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The committee met, pursuant to recess, at 11:20 o'clock a.m., in Room 2167, Rayburn House Office Building, the Honorable Louis Stokes, (Chairman of the Committee) presiding.

Present: Representatives Stokes (presiding), Preyer, Fauntroy, Burke, Dodd, Fithian, Edgar, Devine, Anderson, McKinney and Thone.

Also present: Richard A. Sprague, Chief Counsel and Staff Director.

The Chairman. While you get together on that, I can proceed with something else.

At this time I am going to ask Congressman Preyer to give us a briefing with reference to the budget situation.

Mr. Preyer. Chairman Stokes and I met yesterday with John Dent, pursuant to the request of the Budget Committee, and I think had a very good meeting. He agreed that the best approach would be to go for a full year's funding rather than an incremental funding approach which he originally suggested,
as long as it can be under $3 million.

We proposed to show him a yearly budget which was $3.2 million, and went down the items, and when we got to the travel item, we pointed out that that was a speculative item, that we couldn't figure that amount, so he immediately said, "I don't like speculative figures in budgets, and I suggest that you reduce that to $300,000 or $400,000, and you can come to me at any time that you need to have travel above that amount, and I will guarantee you that on a voucher we will give it to you." He said, "that is the way I prefer to handle the budget."

So doing that, if we reduce the travel figure such as we discussed, to $400,000, it brings the budget down to something like $2.76 million.

Tom Howard has given me, unfortunately which I have left at the office, a new set of figures on the budget which I will send around to you, which comes out to something like $2.7 million. John Dent says that is very satisfactory with him. He thinks it will be satisfactory with the other members of the House Administration Committee. He wants to pass it by them before we announce it publicly, and so I hope we won't put that figure out, but we haven't had a formal meeting of the Budget Committee since then. I have talked to a number of members. I have talked to Stew, about it, so maybe the Budget Committee
would first want to formally adopt that approach, and then we can at some point you think is proper, Mr. Chairman, adopt it publicly in the Full Committee. But I do think at this time we shouldn't adopt it publicly until Mr. Dent has had a chance to talk to his committee members about it.

But I might ask, if there are any members of the Budget Committee, I will send the figures over to you. Perhaps it is not fair to ask you to comment or to vote on it right now, but at least I can ask if that general approach is agreeable to the Budget Committee.

Mr. McKinney. I would agree.

The Chairman. And we will sit with the at some point now and get his okay also.

Anyone have any questions on this matter?

Mr. Devine. Mr. Chairman, as a member of the Accounts Subcommittee on House Administration, I will do my best to justify your extravagance.

[General laughter.]

The Chairman. That's great, Sam.

Floyd?

Mr. Fithian. Yes, Mr. Chairman, I don't sit in on the Subcommittee Task Force on the Budget, so I don't have any questions on the budget. I do have a question as to how specifically we are going to deal with this. In a little while this morning I will be suggesting a contact system between
members of the Committee and members of the House, and I am wondering, Mr. Preyer, at what point do you see the budget becoming public information?

Mr. Preyer. I would think that the first meeting we might have next week would probably be an appropriate time to make it public.

Mr. Fithian. Will you then is it the general intention to present the budget for a full vote in a public session of the Committee, thereby making it public, or will this be after or before you have talked to the leadership? I am trying to figure out the timing on this.

Mr. Preyer. I would hope it would be after. I have heard I think some of us on the Budget Committee would like to have a chance to present it to the leadership, perhaps to key members of the Rules Committee before it became public.

Mr. Fithian. So then what you are asking basically is if we start our contact one on one of other members that we not at least answer their query on the budget as to exactly what it will be, or just hold off on that kind of information until you have made it public?

Mr. Preyer. I would hope that we could.

Mr. Fithian. Thank you.

The Chairman. Okay, any further questions?

Okay, then I think a consensus has been expressed that members are in accord with this approach, Mr. Preyer.
Okay, we now have some report regarding the committee whip system, and Mr. Fithian, either you or Mr. Dodd or both of you, can comment on that.

That portion of the hearing which followed here has been excerpted for continuity and can be found beginning at page 11.

Mr. Fithian. Would it be possible, to jump the track from this particular subject, but is it possible for the committee to convene after a luncheon recess and come back and pursue this until it is finished?

I think this is a major part of the reconstitution battle.

The Chairman. Can we have unanimous consent to come back this afternoon?

Mr. Devine. Yes, Mr. Chairman. I have a Republican leadership meeting at 1:30. It should be over within an hour, so if the meeting could be around 2:30 that would accommodate this particular member.

Mr. McKinney. Well, Mr. Chairman, I will be out of town. Mr. Dodd. I have a Rules Committee, and I know John Anderson does at 2 o'clock.

The Chairman. Well, how long do you think that will take?

Mr. Dodd. Not very long. There is only one matter up and Mr. Delaney has a tendency to move things along.
The Chairman. Is 3 o'clock acceptable?

Mr. Fithian. Mr. Chairman, I ask unanimous consent that we meet here at 3 o'clock, or that we stay here a few minutes longer to ask pertinent questions on the testimony that was presented here this morning.

The Chairman. All right, without objection, we will do that.

And we will skip over now and go to the other matter.

Mr. Sprague. Mr. Chairman, I think it will be a different hearing room this afternoon. We will have to let you know.

Mr. Devine. The hearing room?

The Chairman. S-407 they had for us to go into executive session on.

Well, why don't we meet in Mr. Devine's office.

Mr. Devine. It is 2206.

Mr. Dodd. Why don't we try to get the Rules Committee? It is on the House side.

Why don't we do it in the Rules Committee.

Mr. Devine. All right, why don't we check that out and we will let each other know on the floor.

The Chairman. All right, we will try the Rules Committee and if not, we will meet in Sam's office.

All right, can we proceed with the other matter?

Mr. Edgar. Mr. Chairman, I know probably the other members here have questions, and I wonder if Mr. Sprague
might reflect upon the testimony this morning and the comments that were made about invoking the Fifth Amendment and other pertinent information that he feels is necessary for us to know about the witness that was before us today?

Mr. Fithian. A parliamentary inquiry, Mr. Chairman.

The Chairman. Yes.

Mr. Fithian. Would it be possible for the recorder, by unanimous consent, to put this portion of this executive meeting ahead of the discussion we have already had so the discussion we have already had, plus the continued discussion on Mr. Sprague, might be in one continuous location in order that we can present that to the Congressional Record if the Committee so chooses?

The Chairman. I would think that by unanimous consent, that the reporter is instructed to so organize the material.

The Reporter. Yes, sir.

The Chairman. Thank you.

All right, Mr. Edgar.

Mr. Edgar. I wonder if Mr. Sprague might reflect on the witness that appeared this morning and what future direction we hope to go with his testimony.

Mr. Sprague. The immediate thing that is necessary for us is to obtain from the intelligence committee, the Senate Intelligence Committee, the testimony that Rosselli gave to them concerning this witness. There is also, as I indicated
an interview that was had with this witness by two Senators on behalf of the Senate Intelligence Committee, at which no notes or testimony were taken, but there is a summary as to what was presented there. It is necessary in answering the question that we have access to that.

I have also learned that this same witness had testified before a grand jury in New York. This is back in Frank Hogan's day, with regard to matters in Cuba at that time, and he was given the grant of immunity, and it is necessary that we obtain that testimony, again in order to determine the next step.

Obviously the most immediate thing that could be done would be for this committee to vote to seek immunity for this witness, which really then means a petition is presented to the Attorney General, who has no discretion in the matter. He is just acting administratively in your behalf to get a court decree requiring this witness to then testify, and if he does not testify, he goes to jail.

The problem with that is, we don't think want to be in the posture of granting a witness such as Mr. Trafficante immunity. There is a danger to the extent of his involvement, in having given immunity to someone as involved at higher levels, so that what I would like to see done first is to obtain what we know about what has been said concerning him under oath, and what he has at least said before. We have been trying since the other day to get the records from the
CIA. They advised us last night that they cannot turn over anything at this time until we have gone through security clearance, but also until we have signed the appropriate non-disclosure agreement, and I might just say that is basically pretty much the position now with the Justice Department.

If I can digress a second and bring to your attention what I think is going to be a real problem in the security clearance kind of agreement that we have prepared for going through with the Justice Department and the CIA. We have kept out of that agreement provisions concerning non-disclosure because as we see it, here there is going to be really a conflict. They are interested in the non-disclosure of material as we see it, one of the purposes of this Committee may well be to disclose, and a problem is going to arise that if the only way in which we get access to material, even though it is classified, and we are cleared for getting classified material, if we make a commitment that that which we obtain cannot be disclosed, that flies in the face of what may be one of the purposes of this investigation.

I am bringing that to your attention because that is, I think, very shortly going to loom as a problem.

Mr. Fithian. Mr. Chairman?

The Chairman. Mr. Fithian? Mr. Edgar?

Mr. Edgar. Mr. Chairman, I still have a couple more questions, unless Floyd has something pertaining to this
Mr. Dodd. Do we want to go off the record?

