

EXECUTIVE SESSION

TUESDAY, JULY 26, 1977

United States 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, Bentsen, Matsunaga, Moynihan, Curtis, Dole, Hansen, Packwood, Roth 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 comment on 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 Houston College in Texas. She was a high school

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



0 0 0 0 0 0 3 0 1 5 7

1 instructor. She worked for the President's Commission on
 2 Equal Employment Opportunity. She worked for the President's
 3 Commission on Equal Opportunity in Housing. She worked for
 4 the Director of Social Services for the Model Cities Program
 5 in Wichita, Kansas.

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

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

17 She has, to her credit, a list of publications and
 18 speaking engagements that are impressive in their own right.
 19 Last year she was the keynote speaker at the National Child
 20 Care Conference in El Paso, at the Teacher's Corps Consortium
 21 in Forth Worth, at the Fifth Annual International Conference
 22 of the International Association for Bilingual Education.

23 Mr. Chairman, Ms. Cardenas is an eloquent advocate of
 24 the importance of Federal policy to support the family as a
 25 whole. Her role in the Department of Health, Education and

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



1 Welfare will help strengthen, not divide, the American family.

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

6 Prior to that experience, her professional activities
7 range from a year as a Rockefeller Fellow and Chief Writer
8 for the experimental schools program in San Antonio, Texas.
9 That is where I first came to know her and the work she had
10 done for education.

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

16 The Chairman. Thank you very much.

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

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

22 Mr. Stern. Yes, sir.

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

25 Do you have a prepared statement?



1 Mr. Mundheim. No, sir.

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

5 Mr. Mundheim. Yes, sir, I have, and I have also talked
6 to Mr. Stern about it.

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

9 Mr. Mundheim. No, sir.

10 The Chairman. I see.

11 Do you have a prepared statement?

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

16 (The biographical data of Robert H. Mundheim follows:)



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

4 Mr. Mundheim. No, sir, I do not.

5 The Chairman. Are you familiar with the Zing case?

6 Mr. Mundheim. I have read the opinion in the lower
7 court and I have read the briefs in the Customs Appeals
8 Court.

9 The Chairman. What is your view on that matter?

10 Mr. Mundheim. It is a terribly important case, obviously,
11 and one in which we hope to get an opinion from the Appeals
12 Court soon. I think when we get that opinion and read it,
13 we will know where we are.

14 The Chairman. Do you know whether or not the government
15 is opposing the position taken by the Plaintiff in that case,
16 the Zing company?

17 Mr. Mundheim. Yes. We are taking the view that the
18 Japanese commodities tax in that case is not one against which
19 we would be required to countervail under the statute. That
20 is the issue before the Court.

21 The Chairman. Let me tell you that my judgment is that
22 the Zing Company is right about it, and the Court is right.
23 That is how the Court decided. It is my view in that matter
24 that any time that you rebate the taxes that someone otherwise
25 pays on exports that that amounts either to a bounty or subsidy,

1 however you want to look at it. The law precludes that type
2 of thing. It says when a nation does that, we are required
3 to countervail. If you put a tax on an equal amount of the
4 product when it comes to our shores, under the General Agreement
5 on Tariff and Trade, they have the right to do that.

6 That General Agreement is no treaty. Mr. Strauss told
7 some of us just the other day when he took the job that he did
8 not realize that that General Agreement on tariff and trade is
9 no treaty at all. It has never been ratified by the Congress
10 as a treaty. That is only an Executive Agreement.

11 You cannot amend an Act of Congress by an Executive
12 Agreement. If you are going to change that Act of Congress,
13 you would have to do it by a treaty or an Act of Congress. You
14 cannot do it by a piece of paper signed by the President which
15 has not been passed by the Congress, and therefore, the more I
16 think about it, the more I am convinced that the court was
17 right when it upheld the Zing people in that matter.

18 Our foreign trading partners are very upset about that
19 matter, and I can understand that, but the relief, if there is
20 going to be some relief in my judgment, should be coming from
21 the Congress, not from the courts. It would seem to me that
22 that is something we ought to be looking at and considering
23 in connection with the negotiations over in Geneva. Foreign
24 nations do not understand when the President signs something that
25 that is not the law of the United States. If it has never passed



1 the Congress, with just his signature on it, that does not
2 make it law and does not make it a treaty.

3 It seems to me that that may very well work out to be
4 the key item that might make possible a very good trade
5 arrangement to come out of the Geneva negotiations. Those
6 other countries would do well, if they want some relief on
7 that, to negotiate a deal, work out something that would be
8 good for both sides, with the overall agreement that we have.

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

12 Mr. Mundheim. That is true, and I am prepared to do that
13 homework.

14 The Chairman. Senator Talmadge?

15 Senator Talmadge. In that connection, Mr. Chairman, I
16 understand you have had a reorganization in the Treasury
17 Department where dealing with countervailing duties, or anti-
18 dumping laws, be vested in you as General Counsel rather than
19 the Assistant Secretary, is that correct?

20 Mr. Mundheim. That is correct, sir.

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

23 Mr. Mundheim. Absolutely.

24 Senator Talmadge. Thank you.

25 I have had the pleasure of visiting with Mr. Mundheim,



1 Mr. Chairman. I think he is very well-qualified for the job.

2 The Chairman. Senator Curtis?

3 Senator Curtis. Thank you, Mr. Chairman.

4 For the record, tell us what are the duties of the office
5 for which you have been nominated, your principal jurisdic-
6 tion.

7 Mr. Mundheim. The General Counsel, of course, is the
8 principal legal officer of the Treasury. He has roughly 1100
9 lawyers reporting to him through a series of Assistant General
10 Counsels and a Deputy General Counsel.

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

18 It is a pretty broad --

19 Senator Curtis. How about tax regulations?

20 Mr. Mundheim. Yes, sir. The Chief Counsel to the
21 Internal Revenue Service is an Assistant General Counsel and
22 he does report to me, the General Counsel.

