

A One-Two Punch in The House

By Tom Wicker

Special Prosecutor Leon Jaworski has announced that he cannot turn over evidence collected by his office to a House committee studying impeachment. Senator Barry Goldwater said a day later that he would not lead a delegation of Republicans to ask for the resignation of Richard Nixon, whom he described as "probably the best President we've had in this century."

On the face of it these are serious setbacks, procedural on the one hand and political on the other, for those who wish to see Mr. Nixon removed from the Presidency. Mr. Jaworski, if he saw his way clear, obviously could speed the impeachment inquiry and spare it much duplication of his own office's work; Mr. Goldwater, if he chose to take the lead in urging Mr. Nixon's resignation, might well be able to force it almost singlehandedly.

Not receiving as much notice, but perhaps as important, were some statements of a different order by Albert Jenner, the respected Republican counsel of the impeachment committee, on a Chicago television show. Mr. Jenner was quoted by The Associated Press as having said that "certainly within some areas the President should be responsible for the actions of aides even if he didn't know, for example, that an aide was doing something that would be regarded as an impeachable offense if the President himself did it."

Historically, this echoes the view of James Madison, "the father of the Constitution," who said in the First

IN THE NATION

Congress: "I think it absolutely necessary that the President should have the power of removing [sic] from office; it will make him, in a peculiar manner, responsible for their conduct, and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States, or neglects to superintend their conduct, so as to check their excesses."

Politically, Mr. Jenner's view is important because it undoubtedly reflects the constitutional interpretation he will urge upon the committee's Republicans; and if his is to be substantially the minority view, then the grounds upon which Mr. Nixon might be impeached may be much broader than might have been expected. That some

of Mr. Nixon's subordinates broke laws and violated constitutional limits already has been established; and Mr. Jenner was saying that his failure to prevent that was in itself an impeachable offense.

Another interesting pronouncement from the Republican counsel was quoted by United Press International: "My judgment is that substantially any subpoena voted by the House of Representatives for this high constitutional purpose [impeachment] will be honored by the executive department."

If that is so, it would lessen the importance of Mr. Jaworski's contention that he cannot aid the impeachment inquiry. And while Mr. Jenner might be considered overly optimistic, in view of White House resistance to other subpoenas, it has to be remembered that none of them came from an instrumentality with the specific constitutional purpose of inquiring into impeachment.

Would the American people stand by and permit Mr. Nixon to claim executive privilege to conceal materials necessary to fair judgment by a constitutional body on the ultimate question of his own impeachment? Even if the people would permit it, would the House of Representatives tamely submit to such high-handed treatment, when its remedy could be to impeach Mr. Nixon for defying the subpoenas of the impeachment committee—in effect, for being in contempt of Congress's constitutional rights and duties? It seems likely that the White House would have to respond far more cooperatively than it has been willing to respond to the Cox-Jaworski subpoenas (which have to do with the possible legal indictment of numerous persons, rather than the impeachment of Mr. Nixon) or to those of the Ervin committee (the ostensible purpose of which is only to investigate the 1972 elections).

Mr. Jenner was further quoted by U.P.I. as having said that he expected the impeachment committee to complete its work by the end of April because there was a "practical time limit in the sense that the people will not permit the articles of impeachment to sit there." If trial in the Senate followed, he said, it would be "no later than September, possibly in the summer."

At the same time, Joseph Alsop was reporting that Chairman Wilbur Mills of the Joint Committee on Internal Revenue Taxation planned to deliver that body's verdict on various questions about Mr. Nixon's income taxes at "the end of April." If it should happen that both the House impeachment and the House tax inquiries deliver reports unfavorable to Mr. Nixon at about the same time next spring, that one-two combination of punches might well finish him before the November elections.