

**NOMINATIONS OF ROBERT H. MUNDHEIM, AZIE TAYLOR
MORTON, CHARLES F. C. RUFF, AND
BLANDINA CARDENAS**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-FIFTH CONGRESS
FIRST SESSION
ON
THE NOMINATIONS OF

ROBERT H. MUNDHEIM, GENERAL COUNSEL-DESIGNATE, OF
THE DEPARTMENT OF THE TREASURY; AZIE TAYLOR MORTON,
TREASURER-DESIGNATE OF THE UNITED STATES; CHARLES
F. C. RUFF, DEPUTY INSPECTOR GENERAL-DESIGNATE, DE-
PARTMENT OF HEALTH, EDUCATION, AND WELFARE; AND
BLANDINA CARDENAS, CHIEF-DESIGNATE OF THE CHILDRENS
BUREAU

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JULY 26, 1977
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CONTENTS

Robert H. Mundheim, nominee to be General Counsel of the Department of the Treasury-----	Page 2
Azie Taylor Morton, nominee to be Treasurer of the United States-----	6
Charles F. C. Ruff, nominee to be Deputy Inspector General of HEW-----	7
Blandina Cardenas, nominee to be Chief of the Children's Bureau-----	35

**NOMINATIONS OF ROBERT H. MUNDHEIM, AZIE
TAYLOR MORTON, CHARLES F. C. RUFF, AND
BLANDINA CARDENAS**

TUESDAY, JULY 26, 1977

**U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.**

The committee met, pursuant to notice, at 10:15 a.m. in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long (chairman of the committee) presiding.

Present: Senators Long, Talmadge, Byrd, Jr., of Virginia, Bentsen, Matsunaga, Moynihan, Curtis, Hansen, Dole, Packwood, Roth, Jr., and Laxalt.

The CHAIRMAN. The Chair recognizes the Senator from Texas, Senator Bentsen.

Senator BENTSEN. Thank you very much, Mr. Chairman. Later in the morning we will have the appearance of two very distinguished Texans. I would like to introduce them now, if I might, since I am scheduled to be testifying in the House at the present time.

One of them will be Azie Morton, who has been nominated by the President of the United States to be Treasurer of the United States. Mrs. Morton is a woman who has a record of high accomplishment in various endeavors. She graduated cum laude from Huston-Tillotson College in Austin, Tex. She was a high school instructor. She worked for the President's Committee Equal Employment Opportunity. She worked for the President's Committee on Equal Opportunity in Housing. She worked as the Director of Social Services for the Model Cities Program in Wichita, Kans.

She is a woman of compassion and understanding. She has management skills. She can ably do the job, and I highly recommend her, Mr. Chairman.

Mr. Chairman, I would also like to comment on another distinguished Texan who will be appearing before you this morning, and that is Blandina Cardenas. I am pleased to recommend her for the position of Chief of the Children's Bureau of the Department of Health, Education, and Welfare. The breadth of her experience and commitment has been shown in Texas in various positions. She has shown her concern for the welfare of children in Texas and in the Nation.

She has, to her credit, a list of publications and speaking engagements that are impressive in their own right. Last year she was the

keynote speaker at the National Child Care Conference in El Paso, at the Teacher's Corps Consortium in Fort Worth, at the Fifth Annual International Conference of the International Association for Bilingual Education.

Mr. Chairman, Ms. Cardenas is an eloquent advocate of the importance of Federal policy to support the family as a whole. Her role in the Department of Health, Education, and Welfare will help strengthen, not divide, the American family.

From 1975 to the present, Ms. Cardenas has directed the Center for Management of Innovation in Multi-Cultural Education. She is clearly no stranger to the problems faced by children of minority groups in this country.

Prior to that experience, her professional activities range from a year as a Rockefeller Fellow to chief writer for the experimental schools program in San Antonio, Tex. That is where I first came to know her and the works she had done for education.

Mr. Chairman, she has a combination of administrative and managerial expertise coupled with an intellectual insight that will make her an important addition to the Department of Health, Education, and Welfare and I highly recommend both these nominees for the consideration of this committee.

The CHAIRMAN. Thank you very much.

The Senator has some other duties elsewhere. That being the case, I thought he would make his statement first.

I would suggest, unless you would suggest otherwise, Mr. Stern, that we call these nominees as the first order of business.

Mr. STERN. Yes, sir.

The CHAIRMAN. Mr. Robert H. Mundheim, nominated to be General Counsel of the Department of the Treasury.

Do you have a prepared statement?

STATEMENT OF ROBERT H. MUNDHEIM, NOMINEE TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE TREASURY

Mr. MUNDHEIM. No, sir.

The CHAIRMAN. Have you cleared with the White House, and also the Treasury, on the problem of potential conflict of interest?

Mr. MUNDHEIM. Yes, sir, I have, and I have also talked to Mr. Stern about it.

The CHAIRMAN. We understand that as far as you know there is no longer any problem involved in that respect?

Mr. MUNDHEIM. No, sir.

The CHAIRMAN. I see.

Do you have a prepared statement?

Mr. MUNDHEIM. No, I do not, only to say that I am honored to be nominated and I will try my very best to fulfill the trust and confidence which the President has indicated in me.

The CHAIRMAN. We will be hearing a lot more about countervailing duties and unfair trade practices during the next year or two. Do you have any experience in that area?

Mr. MUNDHEIM. No, sir, I do not.

The CHAIRMAN. Are you familiar with the *Zenith* case?

Mr. MUNDHEIM. I have read the opinion in the lower court and I have read the briefs in the Customs Appeals Court.

The CHAIRMAN. What is your view on that matter?

Mr. MUNDHEIM. It is a terribly important case, obviously, and one in which we hope to get an opinion from the appeals court soon. I think when we get that opinion and read it, we will know where we are.

The CHAIRMAN. Do you know whether or not the Government is opposing the position taken by the plaintiff in that case, the Zenith Radio Corp.?

Mr. MUNDHEIM. Yes; we are taking the view that the Japanese commodities tax in that case is not one against which we would be required to countervail under the statute. That is the issue before the court.

The CHAIRMAN. Let me tell you that my judgment is the Zenith position is right and the Customs Court opinion is right. It is my view that any time that you rebate indirect taxes on exports, that amounts either to a bounty or grant, however you want to look at it. The law precludes that type of thing. It says when a nation does that, we are required to countervail.

Now, under the General Agreement on Tariff and Trade they have the right to rebate indirect taxes on exports. The general agreement is no treaty. Mr. Strauss told some of us just the other day that when he took the job he did not realize that the General Agreement on Tariffs and Trade is not a treaty. It has never been ratified by the Congress as a treaty. It is only an Executive agreement.

You cannot amend an act of Congress by an Executive agreement. If you are going to change an act of Congress, you have to do it by a treaty or an act of Congress. You cannot do it by a piece of paper signed by the President which has not been passed by the Congress. Therefore, the more I think about it, the more I am convinced that the court was right when it upheld the Zenith people in that matter.

Our foreign trading partners are very upset about the *Zenith* case. I can understand that, but their relief, if there is going to be some relief, in my judgment should come from the Congress, not from the courts. It seems to me that border tax adjustments are something we ought to be looking at and considering in connection with the Multilateral Trade Negotiations in Geneva. Foreign nations do not understand when the President signs something that it is not the law of the United States. If it has never passed the Congress, if it just has his signature on it, it is not a law and it is not a treaty.

It seems to me that the *Zenith* case may very well be the key item making a very good result possible in the Geneva negotiations. Those other countries would do well, if they want some relief on the *Zenith* case, to negotiate a deal, work out something that would be good for both sides.

These matters are going to be very important. If you do not know anything about it, I think that you have a lot of homework before you. Mr. Mundheim, in this job.

Mr. MUNDHEIM. That is true, and I am prepared to do that homework.

The CHAIRMAN. Senator Talmadge?

Senator TALMADGE. In that connection, Mr. Chairman, I understand you have had a reorganization in the Treasury Department where

dealing with countervailing duties, or antidumping laws, will be vested in you as General Counsel rather than the Assistant Secretary, is that correct?

Mr. MUNDHEIM. That is correct, sir.

Senator TALMADGE. Are you prepared to enforce the laws of the Congress without your own personal view or bias?

Mr. MUNDHEIM. Absolutely.

Senator TALMADGE. Thank you.

I have had the pleasure of visiting with Mr. Mundheim, Mr. Chairman, I think he is very well qualified for the job.

The CHAIRMAN. Senator Curtis?

Senator CURTIS. Thank you, Mr. Chairman.

For the record, tell us what are the duties of the office for which you have been nominated, your principal jurisdiction.

Mr. MUNDHEIM. The General Counsel, of course, is the principal legal officer of the Treasury. He has roughly 1,100 lawyers reporting to him through a series of Assistant General Counsels and a Deputy General Counsel.

In addition to the policy responsibilities in connection with countervailing duties and antidumping, the General Counsel has responsibility for providing legal advice really on all aspects of the Treasury's activity. That ranges from questions relating to customs to regulation of financial institutions, tax matters, the operations of the Secret Service.

It is a pretty broad—

Senator CURTIS. How about tax regulations?

Mr. MUNDHEIM. Yes, sir, the Chief Counsel to the Internal Revenue Service is an Assistant General Counsel and he does report to me, the General Counsel.

Senator CURTIS. You began your teaching career at Duke?

Mr. MUNDHEIM. Yes, sir.

Senator CURTIS. What did you teach there?

Mr. MUNDHEIM. Securities regulation and administrative law.

Senator CURTIS. Then you went from there to what institution?

Mr. MUNDHEIM. The University of Pennsylvania.

Senator CURTIS. What did you teach there?

Mr. MUNDHEIM. Corporate law, securities regulations; problems of professional responsibility.

Senator CURTIS. You were a visiting professor at Harvard?

Mr. MUNDHEIM. Yes, sir.

Senator CURTIS. What did you teach there?

Mr. MUNDHEIM. Corporate law and securities regulation.

Senator CURTIS. What did you teach at UCLA?

Mr. MUNDHEIM. I taught corporate law and then I taught, with the dean of the UCLA School of Management, now the Chairman of the SEC, a course in the responsibilities of governing public corporations. We were looking at the duties and responsibilities of directors of publicly held corporations and other aspects of making those kinds of corporations accountable.

Senator CURTIS. Have you published any articles or books?

Mr. MUNDHEIM. Yes, sir. I have been the editor of a series called "Annual Institute on Securities Regulation." There are now seven.

volumes of that series, and another volume in that same area, and then a rather long list of articles, again primarily in the corporate area, in securities regulation and dealing with the problems of professional responsibility.

Senator CURTIS. How many years have you had in private practice?

Mr. MUNDHEIM. Three and a half.

Senator CURTIS. Were you associated with a firm?

Mr. MUNDHEIM. Yes.

Senator CURTIS. What was the name of that firm?

Mr. MUNDHEIM. Shearman and Sterling in New York City.

Senator CURTIS. Are they a general law firm?

Mr. MUNDHEIM. Yes. General corporate practice, banking practice, international practice.

Senator CURTIS. What particular work did you handle there?

Mr. MUNDHEIM. I started my law career there and they have a rotation program, so I did some corporate work, some real estate work, some tax work, and some labor negotiations.

Senator CURTIS. How long were you engaged in the tax work?

Mr. MUNDHEIM. I would say 4 or 5 months in that department.

Senator CURTIS. Were you head of the department?

Mr. MUNDHEIM. Oh, no, I was just a starting lawyer.

Senator CURTIS. Before you started to teach?

Mr. MUNDHEIM. That is right. This was right after I got out of law school.

Senator CURTIS. What Government service have you had?

Mr. MUNDHEIM. I spent a year and a half with the Securities and Exchange Commission as a special counsel.

Senator CURTIS. Are you a tax lawyer in the ordinary, accepted definition of the term?

Mr. MUNDHEIM. No, sir.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Senator Byrd?

Senator BYRD. I have no questions.

The CHAIRMAN. Senator Packwood?

Senator PACKWOOD. I consider your answer to the last question a blessing. I have no questions.

The CHAIRMAN. I thank you very much.