23 Senator Curtis. You began your teaching career at
24 Duke?

25 Mr. Mundheim. Yes, sir.



1 Senator Curtis. What did you teach there?

2 Mr. Mundheim. Securities regulation and administrative
3 law.

4 Senator Curtis. Then you went from there to what
5 institution?

6 Mr. Mundheim. The University of Pennsylvania.

7 Senator Curtis. What did you teach there?

8 Mr. Mundheim. Corporate law, securities regulations;
9 problems of professional responsibility.

10 Senator Curtis. You were a Visiting Professor at
11 Harvard?

12 Mr. Mundheim. Yes, sir.

13 Senator Curtis. What did you teach there?

14 Mr. Mundheim. Corporate law and securities regulation.

15 Senator Curtis. What did you teach at UCLA?

16 Mr. Mundheim. I taught corporate law and then I taught,
17 with the then Dean of the UCLA School of Management, now the
18 Chairman of the SEC, a course in the responsibilities of
19 governing public corporations. We were looking at the duties
20 and responsibilities of directors of publicly-held corporations
21 and other aspects of making those kinds of corporations
22 accountable.

23 Senator Curtis. Have you published any articles or
24 books?

25 Mr. Mundheim. Yes, sir. I have been the editor of a

1 series called "Annual Institute on Securities Regulation."
2 There are now seven volumes of that, and another volume in
3 that same area, and then a rather long list of articles,
4 again primarily in the corporate area, in securities regula-
5 tion and dealing with the problems of professional responsi-
6 bility.

7 Senator Curtis. How many years have you had in private
8 practice?

9 Mr. Mundheim. Three and a half.

10 Senator Curtis. Were you associated with a firm?

11 Mr. Mundheim. Yes.

12 Senator Curtis. What was the name of that firm?

13 Mr. Mundheim. Shearman and Sterling in New York City.

14 Senator Curtis. Are they a general law firm?

15 Mr. Mundheim. Yes. General corporate practice, banking
16 practice, international practice.

17 Senator Curtis. What particular work did you handle
18 there?

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

22 Senator Curtis. How long were you engaged in the tax
23 work?

24 Mr. Mundheim. I would say four or five months in that
25 department.



1 Senator Curtis. Were you head of the department?

2 Mr. Mundheim. Oh, no, I was just a starting lawyer.

3 Senator Curtis. Before you started to teach?

4 Mr. Mundheim. That is right. This was right after I
5 got out of law school.

6 Senator Curtis. What government service have you had?

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

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

11 Mr. Mundheim. No, sir.

12 Senator Curtis. That is all, Mr. Chairman.

13 The Chairman. Senator Byrd?

14 Senator Byrd. I have no questions.

15 The Chairman. Senator Packwood?

16 Senator Packwood. I consider your answer to the last
17 question a blessing. I have no questions.

18 The Chairman. I thank you very much.

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

21 Miss Morton, do you have a prepared statement?

22 Ms. Morton. No, sir.

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

300 2TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.

(The biographical data of Azie Taylor Morton follows:)



1 The Chairman. Senator Talmadge?

2 Senator Talmadge. You did me the honor of dropping
3 by for a visit, which I appreciated, and I think you are very
4 well qualified for the job for which you have been nominated.

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

12 Ms. Morton. Yes, sir.

13 Senator Talmadge. Thank you very much.

14 The Chairman. Senator Curtis?

15 Senator Curtis. Have you always lived in Texas?

16 Ms. Morton. I was born in Texas and I lived there until
17 I was about 23 or 24.

18 Senator Curtis. What other states have you lived in?

19 Ms. Morton. I have lived in Kansas, Missouri and
20 Virginia.

21 Senator Curtis. That is all.

22 The Chairman. Senator Byrd?

23 Senator Byrd. Thank you, Mr. Chairman.

24 Mr. Chairman, I want to join with our colleague, Senator
25 Bentsen, in commending Mrs. Morton. I have not had the



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 opportunity to know Mrs. Morton as well as Senator Bentsen,
2 but I was much impressed with her when she came to my office
3 and we had a long talk.

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

9 The Chairman. Senator Packwood?

10 Senator Packwood. I have no questions.

11 The Chairman. Thank you very much.

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

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

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

21 The Chairman. I would like to ask that a resume of
22 your biography that is available to the Committee be printed
23 in the record at this point.

24 (The biographical data of Charles F. C. Ruff follows:)



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

The Chairman. Do you have a prepared statement, or something that you would like to say for the Committee?

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, and it was estimated that outright fraud amounts to about \$1.5 billion a year in Medicare and Medicaid, and over-utilization probably three times that much.

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 over-utilization 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 of 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 if we can get a few of these people convicted, and we have a bill that this Committee also originated,

1 as you know, making it a felony rather than a misdemeanor,
2 when you get that statute on the books, if you send a few
3 people to the penitentiary you will do more and have a more
4 salutary effect on correcting some of these problems than
5 anything that I can think of.

6 Do you concur on that?

7 Mr. Ruff. Absolutely, Senator. I recognize the
8 challenge, and I look forward to working with the staff of
9 this Committee.

10 Senator Talmadge. Thank you very much.

11 The Chairman. Senator Curtis?

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

17 Mr. Ruff. That is right, Senator.

18 Senator Curtis. That is separate and apart from the
19 Special Prosecutor.

20 Mr. Ruff. I was actually on the rolls of the Assistant
21 Special Prosecutor, but I was detailed to DEA to serve as
22 Acting Chief Inspector during that interim period.

23 Senator Curtis. Was that a matter that was associated
24 with the Special Prosecutor?

25 Mr. Ruff. No, it was not.

1 Senator Curtis. What brought about this detailing you
2 to this other service?

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

9 Senator Curtis. You were back in the Special Prosecutor's
10 Office as the Chief Prosecutor from October 17th.

11 Mr. Ruff. That is correct, Senator.

12 Senator Curtis. Is that when Jaworsky left?

13 Mr. Ruff. That is when Henry Ruth left. Mr. Ruth
14 succeeded Mr. Jaworski in September, 1974 and served for
15 approximately a year. I took over from him in October '75
16 on a part-time basis. I continued to teach at Georgetown Law
17 School.

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

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



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 Prosecutors 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 15th, 1976, at the conclusion of the Special Prosecutor's investigation of the allegations concerning President Ford. No other matter other 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

1 before, did it not?

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

4 Senator Curtis. All of which would be outlawed by the
5 statute of limitations?

6 Mr. Ruff. That is not correct, Senator. At the time
7 of our investigation, as I have indicated -- as I indicated
8 in my release -- the period covered by the allegations was
9 within the statute of limitations.

10 Senator Curtis. You did find that no offenses had been
11 committed?

12 Mr. Ruff. That is correct.

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

15 Mr. Ruff. Senator, I wish that I could have avoided --

16 Senator Curtis. You just got through telling me that
17 you had no leaks that you knew of.

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

23 We have an energetic press corps in this city, as you
24 are more aware than I, and the story broke in The Wall Street
25 Journal I believe September 21st, two months after our

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D. C. 20024 (202) 554-2345



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.



