

RUTH WOULD HOLD 'RAW' NIXON DATA

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He and Jaworski Both View
Release of Such Evidence
as Unfair and Unethical

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By DAVID E. ROSENBAUM

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WASHINGTON, Jan. 30—The Watergate special prosecutor, Henry S. Ruth Jr., and his predecessor, Leon Jaworski, said today that they did not have substantial evidence that had not already been made public of criminal offenses by Richard M. Nixon.

The prosecutors told a House subcommittee that there was further "incremental" evidence against the former President, some of which, Mr. Jaworski said, the public would find "juicy if it were published."

But it is not the kind of evidence, the prosecutors agreed, that would lead to criminal charges in normal circumstances. Nor, they said, would release of the material significantly advance the public's understanding of the Nixon Presidency.

In testimony before the House Judiciary Committee's Subcommittee on Criminal Justice, Mr. Ruth and Mr. Jaworski both said that it would be unfair, unethical and unconstitutional for the special prosecutor to file a final report that included such "raw evidence."

The subcommittee is considering legislation that would require the special prosecutor's office to submit a report detailing all the evidence it had accumulated on Mr. Nixon.

The bills were introduced after Mr. Nixon's resignation on Aug. 9 prevented an impeachment trial by the Senate and after his pardon by President Ford prevented a criminal trial in the courts.

But the subcommittee's chairman, Representative William L. Hungate, Democrat of Missouri, said after today's hearing that the prosecutors' arguments against such a report were so compelling that the legislation would probably be abandoned.

Mr. Ruth said that the basic evidence against Mr. Nixon had been made public through the Senate Watergate hearings, the House impeachment proceedings, the criminal trials of Mr. Nixon's former aides and the publication of many of the tapes of Mr. Nixon's conversations.

It would set an "extremely unfortunate precedent," Mr. Ruth said, if further evidence

were released outside normal judicial channels.

First of all, Mr. Ruth said, most of the evidence was gathered under grand jury rules that guarantee secrecy except in judicial proceedings.

Others Also Involved

Secondly, he said, Mr. Nixon would be denied "fundamental fairness" and his constitutional right to due process of law if information were published without having its validity tested in court.

Finally, the prosecutor asserted, the unpublished evidence against Mr. Nixon involved "dozens" of other persons whose rights would be invaded if it were released.

Mr. Ruth said that he was sure the constitutionality of a law requiring a final evidentiary report would be immediately challenged in court.

Representative Elizabeth Holtzman, Democrat of Brooklyn, argued that, when Mr. Nixon accepted the pardon, "he waived his right to have allegations and evidence tested in a criminal court."

Mr. Ruth and Mr. Jaworski strenuously disagreed.

"There is nothing implicit in a pardon that waives constitutional rights," Mr. Ruth said.

It was necessary, Mr. Jaworski said, to balance the public's right to know against the infringement of individuals' rights that would occur if further material were disclosed. Mr. Jaworski said that shortly

after he became special prosecutor in late 1973, Mr. Nixon allowed him to listen to a number of tape recordings to show that they were not relevant to criminal proceedings.

"The nature of the conversations was highly embarrassing," Mr. Jaworski said. "Some of them related to men in Government office. Some related to persons still in Government office."

But the tapes did not disclose anything of a criminal nature, he said, and he would be reluctant to make the details of the conversations public.

Repeatedly, the subcommittee members expressed the frustration they felt at not having had the impeachment process run its course.

"One of my hang-ups is that I know as a member of the impeachment panel I didn't have all the evidence," said Representative James R. Mann, Democrat of South Carolina.

"What else is there that you have that no one else has?" He asked. "What is there that you have that will be helpful to the understanding of history?"

"As to Mr. Nixon, you're not going to find much more," Mr. Ruth responded. "You're not going to find 10 more smoking guns lying around our office."

He said that he was trying to find a way to release evidence about governmental abuses of power without damaging individuals, and he said that he hoped to include such information in a final report to Congress by the end of the year.



Henry S. Ruth Jr., left, the Watergate special prosecutor, and Leon Jaworski, right, his predecessor, with Peter W. Rodino Jr., chairman of the House Judiciary Committee,

before testifying to the House Judiciary Subcommittee on Criminal Justice yesterday. William L. Hungate, Democrat of Missouri, is chairman of the subcommittee.

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