

# Jaworski Faults White House on Tapes

## Sees Stalemate

By Lawrence Meyer

Washington Post Staff Writer

Watergate Special Prosecutor Leon Jaworski said yesterday that he is having the same difficulty in obtaining White House tapes and documents from the Ford administration that he had with President Nixon.

The White House, Jaworski said, has taken a "neutral position" in a dispute between the special prosecutor and Nixon lawyers over control and access to the tapes.

Jaworski, who is stepping down as special prosecutor on Friday, said in an interview that attempts to get materials from the White House are at a "complete stalemate because of the position former President Nixon and his lawyers take."

The special prosecution force needs documents from the period when Mr. Nixon was President to complete investigations under way, including donations of milk producers to the Nixon re-election campaign. "The only way we can get the documents now is through subpoenas," Jaworski said.

Jaworski's office is preparing a new subpoena, said to demand scores and perhaps more than 100 documents and tapes relating to the milk fund investigation and other matters.

According to Jaworski, the real conflict is between his office and lawyers for Mr. Nixon. President Ford's White House counsel, Philip W. Buchen, "doesn't take a position" in the dispute, Jaworski said.

Mr. Nixon's tapes and papers remain in the possession and control of the Ford administration. On Sept. 6, an agreement was concluded between representatives of the White House and Mr. Nixon putting those materials

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LEON JAWORSKI

... "I didn't sign up for life"

## Defends Actions

By William Greider

Washington Post Staff Writer

At the mention of cartoonist Herblock, the mellow Southern accent of Leon Jaworski turned suddenly tart.

"Give Herblock my regards," the Watergate special prosecutor snapped. "Tell him I didn't sign up for life."

The cartoon that nettled Jaworski was printed last week after the prosecutor announced his resignation. Herblock portrayed him as a football player who trotted off the field without crossing the goal line.

"I didn't have to make three touchdowns," Jaworski insisted, continuing Herblock's metaphor. "We made two touchdowns with the help of a wonderful staff and I think we won the game."

As he prepares to depart after 10 months in the sensitive job, the Watergate prosecutor was clearly nettled by the armchair quarterbacks who are now suggesting that his "game plan" had many flaws. In an hour of pleasant conversation, Jaworski explained why he is going home to Houston this weekend satisfied with the outcome.

One "touchdown," by his account, was the special prosecutor's success in delivering White House tapes and other material to the House Judiciary Committee, where they became the core of evidence for impeaching Richard M. Nixon. The other "score," as Jaworski sees it, was the Supreme Court victory that forced Mr. Nixon to surrender the tape recordings which proved fatal to his tenure.

"You have to look at the total picture," Jaworski insisted. "The total picture has demonstrated considerably that our system of justice works. I think the people of this country

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# Jaworski Defends Actions

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should be encouraged that a determined effort has been made to seek out the facts of this sordid affair that a considerable number of people have been brought to bar of justice."

While Jaworski has won widespread praise for his performance, a flurry of dissenting commentaries has been published in various places in the past week, mainly blaming him for sins of omission. He did not raise objections to President Ford's pardon of Mr. Nixon. He did not move to indict the former President following his resignation. He did not let the grand jury indict Mr. Nixon while the man was still in office.

Except for the snap at Herblock, Jaworski surveyed the criticism with mild disdain. Whatever his private feelings about the Nixon pardon may be, he declines to express them and, in any event, he doesn't feel the pardon has marred the larger accomplishment of bringing the Watergate scandal to disclosure. The cover-up conspiracy trial now under way will erase any lingering doubt, he believes, about Mr. Nixon's personal involvement.

"I don't see where the pardon itself destroys what has been done," Jaworski said. "Why did former President Nixon resign? Why did he give up the highest office in the land? It's because the system of justice is working. If it hadn't been for that, he'd still be sitting there."

Jaworski does feel some sensitivity to the question of 'equal justice,' judging by the careful way in which he responds. The pardon for Mr. Nixon, the light sentencing for former Attorney General Richard G. Kleindienst and former Vice President Spiro Agnew—have these events left a sour legacy for public attitudes on the law?

"I want to begin by saying, first, that while I think our system of justice is the greatest in the world, I have to say also that it has its imperfections," Jaworski said. "The statement of 'equal justice under the law' is a great goal, but actually it's an aphorism, because if we're going to be perfectly honest about it, you have to accept the fact that it's not perfect."

"You're dealing with human



Federal Judge Charles R. Richey, left, issued ruling on Nixon tapes. Attorney



Herbert J. Miller represents Mr. Nixon in the dispute over the materials.

beings and, when you deal with human beings, you find human frailties come in. You also must bear in mind that the law is not an exact science."

