One Man's Compromise May Be Another Man's Anathema

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The word "compromise" hangs enigmatically over the latest cascade of Watergate shockers to spill out of the White House.

President Nixon applied that description to his formula Friday night for taking the trauma of the tape recordings out of the courts, where he has previously insisted it belonged. It was an act of conciliation, he said, "that goes beyond what any President in history has offered."

It was an accommodation, White House domestic counsellor Melvin R. Laird said on television yesterday, "that preserves the co-equality of our three branches of government . . ."

It has been embraced by the ranking senatorial sleuths on Watergate matters, Sen. Sam J. Ervin Jr. (D-N.C.) and Howard H. Baker Jr. (R-Tenn.).

The fly in the ointment, according to the White House version of events, was Watergate Special Prosecutor Archibald Cox. Because of the obduracy of Cox in the face of compromise, he had to go. And so did Attorney General Elliot L. Richardson and Deputy Attorney General William B. Ruckelshaus, who both refused to fire Cox.

How could a proposal so conciliatory in its stated objectives have stirred such passion among men long loyal to the President? Was the compromise a compromise? And if so, for whom?

Under the presidential formula, written summaries based on evidence gleaned from the Watergate tape recordings would be presented to the Senate Watergate committee and the courts. The authenticity of these summaries would be verified by Sen. John C. Stennis (D-Miss.), a senior figure in the Senate leadership. The tapes would remain in presidential custody.

From the standpoint of the Senate Watergate committee the President's proposal would at least offer more relief than did U.S. District Court Judge John J. Sirica last week when he ruled that the committee did not even have standing to sue in court for access to the tapes. The sanitized transcripts would be better than nothing at all, the committee's alternative prospect.

From the standpoint of the White House, the President's formula represented something of a retreat from the impregnable view of executive privilege that he had previously taken on the tapes. Ironically, though, it also represented a reversal of his often-repeated conviction that the Watergate case belonged in the courts and that senators should be free to carry on "the business of the people."

To Cox, however, it was no compromise at all—at least in the terms it was conveyed to him. From the special prosecutor's standpoint it would have violated the guidelines under which he was hired, which guaranteed him untrammeled access to the evidence he needed to carry out his job and freedom from interference from above.

So strongly did Richardson feel compromised by the compromise, in view of his earlier pledges to the Senate of independence for Cox, that he had no choice but to resign. So did his deputy, Ruckelshaus, for the same reason.

Beyond that, however, Cox asserted that the courts should test the legal adequacy of the compromise agreement to make sure that the evidence so gathered would be admissable in future prosecutions growing out of his Watergate investigation.

As Cox put the matter somewhat poignantly Saturday at his news conference before he was fired: if the courts refused to accept the Stennis-verified summaries, then "I would be left without the evidence with which to prosecute people whom I had used the summaries, perhaps, to indict."

The special prosecutor also appeared to be genuinely concerned over the adverse effect that inability to produce the tape evidence would have in the current prosecutions of former Attorney General John N. Mitchell and Nixon reelection finance manager Maurice H. Stans. Both have requested access to White House recordings in order to prepare their defenses.

These concerns, together with the President's order that Cox abandon further recourse to the judiciary in pressing for the evidence, made the proposal unacceptable to Cox in the form it was presented to him.

Neither the President's statement Friday night nor the correspondence between Cox and White House legal adviser Charles Alan Wright seemed to address those concerns.

Cox expressed his concern in an exchange of letters Friday that the presidential plan would mean "the tapes would be withheld even if it meant dismissal of prosecutions against former govern-

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ment officials who have betrayed the public trust."

Wright's cryptic reply was that this would be an issue for future negotiation "when and if the occasion arose. Your comments . . . would have required an advance commitment from us that we cannot make an issue that we think would never arise."

The total span of the negotiations between Cox and Wright, as far as the record indicates, covers a telephone call and three letters exchanged on Thursday and **Friday,** with Wright uttering the last word. He wrote Cox Friday afternoon:

"It is my conclusion . . . that further discussions between us seeking to resolve this matter by compromise would be futile and that we will be forced to take the actions that the President deems appropriate in these circumstances.

Neither the President nor Wright nor Laird has explained why the President refused to allow Cox to submit to the courts the question of whether the proposed summaries would be admissable in trial evidence.

Laird ducked it in his "Meet the Press" appearance yesterday and Wright never addressed it.

There is also the question of whether the President was not in violation of the Oct. 12 U.S. Court of Appeals ruling that, in the absence of an out-of-court agreement on the tapes, they should be presented to Judge Sirica for an in camera (secret) inspection under elaborately drawn disclosure guidelines.

Some of those who have been close to the dispute are questioning whether the White House did not realize beforehand that the terms of the compromise could not be acceptable to Cox in his role as Watergate prosecutor.

According to one high-ranking administration official who was at the center of the Watergate events of the past week, an authoritative representative of the President asked Attorney General Richardson on Monday to dismiss Cox. 15 Oct

Yet the first version of the latest "proposal" for an out-of-court settlement submitted to Cox was dated last Wednesday. The obvious question is whether the President had not determined at the outset of the week to get rid of Cox, and, as it turned out, whether the "compromise" was not the vehicle to achieve that objective. 17 Oct