

Error Killed Milk Probe, Report Says

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An initial Justice Department investigation of political spending by the nation's biggest dairy cooperative was "mistakenly" pigeonholed until the statute of limitations had run out, according to the Senate Watergate committee.

The committee said in a staff report that bureaucratic incompetence was to blame for the government's failure in 1972 to pursue the criminal investigation and a broader tax probe of the co-op, Associated Milk Producers, Inc.

The Senate investigators said they had looked into allegations that former Treasury Secretary John B. Connally had intervened improperly on AMPI's behalf, but found nothing to support such charges.

Connally told the committee in an affidavit that he did discuss AMPI's tax problems at a March 16, 1972, meeting with co-op spokesmen including Texas lawyer Jake Jacobsen, an old friend of Connally.

The Watergate committee staff said in a draft report, however, that the investigation "uncovered no evidence of improper action taken after the March 16th meeting in Connally's office either with respect to the IRS audit or the case in the Justice Department."

IRS handling of the case was highly unusual, the report said. At one point, the Senate staff said, the IRS district director with jurisdiction over AMPI audits, Robert Phinney of Austin, objected to asking for a Justice Department investigation on the grounds that "it will be written up in Jack Anderson."

IRS higher-ups overruled Phinney, and the Justice Department undertook the inquiry anyway, focusing on corporate spending by AMPI in 1968 for a lavish book honor-

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ing President Johnson entitled, "No Retreat from Tomorrow."

But after some initial leg work by the FBI, the report said, "the Justice Department file was mistakenly returned to the inactive files of the department and not discovered until 1974 after the statute of limitations to the transaction had expired."

Federal law prohibits the use of corporate funds for political campaigns, but the statute of limitations requires that prosecution be undertaken within five years of the violation.

According to the Senate report, Assistant Attorney General Henry E. Petersen said there was some doubt in his Criminal Division about whether the co-op's expenditures for the LBJ book were actually related to the 1968 campaign, but "Petersen flatly denied any improper conduct by his division in connection with the investigation."

The tax audit that uncovered the expenditures for the LBJ book also led to recommendations for a board IRS investigation of AMPI's tax returns for subsequent years.

The Senate report said the wider inquiry foundered, again in 1972, because responsibility for it was transferred to IRS agents who saw no "income tax potential" in continuing the investigation.

According to the Senate report, a new IRS investigation has now been undertaken in response to an independent report on AMPI's political dealings that documented a long series of illegal corporate contributions by the co-op for President Nixon, Sen. Hubert H. Humphrey (D-Minn.) and Rep. Wilbur D. Mills (D-Ark.), among others.

"No Retreat from Tomorrow," which was printed before President Johnson decided not to run for re-election, had apparently been intended as a memento for 1968 campaign contributors.

AMPI's predecessor, Milk Producers, Inc., paid more than \$90,000 in corporate funds for printing and distribution, but the co-op's checks apparently wound up in 1968 Democratic campaign coffers since the printer had already been reimbursed for his work by the "Salute to the President Committee."

A routine audit of the co-op's books in 1971 by IRS agent Doyle Bond of San Antonio turned up the questionable payments which had been written off as "advertising"

and "office supplies" expenses.

AMPI subsequently hired Marvin Collie, a partner in Connally's former law firm, whom Jacobsen had recommended as "the best tax lawyer in Texas." The Senate report said Jacobsen checked first with Connally, who said he had no objection to Collie's representing the co-op.

Meanwhile, the report said, IRS Commissioner Johnnie Walters handed IRS Southwest Regional Commissioner Albert Brisbin a three-paragraph memo apparently prepared by AMPI and asked Brisbin for a report. In turn, Brisbin, the report said, told Phinney that Commissioner Walters wanted to "do what's right but let's close it as soon as we can!"

Brisbin told Senate investigators that he overruled Phinney's objections to a Justice Department investigation of the the LBJ-book expenditures on Feb. 22, 1972.

According to the report, "Brisbin says he understood Phinney to be concerned about possible embarrassment to the former President and those close to him, including Connally. Phinney had known President Johnson and Connally for over 25 years, and had joined with Connally and several others in 1946 in investing in a local radio station in Texas."

In early March of 1972, the report said, AMPI tax lawyer Collie told Phinney that he had advised the co-op to give up its claims of tax deductions for the LBJ book. Collie said he hoped that would end the case.

On March 15, 1972, the Senate Watergate staff reported, the IRS agent in charge of the audit, Bond, recommended an examination of AMPI's returns for 1969 and 1970 as well. But later in the year, the report said, Bond's responsibility for the co-op was assigned to an agent in another IRS section who saw no value to continuing the inquiry.

As a result, the IRS failed to discover illegal corporate donations by the co-op that included \$100,000 in cash for President Nixon in 1969 and more than \$20,000 for Humphrey's comeback to the Senate in 1970. The IRS also closed the books on its 1968 audit without discovering AMPI's expenditure of more than \$90,000 in corporate funds on the Humphrey-Muskie campaign that year.