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

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

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

13 Mr. Ruff. I would have no hesitancy whatsoever in
14 returning for a meeting with Senator Dole -- and indeed, your-
15 self, Senator Curtis -- at any time.

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

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



1 pursue it as fully to the extent that it warranted pursuing.

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

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

12 Senator Curtis. What is the statute of limitations?

13 Mr. Ruff. Five years for most offenses; three years for
14 some.

15 Senator Curtis. When was it changed from five to three?

16 Mr. Ruff. In 1974, Senator. The Congress of the United
17 States, as an amendment to the Federal Elections Campaign Act,
18 which reduced the statute of limitations for offenses involving
19 the making of illegal campaign contributions from five years
20 to three.

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

25 Senator Curtis. Did the change in that law cause you to



1 discontinue any investigations that were in your office then?

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

7 Senator Curtis. Would one of those investigations
8 involve Robert Strauss, then-Chairman of the Democratic Party?

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

13 Senator Curtis. Certain impact. Am I to assume that
14 that was an impact favorable to Mr. Strauss?

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

19 Senator Curtis. That is all, Mr. Chairman.

20 The Chairman. Senator Byrd?

21 Senator Byrd. I have no questions?

22 The Chairman. Senator Packwood?

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

1 Mr. Ruff. Senator, my last answer was vague out of
2 necessity, I am afraid. A statement was issued in the October
3 '75 report that covered that matter, indicating that, in fact,
4 one of the considerations in deciding whether to go forward
5 with this investigation or not, was the statute of limitations.

6 I really do not feel that it would be appropriate for
7 me to discuss the substance of the matter, or whether in fact
8 someone had made a judgment that an offense may or may not have
9 been committed. I just feel that is outside my purview.

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

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

17 Senator Packwood. Thank you.

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

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

23 Let me say that I was not actively involved in that matter,
24 nor in the final decision-making process, so I really speak
25 from wholly secondhand knowledge as to what the decision-making



1 process was during 1975; in respect to that matter or any
2 other.

3 Senator Curtis. An announcement was made after January
4 1st, was it not?

5 Mr. Ruff. I believe so, yes, sir.

6 Senator Curtis. That is all.

7 The Chairman. Mr. Ruff, as Senator Talmadge has pointed
8 out, the person who really does the job of pursuing those
9 who are ripping off this government in the welfare area and
10 the Medicaid and Medicare area can save this government
11 literally millions of dollars. We are saving government
12 money with our child support laws in pursuing some of these
13 fathers who have successfully escaped their duty to pay some-
14 thing in support of their own children, and that is making
15 millions of dollars for the Federal and state governments to
16 help pay for those welfare programs.

17 That is only a beginning of what we are saving the
18 government, because the real savings are those people we do
19 not have to pursue because they read it in the newspaper some-
20 where or hear by the grapevine that if you do not support
21 your children, even though you have plenty of income to do
22 it with, the government is coming after you, and the savings
23 there are probably ten times as much as is being reported by
24 the money we are getting by these court orders.

25 I, for one, would want to make these fathers do something



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 to support their children. I hope very much that the
2 person occupying the job for which you have been nominated
3 will be active in that area and you will pursue it vigorously
4 in cooperation with the U.S. Attorneys and the state District
5 Attorneys to do that job.

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

12 Mr. Ruff. I would certainly feel no constraint, Senator.
13 Indeed, it seems to me that one of the principal functions of
14 my office will be to see to it that we in fact will coordinate
15 the activities of not only the Federal but state prosecutors
16 in these areas. I agree with you entirely that the deterrent
17 effect of one or two of these cases or indeed, the fact that
18 the program to enforce the law exists, is probably much
19 greater than any recovery that we will actually obtain through
20 the individual prosecutions, the civil suits that are brought.

21 The Chairman. That is one area where publicity serves
22 a purpose.

23 Mr. Ruff, it seems to me that every father who has in
24 mind trying to escape his duty to support his children, when
25 he deserts a family or when he leaves, will be more inclined to



1 do the right thing if he read in the newspapers somewhere where
2 somebody or some group of fathers are being prosecuted or
3 at least pursued by the court and by the prosecuting attorneys,
4 both Federal and state, to make them do their duty.

5 Former Governor Ronald Reagan testified before us that
6 out in California they prosecuted about ten notorious cases
7 of that sort out in California and about a thousand fathers
8 came in and started making a contribution. So the effect is
9 very favorable.

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

15 I was a poverty lawyer before the government started
16 paying poverty lawyers. I know the frustration of representing
17 some mother with children getting that man to pay some money
18 to those children when that fellow had left down.

19 It was my privilege to work on laws where we have all
20 the tools we need now, I think. If we need more, I wish you
21 would let us know about it.

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

24 The Chairman. Furthermore, Senator Talmadge is going
25 to try to make it a crime, not only a misdemeanor but a felony,



1 for some of these offenses against Medicare and Medicaid which
2 we are told that we are being ripped off to the tune of \$6
3 billion a year. I hope we can put some of those people in
4 jail.

5 That is another area where I think publicity does no
6 real harm at all; the more the better, of course, with such
7 limitations as are required in presenting matters to the Grand
8 Jury, and that sort of thing.

9 With regard to this matter that Senator Curtis brought
10 up, I would like to have my memory refreshed a little bit about
11 that matter. I do recall something about that; my memory is
12 vague about it.

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

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

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

22 Mr. Ruff. The newspaper reports began on September
23 21, 1976 with an article in The Wall Street Journal indicating
24 that FBI agents were asking questions in Grand Rapids, Michigan,
25 and elsewhere, about alleged contributions made to the

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



1. Congressional campaign of then-Minority Leader Ford and
2 continuing through early 1974.

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

10 On October 14th, we concluded our investigation and
11 with the agreement of the Counsel to the President, on October
12 15th we issued a two-page statement which laid out in very
13 general terms the source and nature of the allegations and
14 indicated what our investigation had uncovered, had no reason
15 to believe any offense had been committed. The investigation
16 was closed.

