

# 2 Oppose Permanent Special Prosecutor

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Two men who have held the job of special prosecutor told a Senate committee yesterday that they are opposed to making the office a permanent fixture of government.

Leon Jaworski, the Houston lawyer who held the post for 11 months, and his successor, Henry S. Ruth Jr., question whether the federal government needs an independent prosecutor outside of the regular Justice Department chain of command to deal with governmental corruption.

"I am not so naive as to believe that future Watergates may not occur," Jaworski told the Senate Government Operations Committee, "although in my judgment it is highly improbable that anything approaching it in scope and degree will confront our nation in the next generation."

Ruth, who expects to phase out the special prosecutor's office with a final report this fall, warned that an independent prosecutor free of re-

straints, might create more abuses of power than it remedies.

"I believe a basic reform to a basic public problem becomes tomorrow's basic problem," Ruth said.

The proposal for a permanent special prosecutor, appointed by the judiciary and independent of the Attorney General, was one of the main reforms recommended by the Senate Watergate committee which investigated White House crimes two years ago, the scandal that led ultimately to Richard M. Nixon's resignation.

Jaworski suggested that, if another Watergate ever comes along in the future, the public outcry would demand that another special prosecutor be appointed to investigate. "Smaller Watergates," he acknowledged, will come and go, but "an occasional outcropping of corrupt practices" does not justify a permanent special prosecutor.

A permanent prosecutor, independent of the chief executive might also conflict with the constitutional provision that makes the President responsible for enforcing the laws. If Congress satisfied itself that it can avoid this constitutional problem, Jaworski suggested that it might try to devise a "triggering mechanism" that would authorize the appointment of a special prosecutor only if a major scandal surfaces.

Sen. Abraham A. Ribicoff,

chairman of the committee, suggested that Senate proponents have in mind less exacted office than the one that prosecuted presidential aides and former Cabinet members.

"Maybe the scope," said Ribicoff, "is not a Leon Jaworski sitting there in boredom for 50 years waiting for a President to do what Mr. Nixon did with the people around him. But it would be something that is there on a day-to-day basis."

"No one can argue that that doesn't have validity," Jaworski said. "It does have validity. It would be very reassuring to the American people."

Ruth said the special prosecutor's staff lawyers have been debating among themselves what kind of a "triggering mechanism" might be written into law to assure that a special prosecutor is appointed when presidential crimes are at issue. He is not sure that the staff will be able to devise such a proposal.

Agencies of government created for special purposes have a way of losing their "special" qualities and growing old, Ruth warned.

"People come into anything new with all sorts of idealism," Ruth said. "They're going to reform the world, they've got an aggressive new leader, they're getting new furniture, they're gung ho. After three years, they realize the world isn't paying too much attention to them and what they're doing isn't doing that much good."