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The Pressure on Cox

By Anthony Lewis

BOSTON, Oct. 17—When an assistant to President Nixon publicly speculates about the possibility of impeachment over the issue of the White House tapes, the curious may begin to wonder what is going on. That is what Melvin R. Laird has just done in a meeting with reporters. He said he had advised the President that there would be a serious, though probably unsuccessful, movement to impeach him if he refused to obey a Supreme Court order to produce the tapes.

There are also fresh reports that the President has decided, against Mr. Laird's advice, to defy any such Supreme Court decision. Those stories, together with the Laird comment, could be taken as a warning signal from the White House of constitutional crises ahead.

The signal could be intended for the Supreme Court: a not-very-subtle suggestion that the justices would be wise to prevent the crisis by ruling in Mr. Nixon's favor on executive privilege, or somehow avoiding the issue. Or the signal may be aimed at the special Watergate prosecutor, Archibald Cox.

As the great case moves toward the Supreme Court, it is inevitable that Mr. Cox should be urged to agree to a settlement that would avoid the ultimate confrontation, judicial and political. That possibility has always been there. The U.S. Court of Appeals for the District of Columbia suggested as much before giving its recent decision against the President, and Cox did negotiate at length with Nixon's lawyers then.

Now Attorney General Elliot Richardson has evidently stepped in. He has had some long sessions with Cox, reportedly in a new effort to find a compromise on the tapes. Some observers are suspicious of Richardson's motives, believing that he is out one way or another to remove this last big threat to his President. Others find it natural enough that Richardson, after the general approval of his performance in the Agnew case, should try to be a Solomon on the tapes.

All this must put the most extraordinary pressure on Archibald Cox. Just consider the difficulty—legal, moral, institutional—of the choices that he may face.

Suppose, for example, that Nixon's lawyers came to Cox in the next days or weeks and offered this settlement: The President will end his blanket refusal to produce these tapes; he will give you transcripts of everything on them that is relevant to the grand jury investigation; but he alone will determine what is relevant.

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Such a compromise would avoid the risks and the uncertainties of a confrontation between Court and President. And on its face, it would appear to meet the law-enforcement need that gave rise to the original subpoenas: the need for evidence of crime.

But of course a settlement of that kind would beg an essential question implicit in all the public attention to the tapes: Can this President be trusted to make a decision, on relevancy or other aspects of the tapes, in terms of the public's interest rather than his own?

And over this long summer and fall, the tapes issue has taken on a life of its own. It has become a test of the principle that rulers in a democracy, like those ruled, are subject to the law. If that question of obedience to law were now apparently compromised away, would the public or a significant part of it feel cynically betrayed?

I do not know Cox's thoughts on these questions. But I do know what kind of person he is, and that is significant.

Mr. Cox cares very deeply about institutions. If he thought the role of the Supreme Court might be genuinely injured by a clash with the President in this case, that would concern him. But it hardly needs to be said that he also cares powerfully for the supremacy of law.

Some in the White House, perhaps ridden by paranoia or guilt, have been putting it about for months that Cox is out to get Richard Nixon. Nothing could be a less accurate reading of the man. He is out to do his job. That sounds pompous, but it happens that Cox has less in him of self-gratification than almost any public man.

He is in a terribly delicate position now. If he gets into negotiations and in the end says no to a compromise—especially one endorsed by the Attorney General—he will risk a White House attempt to do what it has always wanted to do: fire him. And he is essentially alone in all this. He has no institution behind him, no powerful colleagues, no party.

The questions are not easy ones. There is even a factual doubt, after all, about what the tapes may contain. The law is not certain either; it never is in this sort of case. But there is the momentum of the Court of Appeals decision, one that so clearly bespeaks an effort to be cautious, moderate, particular. The only certainty is that Archibald Cox will not yield to pressures or care for his own convenience. He will do what he concludes is in the interest of the law.