvard University Law School).

[10] Cox, *supra* note 8, at 18.

acceptable. Instead, Common Cause released a study that used the independent counsel's report to document that Meese was "blind to the ethical standards and obligations required of a public official."[11]

In a letter to all Senators, Archie stated that "in the past, conduct such as Mr. Meese's has been condemned as grossly unethical," and urged them to vote against confirmation "to affirm the standards of government necessary for public confidence in the integrity of government."[12] While the Senate ultimately confirmed Meese, the lobbying effort led by Archie resulted in 31 Senators voting against Meese, the highest number of Senate votes against an Attorney General nominee in sixty years. In an epilogue to the story, the Justice Department's Office of Professional Responsibility later found, in response to a Common Cause complaint, that Attorney General Meese had violated Justice Department ethics standards. The Office found that Meese "engaged in conduct which should not be tolerated of any government employee, especially not the Attorney General."[13]

Third, Archie defended the standards of integrity in public service in a case involving five U.S. Senators and a savings and loan scandal. In 1989, Common Cause wrote to the Senate Ethics Committee and triggered an ethics investigation of the so-called "Keating Five" Senators. Public reports alleged that the Senators had pressured regulators to back off an investigation of a savings and loan owned by Charles Keating, who had channeled $1.3 million to their campaigns and related organizations.

In a follow-up letter to Senate Ethics Committee Chairman Howell Heflin, Archie made the case for why an independent counsel is so important in matters like this case, noting pointedly that his "past service as a Special Prosecutor and interest in the Ethics in Government Act have given me special occasion to reflect upon the point."[14] Later, Archie submitted a brief to the Ethics Committee setting forth the applicable ethics standards in the case and challenging claims that the actions of the Keating Five Senators were not covered by Senate ethics rules. And, when Ethics Committee member Senator Terry Sanford wrote to Archie attacking Common Cause as a "lynch mob" for challenging the Committee's subsequent "whitewash" of the affair, Archie responded in classic fashion.

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[11] Press Release, Common Cause, Common Cause Chairman Archibald Cox Will Hold Press Conference To Announce Common Cause Plans To Oppose Meese Nomination as Attorney General (Dec. 14, 1984) (on file with the Harvard Law School Library).

[12] Letter from Archibald Cox to All U.S. Senators 5 (Feb. 14, 1985) (on file with the Harvard Law School Library).

[13] Marianne Lavelle & Fred Strasser, *Meese Mess*, NAT'L L.J., Jan. 30, 1989, at 38, 38.

[14] Letter from Archibald Cox to Senator Howell Heflin, Chairman of Senate Ethics Committee (Oct. 23, 1989) (on file with the Harvard Law School Library).

Pulling out his legal-sized yellow pad and No. 2 pencil, Chairman Cox crafted a one-page response to Senator Sanford which read, in part:

> You rush to use words like "lynch mob" and to impugn my motives and those of my associates. I have joined them in speaking out because I believe now, as I did in the time of Watergate, that it is a citizen's duty to speak out against corruption of our basic American ideals. In this instance, the strong editorial condemnation of the inaction of the Senate Ethics Committee in newspapers throughout the country suggests that what you hear is not a lynch mob but the sober voice of the American people.[15]

Archie regarded the failure of the Senate Ethics Committee to discipline all of the Keating Five Senators as "a spineless evasion in the face of urgent need for moral leadership."[16] His views about the matter would ultimately prevail as the Keating Five case became a clear warning to members of Congress.

Archie also chose *not* to act on one occasion — and it speaks volumes about him. It involved the effort to defeat the confirmation to the Supreme Court of Robert Bork, whom many civil rights leaders believed was a judicial radical. Bork also happened to be the man who, as Solicitor General during the Nixon Administration, carried out President Nixon's orders to fire Archie as Watergate Special Prosecutor.

Archie steadfastly refused to take part in the Common Cause Board debate that ensued about whether the organization should become involved in the Bork nomination fight. He later said, "I thought it was a clear case of one who was sensitive to ethical considerations should disqualify himself."[17] Archie never disclosed where he stood on the Bork question and never was involved in the battle against Bork that Common Cause subsequently joined.

Archie's devotion to the great American adventure of self-rule found perfect expression in his role as Chairman of Common Cause. Rooted firmly in the town-meeting tradition of his beloved New England, Archie brought to bear the full measure of his passion for the rule of law, his brilliance as a lawyer and legal scholar, and his woodchopping common sense and good humor to his role as plain "citizen."

In the Watergate crisis, Archie inspired a nation. In his Common Cause years, Archie inspired hundreds of thousands of fellow citizens

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[15] Letter from Archibald Cox to Senator Terry Sanford, Member of Senate Ethics Committee (Mar. 5, 1991) (on file with the Harvard Law School Library).

[16] Cox, Ethics in Government, *supra* note 2.

[17] KEN GORMLEY, ARCHIBALD COX: CONSCIENCE OF A NATION 418 (1997) (internal quotation marks omitted).

to participate in public life — and he renewed faith in the future of our "great adventure in democracy."

Archie was a true American hero.