

Nixon May

Yield Part Of Tapes

Move to Avoid Confrontation

New York Daily News Service

WASHINGTON — President Nixon is seriously considering turning over a portion of the secret White House tape recordings to Watergate Special Prosecutor Archibald Cox in a last ditch effort to avoid a constitutional confrontation in the Supreme Court on the executive privilege issue, a White House source said yesterday.

The source said the President's attorneys have not yet decided how to respond to a recommendation by the United States Court of Appeals here Thursday that Nixon and Cox jointly listen to the tapes and decide between themselves which parts of the recordings of presidential conversations should be submitted to the Watergate Grand Jury.

At a White House press briefing, spokesman Gerald L. Warren stood by previous statements that the administration was studying the appeals court proposal.

Cox already has said he would be more than glad to go along with the arrangement if it could lead to "a mutually satisfactory conclusion."

But the White House source strongly indicated that Nixon and his lawyers are seriously considering meeting the appellate court

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part way by making available a portion of the tapes and describing in some detail, perhaps by sworn affidavits, the material covered in other portions.

This would represent a major rollback in Nixon's position on the tapes. Thus far he has absolutely refused to make any of them available on the ground that to do so would destroy the concept of confidentiality between the President and his advisers.

In fact, Nixon has spoken so strongly to his advisers that they have privately predicted that the President would simply refuse to obey a Supreme Court order to turn over the tapes if he lost the current court suits over the tapes with Cox and the Senate Watergate Committee.

However, some presidential advisers now feel that the high court will seek to avoid a constitutional showdown with the President over the tapes if Nixon shows some willingness to compromise on the issue. It is in this context, one source said, that Nixon is now studying the possibility of softening his hardline stand against any release of the tapes.

Milk Price Deal

The President has already made a similar rollback on executive privilege in connection with presidential papers involved in the dairy price support suit brought by Ralph Nader against Agriculture Secretary Earl L. Butz.

Nader, contending that a hike in dairy price supports was linked to more than \$300,000 in contributions for

Nixon's re-election, has demanded copies of all administration papers relating to the dairy price support matter.

Similar Offer

The White House refused to turn over any of the documents, claiming executive privilege, and has appealed a U.S. District Court ruling ordering the documents surrendered to the court for a private inspection. But in a surprise move earlier this week, the White House filed an affidavit and memorandum offering to turn some of the papers over to Nader and some others to the court for in camera inspection. Under the compromise offer, the White House continued to refuse access to only the most sensitive presidential papers.

A White House source said that a similar offer may be made in response to the appellate court recommendation on the tapes before the next Thursday deadline set by the court. Although the White House is confident that Cox would reject its compromise offer, it feels that the court might find it an acceptable way to avoid a constitutional showdown.

The White House compromise offer would permit the President to turn over a portion of the tapes — perhaps in the form of excerpted transcripts — and justify in greater detail his refusal to turn over other portions, perhaps by submitting detailed affidavits describing the material they contain.

At the same time, it would preserve the concept of confidentiality between the President and his advisers by leaving in his hands the determination of what can and cannot be made public.