Juries produce different verdicts, judges mete out different sentences every day, he observed. Within that imperfect context, Jaworski is not disturbed by the Watergate cases. He feels that justice has been enhanced, not tarnished.

"For someone to feel that our system of justice is not working because former President Nixon received a pardon and some others are on trial—it just doesn't follow, in my opinion," the prosecutor said.

In somewhat stronger terms, Jaworski talks back to those who question why he didn't indict Mr. Nixon last March and let the courts decide whether a grand jury had the power to indict a sitting President. Aside from the legal objections, Jaworski said such a move would have been "highly irresponsible."

"It would have blown up the House Judiciary Committee and there's no telling where that would have come out," he said. "Obviously, the House would not have undertaken impeachment until the indictment was disposed of, and nobody knows how long that might have been. . . What you could have had was the impeachment proceedings not able to proceed. The trial might have been months before it could have started. In

the meantime, you have a nation wounded by an indicted President, wounded domestically, wounded internationally. I can't imagine anything more irresponsible."

After Mr. Nixon's resignation, Jaworski again declined to move on an indictment, this time because he feared that it would create pre-trial complications for the cover-up trial. On the other hand, he did not attempt to stop President Ford's pardon of Mr. Nixon, an action which also affected some prospective jurors.

"It's his prerogative and not mine," Jaworski insisted, maintaining that it would have been improper for him to

advise the President on the potential impact of the pardon.

While Jaworski believes the essential story of Watergate will be on the public record, both through the cover-up trial and the House impeachment hearings, he concedes that some mysteries may never be solved—such as who erased the celebrated 18-minute gap on one of the Nixon tapes. Will the public ever find out?

"I don't know if you will or not," he said.

Does he know who it was? "No," said Jaworski. "I wish I did."

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under the joint control of the General Services Administration and Mr. Nixon.

That agreement was not carried out, however, after Jaworski, who was not consulted before the agreement was signed, objected to it. Lawyers for Mr. Nixon filed suit in the U.S. District Court here last Thursday attempting to enforce Mr. Nixon's "contractual right" under the agreement to control exclusively access to the materials.

U.S. District Court Judge Charles R. Richey issued a temporary restraining order yesterday blocking implementation of the agreement.

According to Jaworski, Mr. Nixon's lawyers are trying to assert a contractual right in what is essentially a criminal matter. "We don't want to recognize that," Jaworski said. "We take the position all these matters are involved in criminal investigation."

The result of the White

House's neutral position, Jaworski said, is a situation in which no one is pleased. Mr. Nixon has neither control nor access to his materials and the special prosecutor's office still is trying to obtain evidence that it was seeking when Mr. Nixon was in the White House.

The Senate passed a bill on Oct. 4 giving the federal government possession and control of all presidential materials from Mr. Nixon's tenure as President, but protecting Mr. Nixon's legal right to object to access to the tapes and papers. The bill now is pending before the House Administration Committee.

Buchen said in a telephone interview last night that President Ford had obtained an opinion from Attorney General William B. Saxbe holding that the materials belonged to Mr. Nixon "and that introduced a third party—the owner—into the picture."

According to Buchen, "It was understood, that the for-

mer President should be allowed to exercise any objection, that he could not be cut out from the process."

Buchen said that the White House has responded "as quickly as we can" to every subpoena from Jaworski. "We have not responded to requests for materials and there's been no deadline put on these requests." Buchen said that he did not understand that Jaworski "is having any trouble getting documents."

Buchen said the White House encouraged Jaworski and Mr. Nixon's lawyer, Herbert J. Miller, to negotiate a procedure to give the special prosecutor access to materials he needed for continuing investigations and court proceedings.

When the Senate passed the bill concerning control of the Nixon materials, Buchen said, Miller became concerned "that any accommodation he might make would affect the course of the legislation." Bu-

chen said he understood that the negotiations are continuing and "anything they work out is fine with us."

Jaworski said during the interview that he is confident that ultimately his office will obtain the materials it seeks. "I have felt that we are entitled to these documents, materials," Jaworski said. "It is to be regretted that we have these delays."

Jaworski also defended the performance of his staff against criticisms that more corporate violations of campaign spending laws had not been turned up. "The idea of saying you've got a couple of thousand corporations and only 19 or 20 were charged or pleaded is ridiculous," Jaworski said. "You have no right to go through a corporation's records unless you have something to go on."

Jaworski held out the possibility that more corporations or individuals may be charged in connection with illegal campaign contributions. Although he declined to be specific, Jaworski said, "I would say you will see more activity in that regard."