The Chairman. Off the record.

[Discussion off the record.]

[Hereinafter follows that which was referenced on page 5.]
Mr. McKinney. Mr. Chairman, could I ask a point of personal
request?

I unfortunately have got to leave here at 12:00 sharp. There is no way I can get out of it, and I was wondering if I could hear counsel's presentation on the case, first, because I can catch up on the rest. I don't want to disrupt the whole proceeding.

Mr. Fithian. That is no problem here.

The Chairman. Well, fine, why don't we do that. Also, I understand that we have to be out of this room by about 12:15 because they have a 12:30 committee meeting in here. So we will have to proceed as expeditiously as possible, Mr. Sprague.

So we will yield at this point to Mr. Sprague for his presentation.

Mr. Sprague. Thank you, Mr. Chairman.

I can speak without the microphone. Can you all hear me?

Taking up the various statements that were made by the previous chairman, Mr. Gonzalez, if I may take them up in a certain order, Mr. Gonzalez on February 16, 1977, made the statement at a press conference following a committee hearing, and subsequently included in the Congressional Record the statement that I improperly abused my official position and influence in exchange for compensation, in violation of House Rule XL-111, Clause 3. Mr. Gonzalez stated in the Congressional
Record, it was in the press conference, as follows: "It seems at least possible if not likely that Mr. Sprague, owing to his considerable outside activities, stands in violation of rule XL-111, Clause 3."

That clause reads as follows: A member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interests from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress.

This is an attack, I guess, saying that I received some bribe or something, funds for influence peddling. There has not been one statement by Mr. Gonzalez as to the basis of that. It is patently false. I don't know how I disprove a negative except to say that any private income that I have received have all been incomes from clients that I have had before I ever took the position with this committee, and I have not had one new client that I have obtained since I have been working for this committee. So any income is income I was receiving on the basis of work done prior thereto. That is the response, and only response I can give to that accusation.

Mr. Dodd. Mr. Chairman, on that point, before we go in and do it all at once, do you plan on taking on any new clients or have you been approached by any, or what is your reaction to any potential new clients who come forward during
the tenure of this committee's existence?

Mr. Sprague. I intend to take clients if the work that has to be done on their behalf can be done by my firm and is in no way related to anything involved with this committee.

Mr. Dodd. What I am getting at is do you plan to be working on cases? One, you have got the Yablonski case coming again apparently. Are you going to be involved in that to any extent?

Mr. Sprague. That is getting into a separate area which I was going to get into. In the event I am still on this committee as chief counsel and director, and this committee is continuing, I have already advised the authorities that I will not retry the Yablonski case. I do not think I can take that duty on while continuing here, in answer to that.

Mr. Dodd. Then I guess as an example, assuming that your firm takes on clients that may come to the firm, passing through you, do you see yourself or plan on working on cases that may come into your office during the tenure of this committee's existence?

Mr. Sprague. I intend to work on matters in that office to the extent that that work does not interfere to what are my time commitments here.

I can give as an example, I teach at law school, Temple, on Fridays from 5 p.m. to 7 p.m., one day a week. To the extent that I can be there to teach, I do so. Unfortunately,
this semester, which commenced at the beginning of February, the end of January, I have already missed four Fridays because of the press of matters down here.

Now, when I can make it, I intend to make that, and that will get into another point that I want to take up.

Mr. Dodd. You are going to touch on that one, the teaching:

Mr. Sprague. Yes; I am, but the first point was that influence peddling charge by Mr. Gonzalez.

In that same statement at that press conference on February 16, 1977, Mr. Gonzalez charged that I violated House Rule 116(a)(3)(b), and also he included this in the Congressional Record. Mr. Gonzalez stated as follows: Mr. Sprague appears to maintain an active law practice with offices at 1622 Locust Street, Philadelphia, Pennsylvania, and furthermore he is engaged in the teaching of law at Temple University, also in Philadelphia. It is plain that since the rules of the House apply to this Committee, Mr. Sprague is in clear violation of the requirement that he have no outside employment.

House Rule 116(a)(3)(b) reads in pertinent part as follows: "The professional staff members of each standing committee shall not engage in any work other than committee business."

The first part of my response there is that rule specifically refers to standing committees in terms of its own applicability. It is inapplicable to select committees.
presently authorized, which establishes this Select Committee on Assassinations, specifically exempts this Committee from the provisions of House Rule 116(a), which I dare say Mr. Gonzalez knew when he made the statement.

But thirdly, and perhaps more importantly, this has to go back to the basis upon which I was asked to take the position of Chief Counsel and Director. When I was contacted in the first place, we had for the then Chairman Mr. Downing, my response was to state that I would only consider taking the position on a number of conditions. Some of the conditions would not be material to this point, but one of the conditions was that it be agreed that I be permitted to continue in my private practice and in my teaching to the extent that I felt that those commitments of my law practice and teaching would not conflict in time commitments with my work here. That is to say that I would have to recognize, which I volunteered, as a matter of fact, that my number one priority in terms of time would be this position. To the extent, while giving this number one priority, I was able to continue with my other matters, I would be permitted to do so.

When I gave that as one of the conditions under which I would consider accepting this position, I was advised by Mr. Downing that that condition would be agreed to. Notwithstanding that statement, I stated I do not want this being
something you have agreed to. I want this something that is agreed to by the person who is going to be the succeeding chairman of this committee. At that time I was advised that it was expected that Mr. Gonzalez would be the next chairman of the Committee. I then met with Mr. Gonzalez before accepting the position, stated that as one of the conditions, among others, stated to him that I did not want to be in the position where he was merely ratifying me as the nominee of the then Chairman Mr. Downing. I wanted it to be on the basis of himself as the future chairman stating at that time that he wanted me to be Chief, Counsel and Director, and that that condition, among the other conditions, was agreed to as a basis of my accepting the position.

Mr. Gonzalez advised me that yes, he wanted me, and he agreed to that condition. In addition, I met with Mr. Fauntroy, because again I wanted it understood, the basis upon which I would be coming here, and I advised Mr. Fauntroy of the conditions that, among others that were the basis of my accepting the position.

When I was advised that that condition, among the other conditions, was acceptable, I then said I will accept the position, so that when Mr. Gonzalez then makes a public charge of my being in violation of a House rules that is inapplicable, which is specifically excepted, and in addition, violates the specific agreement under which I took this position, I think
that is a strong enough refutation to that accusation.

Now, with regard to your question, Mr. Dodd, no, I do not intend to change the basis upon which I accepted this position. If this Committee was to come to me today, starting afresh, of course, I would have to put out of my mind what has gone on in the interim as well, which might be a factor on a decision on my part, but if you came to me today and asked me to take this position and forego that, I would not. That has been my position, and it was accepted, and it is the basis upon which I am here.

Does that answer your question?

Mr. Dodd. I think it does. From the standpoint I would be less than candid with you, however, if I didn't express to you and to other members of the Committee here that just in my wanderings around on the floor and getting soundings from the members of the Rules Committee, members on the Democratic Majority, that this is a concern, and you ought to be aware of it, as should the members of the Committee. How much of a concern, to what extent that will weigh in their decision on whether or not to reconstitute this Committee is something I think this Committee is going to have to come to terms with, and I just want to make that point. It is a problem area.

Mr. Sprague. Well, let me say this. I don't want to be less than blunt and candid, or if you want to say abrasive,
however, they want to put it, I think I bring to this Committee and to the Congress a great degree of expertise and professionalism, and I think the caliber of the staff, the investigative part of that staff that exists, if I may say so, in part is there because of the expertise and experience on my part in knowing what kind of people to be looking for.

I am very happy to leave this position, make no bones about it. I have stayed here because of what I feel are obligations to each of you. I have been very appreciative of the fact that in a sense you have all gone contrary to the way the game is played here in Washington, and I have been highly appreciative; and because of that, have not wanted to walk out from you. I have also not wanted to walk out from the staff, but I have not the slightest reluctance in stating that I am not wedded to this position. I do not think I am doing myself a favor; I think I am doing you a favor by you I mean the Congress with the concepts of what is involved in this investigation, so that I will and I said it to Mr. Stokes the other day, I give you a standing offer, I don't want to be fired, obviously, but if you feel because of the problems that have been created, although I do not think that I have been at fault on them, but if you feel that because of that I am sort of a millstone, if you feel that because of attitudes of other members of Congress your ship will sail the better, then you don't have to play around with me on it.
I am happy to submit a resignation immediately.

Mr. Thone. Will the gentleman yield very briefly?

Mr. Dodd. Just one point, and I yield to you. It was never my intention, nor I think members' of this committee, to raise questions about your professionalism and so forth. The problem is, as I am sure you are well aware from previous discussions on this matter, that there is a perception that does exist with standing members of the Congress, that staff members be full time with no outside interests. I realize, you realize, and the committee realizes, and most House members realize that does not apply to select committees, but the standard that is followed is something that I think people in the Congress expect to be followed regardless of the legal entity, be it a standing or select committee, and therefore I bring it up, and I mention it to you in candor, and I don't think in any way that ought to be attributed as a reflection on your degree of professionalism. Were it that, I would have raised that issue a long time ago.