[The résumé of Mr. Mundheim follows:]

RÉSUMÉ OF ROBERT H. MUNDHEIM

Mr. Robert H. Mundheim is the Fred Carr Professor of Law and Financial Institutions at the University of Pennsylvania Law School and Director of its Center for Study of Financial Institutions. He also holds an appointment in the Wharton School as a Professor of Finance.

He is a member of the American Law Institute and a consultant to its Project on Codification of the Federal Securities Law; a member of the American Bar Association's Committee on Federal Securities Regulation and chairman of its Subcommittee on Securities Markets and Market Structure; a member of the Advisory Board of the Bureau of National Affairs' Securities Regulation and Law Reporter, of the Advisory Board of the Review of Securities Regulation, and of the Educational Publications Advisory Board of Matthew Bender & Company, Inc. He co-chairs the Practising Law Institute's Annual Institute on Securities Regulation. He is also Vice Chairman of the Board of Investor Responsibility Research Center and an outside director of Weeden & Co., Inc.

Mr. Mundheim graduated from Harvard College and, in 1957, from Harvard Law School. He entered law practice in New York City with Shearman & Sterling. In 1962 he joined the Securities and Exchange Commission as a special counsel and participated in its study of mutual funds.

Mr. Mundheim started his academic career at Duke Law School in 1964. In January 1965, he was appointed to the faculty of the University of Pennsylvania Law School. He was a Visiting Professor at Harvard Law School during the 1968-69 academic year. In 1976-77 he is a Visiting Professor of Law at U.C.L.A. Law School.

Mr. Mundheim has also lectured at the University of Konstanz, Germany and, at the invitation of the Japan Securities Research Institute, has led a series of seminars in Tokyo on the securities markets and their regulation. He is also the organizer and director of an internationally-based group of scholars concerned with the regulation of securities markets and financial institutions.

Mr. Mundheim has been president of the University of Pennsylvania Chapter of the American Association of University Professors, served as a member of the University Senate Advisory Council, and as Counsellor to the University of Pennsylvania's Trustees' Committee on Corporate Responsibility.

Mr. Mundheim was born in Hamburg, Germany on February 24, 1933. He is married to Guna Smitchens and they have a daughter, age 9, and a son, age 7.

The CHAIRMAN. Next we will call Miss Azie Taylor Morton, nominated to be Treasurer of the United States.

Miss Morton, do you have a prepared statement?

**STATEMENT OF AZIE TAYLOR MORTON, NOMINEE TO BE
TREASURER OF THE UNITED STATES**

Ms. MORTON. No, sir.

The CHAIRMAN. Have you discussed any potential conflict of interests with both those in Treasury and those on our staff?

Ms. MORTON. Yes; I have.

The CHAIRMAN. Have you been advised that that has been resolved, or do you have any?

Ms. MORTON. That has been resolved; I do not have any.

The CHAIRMAN. I would like to ask, in connection with Mrs. Morton, that there be included a statement of her experience, which I find to be very impressive, and I have no further questions.

Senator Talmadge?

Senator TALMADGE. You did me the honor of stopping by my office for a visit, which I appreciated, and I think you are very well qualified for the job for which you have been nominated.

You discussed at that time the importance of the individual bond sale effort. I hope you will look into that carefully and appoint some competent individual, who operates full time, to coordinate the effort throughout the Nation in that regard. I think you will agree with me that that is a very important thing for this Nation to continue, do you not?

Ms. MORTON. Yes, sir.

Senator TALMADGE. Thank you very much.

The CHAIRMAN. Senator Curtis?

Senator CURTIS. Have you always lived in Texas?

Ms. MORTON. I was born in Texas and I lived there until I was about 23 or 24.

Senator CURTIS. What other States have you lived in?

Ms. MORTON. I have lived in Kansas, Missouri, and Virginia.

Senator CURRIS: That is all.

The CHAIRMAN. Senator Byrd?

Senator BYRD. Thank you, Mr. Chairman.

Mr. Chairman, I want to join with our colleague, Senator Bentsen, in commending Mrs. Morton. I have not had the opportunity to know Mrs. Morton as well as Senator Bentsen. I was much impressed with her when she came to my office, and we had a long talk.

Also, Mrs. Morton is a neighbor in Fairfax County of a valued member of my staff, my legislative assistant. He speaks most highly of Mrs. Morton and her family, so I am pleased to support her nomination today and to commend her to this committee, Mr. Chairman.

The CHAIRMAN. Senator Packwood?

Senator PACKWOOD. I have no questions.

The CHAIRMAN. Thank you very much.

[The biography of Ms. Morton follows:]

BIOGRAPHY OF AZIE TAYLOR MORTON, TREASURER OF THE UNITED STATES
(DESIGNATE)

Mrs. Morton was born February 1, 1936 in Dale, Tex. In 1956 she graduated cum laude from Huston-Tillotson College in Austin, Tex., followed by work as a high school instructor, as assistant to the President, Huston-Tillotson College and as administrative assistant to the Texas State FLO-CIO.

In 1961 Mrs. Morton came to Washington, D.C., where she worked on President Kennedy's Committee on Equal Employment Opportunity (1961-63) and the President's Committee on Equal Opportunity in Housing (1963-66). In 1966-68 she was with the U.S. Equal Employment Opportunity Commission in Austin, Tex. as an investigator and collector, and from 1968-71 she was Director of Social Services, Model Cities Program, Wichita, Kans.

From 1971 to 1976, Mrs. Morton was Special Assistant to the Chairman, Democratic National Committee. She was Vice Chairperson and Deputy Conference Manager of the 1974 Democratic Conference on Party Organization and Policy and was Deputy Convention Manager of the 1976 Democratic National Convention in New York City. Earlier this year, she also worked for several months with the U.S. House of Representatives Committee on the District of Columbia.

Mrs. Morton is married to James H. Morton and is the mother of two daughters, Mrs. Virgie (Morton) Clark and Stacey Dey. She has a 2-year-old granddaughter, Michelle Clark. Mrs. Morton is a member of Alpha Kappa Alpha sorority and is listed in the current editions of Who's Who Among Women Internationally and Who's Who Among Black Americans.

The CHAIRMAN. Next, we will call Mr. Charles F. C. Ruff, nominated to be Deputy Inspector General for the Department of Health, Education, and Welfare.

Mr. Ruff, have you discussed the potential conflict of interest problems with those in your Department, the White House, and those on our staff?

**STATEMENT OF CHARLES F. C. RUFF, NOMINEE TO BE DEPUTY
INSPECTOR GENERAL OF HEW**

Mr. RUFF. I have, Senator, and I have submitted a letter to the Secretary recusing myself from any matters that may pose such a conflict.

The CHAIRMAN. I would like to ask that a résumé of your biography that is available to the committee be printed in the record at this point.*

Do you have a prepared statement, or something that you would like to say for the committee?

*See p. 34.

Mr. RUFF. I have nothing prepared, Senator; I am prepared to answer the committee's questions.

The CHAIRMAN. Senator Talmadge?

Senator TALMADGE. Mr. Ruff, your position was created by this committee, as you know. It originated here after our staff, and many other committees of the Congress looked into the area of fraud and abuse in medicare and medicaid. It was estimated that outright fraud amounts to about \$1.5 billion a year in medicare and medicaid, and overutilization probably three times that amount.

We think that there is probably as much as \$6 billion a year of American tax money that is going down the drain through fraud, abuse and overutilization of these facilities. So, we think that yours is one of the most important functions in Government.

You have an impressive background. I hope that you will get various studies done by our committee staff and other committees who have been involved in the area, and consult freely with the staff members of the congressional committees affected. I think that that will be an enormous help to you in carrying out your duties.

I believe that we should get a few of these people convicted. We have a bill that this committee has also originated, as you know, making medicare-medicoid fraud a felony rather than a misdemeanor. When you get that statute on the books, if you send a few of the offenders to the penitentiary, you will do more and have a more salutatory effect on correcting some of these problems than anything that I can think of.

Do you concur on that?

Mr. RUFF. Absolutely, Senator. I recognize the challenge, and I look forward to working with the staff of this committee.

Senator TALMADGE. Thank you very much.

The CHAIRMAN. Senator Curtis?

Senator CURTIS. I notice by your résumé that you were with the Special Prosecutor's Office from July 12, 1973, to June of this year, and you ended up being Special Prosecutor. With one period in there, from June 30, 1975, to October 16, 1975, you were with the Drug Enforcement Administration.

Mr. RUFF. That is right, Senator.

Senator CURTIS. That is separate and apart from the Special Prosecutor.

Mr. RUFF. I was actually on the rolls as an Assistant Special Prosecutor, but I was detailed to DEA to serve as Acting Chief Inspector during that interim period.

Senator CURTIS. Was that a matter that was associated with the Special Prosecutor?

Mr. RUFF. No, it was not.

Senator CURTIS. What brought about this detailing you to this other service?

Mr. RUFF. It was not associated with the Special Prosecutor's Office, Senator. There was some turmoil at DEA during that particular period, during the summer of 1975, and the Attorney General asked me if I would serve temporarily in the office of Chief Inspector to attempt to reorganize the internal integrity function in that agency.

Senator CURTIS. You were back in the Special Prosecutor's Office as the Chief Prosecutor from October 17.

Mr. RUFF. That is correct, Senator.

Senator CURTIS. Is that when Jaworski left?

Mr. RUFF. That is when Henry Ruth left. Mr. Ruth succeeded Mr. Jaworski in October 1974 and served for approximately a year. I took over from him in October 1975 on a part-time basis. I continued to teach at Georgetown Law School.

Senator CURTIS. How are the releases handled by the Special Prosecutor's Office, the information that goes to newspapers?

Mr. RUFF. Very carefully, Senator. We have very few releases indeed. I think in the course of my service as Special Prosecutor, other than to notify the press that a public event was taking place—a trial, or some such hearing—we issued only one release, and that was in October of 1976.

Other than the final report of the Special Prosecutor's Office, it was my feeling—and, I know, the feeling of my predecessors and one that we adhered to without exception—that we would guard carefully and zealously the matters that were under investigation that were involved with the Special Prosecutor's Office. I think, if I may say so, that the Office had an unusual record of security in that regard.

Senator CURTIS. Very few leaks?

Mr. RUFF. None, that I am aware of.

Senator CURTIS. None?

Mr. RUFF. None.

Senator CURTIS. What appeared in the papers did go out with your approval?

Mr. RUFF. I am not sure that I understand the question, Senator. The only release that appeared in the paper with my approval was the release dated October 15, 1976, at the conclusion of the Special Prosecutor's investigation of the allegations concerning President Ford. No other matter other than multiple "No comments" ever appeared in the papers, or in any other public media, with my approval, or with my knowledge.

Senator CURTIS. This is what I was referring to. It developed, it was found, I believe, that there was no offense committed by President Ford.

Mr. RUFF. That is correct, Senator.

Senator CURTIS. The allegations related to some years before, did it not?

Mr. RUFF. As indicated in our release, the allegations covered the period from the late 1960's to early 1974.

Senator CURTIS. All of which would be outlawed by the statute of limitations?

Mr. RUFF. That is not correct, Senator. At the time of our investigation, as I have indicated—as I indicated in my release—the period covered by the allegations was within the statute of limitations.

Senator CURTIS. You did find that no offenses had been committed?

Mr. RUFF. That is correct.

Senator CURTIS. Why was this kept in the papers throughout the closing weeks of the Presidential campaign?

Mr. RUFF, Senator, I wish that I could have avoided—

Senator CURTIS. You just got through telling me that you had no leaks that you knew of.

Mr. RUFF. That is correct, Senator. In the nature of any criminal investigation, certainly one that covers the activities, or potential activities, of individuals in the public view, there is, I am afraid, an inevitable public nature to that activity.

We have an energetic press corps in this city, as you are more aware than I, and the story broke in the Wall Street Journal, I believe, September 21, 2 months after our investigation had begun, indicating, in fact, that it was underway.

It is my surmise that that story was a result of FBI interviews that were being conducted in Grand Rapids and other places, interviews that, in their nature, are susceptible to public disclosure.

Senator CURTIS. You may be innocent. I hope that you are; I am giving you the presumption of a doubt. But millions of people across this country whose opinion of the Special Prosecutor's Office fell greatly when what appeared to be a participation in the Special Prosecutor's Office to a political campaign.

