

NIXON AIDES AND COX FAIL TO GET ACCORD ON TAPES; TEST IN HIGH COURT SEEN

3 SESSIONS HELD

Letters to Judges Cite 'Sincere Efforts' to Meet Request

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WASHINGTON, Sept. 20 — President Nixon's lawyers and Archibald Cox, the special prosecutor in the Watergate case, informed the United States Court of Appeals here today that they had failed to reach a compromise on access to Presidential tape recording bearing on the Watergate crimes.

In similar letters filed with the appeals court for the District of Columbia, both sides said they had met on three occasions this week in an effort

Texts of Wright and Cox letters are printed on Page 18.

to reach an out-of-court settlement, as the panel of judges had requested, but regretted to report that "these sincere efforts were not fruitful."

This means that the constitutional issue of whether President must yield records of private conversations with his aides for purposes of criminal prosecution must be decided by the appeals court and is virtually certain to go to the Supreme Court for final settlement.

Nixon Draws Limits

President Nixon has added to the drama by saying, through his spokesmen, that he would obey only a "definitive" Supreme Court decision but would not define what he meant by definitive.

Last week, the seven members of the appeals court who are hearing the case suggested in an unusual memorandum that a constitutional confrontation

between the branches of Government might be avoided if the President, his lawyer and Mr. Cox reviewed in private the tapes that the prosecution has been seeking as possible evidence for a grand jury. Both parties were asked by the court to discuss the idea and report back by today as to whether their meetings had been "fruitful."

The letters filed today said that Mr. Cox and J. Fred Buzhardt, special White House counsel, met on Monday and Tuesday. A final, lengthy meeting was held today and was attended by Charles Alan Wright, special legal consultant to the President, White House Counsel Leonard Garment, Mr. Buzhardt, Mr. Cox and Philip Lacavara of the special prosecutor's office.

The lawyers said they had agreed among themselves to say nothing about the content of their discussions beyond what was stated in the letters. But there were prior indications that the President was

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sticking to his assertion that his right to withhold records of conversations between him and his aides was absolute and thus ruled out any review by judge or prosecutor.

A brief filed yesterday by the President's lawyers said, "To tear down the office of the American Presidency is too high a price to pay, even for Watergate."

"To allow a 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, would be wholly intolerable," the brief said.

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

The recordings in dispute are of conversations in the White House between President Nixon and his aides, some of which pertain to the 1972 burglary of Democratic National Com-

President Nixon's lawyers appealed the ruling. Mr. Cox was not satisfied with it either, arguing that the tapes should go directly to the grand jury without any judicial screening.

A decision by the appeals court is expected within a week or two and it is likely that the case will reach the Supreme Court shortly after it reconvenes Oct. 1 after a summer recess.

The inability of the two

parties to reach agreement on their own came as no surprise. The appeals court, however, has now made it clear that it did all it could to avoid having to rule in a constitutional clash of the branches, placing more of a burden on the parties to abide by the final adjudication.

mittee headquarters by employees of the Committee for The Re-election of the President and subsequent efforts to cover up the involvement of others in the crime. The fact that the

tapes existed was disclosed during hearings before the Senate Watergate committee this summer.

The issue first went to Chief Judge John J. Sirica of the United States District Court here, who ruled that the recordings should be submitted to him for private examination of what portions, if any, should go to the grand jury that is considering the Watergate crimes.