

GOP Inquiry Counsel Jenner Clarifies Impeachment View

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Albert Jenner, Republican counsel for the House impeachment inquiry of President Nixon, said yesterday that the President could be held responsible for actions of his subordinates only if he had specifically authorized them.

This significantly narrowed the import of a statement attributed to Jenner by news services in Chicago two weeks ago: that the President could be held responsible for acts by his aides even though he didn't know about them.

The earlier statement raised the prospect that the President could be removed from office for actions by any of a number of his subordinates whose cases are moving through the courts. It caused consternation among Republicans.

Jenner met yesterday with Republicans on the House Judiciary Committee, which is conducting the impeachment inquiry, and reportedly satisfied all of them on the point he had intended to convey.

Rep. Tom Railsback (R-Ill.) said Jenner made his point with this example: If the President had told the White House leak-plugging "plumbers" to get the psychiatric records of Daniel Ellsberg by whatever means necessary, specifically including housebreaking, he could be held responsible for their subsequent break-in even though he didn't know that they had done it.

On the other hand, if the President did not specifically authorize the burglary of Ellsberg's psychiatrist's office, he could not be held responsible for it, Jenner said. Railsback and Rep. David W. Dennis (R-Ind.), a leading trial lawyer member of the committee, said they both agreed with this as a statement of law.

James Madison, a principal author of the impeachment provision in the Constitution, believed that a President could be impeached for actions of his subordinates under certain conditions.

In a speech to the First Congress arguing for the President's right to fire subordinates, Madison said this "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."

Republicans also said they would ask the committee later

this week to set an April 30 deadline for completing the inquiry and making a report to the House.

Chairman Peter W. Rodino (D-N.J.) has tentatively set April as a target date, but has said this could not be met unless Watergate Special Prosecutor Leon Jaworski makes his files available. Jaworski so far has felt unable to agree because the law requires that grand jury material be held secret.

Railsback said he understood that the committee's special counsel, John Doar, and Jenner were to meet again with Jaworski to try to work out some voluntary agreement before the committee resorts to subpoena or other leg action to obtain Jaworski's files.