I have no desire to defend wrongdoing in public office. On the other hand, I think if law enforcement people have a case, they should not wait months. They should do something about it and bring action, rather than keep it in the papers in the midst of a campaign.

I do not think that is fair to a candidate for Congress, for Senate, or certainly not fair to a President of the United States, a man who went through an investigation by the House and the Senate into his finances as well as his public and private life, as no other President has ever gone through, because he was the first one to be appointed and confirmed under the procedure. And certainly the Prosecutor's Office should take judicial notice of all of that investigation.

As I say, I am not judging. You may be innocent as you can be, but what happened when you were at the helm affected public confidence not for all of the people, maybe not half of them, but a near-half, that it was a participation by the Prosecutor's Office in a political campaign on a matter that never resulted in any finding of guilt.

Mr. Chairman, Senator Dole was very much concerned about this matter. He, like all of the Senators, has a heavy responsibility with other senatorial activity. He could not be here this morning.

If Senator Dole has any questions, would you return to be questioned?

Mr. RUFF. I would have no hesitancy whatsoever in returning for a meeting with Senator Dole—and indeed, yourself, Senator Curtis—at any time.

Let me say this. I regret it if any actions of the Special Prosecutor's Office in the last year of its existence detracted from what I view as a fairly widely held respect for that office. In my judgment, the Office conducted itself in a professional manner during the period of 1975 through 1977.

I was obviously no more pleased than anybody else that I found the Special Prosecutor's Office thrust into the middle of the campaign, certainly one for the Presidency. The matter was referred to me by the Attorney General of the United States. I viewed it as my profes-

sional responsibility to pursue it fully to the extent that it warranted pursuing.

I can assure you that my judgment to go forward was based on only the most careful consideration of all of the factors involved and a professional judgment—one with which you are free to disagree, but nonetheless, that I can assure you was made in a professional manner, that the matter had to be looked into if the integrity of the criminal justice system was to be maintained.

As I said, I would be glad to respond to any specific questions on this point that I can, either from you or Senator Dole or anyone else.

Senator CURTIS. What is the statute of limitations?

Mr. RUFF. Five years for most offenses; three years for some.

Senator CURTIS. When was it changed from 5 to 3?

Mr. RUFF. In 1974, Senator. The Congress of the United States, as an amendment to the Federal Elections Campaign Act, reduced the statute of limitations for offenses involving the making of illegal campaign contributions from 5 years to 3.

To the extent that investigation involved illegal campaign activity, the offense would have had to be brought in the form of either indictment or information within 3 years of the date of occurrence.

Senator CURTIS. Did the change in that law cause you to discontinue any investigations that were in your office then?

Mr. RUFF. I was not Special Prosecutor during the entire relevant period, but I know in fact, yes, certain investigations were halted as a result of the determination that the 3 year statute of limitations would bar any prosecution for the offense.

Senator CURTIS. Would one of those investigations involve Robert Strauss, the chairman of the Democratic Party?

Mr. RUFF. As indicated in the report of the Special Prosecutor's Office of October 1975, issued by my predecessor, Mr. Ruth, there was a certain impact on that matter arising out of the statute of limitations.

Senator CURTIS. Certain impact. Am I to assume that that was an impact favorable to Mr. Strauss?

Mr. RUFF. It was an impact, without being more specific concerning the exact issues that were under debate at the time. It resulted, in one way or another, in the decision not to go forward in that.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Senator Byrd?

Senator BYRD. I have no questions.

The CHAIRMAN. Senator Packwood?

Senator PACKWOOD. I do not quite follow that last answer. The statute of limitations exempted Ambassador Strauss, and you dropped the investigation?

Mr. RUFF. Senator, my last answer was vague out of necessity, I am afraid. A statement was issued in the October 1975 report that covered that matter, indicating that, in fact, one of the considerations in deciding whether to go forward with this investigation or not, was the statute of limitations.

I really do not feel that it would be appropriate for me to discuss the substance of the matter, or whether in fact someone had made a

judgment that an offense may or may not have been committed. I just feel that is outside my purview.

Senator PACKWOOD. Let me ask the question another way. The statute of limitations obviously barred you from going on and you did not have to make any other determination?

Mr. RUFF. That is correct; that puts it well, I think. Without reference to whether a substantive judgment would have been made, the statute of limitations would have barred us from going forward.

Senator PACKWOOD. Thank you.

Senator CURTIS. But there was a gap between the time of the effectiveness of the new law and the announcement made in reference to Mr. Strauss, was there not?

Mr. RUFF. That is true, Senator. The new law became effective essentially January 1, 1975.

Let me say that I was not actively involved in that matter, nor in the final decisionmaking process, so I really speak from wholly secondhand knowledge as to what the decisionmaking process was during 1975, in respect to that matter or any other.

Senator CURTIS. An announcement was made after January 1, was it not?

Mr. RUFF. I believe so, yes, sir.

Senator CURTIS. That is all.

The CHAIRMAN. Mr. Ruff, as Senator Talmadge has pointed out, the person who effectively pursues those who are ripping off the Government in the welfare, medicaid, and medicare areas can save the Government literally millions of dollars. We are saving Government money with our child support laws in pursuing fathers who are attempting to escape their duty to pay something in support of their own children. Through this effort millions of dollars are made available to Federal and State governments to help pay for those welfare programs.

That is only the beginning of what we are saving the Government, because of the deterrent effect of these efforts. Fathers are less likely to abuse the program when they read in the newspaper or hear by the grapevine that if you do not support your children, even though you have plenty of income to do it with, the Government is coming after you.

I, for one, would want to make these fathers do something to support their children. I hope very much that the person occupying the job for which you have been nominated will be active in that area and you will pursue it vigorously in cooperation with the U.S. attorneys and the State district attorneys to do that job.

As far as I know, you are fully qualified and competent to do this kind of job. Would you feel restrained in any way about pursuing legal recourse provided by the law against fathers who thus far have successfully escaped their duty to pay something in support of their children, even though they are well able to do so?

Mr. RUFF. I would certainly feel no constraint, Senator. Indeed, it seems to me that one of the principal functions of my office will be to see to it that we in fact will coordinate the activities of not only the Federal but State prosecutors in these areas. I agree with you entirely

that the deterrent effect of one or two of these cases or indeed, the fact that the program to enforce the law exists, is probably much greater than any recovery that we will actually obtain through the individual prosecutions or the civil suits that are brought.

The CHAIRMAN. That is one area where publicity serves a purpose.

Mr. Ruff, it seems to me that every father who has in mind trying to escape his duty to support his children, when he deserts a family or when he leaves, will be more inclined to do the right thing if he read in the newspapers where some father or some group of fathers are being prosecuted or at least pursued by the court and by the prosecuting attorneys.

Former Governor Ronald Reagan testified before us that out in California they prosecuted about 55 notorious cases of that sort out in California and 700 fathers came in and started making a contribution. So the effect is very favorable.

I hope that you will do what you can in that area, and you will find Mr. Bill Galvin of our staff to be a good consultant. Some people have a sort of faint-hearted attitude about pursuing runaway fathers; I do not think Mr. Galvin feels that way about it. I know I do not.

I was a poverty lawyer before the Government started paying poverty lawyers. I know the frustration of representing some mother with children in trying to get child support where the father has left town.

It was my privilege to work on the applicable laws and I believe that we have most of the the legal tools we now need. If we need more, I wish you would let us know about it.

Mr. RUFF. I will, Senator. I would be glad to meet with Mr. Galvin and talk to him about this issue.

The CHAIRMAN. Furthermore, Senator Talmadge is going to try to make the penalty for fraud and abuse under medicare and medicaid a felony and not just a misdemeanor, as is the case under the current law. In those programs we are told that fraud and abuse cost the taxpayers at least \$6 billion a year. I hope we can put some of the medicare-medicoid abusers in jail.

That is another area where I think publicity does no harm at all; the more the better with, of course, such limitations as are required in presenting matters to the grand jury, and that sort of thing.

With regard to the matter that Senator Curtis raised, I would like to have my memory refreshed a little bit about that matter.

Apparently, there was some investigation that did involve President Ford which occurred during the last part of the campaign. Is that what he is talking about?

Mr. RUFF. That is correct, Senator. It began in late July, 1976 and was ended on October 14, 1976.

The CHAIRMAN. Can you just give me some general idea about what the newspaper reports were about? I am trying to recall. I would like to have my memory refreshed about that matter, if I could.

Mr. RUFF. The newspaper reports began on September 21, 1976, with an article in the Wall Street Journal indicating that FBI agents were asking questions in Grand Rapids, Mich., and elsewhere, about alleged contributions made to the Congressional campaign of then-Minority Leader Ford and continuing through early 1974.

The newspaper stories, which ran for the next 3 weeks as the investigation continued were, I would say, in large measure inaccurate as to the exact scope of the investigation, but nonetheless did bring to the public's attention the fact that the Special Prosecutor was conducting an investigation that dealt with campaign financing of Congressman Ford, then-President Ford's, Congressional election.

On October 14, we concluded our investigation and with the agreement of the Counsel to the President, on October 15 we issued a two-page statement which laid out in very general terms the source and nature of the allegations and indicated what our investigation had uncovered and that we had no reason to believe any offense had been committed. The investigation was closed.

The intensive period of newspaper coverage was from September 21 to October 16.

The CHAIRMAN. I suppose from the point of view of a person running for office—I know it would have been this way in my case if I had been a candidate and the same thing would have happened to me, I would have wanted a statement of that sort at the earliest possible moment. I recall when the American Broadcasting Co. came out with a program right on the eve of qualifying for election in Louisiana. It seemed to me as though it were politically inspired, timed to be released right about the time we expected people to qualify for public office for the position for which I was seeking reelection. It was my good fortune that there were two U.S. attorneys in Louisiana, both of them appointed by a Republican President, who promptly issued a statement that not only was there nothing to that program, no merit to the suggestions of impropriety on my part. Those people at ABC had been up to discuss that matter with both those U.S. attorneys seeking information, and they have been advised that there was nothing to it. Having seen the program, both U.S. attorneys were more convinced than ever that there was nothing to it. It was a put-up job, and there was no merit to the accusations or the charges.

Would it have been possible for you to have gotten out a statement sooner in order to lay to rest the suspicion that was generated by that investigation?

Mr. RUFF. There was nothing I wanted more than to remove myself and the Special Prosecutor's Office from the midst of an election, and I admit to feeling the strong tension between the desire to close the matter down and deal with it publicly once and for all, and yet the professional responsibility to pursue whatever reasonable course needed to be pursued to determine whether there was any substance to it.

I had many conversations with the Counsel to the President, Mr. Buchen and his associates, during this period, a few weeks before the time we in fact closed the investigation. It was at their urging and with their full consent that I made an exception to what had been the continuing policy of the Office not to say anything in these matters and did issue that final report. I think I did it at the earliest possible date, consistent with my responsibility as Special Prosecutor to look into the matters that had been referred to me by the Attorney General.

Senator TALMADGE. Mr. Chairman?

The CHAIRMAN. Senator Talmadge.

... Senator TALMADGE. Mr. Ruff, my antifraud bill of last year would authorize several fraud prosecutions by HEW's General Counsel where the Department of Justice has not acted in a timely fashion.

What is your view of that approach to enhance prosecution?

Mr. RUFF. Senator, I believe that given the paucity of resources of the Justice Department and the U.S. attorney's office to deal with what I hope will be the massive use of the civil sanction in order to do something about fraud and abuse in HEW programs, that it would be an excellent idea to empower the General Counsel of HEW to undertake that responsibility.

Senator TALMADGE. Not to take it?

Mr. RUFF. To take it.

Senator TALMADGE. I concur fully.

I have no further questions.

The CHAIRMAN. Senator Dole?

Senator DOLE. Mr. Ruff, you are a Democrat, are you not?

Mr. RUFF. I have been a registered Democrat; I remain a registered Democrat, Senator, that is right.

Senator DOLE. You were while you were Special Prosecutor?

Mr. RUFF. That is correct.

Senator DOLE. You had more than a passing interest in what happened in the election?