Mr. Sprague. I don't take it that way. What I am responding to is I want you all assured that I do not feel wedded here. I am happy to step aside, not on the basis that there is the slightest thought concerning the professionalism and the ability to do a job; if you feel the problems created, fine, I will step aside. The truth of the matter, even on the terms under which I have accepted this position, I am
personally losing quite a tremendous amount of money by being in this position.

Mr. Dodd. We all are.

Mr. Thone. Mr. Dodd, I just wanted to very briefly reaffirm what Mr. Sprague said, and maybe you weren't at the meeting I don't recall that you were. As I remember, Mr. Fauntroy was there and I know Mr. Gonzalez was there. I think Lou Stokes, I am not too sure, a couple of others, when this matter was very carefully spelled out. There were some questions asked about the fact of whether or not he was going to devote full time to this investigation, and just as thorough as he has done it now, Mr. Sprague spelled out to us at the time what the understanding was with Mr. Downing. And Mr. Gonzalez, as I remember, left about half way through or three quarters through. He is the one that called it was a rump session over there. He had another meeting and I just wanted to underscore that I very clearly at that time understood what the arrangement was.

The Chairman. Any further questions on this point?

Mr. Devine. Mr. Chairman?

The Chairman. Yes, Mr. Devine?

Mr. Devine. I have a question and I wonder if this exercise we are going through is at Mr. Sprague's request this morning. I have seen the charges. I don't have to have a response to each of the individual charges that our former
chairman made. I don't know that any useful purpose will be
served unless members of the Committee have a question about
it, and I don't know whether you intend to go through each
charge that was made, and your answer. I am perfectly satis-
fied, based on what I know.

Mr. Sprague. Mr. Devine, there were two other charges
of Mr. Gonzalez I said I was going to respond to, and that was
the extent of the response to Mr. Gonzalez. Other than that,
I was then going to take up with the entire Committee some
of the matters that have been raised by Mr. Burnham in the
New York Times article, and what is called the Applegate case,
and a number of other matters that were in his article, so
if the members of the Committee are asked about it, they
at least know, at least from me.

Mr. Devine. I have no objections if any other persons
would like to hear. I was more interested in what our witness
this morning would have said, had he answered.

Mr. Dodd. Mr. Chairman, if the gentleman would yield,
I would just as soon, I think for the purpose of being on
the record, laying this all out, even though most of us have
been around this thing either in private sessions with Mr.
Sprague, or in our own settings, I think for purposes of the
record it is well worth our while to have this thing, to go
through this exercise.

Mr. McKinney. I just wanted to interpolate here for a
Mr. Dodd. If the gentleman would yield, I can do that in closed session to question Mr. Sprague. I assume that this is all typed out.

Mr. Sprague. No, I am taking it from various notes.

Mr. McKinney. I would wonder what would be wrong in this executive session if Dick were allowed to enter into the record a written explanation in answer to all of these, and if that written explanation were by our clerk, alone, hand delivered to the member, alone, to go into our safe, and to be read. We have been through this exercise, the two of us together, but that would give every member of the Committee a full explanation, and it would also then be in the record for that other option we discussed. We might have to make at the last moment with making it public.

Mr. Dodd. If the gentleman would yield, I can do that easily, and I know all of us can here, but I think in order to properly cover ourselves, if we are asked by other members was this explained to the Committee, did you have an opportunity in closed session to question Mr. Sprague? I realize it is laborious and people have schedules to meet, but I would just like to make sure that when we go up before that Rules Committee, we go before the House, we don't find ourselves sitting in a box, I would rather be safe than sorry, and if it is all right, I will stay here alone. I know we all have to do things, but I think it ought to be on the record, and we ought at least have given the members of this
Committee an opportunity to raise any questions they may have in their own minds so that I can stand on that floor and say that I had every opportunity in the world in closed session to question Mr. Sprague about every one of these charges. I want to be able to say that with certitude, and I will feel more comfortable under those circumstances.

The Chairman. Mrs. Burke?

Burke. If the gentleman will yield, I agree with what he is saying, but I think there are a couple of members of the Committee who do have commitments, who wanted to get some answers and an explanation of the testimony.

Is there any way we could leave this item for a few minutes and have those answers and then come back at the conclusion of that information?

Mr. Fithian. Mr. Chairman, if the gentleman will yield.

The Chairman. Mr. Fithian.

Mr. Fithian. I would fully agree with that. It is obvious to me, however, going over all of the things in the Congressional Record and having -- Mr. Sprague afforded me an opportunity for a couple of hours in my office, I strongly concur with Mr. Dodd, and I would respectfully suggest that there are several questions which we ought to explore for the record for purposes of dealing with this matter when the time arises.

The Chairman. Without objection, we will recess this
meeting until 3:00 p.m. this afternoon, and you will be notified of the room.

Whereupon, at 12:15 p.m., the committee recessed, to reconvene at 3:00 o'clock p.m. this same day.
The Chairman. We will call the meeting to order at this time so we might proceed. It is now 3:15 p.m.

A quorum is present. Thank you.

Mr. Sprague. Well, since a number of you might already know what I am going to say, some of the others may not. Do you want to wait a couple of minutes, if the purpose is to let the members of the Committee

The Chairman. Well, the only problem is we don't know when they will get here, and time is of the essence.

Mr. Fithian. Mr. Chairman, when I was in the Navy as a control tower operator, we had an instruction that we passed on to the pilots after they landed, and they weren't getting off the runway, it was expedite the roll out, and I would move that we expedite the roll out.

The Chairman. Right.

All right, Mr. Sprague, why don't you proceed.

Mr. Sprague. Mr. Chairman and members of the Committee, on Saturday, February 12, 1977, in an issue of the New York Times, an article by David Burnham, Mr. Gonzalez charged me with violating House Rule XL-1IV, which relates to filing financial disclosure statements. Mr. Gonzalez stated, Mr. Gonzalez accused Richard A. Sprague of violating the rules of the House of Representatives by refusing to file a statement of
his outside income. The Chairman also said that Mr. Sprague had refused in writing to provide him with a financial statement of his outside income, which he said was required by Rule 44. Mr. Gonzalez reiterated this charge in a press conference on February 16, 1977.

The pertinent provision of that House Rule XLIV reads as follows: Members, officers, principal assistants to members and officers, and professional staff members of committees shall, by April 30 of each year, file with the Committee on Standards and Official Conduct, a report disclosing certain financial interests as provided in this rule."

So the first part of my response is, there had been no refusal by me to file a financial statement since no request had been made of me to file one. Second, under the rules of the House, the financial statement that is to be filed, is to be filed by April 30. I obviously cannot be in violation of a rule of the House which calls for a date which has not yet occurred.

I think it should be noted that Mr. Andrew Whalen, Chief Counsel for the Committee on Standards and Official Conduct, has advised us that the necessary financial forms that have to be filled out for financial disclosure can only be sent to the Committee personnel after the Chairman of the Committee has advised the Committee on Standards of Official Conduct, which members of the professional staff are
to be sent those appropriate forms. Mr. Whalen further indicated that a letter to all committee chairmen requesting this list of personnel had not even yet been sent out by his committee to committee chairmen, and there was, of course, no letter by Mr. Gonzalez advising them to send me or any members of the staff appropriate financial forms.

Secondly, I should point out, notwithstanding the House rules concerning this April 30 deadline, Mr. Gonzalez, in a letter written to me which I think each of you received copies of, a letter dated February 9, 1977, ordered that financial statements be filed no later than the close of business on February 15, 1977, a Tuesday. I would point out that Mr. Gonzalez's accusation against me in the New York Times was in an article of February 12, when it was printed, which is three days before Mr. Gonzalez's own deadline that he gave me in his letter, which was to file the appropriate financial forms by February 15. So that even accepting what he said here, he has publicly accused me of not filing it when his own deadline was February 15.

In a letter of response to Mr. Gonzalez, I pointed out to him what the House rules provided. I further pointed out to Mr. Gonzalez that upon his advising Mr. Whalen and telling them which members of our staff, including me, he wanted to file the appropriate financial forms, that Mr.
Whalen said they would then send those forms to us, and I stated to Mr. Gonzalez, upon receiving these forms, I will see to it that they are filed prior to that April 30th deadline. Notwithstanding that, at no time did Mr. Gonzalez then make any further response; at no time did he advise Mr. Whalen to send the appropriate financial forms, and to this day that has not been done.

So in no way again can I have been in violation of something which is prior to the due date, and without any forms having been sent.

There has been no refusal to file financial forms by me or any members of the staff.

Another charge that Mr. Gonzalez made, again in the public media, the New York Times in particular, but also at his press conference, he charged that $3000 in bills that were on these vouchers that have been presented to him for last December, that they were primarily for phone calls and most of these calls were by me back to Philadelphia. The facts are that the bills presented to Mr. Gonzalez actually totalled $11,488.40, of which $826.85 were for telephone bills. There were many, many other matters which I can submit to you which were higher bills.

