

Hill Won't Get Data

Jaworski Keeping Nixon Tapes

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Watergate Special Prosecutor Leon Jaworski has decided not to share his evidence with the House Judiciary Committee for its inquiry into the impeachment of President Nixon.

The step could delay the House inquiry for months. But Jaworski says he feels bound not to give up the presidential tapes and documents furnished him by the White House unless the courts overrule him.

"As far as I can resist, I've got to do it," Jaworski said in an interview.

Going a step further, the special prosecutor also said he did not think it would be proper for him even to supply the House inquiry with a list of the tapes and documents that might be needed to weigh the merits of impeachment.

Jaworski described himself as tied down by the strictures of confidentiality with which Mr. Nixon's lawyers gave him the evidence, by the secrecy of grand jury proceedings, and by the need to avoid prejudicial publicity for the lesser figures he plans to indict.

"Part of a prosecutor's job is to make sure we give the accused a fair trial," Jaworski said. "Obviously, we don't want things made public that would prevent that."

The issue boils down to what to put first in the Watergate scandal and other misdeeds that have shaken the White House—criminal trials in the courts or impeachment proceedings in the House.

As a prosecutor, Jaworski made plain that he considers it his obligation to put the court trials first. Conceivably, he said in response to a question, Mr. Nixon might even be needed as a witness.

Jaworski predicted that indictments in every major investigation by his office—except perhaps for some involving campaign financing—would be handed down by the end of February.

Presumably that will mean the filing of charges in the

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Watergate break-in and cover-up, the 1971 Ellsberg burglary carried out by the White House "plumbers," and the administration's controversial settlement of antitrust cases against the International Telephone and Telegraph Corp.

"We hope to start trials in March if we possibly can," Jaworski said. He said he hoped all could be completed by the end of the year.

Meanwhile, the House Judiciary Committee's ad hoc panel on impeachment has made tentative overtures for the evidence in Jaworski's possession, but no formal requests.

The chief counsel for the inquiry, John Doar, has met twice with the special prosecutor, but on both occasions inconclusively. Doar said he is still hopeful that "a way can be found to work this out." But that seems doubtful in view of Jaworski's remarks.

Since mid-December, the prosecutor said, the White House has been supplying him with a steady flow of re-

quested tapes and papers. Jaworski asked for the tapes of 10 more presidential conversations just three days ago.

"The information we've received," he said, "is not only substantial, but I think meaningful and so far as I know, all of it is relevant."

The White House "never once volunteered anything," Jaworski said. "We felt we knew, from our own sources and devices, what we needed." He said he threatened subpoenas unless the materials were produced.

The White House submissions since then, Jaworski said, "generally" have come with a letter saying the documents were being furnished for grand jury consideration—and with the understanding that Jaworski would respect their "confidentiality."

"Once it's in the grand jury, it's secret," Jaworski said. "There may be a few things supplied us that are irrelevant, but when we get the documents, it's doggone soon that it goes to the grand jury."

Once indictments are returned, the prosecutor said,

the problem of pretrial publicity comes into play. Along that line, Jaworski indicated that he would like to see the Senate Watergate hearings come to an end. The House Judiciary Committee has not yet decided whether its hearings will be open or closed.

"Conceivably, the holding of public hearings could affect the fairness of an accused's trial," Jaworski said.

As far as he is concerned, Jaworski made clear the House committee will either have to convince the courts to lift the secrecy of the grand jury—or it will have to start all over again and pry the evidence from the White House.

The situation represents a complete reversal of last summer's court battles when Mr. Nixon and his lawyers were fighting former Watergate Special Prosecutor Archibald Cox's subpoena of the Presidents' Watergate tapes.

The White House contended then that the President could not be held answerable to the judiciary, that he could be called to account only in a

congressional court of impeachment. In an off-the-cuff remark during a hearing before the U.S. Court of Appeals, Mr. Nixon's chief constitutional adviser, Charles Alan Wright, said he did not think executive privilege could be claimed in the face of an impeachment proceeding.

Now, however, the White House is supplying Watergate prosecutors with what they want and promising a fight over any attempts by the House of Representatives to obtain the same files.

According to Jaworski, not all of the documents he needs have been located yet. Some, he says, may have been misfiled. Others "may not exist." But, he adds, "we haven't been refused anything."

Asked whether he could foresee any need for testimony from Mr. Nixon, Jaworski paused and said:

"That could be so . . . You're raising something that could conceivably happen."

He said some of the President's taped conversations might make it necessary to

call on Mr. Nixon for elaboration.

The special prosecutor did not elaborate on his misgivings about giving the House inquiry at least a list of the documents that it might need. Following Cox's ouster, the Watergate force reportedly supplied senior members of the Senate Judiciary Committee with a confidential rundown of the evidence the prosecutors were seeking at that point.

One solution to the problem of prejudicial publicity stemming from impeachment proceedings might be to seek postponement of trials in the courts. Jaworski, however, said he has never given that a thought.

"Postponing trials can be very costly," he said. "You might lose some valuable witnesses. Anyway, once an indictment is returned, a trial ought to be held as soon as it can."

Jaworski's charter includes a mandate to investigate "allegations against the President," but it does not spell out

what to do with the findings. Former special prosecutor Cox held to the view — assuming the evidence was there — that impeachment rather than indictment ought to come first.

Jaworski said he has reached no conclusion on the issue. He said his staff is still studying the question, a chore that they have ostensibly been working on since June.

Cox once told newsmen that in a "real crunch," he would take any incriminating evidence about the President to the House of Representatives, but Jaworski evidently does not share that view. He said he would be inclined to present it to a grand jury, and let the courts decide whether an indictment is feasible.

Such a step could also shroud the evidence in the secrecy of the grand jury.

In any case, Mr. Nixon stands in no immediate danger of indictment. And the House Judiciary Committee appears to be headed for some lengthy efforts before it can make any intelligent up-or-down judgment about impeachment.