

Jaworski Says St. Clair Trying To Restrict Him

Complaint Is Sent to Senate Unit

By William Chapman
Washington Post Staff Writer

Watergate Special Prosecutor Leon Jaworski charged yesterday that President Nixon's legal counsel was trying to "undercut" his role as an independent prosecutor of the Watergate crimes.

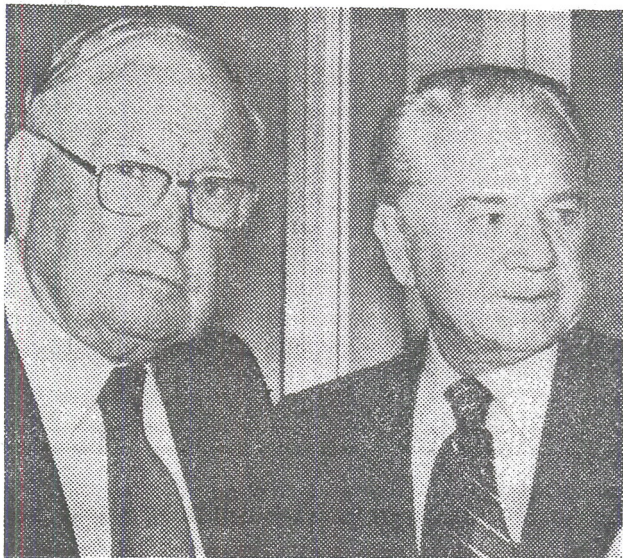
He revealed that the counsel, James D. St. Clair, had claimed in secret legal proceedings that Jaworski had no right to try to subpoena tapes and documents related to presidential conversations.

Such a position, Jaworski wrote, threatened to make a "farce" of his status as a congressionally sanctioned independent prosecutor designated to get to the bottom of Watergate.

The clash between Jaworski and Mr. Nixon's chief Watergate lawyer raised the possibility of another head-on collision of the sort that led to the firing last Oct. 20 of Jaworski's predecessor, Archibald Cox.

Cox was dismissed while he was attempting to subpoena tapes of presidential conversations and the latest confrontation grows out of precisely the same situation.

Former Attorney General Elliot L. Richardson, who resigned his post Oct. 20 after



Associated Press

Sen. Eastland and Prosecutor Jaworski outside the Senate Judiciary unit's meeting room last November.

having refused a presidential order to fire Cox, said yesterday of the Jaworski letter: "This sounds to me like when Mr. Cox came in — and went out."

Jaworski's charge was contained in a strongly worded letter to Sen. James O. Eastland (D-Miss.), chairman of the Senate Judiciary Committee. Members of that committee had been assured that Jaworski had full powers to follow the Watergate trail wherever it might lead.

Eastland, shortly after receiving the letter, called a special meeting of the Judiciary Committee for this afternoon, sources said. He was reported to have instructed both St. Clair and Jaworski to stand by in case

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committee members wished to ask them questions.

St. Clair could not be reached for comment last night.

The clash arose, according to Jaworski's letter, during closed-chambers arguments over the special prosecutor's attempt to subpoena tapes and documents of 64 White House conversations related to the Watergate affair. Jaworski wants the material for the upcoming trial of top government officials accused of covering up the Watergate break-in.

U. S. District Court Judge John J. Sirica yesterday upheld that subpoena over the President's objections and ordered the material turned over, subject to higher court appeals.

During the closed hearings on the subpoena, Jaworski wrote, St. Clair attempted to claim that the special prosecutor "had no standing in court because the matter of his obtaining the tapes in question involved 'an intra-executive dispute.'"

Jaworski declared: "As stated by counsel for the President in the argument before Judge Sirica, it is the President's contention that he has ultimate authority to determine when to prosecute, whom to prosecute, and with what evidence to prosecute."

Such a position, he added, "would make a farce of the special prosecutor's charter" and would contravene the understanding which he had with members of the Judiciary Committee at the time of his appointment.

The prosecutor said St. Clair's position would cir-

cumvent the "clear and unmistakable" assurance of independence that had been given to him by the President's chief of staff, Alexander M. Haig Jr.

He quoted a letter to him from St. Clair in which the President's counsel said: "The fact that the President has chosen to resolve this issue by judicial determination and not by a unilateral

exercise of his constitutional powers, is evidence of the President's good faith."

Jaworski said in his letter to Eastland: "Of course, under Mr. St. Clair's approach, this would make the assurance of the right to take the President to court an idle and empty one. Counsel to the President, by asserting that ultimately I am subject to the President's direction in these matters, is attempting to undercut the independence carefully set forth in the guidelines, which were reissued upon my appointment with the express consent of the President."

Throughout the letter, Jaworski did not ascribe St. Clair's legal claims directly to Mr. Nixon. However, St. Clair has repeatedly insisted that he speaks for the President in all Watergate litigation matters.

Jaworski added: "To adopt Mr. St. Clair's version would give rise to this anomaly—the President has no objection to the special prosecutor filing his action against him but once filed, the President will stop the special prosecutor from proceeding with it by having his counsel move to dismiss on the ground that the special prosecutor cannot sue him."

The opinion issued by Sirica yesterday supported the version of events that Jaworski described as occurring in the secret hearing. Sirica said that the President, through St. Clair, had maintained that the dispute over White House tapes "is an intra-branch controversy wholly within the jurisdiction of the executive branch to resolve."

Sirica sided with Jaworski and ruled that that argument "has no application to the present situation." He noted that the special prosecutor has special powers and full authority to determine "whether or not to contest the assertion of 'executive privilege.'" Mr. Nixon had tried to claim that executive privilege protected him from the Jaworski subpoena.

"The special prosecutor's independence has been affirmed and reaffirmed by the President and his representatives," Sirica wrote in the opinion.

Jaworski, in his letter to Eastland, said that Haig, after consulting with Mr. Nixon, promised him he would "have the right to press legal proceedings against the President if I concluded it was necessary to do so."

Jaworski noted that he had explained that pledge of independence when he was questioned by the Judiciary Committee last winter.

Jaworski also said that former acting attorney General Robert Bork had told him it was "absolutely clear" that he was "free to go to court to press for additional tapes or presidential papers" if he deemed it necessary.

Bork, the solicitor general, had taken over the Justice Department Oct. 2 after Richardson and Deputy Attorney General William Ruckelshaus resigned rather than obey the instruction to fire Cox.

Richardson, informed of the new confrontation, said yesterday: "This sounds to me like when Mr. Cox came in and went out. I would have thought that with the renewed examination of the special prosecutor's guidelines that went into the hearings on legislation to make the position appointive by a court, that no conceivable question could remain as to the right of the special prosecutor to challenge an assertion of executive privilege."

In arguing that Jaworski had no standing in court in "an intra-executive dispute," Richardson said, St. Clair was using the same basic argument that former White House legal adviser Charles Alan Wright had tried unsuccessfully to use against Cox when Cox sought a subpoena for White House tapes last year.

Jaworski recalled, in his letter to Eastland, that he had promised the Judiciary Committee to notify it of any attempt by the President to circumvent or restrict his jurisdiction or independence. Therefore, he added, he felt constrained to advise the committee of St. Clair's argument that he had no right to take legal action against the President.