Of this $826.85 telephone bill, my bill for calls to Philadelphia was $114.28. I might say that a number of those calls, in fact, were business calls on behalf of this committee.
calls for members of this committee, and so forth. However, I have paid personally every one of my telephone calls to Philadelphia for each and every month. I have not distinguished at all between a personal call or a committee call. Every one of my calls I have paid for personally.

Mr. Devine. Whether they were committee business or not, you paid them personally.

Mr. Sprague. Yes; I paid every call. So that again, in response to that kind of accusation, and what I consider frankly to be dastardly smears at me by a member of Congress publicly, I state those are the facts in terms of the charges by Mr. Gonzalez.

Other charges that have been made, I think, of the financial situation that we were in with regard to having gotten $20,000 in the hole on expenses. I think that has been covered in a previous session.

The next area that I would like to get into, if I may, has to do with the attack that has been raised by Mr. Burnham in the New York Times dealing principally with an article that was carried on January 2, 1977, which has frankly been the basis of repetition by others, and let me take up the areas covered by Mr. Burnham in that attack.

The headline was that I am often the target of criticism, and then the article indicates that I have been subject to attack and criticism by a number of reputable agencies of
Government and Mr. Burnham then lists a number of matters.

First, I should say, I have been a prosecutor for 17 years, and to list five matters as the areas in which I have been subject to criticism is to take out of context all of the 17 years of public service. And of course, I am not going to fill this record with the many, many worthy praises that have been uttered by many agencies, groups, awards and so forth. I would put that on any resume, if you like. I am addressing myself to these matters.

Mr. Burnham puts in his article, as though it is an area of attack on me, a matter dealing with an evidence technician called Agnes Belle Malatratt, M-a-l-a-t-r-a-t-t, as though I did something wrong. He states in here, on February 24, 1967; Paul Delahante was found not guilty of homicide in a Philadelphia courtroom. The principal reason for the decision, a police department evidence expert named Agnes Belle Malatratt, who had repeatedly testified as a professional witness for the Philadelphia District Attorney's office had been discovered to have lied about her qualifications and training. Both Mr. Sprague and Arlen Specter, then the Philadelphia District Attorney, unsuccessfully argued that the misstatements by Mrs. Malatratt were of no importance because she was in fact an expert witness.

That is put in there as one of these, and you read through the article, that is one of the things that is subjecting me
to criticism.

Now, let me tell you what that matter is about. Some numerous years before I ever went into the District Attorney's office in Philadelphia, a young girl named Agnes Malatratt applied for a position as an evidence technician in the Philadelphia Police Department, not the District Attorney's office but the police department. Now, when they asked her what her educational background was on whatever the appropriate form was that she fills out, she lied as to her educational background. At this point I do not recall whether she said she was a college graduate when she only went for a couple of years, or if she said she was even a high school graduate and she had dropped out of high school. But she did not she lied about what her educational background was.

She got the job as an evidence technician and worked in that department for approximately 20 years, under highly qualified supervisors who were nationally known throughout the United States. Those supervisors stated that she was one of the most qualified and competent people that had ever worked for them, and of course, the work was analyzing blood samples, fibers, clothing and testifying to it in various cases in court.

She was used by police departments in many parts of the country. In fact, she was honored by various societies for her expertise. In my opinion, by virtue of her work on the job,
she in fact did become an expert.

However, during the course of testifying in many trials as an expert, she would be asked in some of those cases, when it came to qualifying her as an expert, about her educational background. When she was asked that question, she would repeat the lie she had initially given in filling out the form for the police department, saying she was a graduate of wherever it was she said she graduated from in answer to that question.

Sometime in the early 1970s, when she was testifying as an expert in a murder trial in Philadelphia, it was not a case that I was trying, one of the assistants in the office was trying the case, the case of Paul Delahante, the defense counsel in that case learned that this lady had been lying about her educational background. So they asked her, in the trial of that case, isn't it true that you are lying or have lied about your educational background, and she said yes, she had, but she had lied initially to get the job, and had been caught up in that ever since.

The defendant in that case was acquitted, and she then resigned from the police department of Philadelphia, and I dare say if you ever should locate her today, you will find that she is probably an expert working in some private lab, being highly expert in the work that she is doing.

In any event, after she resigned from the police department, a number of defendants in cases where she had
testified, then brought petitions for writs of habeas corpus to upset their convictions on the grounds that she had lied at their trial, and that she in fact was not an expert witness.

So I had the problem of what position does the District Attorney's office take in response to these petitions for the various court hearings. I took the position, along with the District Attorney, that we had to evaluate each case on a case-by-case basis. We had to know what was the extent of her testimony in relationship to the entire testimony in that trial; i.e., were there three eye witnesses, was there a confession in the case, was she testifying to something that wasn't really in dispute.

If that were so, we were taking the position that no, we would not walk into court and concede that the case should be reversed, that we would argue that her testimony was not that substantial.

We also wanted to review each case to find out had she been asked in that particular case about her educational background, because in many cases they stipulate to an expert's qualifications without asking, and so in those cases, even though she wasn't asked, we took the position that even if she was not asked, but her testimony was of substance in the trial of that case, we would then submit what had been her opinion in that evidence to an independent tribunal of
experts. If they thought that her opinion was wrong, we
would agree to a new trial. If they concurred in what her
expert opinion had been, we would go into court then and
still try to sustain the conviction.

That is the position we took, and that was the position
that was upheld by the courts on the cases that arose out of
that.

That is the whole case of Agnes Malatratt. But that was
put in here in the context as though there is something that
has been done that was wrong.

The Chairman. Can you at this point make reference to
what was said that you did wrong? What did they say you did?

Mr. Sprague. It just has it in here.

The Chairman. It has it in there, but it doesn't say what
you did wrong?

Mr. Sprague. Well, there is the implication I will
read what he has got here.

Among the things putting in, I am often the target of
criticism, and he puts in here, on February 24, 1967, Paul
Delahante was found not guilty of homicide in a Philadelphia
courtroom. The principal reason for the decision, a police
department evidence expert, named Agnes Belle Malatratt, who had
repeatedly testified as a professional witness for the Phila-
delphia District Attorney's office, had been discovered to have
lied about her qualifications and training. Both Mr. Sprague
and Arlen Specter, then the Philadelphia District Attorney,
unsuccesfully argued that the misstatements from Mrs. Malatratt
were of no importance because she was in fact an expert witness.

That's what is in there.

Mr. Devine. How many years before you associated yourself
with Mr. Specter's office had she been hired?

Mr. Sprague. Well, she was there for years before that. She was there before I was in the office, and not an
employee of the District Attorney's office. She was an employee of the Philadelphia Police Department.

Mr. Devine. But the misstatement had been made many years.

Mr. Sprague. She had been making the misstatements over many years, which included years while Specter was District Attorney, as well, and by the way, once this occurred, one of the things I did do was set into motion a policy that any expert that the police department thereafter employed, or who already was employed, who was going to testify or be used to examine any evidence that would be used in court, had to submit the resume to us, the District Attorney's office, for us to then check their educational, what they were saying was in fact so.

But that is the whole situation of Malatratt.

The Chairman. A couple of questions, Dick.

While you think it is not important, I think it would be important in this case. When you cite 17 years of experience,
in which they pulled five matters out, I think it is important to have some recital with reference to the number of cases that you participated in over a 17 year period. If you can enumerate in terms of homicides, B&Es, you know, the litany, I think that is extremely important in terms of our answering this, to point up a comparative number as compared to five cases here, particularly in light of this criticism which didn't even affect cases you were specifically involved in.

Then let me ask you this: with reference to the number of cases in which they brought writs thereafter as a result of this, how many were involved, do you recall?

Mr. Sprague. I think there were approximately six or seven cases.

The Chairman. Is there any way for us to get any disposition of those as to what did happen?

Mr. Sprague. I can try to see whether they can be obtained.

Mr. Fithian. Would the gentleman yield?

The Chairman. Sure, I yield to you.

Mr. Fithian. I would add that it might not be an exercise in futility, in fact, to include in the record at the end of this proceeding today, those citations for excellence, the awards and so on. I think it would do a lot along the lines that the Chairman is speaking of.

Mr. Sprague. Fine.

Mr. Fithian. Then I don't think it would be untoward.
Mr. Devine. Pursuant to our request, not that you are volunteering.

Mr. Sprague. Well, I really do not go around listing awards in a résumé or anything.

Let me get to another case that is perhaps the one given principal attention, the case of Applegate, and this case occurred back in 1963. At that time I was chief of homicide in the District Attorney’s office, and would be notified by the police department whenever a homicide occurred in the City of Philadelphia for purposes of determining whether a representative from the District Attorney’s office should be sent to the scene of the crime, or whether police should keep us advised as to what is going on.

