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FEB 8 1983

THE WHITE HOUSE
WASHINGTON

2/8/83

TO: FFF

FROM: Richard A. Hauser
Deputy Counsel to the President

FYI: ✓ (and return)

COMMENT: _____

ACTION: _____

Is not an interest-free
loan a supplement to
income?

> 2/5/83

THE WHITE HOUSE
WASHINGTON

2/8/83

TO:

John Roberts

FROM: Richard A. Hauser
Deputy Counsel to the President

FYI: ✓

COMMENT: _____

ACTION: _____

The answer to P3's question
is "yes".

Time to talk to Steffleman

5/25/82

DONOVAN
FEB 2 1983

Donovan Traded Merger Target's Stock, Got No-Interest Loans From Ex-Employer

By ROBERT S. GREENBERGER

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — Labor Secretary Raymond Donovan last year bought and sold securities of a corporate takeover target and, during the same period, borrowed money interest-free from his old construction company.

According to a public disclosure form filed yesterday with the Office of Government Ethics, Mr. Donovan last August bought and sold between \$15,000 and \$50,000 of stock of Garfinckel, Brooks Brothers Miller & Rhoades Inc. During August, the company was involved in a takeover battle with Allied Stores Corp. but agreed before the month was out to be acquired by Allied.

Because of an omission in the filing, it isn't clear exactly when Mr. Donovan bought and sold the stock, but the statement does show a capital gain of \$5,000 to \$15,000. Although the disclosure form calls for the month, date and year of such transactions, Mr. Donovan's statement says only that the stock was bought and sold in August. A spokesman said he "didn't know the answer" as to why the dates were missing and was unable to find out.

There isn't any law prohibiting Cabinet officers from making such stock transactions when there isn't a conflict of interest involved. However, Mr. Donovan's disclosures come at a time when he is receiving intense scrutiny because of a series of allegations since his nomination that his construction company was involved in illegal activities.

'No Interest' Loans

Mr. Donovan received two "no interest" loans from Schiavone Construction Co. during 1981. Mr. Donovan, former executive vice president of the Secaucus, N.J., concern, still is a major stockholder of the company. The disclosure statement shows that Secretary Donovan borrowed between \$50,000 and \$100,000 on April 16, 1981, and repaid the money April 20, 1981. Further, Mr. Donovan borrowed between \$15,000 and \$50,000 from the construction company Aug. 10 and repaid the loan Sept. 23.

The two loans are listed in the disclosure statement as "advances" that were "subsequently repaid-no interest."

Arranged by a Trustee

Mr. Donovan's spokesman said yesterday that the loans had been arranged by a trustee, Frank Steiffelman, who handles Mr. Donovan's assets. "He was authorized to do it. It was some need for short-term money and it was repaid immediately," Mr. Donovan's spokesman said. The spokesman added that the arrangement wasn't a blind trust, under which Mr. Donovan wouldn't have had knowledge of the transactions.

The disclosure statement also shows that during 1981, Mr. Donovan received bonus and salary of \$146,300 from Schiavone Construction Co. Mr. Donovan resigned as executive vice president and a director of the company Feb. 2, 1981, a day before he was confirmed by the Senate as Labor Secretary. The department spokesman said he wasn't certain what the payment represented. "The bulk of it probably represented the bonus from the preceding year," he said.

According to the statement, Mr. Donovan last year also received a consulting fee of \$94,940 from a joint venture, Girola Lodigiani Inc., which is involved along with Schiavone in a major New York City subway construction project. His statement also says he earned \$321,634 last year on capital gains.

Mr. Donovan, considered to be one of the

wealthiest Cabinet members, also listed several liabilities for last year, including \$255,033 in interest expense and more than \$1 million in loans.

The Labor Secretary also has serious political liabilities. Currently, he is being investigated by a federal Special Prosecutor to determine whether Schiavone Construction made illegal payments to union officials to buy labor peace. Mr. Donovan and Schiavone Construction have been accused by several anonymous Federal Bureau of Investigation informants of making such payments and of having close contacts with organized-crime figures. The charges delayed Mr. Donovan's confirmation hearing last year, and he has remained under a cloud of suspicion.

Charges Are Denied

Mr. Donovan has continued to assert that the charges are false, and that neither he nor the company have engaged in illegal activities or associated with crime figures.

Mr. Donovan's statement lists several market transactions besides the Garfinckel and Fonar trades. In August, he bought Ashland Oil Co. October call options—that is, options to buy the stock at a certain price—and sold the options in October. The transaction was valued at between \$15,000 and \$50,000.

During last August, Mr. Donovan also sold 9,699 ounces of silver, in a transaction valued at between \$100,000 and \$250,000. He also bought shares of Walter E. Heller Co. stock last August valued at between \$5,000 and \$15,000. The company is a unit of Walter E. Heller International, one of the nation's largest factoring and financing concerns.

Further, according to the statement, Mr. Donovan made two transactions involving stocks owned by his children. Last July, he sold stock valued at between \$15,000 and \$50,000 in Mattel Inc., a toy maker, and bought stock valued in the same range in Southern Pacific Petroleum, an Australian company.

Report reveals how Donovan gained from '81 Garfinckel stock

By JUDITH VANDEWATER and MARK HOSENBALL

WASHINGTON (FNS) — Labor Secretary Raymond Donovan made up to a 45 percent profit trading Garfinckel, Brooks Bros., Miller & Rhoades stock as Allied Stores Corp. announced its surprise takeover bid for the Washington retailer in August 1981.

Amended financial disclosure documents filed by Frank Stifelman, the Roseland, N.J., lawyer who acts as trustee for Donovan's personal investments, show that on Aug. 10, 1981, between \$15,000 to \$50,000 in Garfinckel's stock was purchased for Donovan. Garfinckel's closed on the New York Stock Exchange at \$33½ on Aug. 10.