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

19 The Chairman. I suppose the point of view of any person
20 running for office -- I know it would have been this way in
21 my case if I had been a candidate and the same thing would
22 have happened to me, I would have wanted a statement of that
23 sort at the earliest possible moment. I recall when the American
24 Broadcasting Company came out with a program right on the
25 eve of qualifying for election in Louisiana. It seemed to me

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2145

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 re-election. 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 it, to the suggestions of impropriety on my part, but 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, those two men 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 than that to lay to rest the suspicion that was generated by that investigation, once it hit the newspapers that President Ford may have been guilty of some sort of improper conduct?

Mr. Ruff. There was nothing I wanted more 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



1 determine whether there was any substance to it.

2 I had many questions with the Counsel to the President,
3 Mr. Buchen and his associates, during this period, a few
4 weeks before the time we in fact closed the investigation.

5 It was at their urging and with their full consent that I made
6 an exception to what had been the continuing policy of the
7 office not to say anything in these matters and did issue that
8 final report. I think I did it at the earliest possible date,
9 consistent with my responsibility as Special Prosecutor to
10 look into the matters that had been referred to me by the
11 Attorney General.

12 Senator Talmadge. Mr. Chairman?

13 The Chairman. Senator Talmadge.

14 Senator Talmadge. Mr. Ruff, my anti-fraud bill of last
15 year would authorize several fraud prosecutions by HEW's
16 General Counsel where the Department of Justice has not acted
17 in a timely fashion.

18 What is your view of that approach to enhance prosecution?

19 Mr. Ruff. Senator, I believe that given the paucity of
20 resources of the Justice Department and the United States
21 Attorney's Office to deal with what I will hope is the
22 massive use of the civil sanction in order to do something
23 about fraud and abuse in HEW programs, that it would be an
24 excellent idea to empower the General Counsel of HEW to under-
25 take that responsibility.



1 Senator Talmadge. Not to take it?

2 Mr. Ruff. To take it.

3 Senator Talmadge. I concur fully.

4 I have no further questions.

5 The Chairman. Senator Dole?

6 Senator Dole. Mr. Ruff, you are a Democrat, are you
7 not?

8 Mr. Ruff. I have been a registered Democrat; I remain
9 a registered Democrat, Senator, that is right.

10 Senator Dole. You were while you were Special Prosecutor?

11 Mr. Ruff. That is correct.

12 Senator Dole. You had more than a passing interest in
13 what happened in the election?

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

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

23 Mr. Ruff. Senator, I have never, never leaked any
24 information to the press at any time about any matter. I
25 would consider it a violation of my professional responsibility.

1 as a lawyer and as a prosecutor to do so.

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

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

8 Mr. Ruff. Senator, as far as I know, there were no
9 leaks in our office. We, on a number of occasions on which
10 issues appeared in the public press that seemed to have
11 emanated from persons with knowledge of our business in the
12 course of the whole history of the Special Prosecutor's office,
13 some two or three occasions when that occurred, investigations
14 were conducted to determine whether there had been such a
15 leak.

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

18 During the period of twenty months in which I was
19 Special Prosecutor I would assert that no such leak ever
20 occurred about any matter within the jurisdiction of the
21 Special Prosecutor's Office. In the nature of our business,
22 much of what we did was subject to very close public scrutiny
23 by the press and by others. Much of what we did, by its nature,
24 and the nature of any other criminal investigation, had the
25 potential for public disclosure and did, in fact, appear on



1 occasion in the paper certainly most frequently during those
2 few weeks in September and October of 1976, but I can assure
3 you, I can assure you this: on my responsibility as a profes-
4 sional and as a Special Prosecutor during those months that
5 nothing came from my office.

6 Senator Dole. I just raised that question because there
7 was some doubt in my mind, and others, as we look back at last
8 year -- I do not intend to go through that. I am sorry I
9 missed what Senator Curtis may have raised, but that is history
10 now. What ever success you had will probably never be known.

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

13 Mr. Ruff. I was never more appreciative of that than
14 during the twenty months I spent as Special Prosecutor. I can
15 assure you that every step I took was with full cognizance of
16 just what power it was that my offi-e held.

17 Senator Dole. With particular reference to just the
18 past few days -- in fact, it happened very quickly -- I do not
19 know all the facts regarding the Budget Director, but it is
20 surprising how quickly things can happen in this Capitol if
21 the right people want it to happen and how slow it can happen
22 in the nation's Capitol if the right people really do not
23 care.

24 It just suggests to some of us with firsthand experience
25 of trying to explain to the press what may have come to



300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D. C. 20024 (202) 554-2345

1 the Special Prosecutor's office, I am talking about my own
2 case, and when you look, even more dramatically, at the case
3 of President Ford, which dragged on for almost a month, you
4 can understand why we just might have some little doubt about
5 the way things do happen.

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

15 Senator Dole. Were you teaching at the time of the
16 so-called Ford investigation?

17 Mr. Ruff. I was, Senator, yes.

18 Senator Dole. Did you ever indicate to anyone there
19 that you thought that this could really hurt President Ford's
20 efforts to be re-elected?

21 Mr. Ruff. I do not remember -- it was certainly upper-
22 most in my mind that what I was doing could not help but have
23 an adverse impact on the election chances of any candidate
24 that was the subject of an investigation when that investiga-
25 tion became a matter of public knowledge.

1 Senator Dole. The only point that I make, I will take
2 your word for it, which is more than I can say for some of
3 the prosecutors. I think that when you look back, when we
4 get away from Watergate, get far enough back to look at what
5 happened in this area, that many people suffered unjustly and
6 it may have had some impact.

7 I am not trying to read into it any big deal, but it seems
8 to me if you are personally involved, you may react differently
9 than if you are not.

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

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

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

23 Senator Dole. My only concern -- and I guess we could
24 get into a big argument and I could be offended forever, but
25 it just seems to me that you are going to be entering another



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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. We learn to accept in politics 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 to some of the same press attention that was devoted to those whom we were investigating.

Senator Dole. I guess I'm sharing to some extent what Senator Ribicoff was quoted as saying yesterday -- I am not a member of that Committee, but there is a sort of pervasive atmosphere that somehow we have to go out and get everyone.

I am not suggesting that that 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 that was a matter that should have been disposed of in very short order.

I noted earlier this year when one of the White House

1 aides, I think when Greg Schneider was questioned about
 2 something it was cleared in three or four days. Here is a
 3 lower-echelon assistant in the White House, but when the
 4 President is involved three weeks before the election it takes
 5 three weeks. It is hard for us, whether we are Republicans
 6 or people looking for the truth, to understand why it takes
 7 so long in one instance but why we can move so quickly when it
 8 involves somebody else who happens to be in another party
 9 and another Administration.