Back then, in 1963, I received a telephone call one day from a state police captain named Rocco Urella. I had first met this officer, Mr. Urella, in approximately 1960 when we had a prison break in the Eastern State Penitentiary, and approximately 28 convicts took hostages and attempted an escape. Urella was one of those with the state police that went in. I went in with them and in quelling that disturbance, he was made responsible to the state police for working with me in the prosecution of the approximately 27 or 28 people that took part in that attempted escape.

Those cases took approximately a year and a half or so through the courts, and I became a friend of that state police
captain. He was not a captain at that time. He had been, I don't remember, a sergeant or a lieutenant initially. We worked well together, and I had a high regard for him, and I would say that we may have gone out to dinner on one or two occasions during that interim of time.

Subsequently, after this 1963 occurrence that I am about to relate to you, we became in the course of years much better friends, became ultimately what I would consider very good and close friends. He went on to become the State Police Commissioner of Pennsylvania, was dismissed by the present Governor in a wiretap argument that occurred, but I have continued to be a good friend of Mr. Urella.

In any event, back in 1963 I got a call from Mr. Urella one day stating that his son, whom I will call Urella, Jr., had a friend named Scalizzi, Donald Scalizzi, He come to him, Urella, Sr., and had reported a matter, and he was advising me what it is that they had told him. And what he said to me was that they had just seen in the newspaper this was a Monday or a Tuesday, that a person was found dead at a certain house, and that they believed that the person that was found dead was a person that they had had an involvement with over that weekend.

What he told me was that his son, Urella, Jr. and Scalizzi, were college students at the time, going to LaSalle College in Philadelphia, that they had gone out on the weekend and had
been in some bar. While in the bar they said that they had met this person who was subsequently known to be Applegate, that they had gotten into a conversation with Applegate, and Applegate had told them he invited them up to his apartment stating that he was going to have a party and he would have some booze and some women up there.

So these two college students went up to Applegate's apartment. Up there they said was Applegate and Applegate's roommate, some other male who was drunk and was asleep. While in the apartment they stated this is what Urella, Sr. is telling me that these two boys told him, that was reported to me. They told him that Applegate had unzipped his pants and exposed himself and made a homosexual advance on Scalizzi, and Scalizzi had thrown one punch at the jaw of Applegate, which knocked him down, and the two boys ran out of the room, had gone on back to the campus. They did not think anything else of it, or of anything that had occurred until they read in the paper that a person at this location was found dead, and they thought that is the person that they had had this involvement with, and they were going to Urella, Jr.'s father, the State Police Captain, to report it to him.

I might say when I say he was a State Police Captain, he was not assigned in the Philadelphia area, he was assigned in the Reading area of Pennsylvania.

Urella, Sr. advised me of this information and asked me
what ought he now to do? I told him he ought to take the two boys to the police homicide department in Philadelphia, that I would advise the police homicide department that they were coming down there, and I would relate to them what Urella, Sr. told me, and that he ought to take the boys down there and let the police investigate the matter. He said he would do it, and I immediately called the Philadelphia Police Department and told them what I just have said to you, and asked them to report back to me the results of their investigation.

The police subsequently advised me that the two boys were brought down to them, and that they interviewed the two boys separately and that they repeated really what I have just said to you, and they took signed statements from the two boys. The police wanted to know what I suggested ought to be done in addition. They also interviewed the roommate who had been there, who was the one who found the body, and they told me that the roommate said that he had been drunk, he can't identify anyone. He remembers the two boys being in there, he remembers two fellows being in there, and somebody, he says, threw a punch at him, and somebody was struggling with Applegate, but he doesn't remember anything beyond that.

He described the one that he said threw the punch at him as having a certain color hair, I do not recall. The police also advised me that they found at the scene evidence that would
tend to corroborate what the boys had been saying because they found that Applegate's trousers, his fly was in fact unzipped. The medical examiner stated, I was advised, that the cause of death, flukily, was caused either by was consistent with just one punch having hit him, or in the fall backwards the medical examiner couldn't determine which had done it but what he found was consistent with just one punch having been thrown.

I had one problem in my mind, however, when this was reported to me, and it may just be my experiences as a prosecutor. I was concerned whether or not Scalizzi was saying that it was he, Scalizzi that threw the punch to protect a State Police Captain's son, and I told the police department that was a concern of mine, and that I would like further investigation to see whether or not Scalizzi is taking the rap for Urella, Jr.

The police continued their investigation and reported to me that going back to the college campus at LaSalle, they came upon a student, a student or students I don't remember which who had seen Scalizzi after Scalizzi had run out of Applegate's apartment but before anything had ever been reported in the paper, and Scalizzi at that time, before anything was known about anyone having died or anyone having reported or anything in the paper, was telling his college student friends about the experience that he and Urella had had,
Urella, Jr., and he related then the same story. He related about the homosexual advance on himself and how he, Scalizzi had thrown the punch, and the two boys left, and in the opinion of the police department, that was pretty strong evidence that Scalizzi was not taking the rap for Urella, Jr. because there was no need to have been saying that at that time.

But I asked the police department to have these two boys requested to take a lie detector test as well, which the police department did, and the results reported to me by the police department was that in the opinion of the polygraph expert, the boys relating the same story, that they were telling the truth, that there was no deception, and that is what was said, and that it was Scalizzi who threw the punch.

Based on that information, I recommended to the police department that no charges should be brought against Urella, Jr. He had not done anything. The only basis of a charge against him would be if there was a conspiracy to do something, in which case, then, each participant is responsible for the acts of the others, but there is no conspiracy of anything involved here.

I also told the police department that in my view, one punch thrown under those circumstances was justifiable, and I did not think that a charge ought to be lodged against Scalizzi. The police department concurred with my recommendation.
about Urella, Jr. There was never any issue in that, and they agreed completely. They, however, disagreed with my position and my recommendation on Scalizzi. They thought, well, since he threw a punch and the guy died, there ought to be a charge brought anyway, and they have a right to do that, and they then brought the charge against Scalizzi of causing the death of Applegate.

By the way, I should also point out that the police department, in checking Applegate's record, found that he did have a record as a homosexual, and prior arrests and convictions.

So anyway, as a result of that, the police department arrested Scalizzi, and there was then what we call a preliminary hearing before a magistrate. All of the evidence which I have just related to you was summarized publicly at that hearing, the news media was there, there is nothing that I am saying to you that is new. It was presented there fully. It was stated, I stated there in open court my opinion legally that the one punch under those circumstances was justifiable as to Scalizzi, and I did not think the case should go to court.

The magistrate concurred in my recommendation and he discharged Scalizzi. That is the end. That is the Applegate case in its entirety, and that was it in 1963.

However, Mr. Fithian. May I interrupt you, Mr. Sprague?

In that you knew Urella, Sr., if you had this all to do
over again, and this man who was a friend of yours had a son
who was potentially involved, would you excuse yourself and
have someone else in the office attend to the matter?
[Whereupon, Mr. Preyer entered the hearing room.]

Mr. Sprague. In no way. There is a tremendous difference
between the investigation at the beginning to find out who
was involved from the question of who handles the prosecution
if somebody is then involved. For example, I will use any
of you. If I was the Chief of Police in Washington, D.C., and
let's say I knew Mr. Devine, and I get word that there is a
robbery at a tap room, and someone is suggesting Mr. Devine's
son is a suspect in that thing, I don't then say whoops, I
know Mr. Devine. I am not going to take part in the investi-
gation because maybe he is or maybe he isn't involved. What
you do is you go ahead with the investigation.

Now, if in fact the investigation showed that he was
involved and that there was evidence to then bring a
prosecution, if my relationship was such that I thought no, I
ought not to handle the case, yes, that is a different matter.
But you do not separate yourself from a case because at the
threshold when you are trying to find out who is involved it
may be somebody you know.

Let me say, addressing myself to that point, because it is
very interesting, the attacks that occurred here, again in
terms of my record. I have, in fact, prosecuted judges; I
have in fact prosecuted police officers; I have in fact prosecuted newsmen; I have in fact prosecuted sons of police officials, who were in each instance friends of mine; have convicted them, have sent them to prison. There has not been one iota of a suggestion in any instance that I in some way was doing anybody a favor or that I was in any way not fully prosecuting those cases.

That is the Applegate case, as I say, and that is in 1963 at a public hearing, and it ends. And I must say that this young boy, Urella, Jr. since went on to become a doctor; Scalizzi since went on to become a dentist. However, this committee must keep in mind what subsequently developed that then makes these cases some sort of issue, and I now must switch to approximately 1972 or 1973, the precise year I am not positive of.

And before I get to that, I must also say with regard to a newspaper in Philadelphia called the Philadelphia Inquirer, they had one of their star newspapermen, a man who received awards throughout the state he was honored by the Governor of the State as one of the great newspapermen in our state, a man named Harry Kerafin. We in the District Attorney's office had received word that he was using the columns of that paper for blackmail purposes, going to businessmen, going to a bank, a prominent bank in Philadelphia, telling them that he had derogatory information concerning those businesses
or that bank that he was going to publish in his column in the Inquirer unless they put him on their payroll as a public relations man, and he would see to it that there was no adverse publicity about them. And as a matter of fact, this prominent bank had him on the payroll at $1000 a month; New York City's Broadway Maintenance had him on the payroll, I forget at how many thousands of dollars; and businesses did, and we uncovered that evidence and I prosecuted Mr. Kerafin. I sent him to prison, where he died.

