

Exit Mr. Jaworski

After nearly a year of exemplary performance as Special Watergate Prosecutor, Leon Jaworski is leaving office under conditions that border on desertion of duty. Too many strands of the legal tangle left by the Nixon Presidency remain unraveled to justify Mr. Jaworski's assertion that his task is largely finished now that the jury in the Watergate cover-up trial has been chosen and sequestered. Indeed, some of the statements made by the Special Prosecutor in his letter of resignation will contribute to making Watergate's final unraveling difficult, if not impossible.

He was appointed in the wake of the "Saturday night massacre" in circumstances requiring exceptional integrity, independence and legal professionalism. Mr. Jaworski supplied that and more. He took over a deeply shaken staff, kept it together and moved ahead almost without missing a step.

Under his leadership, major prosecutorial decisions were made which—with the large exception of permitting former Attorney General Richard G. Kleindienst to plead guilty to a misdemeanor—seemed judicious and appeared to serve the overriding interest of bringing to public knowledge and prosecution the perpetrators of the most serious crimes of the Nixon Administration. He persevered all the way to the Supreme Court in his quest for tapes and documents relating to the cover-up and thus was a major factor in terminating Mr. Nixon's Presidency.

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But Mr. Jaworski has been unwilling to challenge the validity of the Nixon pardon or use the advantages of his office to the fullest in preparing for the Congress the complete report of Mr. Nixon's malfeasance in office. In his emphatic letter to Attorney General Saxbe declining to test the legality of the pardon, Mr. Jaworski struck a note of certitude on a very dubious proposition. It is not at all clear that his charter is not broad enough to test Mr. Ford's use of the pardoning power. It is at least arguable that the President's act was an unwarranted intrusion on the Special Prosecutor's authority and subject to legal challenge.

Mr. Jaworski's reluctance to report to Congress on a completed investigation of Mr. Nixon is an even more dubious position. It is quite clear that he is required to submit a final report to Congress and there appears to be no reason whatsoever—other than Mr. Jaworski's reluctance to do so—to exclude from that report all of the details of the Special Prosecutor's investigations of Mr. Nixon's conduct.

Having taken those positions, Mr. Jaworski has created an atmosphere in which a decision by his successor to take either of those actions is bound to be highly controversial. And, in withdrawing at this stage of the investigation, Mr. Jaworski has made highly unlikely the selection of someone of a stature similar to his own or that of Archibald Cox, the original Watergate Special Prosecutor. Although Henry Ruth, Mr. Jaworski's deputy and preferred successor, is a man of ability and integrity, his appointment would not replace the moral authority which Mr. Jaworski built up during his tenure and which he squandered by his untimely resignation.

While Mr. Jaworski deserves the nation's thanks for the job he did, there can be no applause for the jobs he left undone or for the manner in which he failed to do them. The plain fact is that the job he was appointed to do is not yet done and he considerably reduced the likelihood that it ever will be.