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**NIXON'S LAWYERS
SEEM TO RULE OUT
ACCORD ON TAPES**

**Assert He Will Not Delegate
'Constitutional Duties and
Prerogatives' to Cox**

APPEALS BRIEF IS FILED

**2 Sides to Report Today to
Judges on Effort to Reach
Out-of-Court Settlement**

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Special to The New York Times

WASHINGTON, Sept. 19 —

President's Nixon's lawyers, strongly hinting that they would reject any out-of-court compromise on Presidential tape recordings, declared today that their client would not delegate "his constitutional duties and prerogatives" to Archibald Cox, the Watergate special prosecutor.

"That," the White House attorneys said in papers filed with the United States Court of Appeals for the District of Columbia, "would move beyond accommodation to irresponsibility."

Last week, in an unusual memorandum, the court suggested that a constitutional confrontation could be avoided if the President, his lawyer and Mr. Cox reviewed in private the tape recordings that the special prosecutor is seeking as possible evidence for a grand jury.

The court asked both parties to explore the idea and report by tomorrow whether their discussions had proved "fruitful." The best evidence today was that they had not.

During the past week Mr. Cox has held several meetings with J. Fred Buzhardt, special counsel to the President, and some observers continued to hold out hope for a last minute agreement between the two lawyers sometime tomorrow.

Acceptance by Cox

Mr. Cox responded almost immediately last Thursday that he would be "more than glad" to discuss the court's proposal with the President or his aides,

but the White House has said nothing since except that the matter was under study by the Nixon lawyers.

Both the special prosecutor's office and the White House were reported today to be drafting separate letters to submit formally to the Court of Appeals tomorrow, a strong indication that they had not reached agreement.

The White House brief filed today was the last legal preliminary to a decision by the Court of Appeals, which is expected in a week or two. The case will then reach the Supreme Court shortly after the

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Justices reconvene on Oct. 1 after their summer recess.

Before the Court of Appeals under challenge by both the White House and the special prosecutor, is a ruling by Federal District Judge John J. Sirica that the tape recordings should be submitted to him for a private examination of what parts, if any, should go to the grand jury.

Basis of 2 Appeals

Mr. Nixon appealed on the ground that the doctrine of executive privilege gave him an absolute right, not reviewable by any judge, to keep his records private. Mr. Cox maintained that the tape recordings should be submitted directly to the grand jury, rather than screened by the judge.

In their brief today, the White House attorneys argued that a judge could not be permitted to look behind a claim of executive privilege any more than he could require an answer in secret to a question a witness refused to answer on the ground of possible self-incrimination.

When a witness pleads the Fifth Amendment, the Nixon brief declared, a court "must merely judge in the light of the setting in which the question is asked whether there is any reasonable possibility that the question might be a link in a chain that would incriminate the witness and leave it to the good faith of the witness to decide whether a truthful answer would in fact be incriminating or exculpatory."

The President's lawyers said

that permitting Judge Sirica to conduct any sort of screening was equivalent to giving him power to Judge Mr. Nixon's guilt or innocence; if he passed anything on to the grand jury, he would be rejecting the President's statement that the conversations were "wholly innocent and in accord with his constitutional duties."

This would constitute a "wholly intolerable" precedent, the brief continued, allowing a future 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."

"The President would stand condemned in the eyes of the nation," the White House lawyers argued, "without any of the safeguards that even the humblest citizen enjoys before he may be branded as a criminal."

Submitting the White House brief were Mr. Buzhardt, Professor Charles Alan Wright of the University of Texas Law School, a legal consultant; Leonard Garment, counsel to the President, and three staff lawyers.