I may say that that man had been a friend of mine before this evidence was uncovered. Not a soul ever suggested that because I had been friendly with him I ought not to be investigating that case or prosecuting it. They did everything to get me off the investigation and the prosecution of that case, but didn't succeed. But that is a little background in terms of this newspaper, the Inquirer.

In 1972 or 1973, a reporter in Philadelphia named Gregg Walter, who at that time was working for the other main newspaper in Philadelphia called the Evening Bulletin, was arrested by the District Attorney on a charge of wiretapping, although but I must say so you don't get the wrong concept, in Pennsylvania, it is illegal to tape record a telephone conversation with another part without the consent of the other part to the telephone call. If you just record your own conversation with somebody else, that, under our law, is wiretapping.
This reporter was caught having engaged in that. I may say as a background having nothing to do with me, the District Attorney in Philadelphia, Mr. Specter, was in a very big dispute publicly with the Governor of the State, the Attorney General and the State Crime Commission in terms of allegations of police corruption in Philadelphia, which in part arose because Mr. Specter was thought to be the next Republican candidate for Governor against the then Governor of Pennsylvania, who was and is a Democrat, Mr. Schapp. So this battle had been occurring between the District Attorney and the Governor and the State Attorney General and the Crime Commission, over allegations of police corruption in Philadelphia. But the main scenario was because of what was believed to be an ensuing political contest.

In any event, Mr. Specter ordered the arrest of this newspaperman, Greg Walter, on the basis of the police having obtained evidence of this recording of telephone conversations without the consent of the other parties.

Mr. Fithian. May I ask, was the reporter recording his own conversation, or a conversation between himself and the other parties?

Mr. Sprague. Between himself and the other parties, without the knowledge and consent of the other parties.

Mr. Fithian. So he was taping their answers to his questions and whatever.
Mr. Sprague. Yes, that is correct, and I may say that that reporter had been a friend of mine prior to this arrest. I had nothing to do with that arrest. This was strictly a decision by Mr. Specter, and I must also say that when Mr. Specter arrested that reporter, it literally hit the fan in terms of the attitude by the Philadelphia news media against Mr. Specter.

Mr. Edgar is here, and I think he would even have a recollection to the press, to the radio, T.V. to the press, blasted Mr. Specter in just one continuous roast for having arrested this newspaperman for doing what they considered was a practice that was all right, numbers of them were doing it, and they also argued that when you call the Philadelphia police department on an emergency call, they are recording that conversation, so why shouldn't the police be arrested, too. That was the kind of argument.

Mr. Fithian. May I raise this question? I believe in the Burnham article, the quotation is allegations of the selective prosecution by Mr. Sprague of a newspaper reporter for secretly recording his phone conversations while Sprague took no action against similar practices of the city's own police and fire departments.

Mr. Sprague. Well, there are two parts of that. First, the decision to arrest was the District Attorney's, and it was
Mr. Specter and not Mr. Sprague. Secondly, the decision with regard to the arresting of Mr. Walter was not even made in consultation with me. Thirdly, the position and the argument by Mr. Specter that was raised with him was that a call to the police department and a call to the fire department is in effect with an implication that they are going to record it. The reason that the police department and the fire department record that is that when somebody is screaming into a phone "fire" and giving an address, what in the world happens when that party has hung up and the fire department is now saying, what was that. Was that on M Street or was that on N Street or what? They need that recording now.

Mr. Devine. Isn't it also public knowledge that police and fire calls are recorded?

Mr. Sprague. Well, we said that it was. However, as a result of this prosecution, what was put into effect was a little beeper with the police and the fire department which was on since to indicate further that it is being recorded. The attack was made by the defense that it was a selective prosecution.

As I said, the prosecution was not by me, it was by Mr. Specter.

Secondly, that argument which was made, Mr. Burnham doesn't point out, was argued in court. It was heard in court. A court made a determination it was not a selective prosecution,
which Mr. Burnham does not mention in his article. I mean, he
takes what an allegation is, not pointing out that that was
fully argued and a decision rendered on that in the court.

In any event, continuing, Mr. Specter had made this
arrest of Mr. Walter and was literally roasted by the news
media.

We have in Philadelphia what we call a two-tier trial
system. Minor cases are heard by a lower court judge where
a defendant does not have a right to a jury trial. He gets
his quid pro quo because in the event he is convicted and he
does not like the disposition or the fact that he was convicted,
his a right to a new trial automatically, and a jury trial.

In terms of the charge against Mr. Walter here, it was
a minor charge, and it was be heard in this lesser trial level.
Mr. Specter came to me and asked me as a favor to him to try
the case. Now, I did not want to try it. I had seen the
roasting that he had gotten. Secondly, Mr. Walter, as I say
had been a friend of mine, and I tried to urge Mr. Specter
that I would prefer if he asked others in the office to try
the case. Mr. Specter however said no, he would like me to
try it, and as a favor to him would I do it. In my
concept of my loyalties to him and my position as his
first assistant, I agreed and I did try the case. I have no regrets. I did what I thought I should do. I tried
that case and I convicted Mr. Walter.
After the conviction of Mr. Walter, he said he wanted a new trial which he is entitled to automatically to now have a jury trial.

I might say that the defense tried to get me out of being the prosecutor in that case, and wanted to, and indicated that they wanted to disqualify me from being the prosecutor on the new trial.

During this interim from the conviction to the time of the new trial, Mr. Walter was hired by the Philadelphia Inquirer, to which I have already made reference.

I received word that Mr. Walter was going around after that conviction stating that he is going to destroy me.

The next thing I heard was trying one of the Yablonski murder cases in Erie, Pennsylvania in 1973, and I got a telegram from Mr. Walter and another reporter working with him demanding that within three days, I answer questions as to how come I blew out the Applegate case back in 1963, as a favor for Urella, Sr. and covered up the case against Urella, Jr. I contacted the Inquirer and reminded them that a previous newsman for the Inquirer, named Kerafin, had been using the columns for his own purposes, and suggesting to them that that same thing is happening now, that Walter is trying to smear me in their paper, that he wants to disqualify me from being
his prosecutor in his upcoming trial.

The attitude of the Inquirer was, I am not telling them who writes any story, and a story thereafter appeared headlined that Sprague covered up the the Applegate case as a favor ofr Urella, Sr. and blew it out for Urella, Jr.

I wrote a lengthy document to the Inquirer, which they did not in fact publish, and I sued them for libel. That libel suit is still pending. They have tried on a number of occasions to have that case thrown out on the grounds of the newspaper's right to comment about public officials even though what is said is untrue that they have a right, nonetheless, to publish it. The courts have thrown out their motion to throw out the case on the grounds that in this situation oh, I should have said this article appeared under the by-line of this Greg Walter and the other reporter, and the court has said that in view of the fact that Mr. Walter was in fact prosecuted by me, that it is one of the rare situations where a public official has at least a showing, prima facie, of malice, which is required as the burden by a public official.

The only thing I would say of note that occurs concerning that is that the Inquirer has as its managing editor an individual named Jean Roberts, who is also one of the defendants in my libel action, along with Greg Walter and others, and Jean Roberts having come to the Inquirer from the New York Times.
That is the Applegate case.

There is one last thing I should mention on it, two things. Even prior to the libel case, the libel suit, the file in that case has been reviewed by the person who was the district attorney, of the district attorney's office, back in 1963, when I was chief of homicide. Keep in mind, I was not the district attorney. The file has been reviewed by the district attorney then who is now a judge in the Commonwealth Court of Pennsylvania, who has stated in a letter publicly that he concurs totally with the decision and the conduct in that matter. The file was reviewed by Mr. Specter who has stated that for purposes of my libel suit, that file has been submitted to a number of other district attorneys throughout Pennsylvania, all of whom have concurred in my decision and conduct in the case.

The Chairman. I have several questions.

First, after your recommendations to the police that Scalizzi not be prosecuted, and they disagreed with you, then you say they went to a magistrate's court. Now, I assume your procedure there is to go to the municipal prosecutor and get a complaint?

Mr. Sprague. No.

The Chairman. What is the procedure?

Mr. Sprague. When the police want to, they hear what our opinion is. We are the prosecutors but they are not bound
by it as you can see in this particular case, and they have
a right to go to a magistrate or a municipal court judge on
their own and get their own complaint, which is what they did.

The Chairman. And then the matter came before a magistrate,
right?

Mr. Sprague. Yes; it did.

The Chairman. And then it was disposed of before that
magistrate in that he found, I suppose, no probable cause
and dismissed the complaint.

Mr. Sprague. That's right.

The Chairman. Okay.

