



Wally McNamee—Newsweek

A date in court: Sirica (above) kept the trial on the tracks, but could Ehrlichman get Nixon as a witness?



Lawrence McIntosh

Getting the Watergate Story Out

In the anger and confusion that followed the Nixon pardon last week, the major concern of many citizens was not that the former President had somehow escaped punishment—few Americans really wanted to see him behind bars—but that if he escaped trial, the full story of Watergate and Nixon's involvement with it might never be formally entered on the public record. "Nixon," grumbled one disaffected veteran of the past Administration, "will soon begin claiming that he was hounded out of office by well-meaning but misguided individuals who mistook mistakes in judgment for impeachable offenses."

That could happen. But there is already a wealth of evidence against the former President, and the public record may soon carry more in the form of reports to Congress or the public from special prosecutor Leon Jaworski, state bar association proceedings against Nixon and some Federal trials involving close Nixon associates. Within a month, the major Watergate cover-up trial—with or without the former President as a witness—is expected to start bringing out tapes, documents and testimony further implicating Nixon in the scandal. There are even indications, one knowledgeable source told NEWSWEEK, that Nixon knew in advance about the covert campaign-intelligence unit that hatched the Watergate plan—and that he also knew it was prepared to undertake precisely that sort of burglary and wiretapping.

On Capitol Hill, the pardon provoked

a flurry of proposals for some sort of Congressional intercession. Senate Majority Leader Mike Mansfield, at a breakfast meeting with senior Congressional Democrats, talked about having the House resume its impeachment proceedings again and forward the matter to the Senate for a final verdict. But Mansfield said he had been persuaded by Judiciary chairman Peter Rodino that such a course would be "politically explosive and wouldn't succeed." Rodino had also soothed some of the members of his own committee who were particularly concerned about possible contentions that Nixon had been unfairly hounded from office. "They are confident that everybody on the scene today sees it the way they do," one committee staffer explained. "But for posterity... they would like to see it chiseled in stone."

LOOKING TOWARD A FINAL REPORT

In the end, Mansfield submitted a "sense of the Senate" resolution urging President Ford to "take all steps necessary to assure full public access to all facts connected with and relating to Watergate matters"—including White House tapes and documents. Passage seemed likely. Almost simultaneously, Sen. Edward Kennedy and seven other members of the Senate Judiciary Committee were reminding Jaworski that as special prosecutor he was obliged to submit a final report to Congress on Watergate and "allegations involving the President."

Jaworski's staff was already at work on just such a report. Deputy special prosecutor Henry Ruth, with the assistance of Harvard Law Professor James Vorenberg, was directing the project, but it may take considerable time before all their information becomes public. There seemed little reason to withhold information on the President's role in the Watergate cover-up—once the cover-up jury is selected and sequestered next month—but other aspects of the Nixon record might have to remain confidential temporarily because of possible additional prosecutions: a tax-fraud case involving several Nixon aides and tax advisers, perhaps, or a trial involving Nixon pal Bebe Rebozo on charges of mishandling the \$100,000 Howard Hughes gift and other campaign funds.

The centerpiece of Jaworski's prosecutorial efforts is the long-awaited cover-up trial, scheduled to begin Oct. 1. In the immediate aftermath of the Nixon pardon, however, the morale of the prosecutors was badly shaken; top aide Philip Lacovara, who had structured the crucial tapes case for the U.S. Supreme Court, regretfully announced his resignation. But Jaworski prevented a more massive walkout with a persuasive pep talk to the staff. If the prosecution of John Ehrlichman, H.R. Haldeman, John Mitchell and three others did not go on, argued the special prosecutor, all his aides' work would be wasted and there would never be an official forum in which to prove there was a conspira-



Jaworski: A pep talk for the staff

cy. Judge John J. Sirica also did his part last week to keep the trial on the tracks by turning down requests for dismissals or long delays.

Nixon's role should emerge at the very beginning of the trial, prosecution sources said, as motives for the cover-up are established. Jaworski's men plan to introduce evidence that the White House plumbers were organized in response to Nixon's direct orders, and that chief operatives E. Howard Hunt and G. Gordon Liddy were also involved in the ITT campaign-fund flap and break-ins at foreign embassies before their services were shifted to the President's re-election committee. Newly received White House tapes and other evidence, sources said, may also show that Nixon not only gave tacit approval for a unit to conduct illegal political break-ins and wiretapping, but may also have connived in offering clemency in exchange for silence. "They can tie Nixon into the planning of the break-in," one source close to Jaworski's shop told NEWSWEEK's Stephan Leshner. "That's the bottom line."

'WHAT DO WE NEED HIM FOR?'

It remains problematic whether the former President himself will actually appear at the trial. Ehrlichman has had a subpoena served on Nixon—presumably hoping he will testify that Ehrlichman was kept in the dark about the real reason for the cover-up—but most of the other defendants apparently fear that his testimony might hurt them. A pardoned Nixon also posed problems for Jaworski. His presence might well dramatize defense arguments that going ahead with the trial now was grossly unfair. "What do we need him for?" asked

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one prosecution source. "We've already got him on tape."

What's more, Nixon attorney Herbert J. Miller may well argue that the former President's health problems prevent him from testifying. Even if Nixon did show up, he would probably receive gingerly treatment from all concerned—unless the prosecutors thought he was having too big an impact on the jury. "Then," said one source, "if it's a stunner, the prosecutors will have to take the gloves off and discredit him."

One intriguing question—if Nixon should take the stand—was whether President Ford's pardon had effectively stripped him of his Fifth Amendment protections. He is at least technically still vulnerable to both state prosecutions and civil suits. Legal experts doubt that possible civil actions could even be cited by a witness as grounds for taking the Fifth; the likelihood of any state prosecution was practically nil both in Florida and California—mostly because local statutes of limitations had already run out. As Los Angeles district attorney Joseph Busch explained it: "Even if a new tape showed up tomorrow linking Nixon with [the Ellsberg burglary], I'd be very skeptical of our success in proving it now."

But if Nixon seemed to be slipping free of the law, he was apparently still subject to examination and censure by his fellow lawyers. In California, the state bar announced last week that it had recommended that the former President's two-paragraph letter of resignation be rejected because it failed to acknowledge that a disciplinary matter was pending against him. The rejection would permit hearings on the Nixon case, and possible disbarment proceed-

ings. Nixon is also attempting to resign from the New York bar under similar circumstances.

Ironically, the Federal grand jury that named Nixon an unindicted co-conspirator and passed its evidence on to the impeachment committee will probably not play any role at all in further probing the improprieties of the former President. The jurors technically could release a presentment—or report—on Nixon's role, but they realize they have nothing new to add to the record and, therefore, have no such plans. "There is a sense of frustration," admitted one juror. "We just have to sit and wait for Jaworski to tell us what to do."

A \$2 MILLION GAMBLE

There remains the possibility that Richard Nixon himself may tell all when he publishes his memoirs, and literary agent Irving Lazar announced last week that he had already arranged to handle a proposed trilogy by the former President. As outlined by Lazar, Nixon would deal first with his life up through the 1972 election, then with his historic diplomatic achievements and finally with Watergate. But there was skepticism around New York publishing circles that the property was worth the \$2 million-plus that Lazar was talking up. Some agents and editors cited the anti-Nixon sentiments of many publishers—and large numbers of book readers, for that matter. Others recalled the disappointment of Lyndon Johnson's "The Vantage Point." Said one prominent literary agent: "I don't think publishers would be interested in his version of Watergate. He lied while he was in the White House; why should he stop now that he's out—and pardoned?"