Mr. RUFF. To the extent that the question implies a partisan motivation for my conduct, my interest was that of any other citizen watching what was happening and taking an interest in national policy.

Senator DOLE. In the post of Deputy Inspector General, will you have the same policy of leaking information to certain members of the press that might have a different view than other Americans to make sure that the message gets out? Will that be your policy in your new venture?

Mr. RUFF. Senator, I have never, never leaked any information to the press at any time about any matter. I would consider it a violation of my professional responsibility as a lawyer and as a prosecutor to do so.

I have never done so. I would never release to the press in the position for which I have been nominated any information which was not justifiably in the public arena.

Senator DOLE. Did you ever determine who did do this on a daily basis in your office, or someone who was in your office? Did you ever investigate?

Mr. RUFF. Senator, as far as I know, there were no leaks in our office. On a number of occasions on which issues appeared in the public press that seemed to have emanated from persons with knowledge of our business—in the course of the whole history of the Special Prosecutor's Office there were some two or three occasions when that occurred, investigations were conducted to determine whether there had been a leak.

To my knowledge, they never indicated that such a leak had occurred.

During the period of 20 months in which I was Special Prosecutor I would assert that no such leak ever occurred about any matter within the jurisdiction of the Special Prosecutor's Office. In the nature of our

business, much of what we did was subject to very close public scrutiny by the press and by others. Much of what we did, by its nature, and the nature of any other criminal investigation, had the potential for public disclosure and did, in fact, appear on occasion in the paper certainly most frequently during those few weeks in September of 1976, but I can assure you, I can assure you this: On my responsibility as a professional and as a Special Prosecutor during those months, nothing came from my Office.

Senator DOLE. I just raised that question because there was some doubt in my mind, and others, as we look back at last year. I am sorry I missed what Senator Curtis may have raised. Whatever success you had will probably never be known.

The power to investigate is also the power to destroy. I hope you understand that.

Mr. RUFF. I was never more appreciative of that than during the 20 months I spent as Special Prosecutor. I can assure you that every step I took was with full cognizance of just what power it was that my Office held.

Senator DOLE. With particular reference to just the past few days I do not know all the facts regarding the Budget Director, but it is surprising how quickly things can happen in this Capital if the right people want it to happen and how slow it can happen in the Nation's Capital if the right people really do not care.

It suggests to some of us with firsthand experience of trying to explain to the press what may have come to the Special Prosecutor's office, I am talking about my own case, and when you look, even more dramatically, at the case of President Ford, which dragged on for almost a month, you can understand why we just might have some little doubt about the way things do happen.

Mr. RUFF. Senator, I understand the suspicion and the doubt and I suppose ultimately there is very little I can do to assuage that doubt other than assure you that nothing concerning yourself or the President or any other person who may have been subject to an investigation in that office was ever leaked to the press. And to the extent that you may have information that would indicate to the contrary, I am sure that the Attorney General would be willing to look into those allegations.

Senator DOLE. Were you teaching at the time of the Ford investigation?

Mr. RUFF. I was, Senator, yes.

Senator DOLE. Did you ever indicate to anyone there that you thought that this could really hurt President Ford's efforts to be reelected?

Mr. RUFF. I do not remember—it was certainly uppermost in my mind that what I was doing could not help but have an adverse impact on the election chances of any candidate who was the subject of an investigation when that investigation became a matter of public knowledge.

Senator DOLE. I will take your word for it, which is more than I can say for some of the prosecutors. I think that when you look back, when we get away from Watergate, get far enough back to look at

what happened in this area, that many people suffered unjustly and it may have had some impact.

I am not trying to read into it any great consequences, but it seems to me if you are personally involved, you may react differently than if you are not.

Mr. RUFF. Without question, Senator. Let me say that I agree with you that many people, as a result of perfectly legitimate, justifiable investigative and prosecutive activities in the last few years, have been injured unjustly.

Let me say, too, that that leads me to the very firm conclusion that we ought not to have Special Prosecutors except at moments of constitutional crisis. Let me say that it was never my intention, and I know never the intention of any member of my staff or my predecessor's staff to do anything which would, in fact, unjustly impact on any individual.

As I said, beyond that assurance, I am not certain that I can do more to deal with the concerns which you quite legitimately may have.

Senator DOLE. My only concern—and I guess we could get into an argument and I could be offended forever, but it just seems to me that you are going to be entering another very delicate position.

I accept your statement that as far as you know that nothing happened. That is history. Now we are going into another delicate area where I assume other reputations may be on the stake—maybe not in a political way. In politics, we learn to accept a good deal. We do not always like it, but we learn to accept the bias of some of the media and we learn to accept what their motives may be and what their objectives may be. They are not always as pure as the driven snow, as you may have learned in a Special Prosecutor's life.

Mr. RUFF. I understand, Senator. Indeed, the Special Prosecutor's Office is not immune from some of the same press attention that was devoted to those whom we were investigating.

Senator DOLE. In some respects, I'm sharing to some extent what Senator Ribicoff was quoted as saying yesterday—I am not a member of the Government Affairs Committee, but there is a sort of pervasive atmosphere that somehow we have to go out and get everyone.

I am not suggesting that it was the attitude of your Office, but that was the attitude of the stories that came from somewhere, particularly those of us who were engaged in politics last year, particularly the reference to President Ford.

It just seemed to me that the investigation was a matter that should have been disposed of in very short order.

I noted earlier this year when one of the White House aides, Greg Schneider, was questioned about something it was cleared in 3 or 4 days. Here is a lower-echelon assistant in the White House, but when the President is involved before the election it takes 3 weeks. It is hard for some of us to understand why it takes so long in one instance but why we can move so quickly when it involves somebody else who happens to be in another party and another administration.

That was not your investigation.

Mr. RUFF. As I indicated, Senator. I would have liked nothing more than for it to have been disposed of more quickly than it was. All I can

tell you is that I made my best professional judgment and it was uncolored by my party registration or any other partisan concern.

Senator DOLE. Have you read the latest Ripon Society pamphlet of how President Ford may have been set up by somebody from the Seafarer's Union? Who made the complaint?

Mr. RUFF. I am not in a position to identify the individual. As I said in the release that we issued last year, he was an individual who, after investigation, we determined had no motive, at least as far as we were able to tell, to engage in the kind of setup that the Ripon Society may have referred to.

Senator DOLE. Have you read the latest Ripon pamphlet?

Mr. RUFF. No, I have not.

Senator CURTIS. When was this matter referred to you?

Mr. RUFF. Late July 1976.

Senator CURTIS. He is talking about 3 weeks. That sounds like 3 months.

Mr. RUFF. We were investigating for approximately 2 months before the matter became public and then 3 weeks in addition to the September 21 Wall Street Journal story.

Senator CURTIS. It took 3 months to run this down?

Mr. RUFF. It did. Without going into detail, it was a complex matter. I want to assure you that not only the legal staff but the investigative staff of the FBI devoted their energy more than full time to this matter during the period.

Senator CURTIS. I am sure they did. I am sure that every resource that could be commanded was put at it full time and asked to do it over and over again, check it and double check it. That is what our complaint is all about.

Senator DOLE. The timing is good.

Senator CURTIS. It ripened up just at the logical time.

The CHAIRMAN. Frankly, Mr. Ruff, it does cause me to wonder why this matter, if it was going to be done, could not have been held in abeyance until the election was over. I know through my office, we at one time suggested to a U.S. attorney that he was going to be accused of political persecution if he took a case before the grand jury right in the middle of a campaign and that he would be well advised to wait until after the campaign was over and then move with his case.

It occurred to me, and I am sure that it occurred to you, that perhaps you might have held up this matter of sending out the FBI to investigate President Ford until after the election. Did you consider doing that?

Mr. RUFF. Of course, Senator, that was the first choice that I was faced with making. The matter was referred to me by the Attorney General in July with some basic information about the allegation. I conducted a preliminary investigation, attempting to ascertain whether there was any basis for going forward without any risk of public revelation of this investigation.

I think the 2 months that passed before the newspaper story ran is indicative of the extent that we tried to hold this within bounds.

Any prosecutor faced with an allegation of criminal activity is going to be confronted with that initial very difficult question: Do you go forward now with the risk that it entails, that all prosecutors recognize it entails, to the individual being investigated? Do you wait until

after the moment of crisis is passed, the election or whatever it may be, and be accused, on the other hand, of delaying for the same partisan reasons that one might be accused of for having gone forward.

Putting that aside, there was a much more practical concern—one that Senator Curtis raised earlier—that for a number of the allegations, the statute of limitations was only 3 years long, and to have waited another 3 or 4 months would, in my judgment, have been a dereliction of my duty.

There are those who would disagree with me—I know that there are some here. All I can tell you is that there was no consideration more on my mind than the impact of what I was doing to a Presidential election. It was the toughest professional judgment I have ever had to make. I believe I made the right one.

Obviously, Senators Dole and Curtis and others may disagree. All that I can do is once again reiterate my assurance that it was not par-tisanly motivated.

The CHAIRMAN. Maybe you did make the right judgment—I am not saying you did not. I am just exploring this matter as one who was not involved in the campaign—at least I was not involved in helping President Ford one way or the other. I have been on both sides of these things and I have seen those types of last minute things done to people, I have had them done to me.

I think all of us agree that it is extremely unfair to have some kind of unsupported charge or rumor released against a man right on the eve of an election when it is impossible for a person to completely wipe the charge out of the public's mind in short order.

You indicated that the statute of limitations might run. Would you really have had any problem, especially if you would have offered President Ford the opportunity to sign a waiver. We think in fairness that this matter should not have been looked into until after the election.

Did you explore, with the President or with his people, the possibility of just doing what you do with so many others, just obtaining a waiver for the jurisdiction of the statute of limitations so you could look into the matter further?

Mr. RUFF. No, I did not, Senator.

The CHAIRMAN. Looking back on it now, would it seem like that might have been a good idea?

Mr. RUFF. Sir, there were other considerations at work here that I am reluctant to go into that led me to conclude that the investigation must go forward at that point.

Looking back on it, attempting to reconstruct events of 1976, I am still not certain that I would have taken the course you suggested.

The CHAIRMAN. I gain the impression that the law has now gone so far with the idea that it is better to turn 99 guilty men loose unconvicted than send to jail 1 who is innocent. If the law is going to be that solicitous of those who are in fact guilty, in protecting their rights, I find myself wondering, when you are dealing with a mere suspicion or an unconfirmed allegation and you proceed with it in such a fashion that that could cost a man the election to the highest office in the land, even though subsequently you may find nothing to it, that you certainly should have considered telling the President that

unless he signed a waiver that you would have to send the FBI out to investigate this matter.

If that were the case, I do not think you would have had any problem at all with regard to the waiver.

We have had many agents of this Government who have done a very good job of keeping things close to their bosom until they have had all the facts. For example, there was absolutely nothing disclosed during the whole time the Joint Committee staff worked on the President's income tax returns. If there was anybody to leak it, it would be a Senator to leak it. There were no leaks from the staff. They did a fantastic job. That was one reason, when they reported it—I wanted to release the report immediately to the press, knowing that those things tend to leak once in a political forum.

I can understand, and I am sure you do, why those involved, like Senator Dole, running for Vice President, a man innocent of any mischief or wrongdoing, yet having 3 weeks of that publicity during the course of his campaign.

Mr. RUFF. I understand entirely, Senator. As I said, I wish I had never been in the position of having to do what I did. Let me just say, as I said to Senator Dole, nothing, absolutely nothing, appeared in the newspapers or anywhere else other than the final release which we sent out with the concurrence of the President's Counsel that came from my office.

Unhappily enough, it is just impossible for the FBI to go about its normal investigative business without somebody out there knowing the subject matter of the investigation and taking it upon themselves to talk to a member of the press. I wish that were not the case. For 2 months it was not the case with our investigation and I can only say that in those last 3 weeks we moved as rapidly as I professionally thought I could to get ourselves out of the political business that we found ourselves totally, and unwillingly, enmeshed in.

I wish I had never been in it to start with.