Now, that bears, then, on those questions here, where
according to the article, they make reference, which
various matters were not properly pursued in 1963,
immediately after the death of Applegate the 1973
concluded, citing unresolved conflicts in the testimony of the key
participants, additional witnesses who were not interviewed,
incomplete fingerprint search at the death scene, and
faulty lie detector and blood tests.

I think those specific items need to be commented on.

Mr. Devine. It sounds like the King-Kennedy investigation.

Mr. Sprague. Mr. Chairman, what happened there, in the
course of these attacks and this attack by the Inquirer that
was demanding that I be dismissed from the District Attorney's
office, they went into a regular campaign after I sued them
for libel, and Mr. Specter submitted the file in the case to the Attorney General of Pennsylvania, I must say, the same person with whom he had been feuding, concerning the other matters with the Crime Commission. The Attorney General of Pennsylvania then assigned two detectives to investigate the case. They came up with a report which was the basis, then, of a letter by the Attorney General in which he said that with regard to what the evidence was in the case, the lack of evidence against Urella, Jr. and so forth made it what was done was the only way it could be handled.

However, his investigator stated, and he put in his letter that there was not a thorough fingerprinting job done at the scene of the crime, that there should have been further examination of the scene to determine blood types and things on blood stains, and that there should have been further interrogation of some witnesses. He said in his letter but he was not addressing himself to whether or not there was a conflict of interest by me in even investigating it in view of my friendship with Urella, Sr.

My response to that is it is easy for him to say the fingerprinting there is an implication I guess in that that I was responsible for the fingerprinting at the scene of the murder. I bring back to your attention that the body was found on some day before it was ever even reported in the paper. Nobody from the District Attorney's office went to the
scene of this crime. There was no coverup, no one even
knew about Urella at that point. The police did their normal
job at the scene. It is not up to me to be at the scene telling
the police fingerprint here, fingerprint there.

Now, it is very easy for the Attorney General and now
Mr. Burnham to say, ah ha, they didn't go all over this place
for fingerprints. Maybe they did, maybe they didn't. I don't
know about that. But that again, you have got to look at that
Attorney General's letter in terms of the conflict going on
between the Governor and Mr. Specter and taking advantage of
this kind of fight.

But as to the fingerprinting, I would even throw out
further, what is fingerprinting here going to show, that these
two boys were in the place? We know they were in the place.
They have said so. And let me tell you this, as an experienced
prosecutor, having investigated literally hundreds and hundreds
of cases, you don't in general find fingerprints at the scene
that are telling you anything. So what do you find, a fingerprint
that shows you are there, if somebody admits he is there.

With regard to the question of blood stains, it sounds
nice, but this again has to do with the police work at the
scene of the crime having nothing to do with what occurs
thereafter for which, you know, I wasn't at the scene and had
no responsibility for the work initially at the scene. But
even beyond that, had I had that responsibility, what is that
going to tell in terms of the story? They find some I
dare say I could probably walk into most of the kinds of homes
where this thing occurred, and if I really did a thorough check
on the floors of the place, I would get some readings of some
blood around here and a splattering there, but that doesn't
tell me anything.

So again it may sound nice, but it doesn't develop
anything.

And the last thing, when they talk about some conflicts
in the testimony of witnesses, what they are talking about
there and what the Inquirer tried to make a big deal of, this
roommate of Applegate's who was drunk, who frankly there was
some suspicion as to whether he did something to Applegate
in a homosexual jealousy attack, indicated subsequently that
maybe the boy that was hitting him was the dark haired boy,
which would then be Scalizzi, trying to imply that it maybe
was Urella that hit Applegate.

However, it was the police who were in contact with that
witness right there at the scene who totally disregarded
him for being drunk, and when he was interviewed, he did not
know, so that that is what they are talking about in that
context.

The Chairman. So there were no additional witnesses
that appeared at the magistrate's hearing.

Mr. Sprague. None.
The Chairman. Has there ever been any conflict with reference to the cause of death theory, that is, the information presented to you that one blow was struck? At the magistrate hearing, was there any additional evidence that anything else was done other than one blow struck?

Mr. Sprague. No. What was presented to the magistrate was presented in summary form, literally as I gave it to you, by the detective who was responsible for the case. He was told by me to tell the magistrate the case. And he related that, and that is the finding by the medical examiner consistent with the one blow.

Mr. Dodd. Mr. Chairman?

The Chairman. Yes, Mr. Dodd.

Mr. Dodd. I am sorry, Dick, I may have missed it.

What was the final disposition on the reporter Walter case after the non-jury trial?

Mr. Sprague. You did not miss it, Mr. Dodd. I failed to say it, I guess, because it is a sore point with me. After I brought my suit for libel, I must say this. Mr. Specter did not want me to disqualify myself from the forthcoming prosecution of Mr. Walter. However, I felt very strongly that now having a libel suit against that individual, it would be wrong for me to then be the prosecutor in the case here, and here notwithstanding Mr. Specter's position, I insisted that, and in fact, over his objection. I walked into court and I
withdrew from the prosecution of that case.

Thereafter Mr. Specter dropped the subsequent trial against Mr. Walter and that was the end of it.

Mr. Dodd. What is the connection between Mr. Burnham and Mr. Walter?

Mr. Sprague. I don't know of any connection except that it is pretty clear to me that Mr. Burnham, who is from the New York Times and I don't know if you were here when I mentioned it, the managing editor of the Inquirer is formerly from the New York Times, and Mr. Burnham was given by the Inquirer all of their files and information, and as a matter of fact, on that same point I couldn't help but note in the Congressional Record that Mr. Wirth stated that it was Creed Black from the Inquirer who furnished him with all of the editorials from the Inquirer. Mr. Creed Black happens to be one of the defendants in my libel suit as well.

The Chairman. Are you finished?

Mr. Fithian?

Mr. Fithian. I have no more questions on this particular case. I have one other question. I am a little reluctant to get into it because of the lateness of the hour, Mr. Chairman, but maybe this could be compressed into a very short response.

Quoting again from the article which Mr. Wirth put in the Congressional Record, it says in another case involving the husband of Sprague's girlfriend, the Pennsylvania Supreme
Court said the proceedings lacked due process, and the husband's later arrest was, and this is a quotation, "gross injustice."

Now, I might tell the rest of the members of the Committee that Mr. Sprague was good enough to come over to my office, and I went over all of the summary of the various charges of statements that were in the Burnham article. I would like for you to do whatever you need to do to summarize, to set the stage, but specifically with reference to the Pennsylvania Supreme Court saying that the husband's arrest was gross injustice, that is my particular question here.

Mr. Sprague. Fine.

Setting the stage here again, the attack is that the Pennsylvania Supreme Court said that about me, and I guess the implication here is that I as a district attorney did something that was violative of a particular person's rights. And the first thing let me say is that what occurred in this instance in no way involved me as a district attorney or as an assistant district attorney. This was a private matter. With regard to the private aspects, there was a husband and wife, both of whom had been good friends of mine.

Mr. Dodd. You have more good friends.

Mr. Sprague. Who, as occurs, had domestic difficulties. In the course of their domestic difficulties, as I saw it, frankly my sympathies were on the wife's side. She subsequently left her husband, obtained custody of their three children.
She divorced her husband, she divorcing the husband. She and I have continued to be good friends, and I have dated her since a number of years, and still do.

Referring to back then, at the time of her separation from her husband, her husband commenced a campaign to destroy her relationship with her three children. Without going into all of the things that were involved in that campaign, he refused to turn over to her the clothing, the necessities that her three children that were in their common house. She had moved elsewhere with her children and was given custody by the courts of her children.

The courts directed that the husband that the clothing, the toys, whatever the belongings are of the three children, should be turned over to the wife.

In the course of the legal difficulties that existed between that husband and the wife, the court on numerous times issued orders on the husband to turn over the children's belongings. At one point there was even an agreement that she would sign over the house in a joint name. She would sign over her interest in the house to the husband, even though it had been bought with her money, her father's money. The husband would then turn over at least the children's belongings. She turned over her title to the house and contents, and he still didn't
turn it over.

It ultimately achieved the point where the lawyers on both sides went before a judge in Philadelphia who had jurisdiction over this case. He had him issue an order that on a certain date and time the husband was to turn over these belongings to the wife. The wife had nothing to do with her belongings, just the children's. The attorneys agreed that if the husband did not do it on the date he was notified to do it, that the judge would have him picked up for contempt of court, incarcerated, and then bring him down for a hearing for further punishment for having done that.

So whatever the date was, they set this in motion. The wife went to the location to pick up the belongings of the children. The husband again did not turn them over. She, pursuant to their arrangement, and because of my friendship with her, I was kept advised as to what was going on. She contacted her lawyer, who contacted the husband's lawyers. They agreed that this information should now be brought to the attention of the judge who sits in City Hall, whose courtroom is next to my offices.

They asked would I convey the information to the court as to what happened.

Mr. Dodd. Who is they?

