

Compromise on Evidence

Washington

Watergate Prosecutor Leon Jaworski, accepting White House overtures to compromise, moved yesterday to avert a court ruling that could force dismissal of criminal conspiracy charges against two of President Nixon's former top aides.

Jaworski urged a U.S. district judge — for the time being — not to enforce subpoenas served on the President by his one-time advisers seeking evidence to help them prepare for trial in the Ellsberg break-in case.

Siding in part with the White House in a lengthy legal brief, Jaworski said the subpoenas from lawyers for John D. Ehrlichman and Charles W. Colson "are overboard" and should be narrowed in scope before the court considers whether Mr. Nixon should be compelled to surrender relevant material.

But at the same time, he rejected Mr. Nixon's claim that the President alone has authority to withhold whatever material he chooses.

"The law . . . is clear that the court, not the President of the United States, must ultimately decide whether a claim of executive privilege justifies the President in withholding materials essential to a prosecution," Jaworski told U.S. District Judge Gerhard A. Gessell.

Mr. Nixon is seeking to quash the Colson and Ehrlichman subpoenas, but after Gesell warned last week that refusal might force him to dismiss the indictment, the President sent word Thursday that he was willing to attempt compromise.

Through his lawyer, James D. St. Clair, Mr. Nixon suggested that the defendants and their lawyers review the subpoenaed documents, select what they think they need, and he would then decide whether to produce it.

"In light of this change in the situation confronting the court, we believe it appropriate for the court to de-

Candidate Tours State in Support Of Proposition 9

A. John Merlo, a candidate from the Democratic nomination for lieutenant governor, yesterday began a statewide swing stumping for the passage of Proposition 9.

Merlo, a Chico attorney, will appear in Sacramento, Los Angeles and San Diego on behalf of the measure, called the "Political Reform Act."

Merlo said, "I believe 1974 is a good year to get the crooks out and the good guys in. If we don't clean up politics now, they'll be dirty from now on."

He added that, as an attorney, he expects a "plethora" of court tests if the measure is passed. "A lot of them will come from the unions, but we have to just stand tall. I think courts will come down on the side of cleaning up politics."

cline to enforce these subpoenas as presently drawn and to insist upon . . . a more precise description by the defendants of what privileged items, if any, may actually be material and important to their defense," Jaworski said.

He also embraced Mr. Nixon's offer to let prosecutors examine the Ehrlichman and Colson files at the White House at the same time, a procedure suggested by Gesell.

He said the President's response "seems adequate at this time" but added he may seek further access to those files if items selected by the defendants "appear to paint a partial and distorted picture of the relevant transac-

tions" or suggest the existence of other materials forbidden to the prosecutors.

Gesell has set a hearing for Monday morning on the White House motion to quash. *3-10-74*

Ehrlichman and Colson are to go on trial June 17 with three other men on charges of conspiring to violate the civil rights of Daniel Ellsberg's psychiatrist, Dr.

Lewis J. Fielding, by raiding his office Sept. 3, 1971, in search of Ellsberg's psychiatric records.

The defendants contend the burglary was necessary to avert a potential threat to national security posed by publication of the Pentagon papers. Gesell has all but ruled out national security as a valid defense.

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