

Watergate Prosecutors Conclude Work

Amendment on Indicating

A President Suggested

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Watergate prosecutors recommended yesterday that Congress consider adoption of a constitutional amendment that would permit the criminal indictment of an incumbent President.

Winding up 2 1/2 years of work on the Watergate scandal and other misdeeds that finally forced President Nixon from office, the Special Prosecution Force made the proposal in a report on its activities.

The report made clear that many of the prosecutors thought Nixon could and should have been indicted in the spring of 1974 for the Watergate cover-up, but they were overruled by then-Special Prosecutor Leon Jaworski who thought "it would not be responsible conduct . . . particularly when the (House) impeachment proceedings were ongoing."

That decision, however, was "not easily reached," the report said, "and the legal standard needs clarification."

Accordingly, the prosecutors recommended consideration of a constitutional amendment that would sanction the indictment of a sitting President and spell out the kinds of crimes for which indictment would be permitted.

Such an amendment, the report suggested, should also

define "what relationship such a prosecution has to the exercise of Congress' impeachment power."

"The worst time to answer such questions," the report said, "is when they arise; perhaps the best time is the present, while the memory of relevant events is fresh."

Aside from the recommendations, which also included proposed public controls over the kind of spy work to be conducted by the CIA and all other intelligence-gathering agencies, the report is deliberately dry and uninformative.

On the first page it states that it contains "no facts about alleged criminal activity not previously disclosed in a public forum."

The 277-page report put together under the direction of outgoing Watergate Special Prosecutor Henry S. Ruth Jr., listed instead a number of investigations that had turned into deadends.

The most notable of these was the federal grand jury investigation of the 18 1/2 minute gap on one of Nixon's tapes, completely obliterating a June 20, 1972, conversation he had with then-White House chief of staff H. R. (Bob) Haldeman about the Watergate break-in that took place three days earlier.

The investigation, the report said, was "incomplete." See REPORT, A8, Col. 1



ARCHIBALD COX



LEON JAWORSKI



HENRY S. RUTH JR.

... three men who have headed the Watergate Special Prosecution Force

REPORT, From A1

said, showed that "only a very small number of persons could have been responsible" for the intentional erasures, but the prosecutors were "unable to obtain evidence sufficient to prosecute any individual."

More than 50 persons testified during the inquiry which indicated that the tampering must have taken place sometime between Sept. 28, 1973, when the subpoenaed tape was taken from its Executive Office Building storage vault, and Nov. 14, 1973, when the gap was discovered by White House lawyers.

According to a knowledgeable source, the prosecutors narrowed the "very small number of persons" who might have erased the tapes down to three people: Nixon's former personal secretary, Rose Mary Woods, his appointments secretary, Stephen Bull, and Nixon.

Woods said at hearings before U.S. District Court Judge John J. Sirica in 1973 that she might have accidentally erased four or five minutes of the subpoenaed conversation, but no more. Bull denied any knowledge of the erasures.

Nixon was questioned about the issue in California last June by a delegation of Watergate prosecutors and grand jurors. Prosecutor Ruth indicated in an interview this week that the ex-President's testimony will never be made public, but Ruth also hinted that Nixon made no surprising or significant disclosures.

Even with Nixon's testimony, Ruth said drily, "there have been no major breakthroughs."

Before the erasure case will ever be solved, said the source who asked not to be identified, "someone has to snitch."

Other investigations that the report showed had been stopped were:

—The inquiry into the White House's deletions of damaging remarks from the transcripts of presidential conversations that Nixon turned over to the House Judiciary Committee in April of 1974 for its impeachment inquiry.



CHARLES F. RUTH
...takes office today

The prosecutors "concluded that there is strong circumstantial evidence that at least some of the lengthy deletions were deliberate," but, the report said, "no prosecution was possible."

—The investigation of unreported cash contributions of \$100,000 by billionaire Howard Hughes in 1970 to C. G. (Bebe) Rebozo, a close friend of Nixon. Rebozo said he returned the identical cash to Hughes in 1973.

The inquiry, which focused on possible violations of bribery, perjury, income tax and campaign laws, also covered other issues such as a secret \$300,000 fund that Nixon said on a subpoenaed 1973 tape was maintained by Rebozo.

The report said that "the evidence would not support an indictment," but offered no elaboration.