The CHAIRMAN. As a prosecutor—and I am sure you are a good one; if you were not we would not want you for the job, I am sure you are thoroughly familiar with the theory that a person in criminal law has to be presumed to have intended the consequences of their act.

You just testified here that you think where this thing got into the press was when the FBI went out to ask questions. Could not you have reasonably anticipated that the FBI interviews would find their way into the press?

Mr. RUFF. I was amazed that it took 2 months for the story to break, and every morning I woke up anticipating that there would be a call that day saying, "Is it not true that you have people out in Grand Rapids investigating President Ford?"

It seems to me that the people in Grand Rapids who were being talked to exercised admirable restraint. As I said, I am amazed that it took as long to break as it did.

I just saw no professional alternative to the course that I was following, recognizing the impact that it would have. Indeed, I have said publicly and before a committee of the House, and the press, since I left this Office of the Special Prosecutor, that the Ford investiga-

tion is a very good example of one reason why one ought not to have in place a special organization to whom the Justice Department can turn and say, "Take this; it is a hot, political potato and do what you have to do with it."

Those are judgments that have to be made by the people who run the day-to-day business of law enforcement in this country. I think that Attorney General Bell feels the same way about it.

Beyond that, I am not certain that I have anything more substantive that I can tell the committee.

The CHAIRMAN. Did you discuss that decision with Mr. Jaworski or others, someone you could turn to whom you admired and whom you respected before you made that decision to send the FBI out to investigate this matter?

Mr. RUFF. Senator, I was in the sometimes-enviable, most times-unenviable position of not having anybody I could turn to for advice, certainly not on a matter of that sensitivity.

The CHAIRMAN. How about Mr. Jaworski. He had been your boss at one time. I think you could have discussed it with him.

Mr. RUFF. Mr. Jaworski was a private citizen at the moment I had need of his advice. I did not feel it was appropriate to discuss it with anyone who was not an employee of the Special Prosecutor's Office.

The CHAIRMAN. Do you mean to tell me, when you had a decision to make where, if this thing leaks out into the press, and assuming the man you were investigating is as clean as the driven snow, that that could defeat the man for the highest office in the land, and surely it might have pulled at your conscience when you made that decision; only your conscience could tell you if you made a mistake.

In a situation like that, if you have somebody you completely admire with whom you had confidence, you could not have discussed it with the man because he was not a Government employee?

Mr. RUFF. I thought that, in this matter, simply because it was as sensitive as it was, that the judgment was mine, that the possibility of discussing it with anybody outside my office, extending beyond the small group of people who were already aware of it, the very fact that an allegation had been received was something I could not possibly do.

After the matter became public, I did discuss it with a number of people whose judgment I respected the manner in which the Office ought to conduct itself. Before the matter became public, it was my judgment that I could not appropriately do so.

The CHAIRMAN. Thank you very much.

Senator CURTIS. Mr. Chairman, I have another question.

What was the complaint given about President Ford to you?

Mr. RUFF. The allegation, as indicated in our statement of October 15, was that certain unions had set up a procedure whereby funds would come out of the union treasury, or the union political account, to committees engaged in supporting the reelection campaign of then-Congressman Ford, that those moneys then or after accrued to his personal benefit.

Senator CURTIS. Could that not have been determined in 2 weeks' time?

Mr. RUFF. I wish it could have, but unhappily enough, it could not.

Senator CURTIS. I think that it could have been. You were Special Prosecutor until June 20?

Mr. RUFF. That is correct. Until the day that the office closed, Senator.

Senator CURTIS. Were you Special Prosecutor when the news stories broke concerning the Democratic majority leader in the House of Representatives, Jim Wright, that had raised some questions about \$100,000 political money?

Mr. RUFF. That would have been 3 weeks or so ago, Senator.

Senator CURTIS. It was earlier than June 20.

Mr. RUFF. If it was earlier than June 20, I was. I do not remember the date.

Senator CURTIS. Nothing was done about that, was it?

Mr. RUFF. Nothing was done about it?

Senator CURTIS. From the Special Prosecutor's Office.

Mr. RUFF. The matter is in the jurisdiction of the Public Integrity Section of the Justice Department.

Senator CURTIS. Of what date?

Mr. RUFF. A year ago, the whole Korean investigation in the Justice Department.

Senator CURTIS. I do not know if this had anything to do with the Korean investigation, the newspaper stories did not imply it, and I do not know if it is true or not.

Mr. RUFF. Perhaps we are talking about a different matter. The matter was, in any event, not in the jurisdiction of the Special Prosecutor's Office.

Senator CURTIS. You had no jurisdiction?

Mr. RUFF. No, sir.

Senator CURTIS. When did your jurisdiction expire?

Mr. RUFF. It is not that our jurisdiction, our existing jurisdiction did not continue to operate until June 20; our jurisdiction was limited to certain matters arising out of the 1972 campaign, Presidential appointees, and so forth, in addition to those matters that were specifically referred by the Attorney General of the United States.

The Attorney General did not approach me with respect to the Wright matter. In fact, Mr. Bell has never approached me concerning any matter that he wanted to refer to my office.

Senator CURTIS. Did Attorney General Levi give you this complaint and ask you to prosecute?

Mr. RUFF. Attorney General Levi referred the matter to me under the regulations that governed the existence of my office with the request that I assume jurisdiction of it. I discussed it with Deputy Attorney General Tyler and agreed to assume that jurisdiction.

Senator CURTIS. When it was turned over, was it supported by sworn statements?

Mr. RUFF. No, it was not. However, in the initial period of our investigation, I devoted my energies to determining whether or not there was any possible substance to the allegation, whether it warranted our going forward.

Senator CURTIS. You could have asked that that complaint be sworn to, could you not?

Mr. RUFF. Not initially.

Senator CURTIS. Why could you not? I served for years on the Committee on Rules and Administration of the Senate and the full Committee on Privileges and Elections. We always experienced, during September and October, usually in October—and I think many of the people were well-meaning people, they would write into the Special Committee on Privileges and Elections and tell us of some wrongful act that their opponent was doing, or maybe it was a private citizen.

We had a standard procedure, because we were right in the midst of an election, you reduce it to writing and sworn statement and we will take jurisdiction. Most of the time, no one was willing to go before a notary public and hold up his hand and swear to it.

It seems to me that there was an awful lot of commotion based on an unsworn complaint.

Mr. RUFF. Senator, to accomplish exactly the same purpose which you tried to accomplish in that committee, sir, we conducted a substantial preliminary inquiry to determine whether there was, in fact, any justification for even opening the investigation in this matter.

I cannot go beyond that in discussing the substance of it except to say to you that there was no greater concern during those early weeks that I had that in fact we were somehow being used with malice aforethought for political purposes.

I did my best to determine if, in fact, that was so.

Senator CURTIS. You were aware of the very thorough questioning and research that President Ford had gone through in his confirmation by the House and the Senate, were you not?

Mr. RUFF. I was thoroughly familiar with that. I read the reports. Indeed, the President's Counsel made available to our office much of the matter that had been submitted the Congress in connection with his nomination to the vice-presidency.

Senator CURTIS. Senator Dole.

Senator DOLE. Are you going to write a book?

Mr. RUFF. Absolutely not, Senator.

Senator DOLE. You might be missing a good bet.

Mr. RUFF. That was a vow I made to myself, and anybody else who had listened to me a long time ago, that I would not add my name to the long list of Watergate authors.

Senator DOLE. Do you know Mr. Jesse Calhoun?

Mr. RUFF. Yes; I do.

Senator DOLE. Did you ever talk to him about President Ford's case?

Mr. RUFF. Senator, you place me in a difficult position. I think I am incapable of responding to your question, at least under the present circumstances.

Senator DOLE. The record ought to show that, in the spring of 1976, Mr. Carter met privately with Jesse Calhoun, who was the President of the Maritime and Marine Engineers Beneficial Association. Following that meeting, Carter sent Calhoun a letter endorsing increased subsidies for the U.S. Merchant Marine, stating that the American fleet should be manned by civilian seamen trained in industry schools.

This was later a subject of "60 Minutes" by Dan Rather on October 3. On June 4, 1976, a week and a half after Carter's letter to Calhoun, Carter's campaign received in a single day a total of \$25,000 from the

maritime officials, nearly all associated with the MEBA, and then, on June 30, 1976, Jesse Calhoun sponsored a fundraiser for Mr. Carter in Washington. It raised well over \$150,000 for Mr. Carter. By then almost certainly he was going to be the Presidential nominee of the Democrats.

The Ripon Society says, in the summer of 1976, one or more maritime informants went to the Special Prosecutor, Charles Ruff, with allegations that Gerald Ford had converted maritime union contributions to his personal use while still a Congressman.

Is that an accurate statement?

Mr. RUFF. The last part is not. I have no personal knowledge with respect to the earlier portion. The identification of the one or more maritime informants is not an accurate representation of fact.

Senator DOLE. You never met in the summer of 1976; however you designate them, anyone who had an interest in Gerald Ford contributions that may have been made by the maritime unions?

Mr. RUFF. I am not sure that I understand the question.

Senator DOLE. Did you ever meet with anyone before or after the communication with the Justice Department who came from either Mr. Calhoun, MEBA, or some other maritime union, about allegations concerning improprieties by President Ford?

Mr. RUFF. Once again, Senator, I am afraid I am in a position where legally I cannot respond to that question.

Senator CURTIS. Legally you cannot?

Mr. RUFF. Yes, Senator Curtis.

Senator CURTIS. Would you explain that?

Mr. RUFF. I am afraid that we are getting into areas that are governed by the rules relating to grand jury secrecy.

Senator DOLE. I did not know that there was any grand jury secrecy. I did not notice any when my name was bandied about. I noticed it was very selected.

Senator CURTIS. Was the Ford matter ever before a grand jury?

Mr. RUFF. Yes, it was, Senator. I am unable to go beyond that in terms of the specifics.

Senator CURTIS. You cannot tell us—we have not asked for the content of the conversations. We are asking you whether or not, whether Calhoun, whether or not you ever talked with Calhoun about the Ford matter.

Mr. RUFF. I am sorry, Senator.

Senator CURTIS. I think you could answer that yes or no.

Mr. RUFF. I am sorry. I am simply unable to respond to that question for the reasons I have indicated.

Senator DOLE. You are aware that Mr. Calhoun, whether you talked to him or not, had a rather direct interest in the outcome of the election, were you not?

Mr. RUFF. I was aware of the relationship between the maritime unions generally and the 1976 election; yes.

Senator DOLE. Did you ever investigate any of those contributions?

Mr. RUFF. To the 1976 election?

Senator DOLE. Yes. You did not have any jurisdiction?

Mr. RUFF. I did not have any jurisdiction over that matter.

Senator DOLE. I am going to ask that all of the Ripon information be put into the record. After the Congress approved cargo preference

legislation, President Ford pocket-vetoes the bill on September 30, 1974, on the grounds that it would be inflationary.

I can understand why Mr. Calhoun was looking for another President. He was looking for someone to make a commitment; and after someone made the commitment, the money came flowing in. Many of us feel that in addition to the money that came flowing in, a lot of rumors came flowing in and somebody acted on those rumors and embarrassed the President of the United States.

We can all say that is too bad. We are all good guys; we are all Republicans, just run over us anytime you like. We are talking about the President of the United States.

I assume if the tables were turned, it could happen to President Carter. It could happen to Bert Lance, or anybody else.

So there is a matter at stake here that I think is highly important.

Mr. RUFF. I could not agree with you more.

Senator DOLE. I understand that; of course, Ford lost the election. It has been estimated that the dragging out of this investigation and massaging it and torturing it to death may have cost the President 3 or 4 points over all. This may have been enough to make the difference. Not only was it important, it could change the course of history.

I cannot attribute anything to you, because you cannot tell us anything. But somebody in your office could tell everybody else everything.

How many were in your office during the Ford investigation?

Mr. RUFF. A total staff of between 15 to 20.

Senator DOLE. Were there any Republicans in that group? I doubt it.

Mr. RUFF. I did not know the political affiliations of people on my staff.

Senator DOLE. Who was assigned to investigate the allegations made about President Ford?

Mr. RUFF. Myself and three other attorneys on my staff.

Senator DOLE. Could you give us their names?

