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Jaworski and Rodino

There is a lot to learn from the more and more open squabble between the Watergate Special Prosecutor, Leon Jaworski, and the chairman of the House Judiciary Committee, Peter Rodino of New Jersey.

To begin with, it appears that Mr. Jaworski is near to harvest time, as you might call it. There is a lot more high level plea bargaining in prospect, or now going on, than has yet come out. One of those at the plea bargaining-table already, for instance, is the President's former lawyer, Herbert Kalmbach. In addition, all the main Watergate indictments should be handed down by mid-February.

It would be natural, then, for the Special Prosecutor to want to avoid rocking the legal boat at this particular moment. There is no doubt, either that Mr. Jaworski is basing himself squarely on existing law, in his refusal to give the House Judiciary Committee the freedom of his files. He has cited two main points of law in talks with the committee's majority counsel, John Doar, and in a subsequent letter to Chairman Rodino.

Point one is Rule 6 of the federal criminal regulations, which sternly forbids publication or dissemination of data presented to a federal grand jury. It is a rule that has often been broken behind carefully closed doors by the subordinates Jaworski inherited from former Special Prosecutor Archibald Cox. But for the Special Prosecutor himself to break the rule in public, would imperil all the Watergate prosecutions.

As to point two made by Jaworski, it is the so-called Delaney Decision, which has yet to be reversed by the federal courts. That decision effectively says that the federal government's executive branch cannot drag a man into court for prosecution, if the government's legislative branch has previously prejudiced the trial by creating excessive pretrial publicity. Special Prosecutor Jaworski is already going to have trouble enough with the Delaney Decision because of the Senate's Watergate Committee.

The problem inherent in the Delaney Decision was recognized by the Senate committee's chairman Sen. Sam Ervin of North Carolina, when he said it was more important to set at the facts than to send Watergate criminals to jail. Jaworski's predecessor, Cox, also based himself on the Delaney Decision when he vainly begged the Senate committee to leave his main witnesses alone.

So much for Jaworski's side of the argument. On the side of the House Judiciary Committee, one would normally begin with John Doar, the majority counsel. But Doar has firmly cut himself off from all contacts, except with the committee members he serves—a most honorable decision for which he has been sharply attacked. (Currently in Washington, Watergate-leaking is the great new cottage industry, and non-leakers are naturally unpopular.)

Because of Doar's old fashioned care for propriety, one must deduce the aims of the committee majority from

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the behavior of Chairman Rodino. To begin with, Rodino has not sent Doar to ask Judge John J. Sirica for access to the grand jury material in the custody of Jaworski. Yet Judge Sirica has a legal right to open the files for Doar, if he regards this as the proper thing to do.

To go on with, Chairman Rodino started by nobly promising a committee report "by April." Yet he has now seized on the stand taken by Jaworski to excuse a new prediction that his committee will take a full year to deal with the President's impeachment. Thus he has now justified the watching of long delays that was given to the President sometime ago by White House staff member Bryce Harlow.

In fact, it looks very much as though

the predominant leftwing group among the Democrats of Chairman Rodino's committee are pushing harder and harder for their known desire, which is a protracted proceeding. There is only one hitch that may trip them up and force Mr. Rodino to take a different course. Most members of Congress agree that the great majority of voters want the Watergate matter to be got out of the way, one way or the other and with maximum speed.

Thus there are great risks for Chairman Rodino and his attendant leftwing Democrats, if they seem to be unduly dragging out their task. It is quite conceivable that the House would then vote for a motion discharging the committee by April 10, which would be later than the original Rodino target date. Some members are already thinking of combining such a motion with another motion enlarging the committee's normal subpoena powers.

In short, this is another basket of vipers, like everything else connected with Watergate. But there are at least forces plainly at work that may just possibly end the viperish business before too long.

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