

# No Compromise On Nixon Tapes

## Washington

The White House and special prosecutor Archibald Cox gave up yesterday on efforts to reach an out-of-court settlement over President Nixon's secret Watergate tapes.

Both sides informed the U.S. Court of Appeals of the "unsuccessful outcome" of their negotiations.

In virtually identical letters to the court, submitted after a final meeting during the day, Cox and the Presi-

dent's chief courtroom lawyer, Charles Alan Wright, said that "sincere efforts" had been made, but that they "were not fruitful."

The next step is up to the court, which emphasized last week that it would "discharge its duty of determining the controversy" if the compromise it proposed was unsuccessful.

A decision is expected within the next two weeks, setting the stage for a final constitutional confrontation in the Supreme Court.

## TIME

If either Cox or the White House had considered asking the Appellate Court for more time to reach an agreement, there was no hint of it yesterday. Both sides refused to comment on whether any progress had been made in the talks.

"All participants in these conversations have agreed that we shall say nothing about them except to make this report to the court," Cox and Wright said in their three-paragraph letters to

Back Page Col. 8

## From Page 1

court clerk Hugh E. Kline.

They said little else except that the meetings prompted by the court's proposal had been "lengthy."

Cox met with White House special counsel J. Fred Buzhardt at the executive office building on Monday and again on Tuesday. 18 SEP

Yesterday a final session was held between Cox and his counsel, Philip Lacovara, on the one hand, and Buzhardt, Wright and acting White House counsel Leonard Garment on the other.

## ISSUE

Cox was apparently not permitted to listen to any of the recordings. The fruitless bargaining was believed to have been confined largely to haggling over how much the White House would let even the special prosecutor hear.

The Court of Appeals had said it hoped that Mr. Nixon and Cox could agree on what portions could be turned over to the Watergate grand jury instead of forcing the issue to a constitutional determination.

The tapes include nine of the President's conversations about the Watergate scandal with top White House aides and political advisers — eight in face to face meetings and one over the telephone with former attorney general John N. Mitchell, then the director of Mr. Nixon's re-election campaign.

The President has said he would abide by a "definitive" Supreme Court ruling in the case, but he has refused to say what he would regard as definitive. He has pointedly left open the possibility that he might voluntarily make relevant excerpts available if he wins the court fight, but any such step would be clearly subject to Mr. Nixon's own determination of what is relevant and what can be safely extracted from other conversations on the tapes that he might want to keep secret.

No further announcement is expected from the Court of

Appeals here until the seven judges presiding over the case hand down their ruling. Oral arguments were heard September 10 and the final brief was submitted by the White House Wednesday. 19 SEP

"They have it under consideration," Kline said. "Anything now in the way of meetings will be among themselves and private."

Cox has urged the court not to "shrink from entry of a coercive order" flatly directing Mr. Nixon to turn over the recordings to the Watergate grand jury. At the least, he has asked that he and his prosecutors be permitted to join federal Judge John J. Sirica for the preliminary screening that he has proposed.

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