Mr. RUFF. Yes. John Liteck, who is presently an attorney in the Fraud Section of the Criminal Division; Alan Edelstein, who is no longer with the Federal Government, a resident of Harrisburg; and John Sale, who is presently a professor at Nova University Law Center in Florida.

Senator DOLE. Well, I think that the point is that strangely, just as candidate Carter's lead was disintegrating—came all of the rumors. I would not suggest that you know anything about that. Then came the press reports, then came the investigations, then finally on October 15 came the exoneration.

We can only speculate about the political impact, but it just seems to me that MEBA had good reason to do in President Ford because he pocket-vetoes a bill that they were interested in.

The questions that probably are unanswered would be in the secret meeting with Calhoun. What, if anything, Jimmy Carter promised him in return for needless political support? I do not suggest that you know the answer to that question. I do not know anybody who knows the answer.

Second, did maritime union officials inspire the investigation of Ford by the Special Prosecutor? It seems to me that that ought to be a matter of public record.

If we can involve the President of the United States, which might have led to his defeat, at least we could answer yes or no to a question of whether or not it was inspired by those officials.

Mr. RUFF. That is a question I can answer yes or no to; it is no, it was not. At least to my knowledge.

Senator DOLE. You cannot tell us who it was?

Mr. RUFF. I cannot disclose to you who spoke to us. I can tell you, at least to my knowledge, this was not an inspiration in the sense of any reference to the maritime unions.

Senator DOLE. The logical question would be, however it was inspired, was it done with the knowledge of acquiescence of anybody on the Carter campaign, or candidate Carter himself? You know, the stakes were high. There is no doubt on my mind, being out on the campaign trail during that period, about the only questions we were asked, do you think President Ford is involved? What do you think? How soon is it going to be resolved?

It seems to me that it had to have an impact. We are not going to have a recount here this morning, but I think we have someone, whether you like it or not, who was directly involved in the campaign.

You do not have any doubts about that?

Mr. RUFF. I have none, to my everlasting regret, Senator.

Senator DOLE. You are getting a pretty good job.

Mr. RUFF. To the extent that that suggests, either from my point of view or the point of view of the Carter administration, that I am in some sense being recompensed for activities that I engaged in as Special Prosecutor, I absolutely deny that any such implication is justified. I did not seek out this position initially. I was approached by a representative of HEW and asked if I would be interested in it. I indicated that I would be, but other than to tell you is that I think my professional reputation means more to me than any possible compensation for conduct that I may have engaged in as the Special Prosecutor and to say to you if I thought there was any possibility of that being the case that the Carter administration felt that somehow it was rewarding me, I would not hesitate to say that I would not accept this position.

Senator DOLE. Let me say to you that there are those of us who have the same feelings, and we have the same outrage, when we are accused indirectly or directly of committing some crime and letting it roll around in the press, and there were certain members of the press who had a field day for about a week or two weeks and about a month in Ford's case.

I do not suggest that—I think for the most part they were searching for the truth, and they have every right to do that, but there are always some who have other motives that you cannot reveal, because that would infringe upon other freedoms that we have.

All I can say as one on the receiving end, directly on the receiving end, I feel probably as injured as you may feel right now, only we are in a different place. We had to run for office. It was not coming before some committee and being confirmed. We had to deal with every item on the nightly news. We had to answer questions about something we did not know anything about, what might be coming out of the Special Prosecutor's Office—or at least, that is what we heard. You said that did not happen. I cannot understand where it originated.

It just did not come from up there someplace. It had to come from somewhere, and the grand jury proceedings are secret, and if everything that happened in your office is secret, then there is no way anybody could have found out unless somebody told them.

Mr. RUFF. That is not quite so, Senator. As I have indicated, in response to earlier questions, any time that a Federal investigator, or any investigator, asks a member of the public questions about an ongoing criminal investigation, that member of the public is obviously free to discuss that investigation with anyone. I do not know who it was who gave the original information to the press that resulted in that disclosure on September 21. I can tell you that it was not anyone connected with our staff.

We can exchange these suggestions and assurances on my part, and I will take an oath to the veracity of what I assure you. Beyond that, I am simply not capable of assuaging your concerns in this area.

Senator DOLE. I would ask, Mr. Chairman, that the full text of what I was reading from be made a part of the record.

[The statement referred to follows:]

WASHINGTON WINDOW—CARGO PREFERENCE: CARTER'S MILK FUND?

Despite the Carter Administration's oft-repeated declarations of political rectitude, the Administration seems knee-deep in a series of questionable transactions that could dwarf the Milk Fund Scandal of 1972. That scandal, one of the least seemly of the various episodes grouped under Watergate, involved the bartering of campaign contributions by dairy interests for Nixon Administration moves to raise dairy price supports.

The Milk Fund Scandal led to the indictment and near political ruin of the most charismatic Treasury secretary since Alexander Hamilton. It also contributed to the Nixon Administration's downfall, although impeachment articles related to the Milk Fund Scandal were dropped from the House Judiciary Committee's report to protect prominent Committee Democrats who had reaped huge contributions from the dairy interests.

The Milk Fund episode may be penny ante politics compared to a scandal enveloping the Carter Administration concerning the obscure issue of "cargo preference." The beneficiaries of the Nixon action to raise price supports included tens of thousands of generally moderate income dairy farmers. President Carter's decision to support cargo preference legislation will benefit a much smaller and much better heeled group, already heavily-subsidized U.S. ship-owners and shipbuilders and their allies in the maritime unions.

The cargo preference position recently adopted by Carter would require that between 4.5 and 9.5 percent of foreign oil shipped to the United States come on American flag ships. By some calculations, Carter's decision will cost the American consumer over \$7 billion by 1982. Administration economist Jerry Jasinowski, whose weighty credentials include the authorship of the Humphrey-Hawkins bill, insists that Carter's action will cost the American consumer only a little over a billion dollars.

Whatever the dimensions of the ripoff of the American consumer sanctioned by Carter, the only basis for his decision was political—as consumer advocate and former Maritime Administrator Nicholas Johnson has charged. In addition to soaking the American consumer, Carter's decision also has triggered severe apprehensions among our European allies, particularly Great Britain. Along with Scandinavian governments, the British feel the action violates free trade guarantees made by Carter at the recent London Summit Conference.

Underlying the Administration's cargo preference decision is the huge debt Jimmy Carter owes the maritime unions for his election victory. In fact, clandestine actions by the maritime unions may have torpedoed Ford's comeback surge. The chronology of events in the cargo preference story follows this sequence:

Gerald Ford as House minority leader was the recipient of campaign contributions from two maritime unions, the Seafarers Union and the Marine Engineers

Beneficial Association. While a member of Congress, Ford was a consistent supporter of maritime industry causes, including cargo preference.

In the 1974 congressional elections, the maritime unions shelled out over \$1.5 million to candidates sympathetic to their position on cargo preference.

After Congress had approved cargo preference legislation, President Ford pocket vetoed the bill on December 30, 1974 on grounds that it would prove enormously inflationary.

In the spring of 1976, Jimmy Carter met privately with Jesse Calhoun, powerful president of the Marine Engineers Beneficial Association. Following the meeting, Carter sent Calhoun a letter endorsing increased subsidies for the U.S. merchant marine and stating that the American fleet "should be manned by civilian seamen trained in industry schools." As Dan Rather pointed out October 3, 1976 on "Sixty Minutes," the interpretation of "industry schools" is union schools, schools like the Calhoun School of Marine Engineering—as opposed to the Merchant Marine Academy. Calhoun's union has, Rather's report suggested, waged a consistent effort to close down the Merchant Marine Academy and to exclude its graduates from jobs on union ships.

On June 4, 1976, a week and a half after Carter's letter to Calhoun, Carter's campaign received in a single day a total of \$25,000 from maritime officials, nearly all associated with the Maritime Engineers Beneficial Association (MEBA). On June 30, 1976, Jesse Calhoun sponsored a fundraiser for Carter in Washington. Well over \$150,000 was raised that day for Carter, by then the near-certain Democratic presidential nominee.

In the summer of 1976, one or more maritime union informants went to Special Prosecutor Charles Ruff with allegations that Gerald Ford had converted maritime union contributions to his personal use while still a congressman.

Just as Carter's lead was beginning to disintegrate in the fall, maritime union officials began to leak stories about Ford's problems with the special prosecutor. In late September, press reports about this investigation of Ford placed the President on the defensive and undercut Ford's strongest political advantage, his reputation for personal integrity. One can only speculate as to the political impact of this decelerating force on the Ford campaign, but it may have produced a net shift of 3-4 percent of the November vote.

Fearing that Carter as President might reverse his campaign position on cargo preference, maritime industry and union officials organized a massive media blitz to plug cargo preference legislation. Hired to direct this advertising was Gerald Rafshoon, who had organized Carter's campaign advertising and who now serves as a private consultant to President Carter.

In early July of this year, the White House announced Carter's support for cargo preference. The President's decision came over the objection of the State Department, the Defense Department, the Treasury Department, and the Office of Management and Budget.

If these events had revolved around Richard Nixon rather than Jimmy Carter, there is little doubt they would have provoked strong suspicion. Yet, in some ways, the events may be more troubling than those various crimes lumped together as "Watergate." Repugnant as the various Watergate outrages were, they clearly had a very marginal impact on the 1972 election results, most probably shaving Nixon's landslide margin. The spurious charges sent the special prosecutor almost certainly were decisive, on the other hand, in Carter's Electoral College victory and probably were crucial to his popular vote margin as well.

The issue then is whether Gerald Ford was merely the victim of bad timing or of something far more sinister. Several serious questions remain unanswered:

(1) In his secret meeting with Calhoun, what if anything did Jimmy Carter promise him in return for MEBA's political support?

(2) Did maritime union officials inspire the investigation of Ford by the special prosecutor?

(3) If so, did they do this with the knowledge or acquiescence of Carter campaign officials or of Jimmy Carter himself?

(4) Was Carter's decision to support cargo preference designed in part to seal the lips of maritime union officials?

It is doubtful if the Justice Department, which has been repoliticized at its top levels since Carter assumed the Presidency, can be expected to pursue this issue with vigor. This subject, far more than the probe of South Korean influence peddling, would seem to warrant the appointment of a special prosecutor. Although the appointment of such an official is not an expedient answer to every

case of political malfeasance, it is dictated in this instance by the pervasive impact of the maritime unions within both the executive and legislative branches. Congress' handling of the Korean influence peddling scandal has demonstrated the limitations of any in-House cleaning activity.

Furthermore, public scrutiny of the manipulation of Congress by massive maritime industry campaign contributions would seem long overdue. Even before cargo preference became such a key topic, the American taxpayer was being billed for hundreds of millions of dollars annually to subsidize the U.S. merchant marine. Yet, this dollar cost pales beside the perversion of our political process which the industry's practices have fostered.

Senator DOLE. I will say to the witness, Mr. Ruff, I in no way impugn your integrity. I am taking your word for what you have told us. It seems we are just trying to clear the air. We are trying to make a record that maybe Gerald Ford's grandchildren would like to read some day.

Mr. RUFF. I would like to clear that air, too. I appreciate that you are not impugning my integrity.

Senator DOLE. I will probably vote for you—which is more than you did for me.

Mr. RUFF. I appreciate that, too, Senator.

Senator DOLE. To get back to the subject at hand, I hear you are here for another purpose.

Mr. RUFF. So I am told.

Senator DOLE. We will go on to the confirmation, but Secretary Califano noted in a presentation before some members of this committee that the key qualification of Tom Morris as Inspector General is organizational and managerial skills, and I ask it in all seriousness—I know all about your publicized skills, but what we are asking about is in the health field. What do you bring to the office?

Mr. RUFF. I have no experience in the health field per se. I think the experience I bring to the office is one of the investigation or prosecution of white-collar crime, fraud types of cases, and I think that probably the theory that Secretary Califano had in offering me this position and linking with Mr. Morris is I would be able to do something about reorganizing the investigative mechanisms at HEW, link them up with the relevant prosecutorial agencies on the State and local level, attempting to do something about the quality of our investigative capacity in this field.

