

Nixon Aides, Cox Have Met Over Tapes

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President Nixon's lawyers have been meeting privately with Watergate Special Prosecutor Archibald Cox this week, apparently in an effort to reach a compromise on Mr. Nixon's secret Watergate tapes.

Both the White House and Cox refused to discuss the outcome of the discussions thus far. They are scheduled to make a report to the U.S. Circuit Court of Appeals here today.

It seemed unlikely, however, that Cox has been permitted to listen to any of the recordings.

The seven appellate judges presiding over the case unanimously urged Mr. Nixon last week to let Cox listen to the tapes in an attempt to resolve the dispute without forcing it to a constitutional showdown.

Cox immediately voiced his willingness to try for an out-of-court settlement. The White House had been silent in the face of repeated queries.

Yesterday afternoon, however, Mr. Nixon's lawyers disclosed—in a short footnote to a seemingly uncompromising brief submitted to the court—that discussions had been scheduled.

The note, however, was apparently written in advance of the meetings. The White House lawyers cautioned that "it is impossible to judge, at the time this is being written, whether any fruitful result will come from the discussions. . ."

A spokesman for Cox, James S. Doyle—and then the White House—subsequently confirmed that several meetings have been held since the Court of Appeals made its suggestion last Thursday.

The principals in the discussions, held at the Executive Office Building, have been Cox and White House special counsel J. Fred Buzhardt. Deputy White House press secretary Gerald L. Warren said that Mr. Nixon himself has not met with the special prosecutor.

The court had suggested that the President might want to sit in on the proposed review of the tape recordings, but it emphasized that the heart of its proposal was "a

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voluntary submission of such portions of the tapes . . . as satisfies" the chief lawyers involved.

The judges said Mr. Nixon and Cox might then be able to agree on what portions of the tapes could be turned over to the Watergate grand jury here.

Meanwhile, the court held to its original schedule for final briefs in the case. Cox filed his last week.

Unprecedented Injury

In submitting their response yesterday, the President's lawyers contended that any court order compelling Mr. Nixon to surrender the tapes "would inflict unprecedented injury not only to the office of the presidency but also to the spirit of accommodation upon which the functioning of our constitutional system, at its highest reaches, critically depends."

"To tear down the office of the American presidency," the White House brief said, "is too high a price to pay, even for Watergate."

The disputed tapes involve nine of the President's conversations about the Watergate scandal with top White House aides and political advisers between June 20, 1972 — three days after the first arrests for the break-in and bugging at Democratic National Committee headquarters — and April 15, 1973.

Cox has contended that the recordings are crucial evidence in his criminal investigation of the scandal, especially in light of conflicting accounts of the talks.

The White House, however, contended that court review of the tapes, in light of Mr. Nixon's insistence that they are not essential to successful prosecutions, would amount to a finding of bad faith on the President's part.

The President's lawyers also took sharp issue with Cox's contention that his demand for the tapes "does not depend upon a prima facie showing of criminal involvement of the President," as distinct from his aides and advisers.

"The holder of a privilege does not lose that privilege because some other person has abused the privileged relation," the brief said, "so long as the holder himself has not acted improperly."

Permitting a judge to satisfy himself about that, the White House protested, "presupposes the possibility that in some future case a judge might conclude that some future President has been party to a crime and that his claim of privilege must be overruled."

No Safeguards

"To allow a court, which has no jurisdiction to indict or to try an incumbent President, to conclude that a President has committed a crime, merely as an incident to an evidentiary ruling, would be wholly intolerable," the brief protested. "The President would stand condemned in the eyes of the nation without any of the safeguards that even the humblest citizen enjoys before he may be branded as a criminal."

Despite the meetings with Cox, the White House also asserted once again that relevant excerpts could not be extracted from the recordings. The brief reminded the court of Mr. Nixon's own July 23 letter to Sen. Sam J. Ervin Jr. (D-N.C.), chairman of the Senate Watergate committee, in which the President stated:

"... There are inseparably interspersed in them (the tapes) a great many very frank and a very private comments, on a wide range of issues and individuals, wholly extraneous to the committee's inquiry. Even more important, the tapes could be accurately understood only by reference to an enormous number of other documents and tapes, so that to open them at all would begin an endless process of disclosure. . ."

Mr. Nixon also said in that letter that he had "personally listened to a number" of the tapes. He has since stated that he listened to two of them.