

The Accomplishments of Leon Jaworski

A YEAR AGO today Archibald Cox, then the Watergate Special Prosecutor, was fired from his job as a consequence of Richard Nixon's crudest attempt to shut off the inquiry into wrongdoing in his administration. Before that weekend was over, orderly government and the process of criminal justice seemed to lie in ruins. Attorney General Elliot Richardson and his deputy had both resigned in protest. FBI agents had sealed off the offices of both Special Prosecutor Cox and the Attorney General to prevent—it was said—the removal by either man of documentary material related to Mr. Nixon's own performance in office. Western Union was overwhelmed with expressions of outrage from the public. And an inflamed Congress for the first time seriously got down to the business of authorizing impeachment proceedings.

Into this apparent shambles walked a newly-nominated Special Prosecutor, Leon Jaworski, to be met—understandably—by a demoralized and suspicious prosecution staff and an equally suspicious Congress. There was a strong move afoot in the Senate to establish a court-appointed prosecutor and thereby to preempt the appointment of Mr. Jaworski. In addition to the institutional reasons for trying to strengthen his office, there were misgivings about Mr. Jaworski himself behind this move: he was feared to be a "fixer." Surely it is against this inauspicious background that Mr. Jaworski's achievements must be judged now that he is about to relinquish office.

What has happened since then? John Mitchell, John Ehrlichman and H. R. Haldeman, the three most powerful men in Mr. Nixon's domestic councils, have been indicted and brought to trial for the Watergate cover-up. Mr. Ehrlichman has also been tried and convicted in the "plumbers" case. Charles W. Colson, Mr. Nixon's political hatchetman, has been indicted, has pleaded guilty and has been sent to jail, and the former President's personal lawyer, Herbert Kalmbach, has also pleaded guilty to a crime and been sent to prison. Mr. Nixon's former Secretary of the Treasury, John B. Connally, has been indicted on two counts of accepting an illegal payment, along with other charges. Lesser Nixon associates have gone off to prison, and a host of corporations and corporate executives have either pleaded guilty to, or been indicted for, violations of campaign financing laws. Under Mr. Jaworski's direction, and largely by virtue of his patient and stubborn persistence, a crucial collection of White House-taped evidence has been made available to the prosecutor after a court battle which culminated in a unanimous and historic Supreme Court decision. It is indisputable that Mr. Nixon's obligation to yield up three of these tapes, containing particularly incriminating conversations on June 23, 1972, was the direct cause of the collapse of his last line of defense and thus compelled his departure from office.

And it is also indisputable that the case for the im-



By Leonard and Ruth Greenup

peachment (and probable conviction) of Richard Nixon had been made by the House Judiciary Committee even before those final, incriminating tapes appeared, and that Mr. Jaworski played a vital role in making that case. It is true, of course, that Mr. Jaworski chose not to seek an indictment of Mr. Nixon, on the grounds that as long as impeachment proceedings were already under way in the House no purpose would be served by a prolonged test of the constitutional question of whether a sitting President could be indicted. However, Mr. Jaworski never lost sight of his mandate to develop the case against Mr. Nixon, if it existed—and he did just that. It was his office that drafted the grand jury report naming Mr. Nixon as an unindicted co-conspirator; and it was his strategy to effect the transfer of that report and the supporting evidence to the House Judiciary Committee by way of Judge John Sirica. By all accounts, the grand jury report was of critical if not decisive importance.

For all this Mr. Jaworski is now being rewarded in some quarters with charges of having deserted his post and failed to discharge the duties of his charter. One argument being aired is that Mr. Jaworski, having failed to indict Mr. Nixon while he was President and having failed to move against Mr. Nixon as soon as he became a private citizen and before the pardon, should have at least proceeded with an indictment after the pardon by way of challenging its validity. The answer to all this, it seems to us, depends on how you see his purpose. If the objective is to put Mr. Nixon in jail, which most people do not wish to do, then perhaps Mr. Jaworski should have made these moves. But if the objective is to establish beyond doubt the central facts of Mr. Nixon's involvement in offenses justifying his removal from office, and if you accept the pardon as irrevocable, then it seems to us that Mr. Jaworski is right: there is not a great deal left for him to do; and beyond a couple of key decisions he is expected to make before his actual departure from office, he can leave with confidence that the work of his office will be completed by the first-class special prosecution staff—especially if the President and Attorney General accept his recommendation (as they should) that Deputy Prosecutor Henry Ruth succeed him.

There are, however, things for others to do: Congress should elaborate on its instructions with respect to a final report from the prosecutor's office to allow for a more complete statement of the case developed against Mr. Nixon than the legislation now seems to permit; Judge Sirica presumably can make public in due course the grand jury report; the prosecution force apparently can append to its report transcripts of all of the tapes obtained under the Supreme Court's decision, including some that will evidently not be used in the trial but which bear on Mr. Nixon's role. Beyond that, it should not be forgotten that a much more comprehensive picture of the former President's involvement will emerge in the trial now under way. How much Mr. Nixon will contribute as a witness in those proceedings is not clear. What does seem clear is that we are likely to learn more from Mr. Nixon as a pardoned witness in the cover-up trial than we would have learned from Mr. Nixon as an unpardoned defendant in his own trial. In any event, it should also not be forgotten that there already exists in the findings of the House Judiciary Committee an enormous body of information, much of which is a result of the work of Mr. Jaworski.

In addition to his toughness and determination, Mr. Jaworski brought two special attributes to the job which seem to us to deserve special note. One was his scrupulous regard for the rights of the criminal defendants involved. The other was his extraordinary skill in overcoming the political and institutional obstacles which confronted him by the very nature of his assignment. He was investigating, after all, the man he worked for and the government he served. And he was working against the full weight of the office of the President, with all the political power and public support that office has at its disposal. We suppose that, after the fact, people can think of any number of ways in which the Watergate proceedings could have been handled better. But when you consider where we were a year ago and where we are today, it seems to us that this country owes Leon Jaworski a tremendous debt.