I pretend to no special expertise in medicare and medicaid and related matters. I am learning, I think. I do pretend to some expertise in the broader areas of white-collar crime investigation and prosecution. I hope to be able to be of assistance in that area.

Senator DOLE. How did you come into the Special Prosecutor's Office? Did someone bring you in?

Mr. RUFF. Originally, in the summer of 1973, I was contacted by Tom McBride, one of the early staff members under Mr. Cox, whom I had known for some time, who asked me if I could come in and be of assistance in the campaign contribution area. I had just committed myself to teach at Georgetown the following September, and ultimately entered into an agreement with Mr. Cox that I would devote myself full time during the summer and on a part-time business basis during the school year.

That was the arrangement under which I came and under which I stayed until the summer of 1975, when I went to the Drug Enforcement Administration.

Senator DOLE. When the Committee on Ways and Means reported on H.R. 3, the Medicare and Medicaid Anti-Fraud and Abuse Amendments, the qualifications of those involved for medicare and medicaid cases are quite specific, and I would like to share with my colleagues the suggestion of the committee.

The committee wishes to emphasize the need for the employment of highly skilled investigators, specially trained in the area of medicaid fraud. The committee has received substantial evidence of complex schemes employed by those engaged in fraudulent activities and notes that the only way that such practice can be effectively addressed is by utilizing persons skilled in uncovering these activities.

And I just wanted to underscore that. I know Senator Talmadge already has. There is a need for a lot of action in this area.

Although you do not have any expertise, you have the knowledge, you have the background. There is no question about your ability.

I would just stress, as a member of Senator Talmadge's Subcommittee on Health, that your Office and your responsibilities will reflect what is said in that report.

Mr. RUFF. That is at the very top of my list, putting together a most highly qualified investigative capacity that we can possibly achieve in HEW.

Senator DOLE. The incidence of medicaid and medicare fraud and abuse are issues of serious concern. The number of cases is going up and up—if you have already answered the question, just disregard it—what role do you foresee for your Office, the Office of Inspector General, as far as these cases are concerned?

Are they going to have a high priority?

Mr. RUFF. They have the highest priority, Senator. Indeed, under some initiative begun by Mr. Morris and continuing now, I have begun to serve at HEW, albeit in an expert-consultant capacity, for the last few weeks.

We have undertaken, for example, a nationwide computer screening project designed to identify potential defrauders of the system. Indeed, we have turned most of the resources of our investigation and auditing staff to the investigation of those existing cases, because we do feel that those cases of potential fraud are the most important ones we have to deal with.

Senator DOLE. Mr. Chairman, I have a statement that I would like to place in the record which discusses the concept of the Office of Inspector General and goes back to 1970 when Senators Ribicoff and Williams introduced the legislation. The intent of that Office was to address some of the glaring problems in medicare fraud and abuse. As one member of the committee, I want to express my concern, that I think it is a matter of concern to every member of this committee to make sure that we stop it when we can for a number of reasons.

[The material referred to follows:]

STATEMENT OF SENATOR BOB DOLE

Mr. Chairman, the concept of the Office of Inspector General has its earliest beginnings in legislation introduced in 1970 by Senators Williams and Ribicoff. Since that time, we have seen other proposals that would have accomplished this goal. The introduction of these proposals brought to light the deep concern of the members of this committee for the appalling state of medicare and medicaid fraud and abuse.

The original intent of this office was to address these glaring problems yet we have not yet seen an indication from Mr. Callano that he places the same importance on these matters. Indeed what we have seen is the selection of two key personnel neither of which has any background in the health area to the best of my knowledge.

I feel that it is vitally important that as a committee we express our concern and our dismay over these developments. And in doing so, apprise Mr. Morris of the situation.

Mr. Ruff, I ask that you carry with you the knowledge that this committee and the American public will look to your office for some definitive actions in the areas I have mentioned.

Senator DOLE. One primary reason is to make funds available for others who ought to have the benefits of medicare and medicaid.

I just ask, as one member of the Senate, I want to make that one point. If I have made no other point this morning, I want to stress that there is great concern. We hope and know that you will proceed as best you can.

Mr. RUFF. I intend to devote all of my energies to that.

Senator BYRD. Mr. Chairman?

The CHAIRMAN. Senator Byrd?

Senator BYRD. I would like to ask one or two questions in regard to the investigation of President Ford.

In listening to the questions and answers this morning, am I correct that your decision to investigate the President of the United States was made on the unsubstantiated allegation of a single individual?

Mr. RUFF. No, that is not correct, Senator. We conducted a preliminary investigation to determine whether or not there was any basis on the original allegation we received for believing that it might, in fact, lead to potential violations.

Senator BYRD. The original allegation was that of a single individual?

Mr. RUFF. That is correct.

Senator BYRD. Was that a sworn allegation?

Mr. RUFF. No, it was not.

Senator BYRD. Would it not be customary, if someone comes off the street and makes an allegation against a public official, to require that the allegation be under oath?

Mr. RUFF. Under some circumstances, we do. Usually we do not. Usually the normal course would be to conduct an investigation of a very limited nature, outside of the public eye, in order to determine whether, in fact, there is any justification for, or warrant for, an investigation of broader scope.

Senator BYRD. Your investigation resulted from a single allegation of an unsubstantiated nature, did it not?

Mr. RUFF. As followed by a preliminary investigation designed to determine whether, in fact, that initial allegation warranted further inquiry.

Senator BYRD. Was the person who made the allegation subsequently prosecuted for perjury?

Mr. RUFF. No, he was not, Senator.

Senator BYRD. In your reply to Senator Long, you stated that you did not discuss the case with Mr. Jaworski.

Mr. RUFF. That is correct.

Senator BYRD. In your reply to Senator Dole, you stated you could not answer whether you did or did not discuss the matter with Mr. Calhoun?

Mr. RUFF. That is correct.

Senator BYRD. Thank you.

Senator DOLE. Just pursuing that, you cannot tell us, then, who the informant was?

Mr. RUFF. I cannot, Senator.

Senator DOLE. Can you tell us whether they belonged to any group? Was he a member of the Carter campaign group?

Mr. RUFF. He was not.

Senator DOLE. He was not a member of the MBEA?

Mr. RUFF. No, he was not.

Senator DOLE. I understand your restrictions. If we got it right, would you say yes?

Mr. RUFF. No, I do not think I would, Senator.

If I may make a broad statement—and I think this consistent with what is already in public record and consistent with our release of October 15, one of the principal points of the earlier investigations was to determine whether this individual had any affiliations, formal, or informal, which would give him motivation to make an unsubstantiated allegation for partisan purposes.

To the best of our ability, we determined that he was not a member of any group that would lead us to conclude that there was any improper motive behind what he did.

Senator DOLE. Is that the normal way it works, just to have somebody walk into the office and you investigate every complaint?

Mr. RUFF. Those that had, on their face, any semblance of rationality, yes.

Senator DOLE. This is not an isolated case? The record will reveal that there were other complaints that were made verbally and they were pursued, and not just the one against President Ford?

Mr. RUFF. Absolutely. The files of the Special Prosecutor's Office, I fear, are full of written complaints, verbal complaints, some which were pursued a little bit, some which were pursued extensively, most of which turned out not to have been supported.

Senator DOLE. Thank you.

The CHAIRMAN. Senator Byrd.

Senator BYRD. I am not seeking the name of an individual. To me it is very significant that you can say, no, you did not discuss the case with Mr. Jaworski but you say you cannot answer when the question is, did you discuss the matter with Mr. Calhoun.

Mr. RUFF. Let me try to explain the reason for the divergence in responses, Senator. The question with respect to Mr. Jaworski was whether I consulted for professional advice anyone whom I respected outside of the Special Prosecutor's Office, specifically, Mr. Jaworski. I could say, no, I did not.

With respect to Mr. Calhoun, it gets into the substance of whom I talked to about the investigation—not for professional advice, but during the course of my investigation. There, I simply believe that my professional responsibility and legal restrictions prevent me from responding.

Senator BYRD. I assume, if you were asked the question, did you discuss the case with Senator Dole, you would say no?

Mr. RUFF. Yes.

Senator BYRD. But you say you cannot answer as to whether you discussed the case with Mr. Calhoun?

Mr. RUFF. Correct.

The CHAIRMAN. I would like to suggest, with regard to the matter regarding President Ford, this committee does not have jurisdiction, but the Judiciary Committee should see what they can do about setting some standards that we would hope prosecutors would look to when they have the kind of decision that you had to make, Mr. Ruff.

I can see your position. I can also see the other side of it. It seems to me that you were investigating a coverup, among other things, and you did not want to be accused of being a part of a coverup yourself in having information that the President himself might have done something wrong that appeared to have some possibility of being supported by evidence.

On the other hand, those of us who run for office, I know as far back as we can recall, are familiar with these situations where someone comes in with these last minute charges on the eve of the election where there is no way that you can repair the damage, even though the charges are not supported. So he perhaps loses the election and is destroyed politically even though by the time all of the facts are in, there is no basis for charging him with any wrongdoing whatsoever.

We would do well to develop some guidelines to guide prosecutors in these politically sensitive matters, especially when they arise in the course of the campaign.

I think the record is adequate for everybody to know what they think they should do in the matter. I have no doubt that you did what you thought was right, as your conscience thought. I do think we should develop some standards.

I assume that you did consider such standards as you were aware of at that time?

Mr. RUFF. Of course, Senator.

Let me say first, that I agree absolutely, that I think the Judiciary Committee and the professional organizations involved in the legal profession ought to give very serious consideration to just this kind of problem. It is not only my issue, but it happens virtually every day in the business of prosecution, and as you know, virtually every day in the business of running for office.

In making my judgment, I tried to abide by the kinds of professional responsibility, the standards on the prosecutorial function of the American Bar Association, and any other source of substance that I could find which was, for me, a very difficult period. I would like to see in the course of some of the debate for some of the appointments of the Special Prosecutor in other situations some standards developed that would deal with this problem.

Senator BYRD. Mr. Chairman, I would like to ask one more question.

The individual who made the allegation I assume perjured himself?

Mr. RUFF. No; he did not, Senator.

Senator BYRD. He did not?

Mr. RUFF. No.

Senator BYRD. He alleged that President Ford had committed certain acts and you, as Prosecutor, exonerated President Ford from these allegations?

Mr. RUFF. That is true.

Senator BYRD. That does not constitute perjury?

Mr. RUFF. No; it does not, Senator. Once again, I am treading a very fine line between what I can say about the substance of this matter and what I cannot say. As any prosecutor would agree, the term perjury as a term of art is one that is very difficult to apply to every given statement or any set of facts.

All I can tell you is—

Senator BYRD. He did not tell the truth?

Mr. RUFF [continuing]. We had no basis for believing that he had committed an offense.

Senator BYRD. Yet no charges were made against the individual who made the charges against the President?

Mr. RUFF. That is correct.

Senator DOLE. Mr. Chairman, could members of the committee have the right, if the witness is willing to answer questions, to submit questions to the witness in writing?

We may have additional questions at a later time.

Mr. RUFF. Of course, Senator, to the best of my ability, I would be glad to answer.

The Chairman. Thank you very much.

Mr. RUFF. Thank you, Mr. Chairman.

[The curriculum vitae of Mr. Ruff follows:]

CURRICULUM VITAE OF CHARLES F. C. RUFF

Marital status: Married; two children.

Bar admissions: New York, 1963; District of Columbia, 1973; U.S. Supreme Court, 1969; U.S. Courts of Appeals, 2d, 4th, 5th, 6th, 9th, 10th, and District of Columbia circuits.

Education: Phillips Academy, Andover, Mass., graduated, 1956; Swarthmore College, Swarthmore, Pa., A.B., 1960; Columbia Law School, New York, N.Y., LL.B., 1963.

Employment: July 1, 1973, to present; associate professor, Georgetown University Law Center. Subjects: Criminal Procedure, Criminal Law, Contracts, Labor Law, Legal History, Criminal Justice Clinic, Juvenile Justice Clinic. Committees: chairman, Clinical Review Committee; Chairman, Academic Honesty Committee; Academic Standards Committee. [On leave during Government service.]

During this period I also held the following part-time positions:

July 12, 1973 to June 29, 1975: Assistant Special Prosecutor, Campaign Contributions Task Force, Watergate Special Prosecution Force.

