

# Cox Would Compromise On the Tapes

## COX AND TAPES

### Washington

Both special prosecutor Archibald Cox and Senate Watergate committee leaders tried yesterday to head off an impending constitutional struggle over whether the President has the right to refuse to turn over tape recordings concerning the Watergate affair.

Cox suggested that he would be willing to accept some compromise rather than face a Supreme Court test of presidential powers. He has gone to court seeking tape recordings of conversations made in the presidential offices, believing those tapes may contain information relating to his criminal investigation.

At the Capitol, the leaders of the Senate committee investigating the scandals met with White House representatives and implored them to get President Nixon to release the tapes to the committee, rather than force the Congress into the courts, too.

Committee chairman Sam J. Ervin Jr. (Dem-N.C.), vice chairman Howard H. Baker Jr. (Rep-Tenn.), majority counsel Samuel Dash and minority counsel Fred D. Thompson met at the lunch break at the hearings with Leonard Garment, counsel to the President, and special counsel J. Fred Buzhardt.

Senate sources gave no in-

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dication of how Buzhardt and Garment reacted to the plea to avoid a court test.

Cox told a news conference:

"I'm a pragmatic fellow. I want the evidence that the grand jury feels is material."

He added he was not looking for an "abstract" legal point.

### ORDER

The President, or his representative, has been ordered to U.S. District Court on August 7 to show cause why the tapes should not be turned over to the grand jury investigating the Watergate affair. The order was signed Thursday by Chief Judge John J. Sirica.

Cox did not say precisely what compromise might be acceptable. He suggested he would accept versions of the tapes edited by the court or written transcripts edited to remove such information as military secrets and other "irrelevant" material.

"The issue at the moment is framed in terms of nine specific tapes," Cox said.

### STANDARDS

Cox was asked at his news conference if he might not be holding the President to a "looser standard" than other Americans by not asking for a contempt ruling against him and instead seeking only the documents.

"The procedure followed here is a very common one," he replied.

He was also asked wheth-

er the courts could force the President to turn over the documents he sought.

He said "our history has been one of presidents complying with constitutional decisions of the court. I don't assume this president will do anything different than his predecessors."

But he added, "I'm not looking for legal determinations. I want the documents."

### QUESTIONS

He said there were two basic questions to be faced.

"One is whether there is some absolute privilege," he said.

Such privilege to withhold information, he said, is based on the three related doctrines of the separation of powers, executive privilege and the privacy of presidential papers.

"If there is no such blanket privilege, then there is another question as to separating out of the things that are irrelevant," he said, referring to the tapes that presumably include all sorts of material not related to the case.

He suggested the court might be able to sort out such things as military secrets.

Cox has said he does not believe in the concept of executive privilege. Yesterday he said he thought it would be "utterly unprecedented" if the court were not to order evidence turned over to a grand jury.

New York Times