

House Republicans: Widening the

A mailing received a few days ago by all 17 Republicans on the House Judiciary Committee climaxed a campaign to undercut Albert E. Jenner Jr. as their special impeachment counsel, widening a serious internal split over impeachment among House Republicans.

The mailing was sent out by the committee's Republican staff. It contained a brief advocating a limited view of what constitutes an impeachable offense, which Jenner had no part in writing. Also in the envelope, added gratuitously and without comment, was a magazine article describing Jenner as a tough prosecutorial type. The cumulative effect of the mailing: intentionally anti-Jenner.

Indeed, the situation is so serious that Jenner, a prestigious Chicago lawyer and former President of the American Bar Association, might quit rather than suffer indignities. Consequently, his supporters, who suspect White House involvement, may insist on thrashing out differences in a closed-door session of committee Republicans this week.

Any such session would likely aggravate the deepening split among the 17 Republicans. A minority consider themselves performing a quasi-judicial role, weighing evidence against President Nixon; a majority (while not admitting it) view themselves as the President's defenders. This distinction, especially crucial with the grand jury's sealed presentment concerning Mr. Nixon now in the hands of Judge John Sirica, is what the battle over Jenner is all about.

The battle started when the committee's two Illinois Republicans, Rep. Robert McClory and Rep. Thomas F. Railsback, proposed super-lawyer Jenner as minority counsel for the impeachment. A young lawyer on the minority staff named Sam Garrison, recently arrived from former Vice President Spiro T. Agnew's staff for the impeachment proceedings, unsuccessfully protested. He could do the job himself, he said.

Jenner then committed two blunders. He took the post without informing his new employers that he had

raised funds for the re-election of a liberal Illinois Democrat, Sen. Adlai E. Stevenson III. Later he went on a Chicago television talk show to broadcast his belief that Mr. Nixon is legally responsible for the actions of his aides.

The two blunders were the foundation for an anti-Jenner column by William Safire, the former Nixon speechwriter now with The New York Times. The Safire column, in turn, became the basis for a letter-writing campaign to Judiciary Committee Republicans complaining about Jenner. This campaign coincided with the hardening White House line about the impeachment proceedings and the perceptibly more partisan tone of many committee Republicans.

In response to this tone, Railsback told a recent session of the committee's Republicans that he for one would not act as counsel for the defense. Those who strongly agree with Railsback include Rep. McClory, Rep. Henry P. Smith III of New York, Rep. William S. Cohen of Maine and perhaps others—clearly a minority among the 17 Republicans.

Impeachment Split

Thus, recent meetings of the 17 have been punctuated by blunt criticism of Jenner, led by Rep. David W. Dennis of Indiana and Rep. Lawrence J. Hogan of Maryland, for working too closely with committee impeachment counsel John Doar. Hogan told us he views Jenner as "a dilettante trying to put the cap on a glorious career" who, "if anything, tilts a little against the President." Other committee Republicans complained about his lack of political finesse.

That these criticisms are shared by the committee's senior Republican, Edward Hutchinson of Michigan, became manifest last week. Without consulting Jenner, Garrison supervised a lawyer's brief disputing the Doar-Jenner paper (which argued that a President can be impeached for non-criminal offenses). When told by Garrison that Hutchinson had authorized the brief, Jenner checked with Hutchinson. That is quite true, said Hutchinson. To some committee members that meant that Garrison — tough,

smart, highly partisan and about half Jenner's age—had taken over.

Their impression was confirmed when Garrison's brief arrived in the mail accompanied by an article from New Times praising Jenner's zeal to prosecute. It was not an article calculated to appease Jenner's Republican critics, and no friend of Jenner would have included it in the mailing.

If the obvious intent to force Jenner back to private life succeeds, the role of committee Republicans may be what it was described as—incorrectly, it seemed then—by House Minority Leader John Rhodes last December. Breakfasting with newsmen, Rhodes said he assumed lawyers for the Judiciary Committee Republicans would serve as defense counsel for Mr. Nixon.

But a handful of Judiciary Committee Republicans believe an overt defense role is politically suicidal and morally wrong. That is why they may risk an open Republican rupture this week to defend Jenner, establish his authority and preserve their own integrity.