10 That was not your investigation.

11 Mr. Ruff. As I indicated, Senator, I would have liked
 12 nothing more than for it to have been disposed of more quickly
 13 than it was. All I can tell you, I made my best professional
 14 judgment and it was uncolored by my party registration or
 15 any other partisan concern.

16 Senator Dole. Have you read the latest Ripon Society
 17 pamphlet of how President Ford may have been set up by some-
 18 body from the Seafarer's Union. Who made the complaint?

19 Mr. Ruff. I am not in the position of identifying the
 20 individual. As I said in the release that we issued last year,
 21 that he was an individual who, after investigation, we deter-
 22 mined had no motive, at least as far as we are able to tell,
 23 to engage in that kind of set-up that the Ripon Society may
 24 have referred to.

25 Senator Dole. Have you read the latest Ripon?

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 Mr. Ruff. No, I have not.

2 Senator Curtis. When was this matter referred to you?

3 Mr. Ruff. Late July, 1976.

4 Senator Curtis. He is talking about three weeks. That
5 sounds like three months.

6 Mr. Ruff. We were investigating for approximately two
7 months before the matter became public and then three weeks
8 in addition to the September 21st Wall Street Journal story.

9 Senator Curtis. It took three months to run this down?

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

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

18 Senator Dole. The timing is good.

19 Senator Curtis. It ripened up just at the logical
20 time.

21 The Chairman. Frankly, Mr. Ruff, it does cause me to
22 wonder why this matter, if it was going to be done, why it
23 could not have been held in abeyance until the election was
24 over. If you had something of that sort that might have some
25 merit and might not, someone comes in and there is an

1 unsubstantiated rumor. I know through my office we at one time
 2 suggested to a U.S. Attorney if he was going to be accused of
 3 political persecution if he took a case before the Grand Jury
 4 right in the middle of a campaign. This was on the local
 5 level, and he would be well-advised to wait until after the
 6 campaign was over and then move with this case, in which
 7 event the fact that the matter was being investigated before
 8 a Grand Jury might be a case, and then again, it might not.
 9 They would not be subject to the charge of political prosecu-
 10 tion.

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

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

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

25 Any prosecutor faced with an allegation of criminal

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 556-2345

1 activity is going to be confronted with that initial very
 2 difficult question: do you go forward now with the risk that
 3 it entails, that all prosecutors recognize it entails, to the
 4 individual being investigated? Do you wait until after the
 5 moment of crisis is passed, the election or whatever it may
 6 be and the accused, on the other hand is delaying for the same
 7 partisan reasons that one might be accused of for having gone
 8 forward.

9 Putting that aside, there was a much more practical
 10 concern -- one that Senator Curtis raised earlier -- that for
 11 a number of the allegations, the statute of limitations was
 12 only three years long, and to have waited another three or
 13 four months would, in my judgment, have been a dereliction of
 14 my duty.

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

21 Obviously, Senators Dole and Curtis and others may
 22 disagree. All that I can do is once again reiterate my
 23 assurance that it was not partisan motivated.

24 The Chairman. Maybe you did make the right judgment --
 25 I am not saying you did not. I am just exploring this matter



1 as one who was not involved in the campaign -- at least I
2 was not involved in helping Senator Ford one way or the
3 other. I have been on both sides of that thing and I was born
4 in that type thing. I have seen those types of last minute
5 things done to people, I have had them done to me. I have
6 watched it being done to others.

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

12 You indicated that the statute of limitations might
13 run. Would you really have any problem, especially if you
14 offer President Ford the opportunity to sign a waiver, to say
15 here is the statute that might out here. We think in fairness
16 we should not look into this matter until after this election
17 is over with.

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

22 Mr. Ruff. No, I did not, Senator.

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

25 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 one 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 the whole fact. The Joint Committee staff investigating President Nixon's income tax returns. There was absolutely nothing the whole time they were working on the President's income tax returns. If there was anybody to leak

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



1 it would be a Senator to leak it. There was nothing on that
2 staff. They did a fantastic job. That was one reason, when
3 they reported it -- I wanted to release that immediately to
4 the press, knowing that those things tend to leak once it gets
5 into a political forum. I thought we should release it imme-
6 diately so that we should not be subject to leaking it among
7 the Senators.

8 I can understand, and I am sure you do, why those
9 involved, like Senator Dole, running for Vice President, a
10 man innocent of any mischief or wrongdoing, yet they had
11 three weeks of that publicity during the course of that
12 campaign.

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

19 Unhappily enough, it is just impossible for the FBI to
20 go about its normal investigative business without somebody out
21 there knowing the subject matter of the investigation and
22 taking it upon themselves to talk to a member of the press.
23 I wish that were not the case. For two months it was not the
24 case with our investigation and I can only say that in those
25 last three weeks we moved as rapidly as I professionally thought

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D. C. 20024 (202) 554-2345



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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. The prosecutor -- I am sure you are a good one; if you were not a good one, we would not want you for the job. 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 these questions of these people. Could not you have reasonably anticipated if the FBI goes out and interviews all of these people that it is going to find its way into the press?

Mr. Ruff. I was amazed that it took two 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



1 Special Prosecutor, that the Ford investigation is a very good
2 example of one reason why one ought not to have in place a
3 special organization to whom the Justice Department can turn
4 and say, take this; it is a hot, political potato and do what
5 you have to do with it.

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

10 Beyond that, I am not certain that I have anything more
11 substantive that I can tell the Committee.

12 The Chairman. Did you discuss that decision with Mr.
13 Jaworsky or others, someone you could turn to whom you admired
14 and whom you respected before you made that decision to send
15 the FBI out to investigate this matter?

16 Mr. Ruff. Senator, I was in the sometimes-enviable,
17 most times-unevitable position of not having anybody I could
18 turn to for advice, certainly not on a matter of that sensi-
19 tivity.

20 The Chairman. How about Mr. Jaworsky. He had been
21 your boss at one time. I think you could have discussed it
22 with him.

23 Mr. Ruff. Mr. Jaworsky was a private citizen at the
24 moment I had need of his advice. I did not feel it was appro-
25 priate to discuss it with anyone who was not an employee of



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 206 202 550-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.