Mr. Sprague. The lawyers for both sides. When I say they, it was her lawyer, and when he called me, I said, well,
I am going to call the lawyers for the husband because I am not walking in unless it is they, being both sides.

The lawyers for both sides requested me to go into court and to convey to the judge that despite their agreement and his order, this had not been done, and that they were in accord that a petition for holding the husband in contempt of court, committing him, should be taken to the judge for immediate execution, and that the lawyer for the wife would see that it is prepared, but that the wife should come down to my office where she would then have it notarized because the thought was she may have to appear before the judge to swear to it.

So, they asked would I take the petition and recite to the judge what occurred and have her have it notarized in my office, and that was done, and I went in and told the judge what had occurred, presented that petition, and based on that, he issued an order for picking up the husband and committing him for contempt of court to be brought down, I think, the next day or so for a hearing in front of him.

That matter went up to the Supreme Court of Pennsylvania and they say that the husband, father and I may say the husband-father was a very prominent attorney in Philadelphia it went up to the Supreme Court. The husband did not stay in jail. He was released, I think immediately, within two or three hours, pending this appeal to the Supreme Court. By the time it was heard by the Supreme Court, a judge had held
this husband, by the way, has been held in contempt of court on so many instances by various judges I couldn't begin to count them for you. He has spent weeks in prison for failure to comply with court orders, with regard to continuing difficulties between this former couple over their children.

By the time this matter got to the Supreme Court, the contempt here had been dismissed as not needed because they had other actions against the husband.

So in this particular proceeding, the ruling by the Supreme Court said it was moot, there was no longer any contempt matter, but they put in their opinion that while it was laudatory, the purpose of getting the children's belongings, it was improper to have had this husband picked up and committed, that the proper procedure would have been for him to have been notified of a hearing in front of the judge on what are called a petition and rule to show cause why he should not be committed to jail. In the Supreme Court's narration of facts, they mentioned that an attorney named Richard A. Sprague went into the courtroom and conveyed the information as to what happened. Then they say at the end of that paragraph: "This order directing the husband to be arrested was" whatever the language is that was read there, improper and unjust and so forth.

That is that case.
Mr. Edgar. Mr. Chairman, Mr. Sprague, I would be remiss in not talking for just a moment about the case in Delaware County, and I appreciate the fact that you came to my office and we talked about this privately.

I would be remiss in not talking for just a moment about the case in Delaware County, and I appreciate the fact that you came to my office and we talked about this privately. I mentioned to a couple of persons on the committee an inadvertent headline that appeared in last week's Bulletin, which I subsequently have said to you that it bothered me greatly, where the headline indicated some criticism of you for your work in the 1974 investigation into Delaware County corruption.

There are a couple of questions that I have about that case, and I wonder if you might just summarize quickly your being requested to come into Delaware County, under what circumstances, and maybe a couple of the lessons you may have learned from that.

Mr. Sprague. Glad to.

Again I am not sure of the year. It was either 1972 or 1973.

Mr. Edgar. It was 1971 that the raid took place on the Republican Party Headquarters in Media.

Mr. Sprague. All right. In 1971, it was then the State Crime Commission came out with public accusations about
corruption by the Republican organization in Delaware County, Pennsylvania, indicating that they, the State Crime Commission, had uncovered and had provable cases of corruption by the Republican organization in that county, and that the District Attorney, who was the preacher of the Republican organization of that county, was not doing his job.

They also indicated there was what was called macing by the Republican organization, which is the party in power is stating to people on the public payroll, cough up contributions at election time or you will lose your job.

As a result of those allegations, the District Attorney of Delaware County requested that I take the position of Special Prosecutor and look into these allegations. I was busy enough, but the District Attorney of Philadelphia, with whom the decision was left, Mr. Specter, thought that I should take the assignment, and I did.

My taking the assignment, in my mind, was predicated upon a number of thoughts really. A District Attorney in Pennsylvania does not have subpoena power on his own for an investigation. He can only do that through an investigative grand jury. And in Pennsylvania, you only get an investigating grand jury where you can show a pattern of provable cases of corruption and dereliction by local law enforcement agencies, but what I thought I could have here, the State Crime Commission does
have subpoena power, and it has agents. So what I thought upon taking the position of special prosecutor was to contact the State Crime Commission and say fine, you fellows have now blasted Delaware County. You say you have got cases. Turn them over to me and I will prosecute the cases after I look them over, assuming they are good cases, and furthermore, with your people doing the leg work, we are off, we will investigate Delaware County, we will haul people in under subpoena in front of your Commission, get them under oath and on we go, because they had immunity powers as well.

Right after I took the appointment, I wrote to the State Crime Commission in the vein of what I just said, and the response was

(Pause)

Mr. Sprague. The response by the Crime Commission to me was no, Mr. Sprague, we are not going to turn over anything that we have. We are not going to turn over any of the cases, any of the evidence, we are not going to work with you, and you cannot have access to any of our information, and you cannot use our subpoena power, our people and so forth. In line with your question of what lesson have I learned out of that, which I guess is one of the reasons for part of my position today, I probably ought to at that point have told Delaware County I will not take the position of Special Prosecutor because I had no budget, I had no staff, and what I learned out
of it is you had better not proceed on an investigation unless you make sure you have got the proper funding and 

Mr. Dodd. What year was that?

The Chairman. You made the same mistake twice.

Mr. Edgar. Well, let me point out just for the record that I think that was really the mistake in this particular case. The actual search and seizure warrant was signed and the action was taken on October 26, 1971. The report, which is infamously called the Sprague Report, was issued in Dick's office on October 18, 1974, and I was in Dick's office the day that the report was released, and I think the problem was that the appetite of the community had been whetted, that for those years they had a special prosecutor, and it was not in the mind of the community that no funds were available. There were, as Dick describes, only volunteer law students doing some of the work.

After that many years of investigation, the total number of pages, I think, in the report is somewhere around 36, and there was a great deal of frustration on the part of the community, not knowing the facts, I think. The report, which was looked upon as being an evaluation of the problems of Delaware County, caused a great deal of concern, I think.

Mr. Sprague. Just to continue, I should have just said out, but I didn't, and what I tried to do, since I had no budget and I couldn't use anybody from Delaware County it
is almost a similar situation, if I was investigating the county, how can I use people from that county? So what I did do, I got volunteer law students from the various law schools, approximately 80, and they were great and went to work and we uncovered on this macing area what I considered to be sufficient evidence that in my mind I thought that there was macing going on. Because I felt that I ought not to deal with the Delaware County judges, who were also creatures, at that time, of the political organization, I went to the Chief Justice of the Pennsylvania Supreme Court and got a search and seizure warrant for Republican headquarters in Delaware County, and with my volunteers, some assistance I got from some Philadelphia people, we went in and we seized the financial records of the Republican Party in Delaware County.

You can imagine what howls that brought from them and the District Attorney who had appointed me the Special Prosecutor. In going through those records of contributions, I found what in my view was a pattern of contributions which were suggestive of macing; i.e., people whose salary was, let's say, a certain amount, $10,000. It is a figure, they all contributed a certain percentage. When the salary was an additional amount, it was a little higher percentage.

But when we went and interviewed all of these people, to prove a macing case, it is not enough that there is a contribution. You have to show that there is a coercive pressure
stated, and those people would all say no, I love the Grand
Old Party, and I made the contribution because I want to support
the party of my choice. Yeah, I gave this amount, and that is
the amount we are all giving, and there were no threats
expressed, and the probability is that no threat ever was
expressed. It may be something that at times is felt by
employees, but when you have got a total control, as the
organization had there, they do not have to express threats.

The end result was that we did not develop what I call
provable cases.

I must say I turned those records over to the State
Crime Commission, or made them available to them. I made them
available to the U.S. Attorney's office and the Internal
Revenue Service. I say that because while I have been attacked
for that report, everybody thought I am going to come up and
get great cases against everybody and I came up saying I did
not get provable cases, I have been attacked as though well,
you should have, and my response has been, but nobody else
has either up to that period of time, including the U.S.
Attorney who has subpoena power, and the FBI.

When I came out with my report I blasted in my report the
State Crime Commission for the very things that I am talking
about. How dare they have made these broad, blunderbuss
attacks and never back them up and not cooperate.
Well, in turn, what Mr. Burnham talks about is the State Crime Commission's attack on me. He doesn't point out that their attack on me was in response to my attack on them, and their attack on me was saying, Mr. Sprague, you uncovered the whole Yablonski thing and you got people to talk, how come you couldn't get people to talk in Delaware County?

There is a whale of a difference when you have got a murder penalty of life and death in getting someone to talk than when you have got a $100 fine as a penalty.

The Chairman. We are running late, and there is a vote.

Mr. Dodd. What are we going to do?

The Chairman. I would think that we have gone pretty long today, that perhaps we ought to now recess, subject to further call.

Mr. Dodd. Are you going to try for tomorrow?

The Chairman. Yes; if everybody is available. We are trying to set a time and room tomorrow.

Whereupon, at 4:43 p.m., the Committee recessed subject to the call of the Chair.