

The Jaworski Letter

Like the Bourbons of old, President Nixon seems to have learned nothing and to have forgotten nothing. When he broke his word to the Senate and fired Archibald Cox as special prosecutor last October, he evoked such a "firestorm" of adverse public reaction that his own impeachment for the first time became a live possibility.

Now the White House is once more playing a duplicitous game with the Senate and with Mr. Cox's successor, Leon Jaworski. Having promised Mr. Jaworski that he would be completely free to go to court to seek additional tapes or Presidential papers of any kind, the President is now asserting in court through James D. St. Clair, his special counsel, that the Special Prosecutor has no legal standing to invoke judicial process against the President.

Mr. St. Clair tries to pass this off as "a difference of opinion" between lawyers, but that is a distortion of fact. As Mr. Jaworski pointed out on Monday in his cogent and forceful letter to the Senate Judiciary Committee, he was personally assured by Alexander Haig, the President's chief aide who purportedly speaks for Mr. Nixon, that the White House recognized his right to seek any evidence he deemed necessary, including that in the President's personal possession.

Solicitor General Robert Bork, then the Acting Attorney General, publicly reaffirmed this agreement when he announced Mr. Jaworski's appointment last Nov. 1. Unless the agreement is honored by the White House, Mr. Jaworski's assignment would—as he rightly says—be reduced to "a farce."

At the suggestion of the Senate Judiciary Committee, Mr. Jaworski at the time of his confirmation sent a copy of his testimony on this critical issue to J. Fred Buzhardt, the President's counsel, who acknowledged it without dissenting from its substance. However, it is unfortunate in retrospect that before accepting office, Mr. Jaworski did not insist on receiving a letter personally signed by the President setting forth the terms of the appointment.

Moreover, as this newspaper urged at the time, it might have been better to transfer the Office of the Special Prosecutor from the Executive to the Judiciary with the power of appointment lodged in a panel of judges rather than in the Attorney General, a subordinate of the President. Neither of these safeguards would, of course, have provided absolute protection against Presidential double-dealing.

Judge John Sirica's forthright opinion approving the Special Prosecutor's request for the tapes of 64 Watergate-related conversations strongly sustains Mr. Jaworski's position. The White House has suggested that it intends to appeal this ruling to the Supreme Court but, except to use up time, nothing would be gained by such an appeal.

Mr. Nixon is on desperately weak ground, legally and politically. To fire Mr. Jaworski as he did Mr. Cox would generate pressure for immediate impeachment. To leave him in office but try to frustrate him in the courts would only intensify impeachment pressure more slowly. If the Special Prosecutor is Mr. Nixon's nemesis, there is no escaping him.