1 What was the complaint given about President Ford to
2 you?

3 Mr. Ruff. The allegation, as indicated in our statement
4 of October 15th, was that certain unions had set up a pro-
5 cedure whereby funds would come out of the union treasury, or
6 the union political account, to committees engaged in supporting
7 the re-election campaign of then-Congressman Ford, that those
8 monies then or after accrued to his personal benefit.

9 Senator Curtis. Could that not have been determined in
10 two weeks' time?

11 Mr. Ruff. I wish it could have, but unhappily enough,
12 it could not.

13 Senator Curtis. I think that it could have been. You
14 were Special Prosecutor until the 20th of June?

15 Mr. Ruff. That is correct. Until the day that the
16 office closed, Senator.

17 Senator Curtis. Were you Special Prosecutor when the
18 news stories broke concerning the Democratic Majority Leader
19 in the House of Representatives, Jim Wright, that had raised
20 some questions about \$100,000 political money?

21 Mr. Ruff. That would have been three weeks or so ago,
22 Senator.

23 Senator Curtis. It was earlier than June 20th.

24 Mr. Ruff. If it was earlier than June 20th, I was. I
25 do not remember the date.

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



1 Senator Curtis. Nothing was done about that, was it?

2 Mr. Ruff. Nothing was done about it?

3 Senator Curtis. From the Special Prosecutor's Office.

4 Mr. Ruff. The matter is in the jurisdiction of the
5 Public Integrity Section of the Justice Department.

6 Senator Curtis. Of what date?

7 Mr. Ruff. A year ago, the whole Korean investigation in
8 the Justice Department.

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

12 Mr. Ruff. Perhaps we are talking about a different
13 matter. The matter was, in any event, not in the jurisdic-
14 tion of the Special Prosecutor's Office.

15 Senator Curtis. You had no jurisdiction?

16 Mr. Ruff. No, sir.

17 Senator Curtis. When did your jurisdiction expire?

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

24 The Attorney General did not approach me with respect
25 to the Wright matter. In fact, Mr. Bell has never approached



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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



1 their opponent was doing, or maybe it was a private citizen.

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

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

9 Mr. Ruff. Senator, to accomplish exactly the same
10 purpose which you tried to accomplish in that Committee, sir,
11 we conducted a substantial preliminary inquiry to determine
12 whether there was, in fact, any justification for even opening
13 the investigation in this matter.

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

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

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

22 Mr. Ruff. I was thoroughly familiar with that. I read
23 the reports. Indeed, the President's Counsel made available
24 to our office much of the matter that had been submitted to,
25 the Congress in connection with his nomination to the Vice



1 Presidency.

2 Senator Curtis. Senator Dole.

3 Senator Dole. Are you going to write a book?

4 Mr. Ruff. Absolutely not, Senator.

5 Senator Dole. You might be missing a good bet.

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

9 Senator Dole. Do you know Mr. Jesse Calhoun?

10 Mr. Ruff. Yes, I do.

11 Senator Dole. Did you ever talk to him about President
12 Ford's case?

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

16 Senator Dole. The record ought to show that in the spring
17 of '76, Mr. Carter met privately with Jesse Calhoun, who
18 was the President of the Maritime and Marine Engineers
19 Beneficial Association. Following that meeting, Carter
20 send Calhoun a letter endorsing increased subsidies for the
21 U.S. Merchant Marine, stating that the American fleet should
22 be manned by civilian seamen trained in industry schools.

23 This was later a subject of "60 Minutes" by Dan Rather
24 on October 3rd, and then on June 4th, '76, a week and a half
25 after Carter's letter to Calhoun, Carter's campaign received

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 in a single day a total of \$25,000 from the Maritime officials,
2 nearly all associated with the MEBA and then on June 30th, 1976
3 Jesse Calhoun sponsored a fund-raiser for Carter in Washing-
4 ton. It raised well over \$150,000 for Carter. By then almost
5 certainly he was going to be the Presidential nominee of
6 the Democrats.

7 Then the Ripon Society says, in the summer of '76, one
8 or more Maritime informants went to the Special Prosecutor,
9 Charles Ruff, with allegations that Gerald Ford had converted
10 Maritime Union contributions to his personal use while still
11 a Congressman.

12 Is that an accurate statement?

13 Mr. Ruff. The last part is not. I have no personal
14 knowledge with respect to the earlier portion. The identifica-
15 tion of the one or more Maritime informants is not an accurate
16 representation of fact.

17 Senator Dole. You never met in the summer of '76;
18 however you designate them, anyone who had an interest in
19 Gerald Ford contributions that may have been made by the
20 Maritime unions?

21 Mr. Ruff. I am not sure that I understand the question.

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



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

3 Senator Curtis. Legally you cannot?

4 Mr. Ruff. Yes, Senator Curtis.

5 Senator Curtis. Would you explain that?

6 Mr. Ruff. I am afraid that we are getting into areas
7 that are governed by the rules relating to Grand Jury secrecy.

8 Senator Dole. I did not know that there was any Grand
9 Jury secrecy. I did not notice any when my name was bandied
10 about. I noticed it was very selected.

11 Senator Curtis. Was the Ford matter ever before a Grand
12 Jury?

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

15 Senator Curtis. You cannot tell us -- we have not
16 asked for the content of the conversations. We are asking you
17 whether or not, whether Calhoun, whether or not you ever
18 talked with Calhoun about the Ford matter.

19 Mr. Ruff. I am sorry, Senator.

20 Senator Curtis. I think you could answer that yes or
21 no.

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

24 Senator Dole. You are aware that Mr. Calhoun, whether
25 you talked to him or not, had a rather direct interest in the



1 outcome of the election, were you not?

2 Mr. Ruff. I was aware of the relationship between the
3 Marine unions generally and the 1976 election, yes.

4 Senator Dole. Did you ever investigate any of those
5 contributions?

6 Mr. Ruff. To the 1976 election?

7 Senator Dole. Yes.

8 You did not have any jurisdiction?

9 Mr. Ruff. I did not have any jurisdiction over that
10 matter.

11 Senator Dole. I think the record -- I am going to ask
12 that all of this be put into the record. I think perhaps if
13 we knew in '74, or after the Congress approved cargo preference
14 legislation, President Ford pocket-vetoed the bill on Septem-
15 ber 30, 1974 on the grounds that it would be inflationary.

16 I can understand why Mr. Calhoun was looking for another
17 President. He was looking for someone to make a commitment
18 and then someone made the commitment, and the money came flow-
19 ing in, and many of us feel that in addition to the money that
20 came flowing in, a lot of rumors came flowing in and somebody
21 acted on those rumors and embarrassed the President of the
22 United States.

