

Jaworski Says Jury Selection Favors Defense

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Watergate prosecutors are apparently worried about the number of prospective jurors who think it unfair to prosecute former President Nixon's aides and campaign advisers now that Mr. Nixon himself has been pardoned.

Watergate Special Prosecutor Leon Jaworski hinted at the problem yesterday in voicing fears that lawyers for the five defendants at the Watergate cover-up trial may wind up with "an unwarranted advantage" in the selection of a trial jury.

Jaworski asked U.S. District Court Judge John J. Sirica to offset that possibility by changing his plans for the final stage of jury selection.

It was the first indication that a growing number of prospective jurors may be inclined to look on the prosecution with disfavor. Up to now, defense lawyers have been the ones contending their clients cannot get a fair and impartial jury.

The proceedings so far have been conducted largely in secret session. However, Judge Sirica has apparently been accepting prospective jurors who do not like the idea of trying former Nixon aides while Mr. Nixon himself has been put out of reach.

Now in its second week, the screening of a trial jury may wind up Friday with the exercise of "peremptory challenges" by both Watergate prosecutors and defense lawyers.

The purpose of such challenges, which constitute the final round in picking a jury, is to give each side a chance to eliminate anyone it thinks might be unfavorable to its case.

Watergate prosecutors have been allocated six such challenges while the five cover-up defendants have been given a total of 15.

Jaworski complained that under present plans, the names of the prospective jurors who have survived closed-door questioning will be called up in a fixed order. In addition, the prosecutor said, defense lawyers will be able to save most of their challenges until the end, after the government has used up its half-dozen.

"For example," Jaworski said in a memo to Judge Sirica, "if it is obvious to the defense that a number of jurors among the first panel of 12 are jurors who have expressed rather firm opinions that it would be unfair to prosecute these defendants in light of Mr. Nixon's pardon, the defense can reserve some of its challenges while in effect compelling the government to exercise challenges in the early rounds."

After that, Jaworski said, the defense would have "nearly total control over the makeup of the jury."

The prosecutor asked Sirica to alleviate the problem by requiring defense lawyers to exercise two or three challenges for each one the government uses up—instead of letting them hold the challenges in reserve.

Jaworski also suggested that the judge abandon the fixed order for calling prospective jurors forward and pick their names at random.

"This is an extraordinary case in which extraordinary measures to insure fairness to all parties are fully justified," Jaworski said. At present, he complained, the number of cha

lenges allocated to the defense, coupled with the pattern of responses about the Nixon pardon" during closed-door questioning raises "a possibility of unfairness to the government."