Other investigations that proved unproductive concerned the Nixon ad-

ministration's 1971 antitrust settlement with the International Telephone & Telegraph Corp., the White House ordered wiretaps between 1969 and 1971 of various government officials and newsmen, and reported efforts to harass White House "enemies" such as former Democratic National Chairman Lawrence F. O'Brien through the Internal Revenue Service.

The report contrasted with the assurances given the Senate Judiciary Committee in May, 1973, by the first Watergate prosecutor, Archibald Cox, who said it would include a comprehensive rundown of the evidence compiled—including both incriminating and exculpatory information—about high-ranking individuals who might be investigated.

Watergate prosecutors frequently rebuffed reporters' requests for information on the investigations that followed—even when they were capped by courtroom pleas and convictions—on the grounds that details would be laid out in the "final report."

Ruth, who was deputy special prosecutor until October, 1974, when he succeeded Jaworski, insisted both in the report and during a lengthy interview that it would have been improper for him to provide additional information.

"A prosecutor's supposed to prosecute people," Ruth said. He said he felt it would be unfair for him to tarnish anyone in any forum but a courtroom.

Ruth suggested that Cox promised a comprehensive

report in May of 1973 only because "nobody'd been caught yet, nobody knew the outcome. Impeachment wasn't even thought about that seriously. I could see where I might have said the same thing."

But with the convictions of 51 individuals and 19 corporations as a result of Watergate-related investigations, Ruth said he saw no need or obligation to go beyond what is already in the public record.

Reached by phone in Cambridge, Mass., Cox declined to comment when asked if he felt the report should have been more enlightening. Several sources said he felt it was too limited.

Far from expanding on the public record, the report calls at one point for a tightening of the Freedom of Information Act to protect prosecutorial files that might now be obtainable.

They will eventually be turned over to the National Archives for safekeeping, but for the moment, they will remain with Charles F. Ruff, a veteran Justice Department prosecutor who will be sworn in today as Ruth's successor to wrap up any pending investigations (three or four are said to remain open) and appeals.

Ruth resigned yesterday afternoon and will become director of criminal justice research at the Urban Institute here.

Despite the deliberately censored flavor of the report, it discloses one secret contingency plan to make sure all the facts got out, in which Ruth participated.

Just before the Oct. 20, 1973 "massacre" that resulted in Cox's firing and a hurried FBI takeover of the Watergate prosecutor's office to prevent the prosecutors from taking out any secret files, the report noted, leaders of the various prosecution task forces "and other senior staff members . . . removed copies of certain items from the office. . . ."

They had been put on their guard, the report said, by an ominous Oct. 18 letter from White House counsel Charles Alan Wright warning that if Cox refused to go along with a White House "compromise" on access to Nixon tape recordings, "we will have to follow the course of action that we think in the best interest of the country."

Some staffers took prosecution memoranda, statements of important witnesses, copies of diaries, and other documents home with them, John Barker, a former spokesman for the prosecution force, recalled yesterday. The report said that copies of other documents of "a particularly sensitive nature were placed in two safe-deposit boxes in nearby banks."

Ruth indicated that the staff would have taken the evidence either to Judge Sirica or the House Judiciary Committee, or perhaps both, if the entire office had been abolished.

Describing the Watergate scandal as "an insidious climax" to various historical trends, such as the growth of government secrecy, the Watergate prosecutors offered a variety of admittedly modest proposals that might be "a good way to start testing

a nation's willingness to learn from its past."

The recommendations included a proposed rule prohibiting the appointment of the President's campaign manager or any high-ranking campaign adviser to the attorney generalship or any other high-ranking Justice Department post.

The report frowned on the idea of a permanent special prosecutor's office, but suggested a "visible, concentrated effort" to root out corruption in federal government by means of a special Justice Department program similar to its nationwide campaign against organized crime.

Other suggestions involved a series of proposed changes in federal election campaign laws, including a restoration of the old five-year statute of limitations instead of the three-year rule presently in effect.

The prosecutor's office had made elaborate plans to make its report public last night, providing reporters with advance copies only after they signed a paper agreeing to abide by the "embargo."

The Chicago Daily News broke the release in Wednesday afternoon's editions, the prosecutor's office said, reportedly because of a "misunderstanding." Some other publications accordingly printed stories on the report yesterday morning.