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



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 this in itself, 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, which would have been enough to make the difference. Not only was it important, it could change the course of history.

So I would guess -- and again, I cannot attribute anything to you, because everything -- 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



1 allegations made about President Ford?

2 Mr. Ruff. Myself and three other attorneys on my
3 staff.

4 Senator Dole. Could you give us their names?

5 Mr. Ruff. Yes. John Liteck, who is presently an
6 attorney in the Fraud Section of the Criminal Division. Alan
7 Edelstein, who is no longer with the Federal government, a
8 resident of Harrisburg. And John Sale who is presently a
9 Professor at Nova University Law Center in Florida.

10 Senator Dole. Well, I think that the point is that
11 strangely, after just about the time that the President -- or
12 candidate Carter's lead was disintegrating -- came all of the
13 rumors. I would not suggest that you know anything about that.
14 Then came the press reports, then came the investigations,
15 then finally on October 15th came, I guess, the exoneration.

16 We can only speculate about the political impact, but
17 it just seems to me that MEBA had good reason to do in Presi-
18 dent Ford because he pocket-vetoed a bill that they were
19 interested in.

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

25 Secondly, did Maritime union officials inspire the

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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. I think perhaps -- I guess 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 just 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.



1 You do not have any doubts about that?

2 Mr. Ruff. I have none, to my everlasting regret, Senator
3 Senator Dole. You are getting a pretty good job.

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

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

25 I do not suggest that -- I think for the most part they

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



1 were searching for the truth, and they have every right to
 2 do that, but there are always some who have other motives that
 3 you cannot reveal, because that would infringe upon other
 4 freedoms that we have.

5 All I can say as one on the receiving end, directly on
 6 the receiving end, I feel probably as injured as you may feel
 7 right now, only we are in a different place. We had to run
 8 for office. It was not coming before some Committee and
 9 being confirmed. We had to deal with every item on the
 10 nightly news. We had to answer questions about something we
 11 did not know anything about, what might be coming out of the
 12 Special Prosecutor's office. -- or at least, that is what we
 13 heard. You said that did not happen. I cannot understand
 14 where it came from. It just did not come from up there some-
 15 place. It had to come from somewhere, and the Grand Jury
 16 proceedings are secret, and if everything that happened in
 17 your office is secret, then there is no way anybody could have
 18 found out unless somebody told them.

19 Mr. Ruff. That is not quite so, Senator. As I have
 20 indicated, in response to earlier questions, any time that
 21 a Federal investigator, or any investigator, asks a member of
 22 the public questions about an ongoing criminal investigation,
 23 that member of the public is obviously free to discuss that
 24 investigation with anyone. I do not know who it was who gave
 25 the original information to the press that resulted in that

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



0000030212

1 disclosure on September 21st. I can tell you that it was not
2 anyone connected with our staff.

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

7 Senator Dole. I would ask, Mr. Chairman, that the
8 full statement, or the full text of what I was reading from
9 be made a part of the record.

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

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

17 Senator Dole. I will probably vote for you -- which is
18 more than you did for me.

19 Mr. Ruff. I appreciate that, too, Senator.

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

22 Mr. Ruff. So I am told.

23 Senator Dole. We will go on to the confirmation, but
24 Secretary Califano noted in a presentation before some members
25 of this Committee that the key qualification of Tom Morris as

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



300 7TH STREET, S. O. REPORTERS BUILDING, WASHINGTON, D. C. 20024 (202) 551-2345

1 Inspector General is organizational and managerial skills, and
2 I ask it in all seriousness -- I know all about your publicized
3 skills but we are asking about in the health field. What do
4 you bring to the office?

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

15 I pretend to no special expertise in Medicare and Medi-
16 caid and related matters. I am learning, I think. I do
17 pretend to some expertise in the broader areas of white
18 collar crime investigation and prosecution. I hope to be able
19 to be of assistance in that area.

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

22 Mr. Ruff. Originally, in the summer of 1973, I was
23 contacted by Mr. Tom McBride, one of the early staff members
24 under Mr. Cox who I had known for some time who asked me if
25 I could come in and be of assistance in the campaign



1 contribution area. I had just committed myself to teach at
2 Georgetown the following September, and ultimately entered into
3 an agreement with Mr. Cox that I would devote myself full time
4 during the summer and on a part-time business basis during the
5 school year.

6 That was the arrangement under which I came and under
7 which I stayed until the summer of '75, when I went to the
8 Drug Enforcement Administration.

9 Senator Dole. When the Committee on Ways and Means
10 reported on H.R. 3, the Medicare and Medicaid Anti-Fraud and
11 Abuse Amendments, the qualifications of those involved for
12 Medicare and Medicaid cases are quite specific, and I would
13 like to share with my colleagues the suggestion of the
14 Committee.

15 "The Committee wishes to emphasize the need for the
16 employment of highly skilled investigators, specially trained
17 in the area of Medicaid fraud. The Committee has received
18 substantial evidence of complex schemes employed by those
19 engaged in fraudulent activities and notes that the only way
20 that such practice can be effectively addressed is by utilizing
21 persons skilled in uncovering these activities."

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

25 Although you do not have any expertise, you have the



1 knowledge, you have the background. There is no question
2 about your ability.

3 I would just stress, as a member of Senator Talmadge's
4 Subcommittee on Health, that your office and your responsi-
5 bilities will sort of reflect what is said in that report.

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

9 Senator Dole. Then the incidence of Medicaid and Medi-
10 care fraud and abuse are issues of serious concern and I am
11 certain this was asked before, the number of cases is going
12 up and up -- if you have already answered the question, just
13 disregard it -- what role do you foresee for your office, the
14 Office of Inspector General, as far as these cases are
15 concerned?

16 Are they going to have a high priority?

17 Mr. Ruff. They have the highest priority, Senator.
18 Indeed, under some initiative begun by Mr. Morris and continu-
19 ing now, I have begun to serve at HEW, albeit in an expert-
20 consultant capacity, for the last few weeks.

21 We have undertaken, for example, a nationwide computer
22 screening project designed to identify potential defrauders of
23 the system. Indeed, we have turned most of the resources of
24 our investigation and auditing staff to the investigation of
25 those existing cases, because we do feel that those cases of



1 potential fraud are the most important ones we have to
2 deal with.

