

... Protecting the Tapes

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Special Prosecutor Leon Jaworski's blistering letter to the Senate Judiciary Committee is a political act, calculated and combative, which exposes the extreme danger of President Nixon's continuing fight against turning over subpoenaed evidence.

Neither asking nor desiring Senate action, Jaworski was firing a long-contemplated signal. By publicly revealing that the President broke his promises not to interfere with the Special Prosecutor, Jaworski has made himself more fireproof than ever. Yet, if Mr. Nixon eventually loses in the Supreme Court, his only sensible alternative to the self-destructive sacking of Jaworski would be to obey the court and surrender the tape recordings.

However, there is universal suspicion (Jaworski's men included) that those tapes contain information at least as damaging to the President as the revelations on nine tapes he surrendered after the "Saturday Night Massacre" last October. Thus, while attention is now glued to impeachment proceedings and the President's remarkable letter yesterday rejecting the House Judiciary Committee's subpoena, for more evidence, Jaworski's office is a second front of active danger to Mr. Nixon.

Jaworski remains perhaps the worst of all the blatant White House miscalculations about Watergate. The President was wrong from the start that the 68-year-old Houston corporate lawyer would prove a welcome relief from the deposed Prof. Archibald Cox as Special Prosecutor. After seven long months, the White House will not admit that error.

Continuing to misinterpret Jaworski's character, Nixon aides insist he really wants to clean up the Watergate

cases without causing more trouble and go home to the good life in Texas. It's just that poor old Leon, they say, is the captive of ferocious young anti-Nixon liberal lawyers he inherited from Cox.

This conflicts with evidence that Jaworski is totally in control—as in the recent decision on how to handle former Attorney General Richard Kleindienst's admitted deception before a Senate committee. Although these young prosecutors wanted a perjury indictment, Jaworski insisted that Kleindienst—more sinned against than sinning—should be let off with a one-count misdemeanor.

But the White House has talked so much about the captive-Jaworski theory that Mr. Nixon's lawyers actually broached it to Jaworski himself, crudely attempting to alienate him from the Cox holdovers. Jaworski responded with some heat that he runs his own show.

That heat displayed a combativeness by trial lawyer Jaworski far more intense than that of appellate lawyer Cox. As the White House remained adamantly uncooperative, Jaworski long ago decided he would return—at the proper time—to the Senate to complain about the President. When Nixon defense lawyer James St. Clair argued in closed session before Judge John Sirica that Jaworski was subordinate to the President's wishes, Jaworski knew the proper time had come.

His intent is certainly not to further the basic Nixon strategy of delay by getting Congress to establish a statutory Special Prosecutor's office. Rather, the letter to the Senate was a means of getting his case in the open without breaching the court's semi-

gag rule (imposed upon Jaworski but not St. Clair).

The letter further undercut Mr. Nixon with many remaining Republican supporters in Congress. Realizing Mr. Nixon can neither fire Jaworski nor seem to be impeding his investigation, they view this struggle with the Special Prosecutor as deflating the President's hopes for survival.

The unsinkable Jaworski deepens problems Mr. Nixon faces in his lawsuit against the subpoenas. Just as last October, the White House inner circle—in this case, the President, St. Clair and chief of staff Alexander Haig—has talked itself into believing it will win in the Supreme Court. So, White House counsel J. Fred Buzhardt might be telling the truth when he contends the reaction to an adverse court decision has not even been discussed.

But outside lawyers believe the Supreme Court could very well order the tapes be given Jaworski. Since he cannot turn off this process by firing Jaworski, Mr. Nixon would then have to consider presidential defiance of the Supreme Court, leading to a constitutional crisis which would likely result in his conviction by the Senate.

The President's problem, then, boils down to the actual contents of the subpoenaed tapes. Risking his very office to keep them secret reinforces the inescapable suspicion which has always dogged him: that he is not protecting his former aides but himself. That suspicion would endure even if the Supreme Court ruled for him. Only a lenient Special Prosecutor could ease this pressure against the President, and even the White House must now realize that Leon Jaworski is anything but that.