

Key Figures in

By Linda Mathews
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Washington

Richard M. Nixon's fate, after he leaves the White House, probably will rest with two men he elevated to high office. Vice President Gerald Ford and Special Prosecutor Leon Jaworski.

That was the consensus here yesterday as congressmen, Justice Department lawyers and constitutional experts explored the possibility of granting immunity from criminal prosecution to Mr. Nixon once he leaves office.

To avoid prosecution, a fine, and even a jail sentence for what seems to be an open-and-shut case of obstruction of justice, Mr. Nixon will either have to strike a deal with Jaworski or reach an understanding that Ford will pardon him once the Vice President ascends to the Presidency.

There is no evidence that either Ford or Jaworski is yet even considering what steps to take. The President's Watergate counsel, James D. St. Clair, refused to comment on any strategy to save Mr. Nixon from the wheels of the criminal process.

But eventually the President will have to deal with the problem of what happens to him once he loses the shield of his office.

The only definite word came from Attorney General William B. Saxbe, who normally would have the final word on plea bargaining in federal cases. He announced yesterday that he would play no part in any negotiations with the President.

"The special prosecutor . . . would have to make that decision," Saxbe told reporters, adding that he had not been in touch with Jaworski and was unaware of any plea bargaining.

"He is part of the Justice Department but he has a free hand," Saxbe said of Jaworski.

The awesome task of deciding whether to bargain with a President over any personal crimes has been thrust upon Jaworski by virtue of Justice Department regulations dele-

gating to him jurisdiction over all criminal matters related to Watergate.

Mr. Nixon's statement that six days after the Watergate break-in he set up obstacles to the FBI's investigation has been viewed by almost every member of Congress as an admission that he obstructed justice, a clear-cut violation of the federal criminal law.

According to precedent and the words of the Constitution, Mr. Nixon would still be directly liable for that crime even if he resigned or was removed from office.

Article 1, Section 3 of the Constitution, after spelling out the impeachment process, says, "The party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law." Scholars agree that, with this clause, the Constitution's framers sought to foreclose any double jeopardy defense from an impeached and convicted public official.

Although the law is clear, Jaworski's decision to prosecute Mr. Nixon may rest on intangible factors, especially his reading of the public attitude about whether an already humiliated ex-president ought to be subjected to further punishment.

On Capitol Hill, opinion seems polarized, with the pro-immunity and anti-immunity camps sharply defined — although not along party lines.

Senate Minority Whip Robert P. Griffin (Rep-Mich.) and House Majority Leader Thomas P. O'Neill (Dem-Mass.) both told newsmen this week that they do not believe the public would want to see a former president "go to jail."

Senator Edward W. Brooke (Rep-Mass.), who led off demands for the President's resignation last November, said that "if the President gives up the highest elective office in the land, he will have paid his price. The public will be satisfied."

Different, in fact irreconcilable, readings of public sentiment were also freely offered in Congress.

California Representatives John H. Roussetot and Victor V. Veysey, both staunch Nixon supporters in the past,

Immunity Issue

strongly opposed immunity for the President yesterday.

"Every American should be treated equally under the law," Vesey said. "Anyone who has committed criminal acts should be subjected to the criminal prosecution process."

Only after the President has been prosecuted, and reached the sentencing stage, should the fact of his premature departure from office be taken into consideration as a mitigating factor, Vesey said.

Rousselot expressed "substantial reservations" about any immunity legislation.

Such sentiments have dimmed the prospects of any special law granting Mr. Nixon absolute immunity from prosecution, an alternative that was widely discussed on Capitol Hill early this week.

Griffin, according to the aides, still has such a bill under study. But he has almost rejected it, because both its wisdom and its constitutionality have been questioned by other congressional leaders.

Senator Sam J. Ervin Jr. (Dem-N.C.), for example, attacked the Griffin idea as unfair and illegal. "Everyone should stand equally before the law," said Ervin, adding that Congress lacked the power "to remove any one man from the consequences of the law" with a private immunity bill.

A congressional grant of immunity would appear to invade the prerogatives of the other two branches of government. Normally, it is up to the Executive branch to prosecute and to the Judicial branch to sentence.

Since Congress cannot compel the indictment of anyone for ordinary federal crimes, opponents of immunity reason that there is no power to order the Executive branch — Jaworski in this case — not to prosecute Mr. Nixon.

What may be in the offing, however, is a milder "Sense of Congress" resolution saying that resignation should be sufficient punishment. A resolution of this sort, now being discussed by Representative Dan Rostenkowski (Dem-Ill.), Brooke and others, might convince Jaworski to let the President go free, though it would not bind the prosecutor.

Pressure on Jaworski could also come from the Watergate Grand Jury which named Mr. Nixon as an unindicted co-conspirator in the coverup. Some members of the Grand Jury, whose terms do not expire until December 4, reportedly will attempt to indict the President the moment he leaves office. The indictment would not be valid, however, without Jaworski's signature.

If Jaworski takes a hard-nosed view, sources familiar with his methods expect him to press Mr. Nixon to plead guilty to one count of conspiring to obstruct justice in the Watergate coverup, the same charge to which several former White House aides pleaded.

This felony charge is punishable by a maximum five-year prison term and fines up to \$10,000, but it is believed Jaworski would urge leniency to the sentencing judge. Probably the President, like former Vice President Spiro T. Agnew, would get off with a suspended sentence.

In exchange for leniency, Jaworski would expect the President to cooperate with the prosecution of his former aides by yielding tapes and documentary evidence in his possession, one source speculated.

Would Mr. Nixon be subpoenaed to testify at the cover-up trial, now scheduled to open September 9? "That's a terrible prospect," said one source. "He's be a great witness, certainly. But I think Jaworski is too much of a gentleman, and has too much regard for the office of the Presidency, to put Mr. Nixon through that."

Another Jaworski acquaintance, however, believes the prosecutor will "do his best to pass the buck" to Vice President Ford.

Ford, after taking over the presidency, could grant Mr. Nixon a full pardon from all prosecution and punishment. This could come even before Mr. Nixon was formally charged with a crime.

However, Ford apparently foreclosed the possibility of pardon at his own confirmation hearings last fall.

"I don't think the public would stand for it," Ford answered when he was asked whether, as President, he would block possible criminal charges against Mr. Nixon.