3 Senator Dole. Mr. Chairman, I have a statement that
4 I would like to place in the record which discusses the con-
5 cept of the Office of Inspector General and goes back to
6 1970 when Senators Ribicoff and Williams introduced the legis-
7 lation, and it just seems that the intent of that office was
8 to address some of the glaring problems in Medicare fraud and
9 abuse; and as one member of the Committee, I want to express
10 one concern, that I think it is a matter of concern to every
11 member of this Committee to make sure that we stop it when
12 we can for a number of reasons.

13 One primary reason is to make funds available for others
14 who ought to have the benefits of Medicare and Medicaid.

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

19 Mr. Ruff. I intend to devote all of my energies to
20 that.

21 Senator Byrd. Mr. Chairman?

22 The Chairman. Senator Byrd.

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

25 In listening to the questions and answers this morning,

1 am I correct that your decision to investigate the President
2 of the United States was made on the unsubstantiated allega-
3 tion of a single individual?

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

8 Senator Byrd. The original allegation was that of a
9 single individual?

10 Mr. Ruff. That is correct.

11 Senator Byrd. Was that a sworn allegation?

12 Mr. Ruff. No, it was not.

13 Senator Byrd. Would it not be customary, if someone comes
14 off the street and makes an allegation against a public offi-
15 cial, you do not require that that be sworn?

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

22 Senator Byrd. Your investigation resulted from a single
23 allegation of an unsubstantiated nature, was it not?

24 Mr. Ruff. As followed by a preliminary investigation
25 designed to determine whether, in fact, that initial allegation

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



1 warranted further inquiry.

2 Senator Byrd. Was the person who made the allegation,
3 was he subsequently prosecuted for perjury?

4 Mr. Ruff. No, he was not, Senator.

5 Senator Byrd. In your reply to Senator Long, you stated
6 that you did not discuss the case with Mr. Jaworsky.

7 Mr. Ruff. That is correct.

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

11 Mr. Ruff. That is correct.

12 Senator Byrd. Thank you.

13 Senator Dole. Just pursuing that, you cannot tell us,
14 then, who the informant was.

15 Mr. Ruff. I cannot, Senator.

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

18 Mr. Ruff. He was not.

19 Senator Dole. He was not a member of the MBEA?

20 Mr. Ruff. No, he was not.

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

23 Mr. Ruff. No, I do not think I would, Senator.

24 If I may make a broad statement -- and I think this is
25 consistent with what is already in public record and consistent



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 our release of October 15th, one of the principal points of
2 the earlier investigations was to determine whether this
3 individual had any affiliations, formal or informal, which
4 would give him motivation to make an unsubstantiated allega-
5 tion for partisan purposes.

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

9 Senator Dole. Is that the normal way it works, just to
10 have somebody walk into the office, you investigate every
11 complaint?

12 Mr. Ruff. Those that had, on their face, any semblance
13 of rationality, yes.

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

18 Mr. Ruff. Absolutely. The files of the Special Prose-
19 cutor's office, I fear, are full of written complaints, verbal
20 complaints, some which were pursued a little bit, some which
21 were pursued extensively, most of which turned out not to
22 have been supported.

23 Senator Dole. Thank you.

24 The Chairman. Senator Byrd.

25 Senator Byrd. I am not seeking the name of an



300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1 individual. To me it is very significant that you can say,
2 no, you did not discuss the case with Mr. Jaworsky but you
3 say you cannot answer when the question is, did you discuss
4 the matter with Mr. Calhoun.

5 Mr. Ruff. Let me try to explain the reason for the
6 divergence in responses, Senator. The question with respect
7 to Mr. Jaworsky was whether I consulted for professional advice
8 anyone whom I respected outside of the Special Prosecutor's
9 office, specifically, Mr. Jaworski. I could say, no, I did
10 not.

11 With respect to Mr. Calhoun, it gets into the substance
12 of whom I talked to about the investigation -- not for
13 professional advice, but during the course of my investiga-
14 tion. There, I simply believe that my professional responsi-
15 bility and legal restrictions prevent me from responding.

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

19 Mr. Ruff. Yes.

20 Senator Byrd. But you cannot discuss whether you
21 discussed the case with Mr. Calhoun, you say you cannot
22 answer?

23 Mr. Ruff. Correct.

24 The Chairman. I would like to suggest, with regard to
25 the matter regarding President Ford, this Committee does not



1 have jurisdiction, but the Judiciary Committee should see what
2 they can do about setting some standards that we would hope
3 prosecutors would look to when they have the kind of decision
4 that you had to make, Mr. Ruff.

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

12 On the other hand, those of us who run for office, I
13 know as far back as we can recall, are familiar with these
14 situations where someone comes in with these last minute
15 charges on the eve of the election where there is no way that
16 you can repair the damage of laying the accusation at
17 someone's doorstep, even though it is not supported, so he
18 perhaps loses the election and is destroyed politically even
19 though by the time all of the facts are in, there is no basis
20 for charging him with any wrongdoing whatsoever.

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

24 I think the record is adequate for everybody to know
25 what they think they should do in the matter. I have no

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



1 doubt that you did what you thought was right, as your
2 conscience thought. I do think we should develop some
3 standards.

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

6 Mr. Ruff. Of course, Senator.

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

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

22 Senator Byrd. Mr. Chairman, I would like to ask one
23 more question.

24 The individual who made the allegation I assume perjured
25 himself?



300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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. -- 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 we have the right, if the witness is willing to answer questions, we may have other questions. Could we submit those in writing?"

Mr. Ruff. Of course, Senator, to the best of my ability,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I would be glad to answer.

The Chairman. Thank you very much.

Mr. Ruff. Thank you, Mr. Chairman.

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.

(The biographical data of Blandina Cardenas follows:)

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345



1 The Chairman. Have you looked into the potential
2 prospect of conflict of interest and removing any conflict that
3 might appear?

4 Ms. Cardenas. Yes, sir.

5 The Chairman. You have discussed the matter with our
6 staff?

7 Ms. Cardenas. Yes, sir.

8 The Chairman. I have no further questions to ask the
9 witness.

10 Does anybody else have any questions to ask?

11 Senator Hansen. I have no questions, Mr. Chairman.

12 Ms. Cardenas. Thank you, Mr. Chairman.

12 The Chairman. Thank you.

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

17 Thank you, gentlemen.

18 (Thereupon, at 12:05 p.m. the Committee recessed to
19 reconvene at the call of the Chair.)

20 - - -

300 7TH STREET, S.W. REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

