

WXPost SEP 9 1974

Not Consulted About Pardon, Jaworski Says

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Watergate special prosecutor Leon Jaworski said yesterday that he had not been consulted about the blanket pardon granted to former President Nixon.

"This is a matter that was decided upon by the President on his authority under the Constitution," Jaworski said. "It was something I didn't participate in."

Jaworski said, however, that he doubted the decision would have any impact on the Watergate cover-up trial and that he expects it to start on schedule Sept. 30.

Defense attorneys in the case glumly made the same assessment although some indicated they might go through the motions of seeking a delay based on President Ford's surprise announcement.

"It's tailor-made for Nixon," one defense attorney protested. Added another: "The public is going to construe this as a pardon of a criminal. It's bound to have some effect on the men who were his assistants."

Jaworski, however, took the position that the pardon for Mr. Nixon and the cover-up charges brought against his former aides were "two different matters entirely"—a view that he evidently also expressed to the White House about a week ago.

Although he said the White House neither sought nor obtained his advice about a pardon, the prosecutor said President Ford's White House counsel, Philip W. Buchen,

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did ask him when Mr. Nixon might come to trial "if" he were indicted.

"I gave him the best estimate I could," Jaworski told The Washington Post in a telephone interview. He emphasized, however, he gave Buchen no indication of whether he intended to seek an indictment.

President Ford and his advisers appear in any case to have seized on what Jaworski told them as the principal justification for the grant of clemency.

In announcing it, Mr. Ford said that he had been advised and was "compelled to conclude that many months and perhaps more years will have to pass before Richard Nixon could hope to obtain a fair trial by jury in any jurisdiction of the United States under governing decisions of the Supreme Court."

Briefing newsmen later, Buchen said Jaworski told him that all the publicity about Mr. Nixon's alleged misdeeds and especially the "adverse finding" of the House Judiciary Committee, in recommending his impeachment would require a delay of nine months to a

year, "perhaps even longer," before he could be brought to trial on any indictment.

Buchen said the prosecutor also told him Mr. Nixon's situation was "readily distinguishable" from that of the six cover-up trial defendants because trial has not been preceded by "any previous adverse finding by an investigatory body holding public hearings on its conclusions," as the Judici-

ary Committee did in its impeachment inquiry.

Defense lawyers in the case showed little sympathy with such distinctions. Some of them acidly emphasized Mr. Ford's profession yesterday of his belief "in equal justice for all Americans" and they asked, in effect, "What about our clients?"

"I'm very pleased about Mr. Ford's action, said John

J. Wilson, lawyer for former White House chief of staff H. R. (Bob) Haldeman. "He should do the same thing for Haldeman."

John M. Bray, the counsel for former White House aide Gordon Strachan, said that "legally, it does nothing for us," and added pointedly:

"I heard Ford make a reference to 'equal justice.' We're all devoted to that." The other defendants

awaiting trial on charges of conspiring with Mr. Nixon and others to block the original Watergate investigation are include former White House aide John D. Ehrlichman, former Attorney General John N. Mitchell, former assistant Attorney General Robert Mardian, and former Nixon reelection campaign lawyer Kenneth W. Parkinson.

Some of the defense attorneys in the case took some comfort from the thought that the unequal treatment—a pardon for Mr. Nixon and the threat of prison for their clients—would not be lost on the trial jurors.

"It's only human nature to be offended by the unequal treatment here," said one. Another said that he thought the trial would be accompanied by at least "some undercurrent of basic unfairness in letting the big boy go and not these fellas. To some extent, that may inure to the benefit of all the defendants."

Mr. Nixon's companion statement of regret for his "mistakes and misjudgments over Watergate seemed self-serving to some of the defense counsel.

Several of the attorneys said the former President's declaration sounded to them as though he were "dumping it on his subordinates" and suggesting that his mistakes were really prompted by their bad advice.

"He's always looking out for himself," one of the lawyers complained of Mr. Nixon. A colleague speculated that "somebody must have twisted his arm to say even that much. It's a little

more than I would have expected."

There was, as a result, little expectation that the former President's testimony at the cover-up trial would be of much help to the defense even though Mr. Nixon is now more likely to be called as a witness. With the pardon, lawyers said, he can no longer invoke the Fifth Amendment privilege against self-incrimination, at least in federal offenses.

Mr. Nixon has been subpoenaed by Ehrlichman's attorneys as a defense witness at the trial. It is understood that Watergate prosecutors are not likely to call him to testify for the government.

Some prosecutors reportedly saw the former President's statement in the same light as some defense attorneys.

"It was more wishy-washy than his resignation speech," one legal source said.

It was suggested in some legal quarters that Jaworski could conceivably still secure an indictment against Mr. Nixon — as a public statement of the allegations developed against him even though the pardon would immediately cancel it out. But both prosecution and defense sources said they felt certain Jaworski would never consider such a course.

Watergate prosecutors have been pressing their investigations of Mr. Nixon on a number of fronts, including his finances. The Watergate grand jury, it is known, was also more than ready to indict him last February in the alleged cover-up conspiracy.