June 30, 1975 to October 16, 1975: Acting Chief Inspector, Drug Enforcement Administration.

October 17, 1975 to June 20, 1977: Special Prosecutor, Watergate Special Prosecution Force.

September 1, 1972 to June 30, 1973: Attorney/Professor, Antioch School of Law.

April-May, 1973: Visiting Lecturer in Government, Oberlin College.

May 1, 1970 to August 31, 1972: Chief, Management and Labor Section, Criminal Division, United States Department of Justice.

May 1, 1967 to April 30, 1970: Trial Attorney, Organized Crime & Racketeering Section, Criminal Division, U. S. Department of Justice.

August 1, 1966 to April 30, 1967: Instructor in Legal Method, University of Pennsylvania Law School.

January-July, 1966: Research Associate, African Law Center, Columbia Law School.

December, 1963 to January, 1965: Instructor, Louis Arthur Grimes School of Law, University of Liberia, Monrovia, Liberia.

Professional and Community Activities: Member, Grand Jury Committee, Criminal Justice Section, American Bar Association. Member, Prosecutorial Function Committee, Criminal Justice Section, American Bar Association. Member, Judicial Conference of the District of Columbia Circuit. Panelist, The Prosecutor and the Grand Jury, June, 1975. Member, Governing Board, Beauvoir School; Chairman, Education Committee. Member, Alumni Board, Swarthmore College (1972-75).

Publications: Editor, *Liberian Law Journal* (Vol. I, 1965). Co-editor, *African Law Journal* (Vol. I, 1966). "Welfare and Pension Plans: The Role of the Federal Prosecutor," 12 *Santa Clara Lawyer* 480 (1972). "Discretion at Justice: The Making of Federal Law Enforcement Policy," to be published in *Georgetown Law Journal*, July, 1977.

The CHAIRMAN. Next, we will call Ms. Blandina Cardenas, nominated to be Chief of the Children's Bureau.

We are pleased to have you before the committee. I will ask that the biographical data available to me will appear in the record at this point.

Have you looked into the potential prospect of conflict of interest and removing any conflict that might appear?

STATEMENT OF BLANDINA CARDENAS, NOMINEE TO BE CHIEF OF THE CHILDREN'S BUREAU

Ms. CARDENAS. Yes, sir.

The CHAIRMAN. You have discussed the matter with our staff?

Ms. CARDENAS. Yes, sir.

The CHAIRMAN. I have no further questions to ask the witness.

Does any body else have any questions to ask?

Senator HANSEN. I have no questions, Mr. Chairman.

Ms. CARDENAS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

[The biographical data of Ms. Cardenas follows:]

BIOGRAPHICAL DATA OF BLANDINA CARDENAS

Date of birth, October 25, 1944; place of birth, Del Rio, Tex.; marital status, single.

A. Education

1961-62: Texas Women's University, Denton, Tex.

1962-64: The University of Texas, Austin, Tex. (Bachelor of Journalism, 1967).

1967-68: The University of Texas, Austin, Tex.

1969-71: St. Mary's University, San Antonio, Tex.

1971-74: The University of Massachusetts, Amherst, Mass., Ford Fellowship, School of Education. Center for Leadership and Administration.

B. Organizational membership

Professional: Texas State Teachers Association. National Education Association. Member: Indo Hispanic Task Force, 1972-73. Vice chairperson, National Council of Human Relations, 1973-74. Member: National Council on Human Relations. Texans for the Educational Advancement of the Mexican American: Vice president, 1971.

Civic: Urban Coalition of Metropolitan San Antonio; Panel of American Women, 1971-73; Val Verde County Library Board of Directors, 1970; Texans for Educational Excellence, Board of Directors, 1973-74; U.S. Commission on Civil

Rights, State Advisory Committee, 1974 to present; National Education Task Force—National Urban Coalition, 1973 to present; U.S. Bicentennial Commission National Woman's History Center Task Force, 1974 to present; Texas Association for Bilingual Education.

C. Professional experiences

1964-67: Assistant Manager, Office of the Secretary, American Bar Association, Chicago, Ill.

1967-68: Teacher, San Felipe Independent School District, Del Rio, Tex.

1968-69: Information Writer, College of Fine Arts, University of Texas, Austin, Tex.

1969: Assistant Program Development Coordinator, Texas Migrant Educational Development Center, Southwest Educational Development Laboratory, Austin, Tex.

1969-72: Served as Executive Assistant to Dr. José A. Cárdenas, Director of Mexican American Education and Director, Texas Migrant Educational Development Center, Southwest Educational Development Laboratory; Superintendent, Edgewood Independent School District, San Antonio, Tex.

1969-70: Educational Writer, Bilingual Education Program, Edgewood Independent School District, San Antonio, Tex.

1970-71: Director, Career Opportunities Program, Edgewood Independent School District, San Antonio, Tex.

1971: Director, Our Lady of the Lake College—Edgewood Independent School District Cooperative Summer Institute on Early Childhood Education, Staff Development for Teachers, Teacher Aides and Mid-management personnel.

1971: Director of Planning and Chief Writer—Edgewood Independent School District Experimental Schools Program, San Antonio, Tex. Funded: \$10 million.

1972: Director of Bilingual Education—Intercultural Resources Laboratory, San Antonio, Tex.

1974-75: Rockefeller Fellow assigned to the staff of Senator Walter F. Mondale, U.S. Senate, Washington, D.C.

1975: Rockefeller Fellow assigned to Intercultural Development Research Association, San Antonio, Tex.

Summer, 1975: Assistant Dean, National Teacher Corps Institute, University of Virginia, Richmond, Va.

1975 to present: Director, Center for the Management of Innovation in Multicultural Education (Lau Center) a Division of Intercultural Development Research Association, San Antonio, Tex.

D. Related activities

1971 to present: Vice President, Intercultural Resources Laboratory, San Antonio, Tex.

1971-72: Consultant for Experimental Schools, Edgewood Independent School District, San Antonio, Tex.

1971-74: Consultant, Office of the Secretary, Office of Civil Rights, Department of Health, Education, and Welfare.

1971-73: Member, Leadership Training Institute, Bureau of Education Professions Development, U.S.O.E.

1971-72: Member, National Advisory Committee for Bilingual Programing of Sesame Street.

1971: Member, Inter-Departmental Task Force on Education of the Mexican American, U.S.O.E.—Office of the Secretary, HEW.

1971: Member, Negotiating Team, HEW—Beeville Independent School District, Beeville, Tex.

1971: Member, Team developing the Comprehensive Educational Plan for the San Felipe del Rio Consolidated Independent School District.

1971-72: Member, Bilingual/Bicultural Task Force, University of Massachusetts, School of Education College of Arts and Sciences.

1971-72: Consultant, Crystal City Independent School District.

1971: Consultant, University of Nebraska, TTT Program.

1972: Lecturer, Tulane University, New Orleans, La.

1972: Consultant, Bilingual Children's Television Program, Oakland, Calif.

1972: Member, Technical Assistance Team re: Compliance with the Civil Rights of Mexican American Children, Winslow, Ariz.

1972: Director, Training in Mobilization of Resources for Community Corporation Personnel and Board Members, Economic Opportunities Development Corporation, San Antonio, Tex.

- 1973: Consultant, U.S. Commission on Civil Rights, Mexican American Study.
 1973: Regional Coordinator, National Educational Task Force de la Raza.
 1973: Coordinator, Issues of Leadership for Mexican American School Board Members Conference, San Antonio, Tex.
 1973: Consultant, Staff Development Program, Texas A. & M. University—Laredo Independent School District.
 1973: Consultant, National Commission on Resources for Youth, New York, N.Y.
 1973: Speaker, Washington, Interns in Education Program, George Washington University, Washington, D.C.
 1973: Consultant, Mexican American Legal Defense and Education Fund. Expert Witness in Waco, Texas, Desegregation Case.
 1973-74: Consultant, Development of Basic Program Plan, Southwest Educational Development Laboratory, Austin, Tex.
 1974: Consultant, HEW—Office of Civil Rights intervention in Gallup McKinley Independent School District.
 1974: Consultant and Expert Witness, California Rural Legal Assistance, Stockton School Desegregation Case.
 1974: Consultant and Principal Presenter, National Conference on Education Opportunities for the Mexican American, U.S. Commission on Civil Rights, San Antonio, Tex.
 1975: Keynote Speaker, National Hispanic Week, Kelly Air Force Base, San Antonio, Tex.
 1975: Keynote Speaker, "Lau in Louisiana" Conference, Baton Rouge, La.
 1976: Discussant, National Conference on Research and Policy Implications of the Office of Civil Rights, Lau Task Force Report, Southwest Educational Development Laboratory, Austin, Tex.
 1976: Discussant, National Conference on Research Methodologies on Research and Education, Far West Laboratory, Monterey, Calif.
 1976: Keynote speaker, Fifth Annual International Conference, National Association for Bilingual Education, San Antonio, Tex.
 1976: Keynote Speaker, Annual State Conference, Texas Association for Bilingual Education, Fort Worth, Tex.
 1976: Keynote Speaker, Rio Grande Valley Association for Bilingual Education, Edinburg, Tex.
 1976: Keynote Speaker, Teacher Corps Consortium, Fort Worth, Tex.
 1976: Consultant, California Rural Legal Association and Expert Witness *Hernandez v. Stockton Unified School District*, San Francisco, Calif.
 1976: Keynote Speaker, Child Care Conference, El Paso, Tex.
 1976: Principal Discussant National Conference on Research Priorities for the Spanish Speaking, Office of Child Development, Washington, D.C.

E. Publications

- (1) The Career Opportunities Program, Edgewood Independent School District, A Handbook for Teacher Aides.
- (2) Cardenas, B., "It's A Circle for Everybody to be Involved In" In Colloquy, Washington, D.C. 1972 5 (6), 18-23.
- (3) Cardenas, B. and Cardenas, J. A. "Chicano: Bright-eyed, Bilingual, Brown, and Beautiful", The NEA Journal, February, 1972.
- (4) Contributor to National Education Association, "We're Not All Alike", a human relations training program for teachers, 1973.
- (5) Cardenas, B., The Training of Women in Educational Administration: Some Special Considerations. Paper presented to the National Conference on Women in Educational Policy-Making, George Washington University Institute for Educational Leadership, January 23-26, 1974, Denver, Colo.
- (6) Cardenas, B., A Preliminary Conceptual Design for Assessing Program Development in Relation to Learner Needs and Characteristics of Mexican American Children. Paper presented at the Annual Conference American Educational Research Association, Chicago, Ill., April, 1974.
- (7) Cardenas, B., Defining Equal Access to Educational Opportunities for Mexican American Children, unpublished Ed. D. dissertation, University of Massachusetts, Amherst, Mass., May, 1974.

F. Major speaking engagements

- (1) Commencement Address, Crystal City High School, Crystal City, Tex., May 1971.

(2) Commencement Address, Edgewood High School, San Antonio, Tex., May, 1971.

(3) Tulane University, Student Senate Speaking Series, New Orleans, La., February, 1972.

(4) "Institutional Sexism in Education", Keynote Address, Sexism in Education Conference, National Organization of Women, Women's Political Caucus, Y.W.O.A., Houston, Tex., May, 1973.

(5) National Urban Coalition, Revitalizing the Nation's Cities Conference, Washington, D.C., June, 1973.

(6) Institutional Racism Day, Racine Public Schools, Keynote Speaker, Racine, Wis., March, 1974.

(7) Principal Presentor, National Conference on Educational Opportunities for the Mexican American, U.S. Commission on Civil Rights, San Antonio, Tex., March, 1974.

(8) Keynote Speaker, Fifth Annual International Conference, National Association for Bilingual Education, San Antonio, Tex.

(9) Keynote Speaker, Fifth Annual Regional Conference on Bilingual Education, Denver, Colo.

The CHAIRMAN. I will assume at this point that we will have to call another meeting to discuss these measures on the agenda. For lack of a quorum at this point, we will adjourn.

Thank you, gentlemen.

[Thereupon, at 12:05 p.m., the committee recessed to reconvene at the call of the Chair.]