Four days later, on Aug. 14, when Allied Stores' tender offer pushed Garfinckel's stock to \$48 per share, the Garfinckel shares were sold, turning a profit of \$5,000 to \$15,000, according to Donovan's financial disclosure report, which was filed with the Office of Government Ethics, here.

The disclosure documents also show that on Aug. 10, the day he purchased the Garfinckel's stock, Donovan obtained a no-interest loan worth between \$15,000 and \$50,000 from Schiavone Construction, the Secaucus, N.J., contracting firm that Donovan helped run before joining the Reagan administration.

No indication was given in Donovan's financial disclosure statement about how he used the loan from Schiavone. The disclosure statement does report that on Sept. 23, 1981, Donovan repaid Schiavone for the no-interest loan he had obtained on Aug. 10.

The initial financial report submitted by Donovan last May 18 to the government ethics unit omitted the precise dates of the Labor Secretary's Garfinckel trading even though the reporting form calls for the day, month and year of such transactions. The amended report listing this information was later filed by Stifelman on May 25, 1982. Before Stifelman amended the report, Donovan's form said only that the purchase and sale of Garfinckel's stock took place in August 1981.

The Securities and Exchange Commission recently revived interest in the hectic August 1981 trading in Garfinckel's stock when it filed suit Jan. 10 against nine New York men, accusing them of illegally profiting from stock dealings based on inside information obtained from the New York law firm representing Allied in the Garfinckel's takeover bid. Donovan is not part of that lawsuit nor is he being investigated, according to the SEC.

The SEC lawsuit singled out Dominick Musella, a former beauty parlor operator from Queens, as having illegally profited from trading in Garfinckel's stock at the time of Allied's takeover bid. The SEC said that Musella invested roughly \$130,000 in Garfinckel stock on Aug. 13, 1981, and collected an overnight profit of \$51,500 by selling the stock Aug. 14, after Allied's bid had been announced. The SEC is seeking a court order forcing Musella and his eight co-defendants to forfeit their profits from trading in Garfinckel's and other stocks.

Twice as many shares of Garfinckel's were traded in the week before Allied's announcement than had moved across the exchange during the entire preceding month.

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57TH STORY of Level 1 printed in FULL format.

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September 25, 1984, Tuesday, Final Edition

SECTION: First Section; A2

LENGTH: 526 words

HEADLINE: Grand Jury Questions Donovan;
Secretary Rebuts 'Baseless Allegations'

BYLINE: By George Lardner, Jr., Washington Post Staff Writer

DATELINE: NEW YORK, Sept. 24, 1984

KEYWORD: G.JURY

BODY:

Labor Secretary Raymond J. Donovan testified before a Bronx grand jury for more than four hours today and later said he hoped he had finally laid to rest "all the baseless allegations that have plagued me throughout my public life."

In a sidewalk news conference after his appearance, Donovan said he had answered all questions put to him "directly and truthfully." He denounced them as "nothing more than a rehash" of the 1982 federal investigation into his activities by independent counsel Leon Silverman.

Donovan testified before the grand jury after waiving immunity from prosecution in connection with a murder and fraud investigation started last year by Bronx District Attorney Mario Merola.

Donovan said he did not think he would be indicted and disclosed that he had taken a polygraph test, or "a lie detector test, as it is called on the street," 13 days ago "with the hope, the real hope, that once and for all it will end this witch hunt."

The secretary said the polygraph test, conducted by John E. Reid & Associates of Chicago, touched on the same areas he had been told he would be asked about before the grand jury. They primarily concerned transactions between Schiavone Construction Co. of New Jersey, of which Donovan is part-owner, and a Bronx-based subcontractor headed by William Masselli, a reputed Mafia soldier.

"Needless to say," Donovan said of the test, "I passed with flying colors."

Bronx prosecutors have voiced suspicions that an alleged \$8 million payment to Masselli's company, Jopel Contracting, as a Schiavone subcontractor on a \$186 million subway project was based on phony billings and false reports to the New York Transit Authority.

The polygraph examiner's report said Donovan showed "no significant emotional responses indicative of deception" when he said he knew nothing of phony billings for Jopel's work or incorrect information supplied to the Transit Authority. He also reported that he saw nothing "highly unusual" about a \$200,000 advance that the Schiavone firm made to Jopel to start the subway

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project in 1979.

Donovan was one of the Schiavone officers who signed the \$200,000 advance check. The polygraph examiner said Donovan acknowledged being aware of an allegation that Masselli had made a \$20,000 payoff to another Schiavone official, but Donovan told the examiner he had no knowledge of such a transaction.

Donovan said that he offered a copy of the polygraph report to Merola at a meeting this morning before his grand jury appearance but that Merola would not accept it "for reasons known only to him."

Merola could not be reached for comment. The grand jury apparently remained in session here this evening after Donovan left. Prosecutors have said they must complete their inquiry this week to avoid statute-of-limitations problems concerning some of the events under investigation.

Donovan said he thought "I deserved better than I got today" in light of the past investigations of his conduct before joining President Reagan's Cabinet in 1981.

"Obviously I'm sick of this line of questioning," he told reporters. "I think you are. And I trust the American people are also."

GRAPHIC: Picture, Raymond J. Donovan . . . questions were "a rehash"

55TH STORY of Level 1 printed in FULL format.

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September 25, 1984, Tuesday, Late City Final Edition

SECTION: Section B; Page 3, Column 1; Metropolitan Desk

LENGTH: 569 words

HEADLINE: DONOVAN CALLS INQUIRY IN BRONX A 'WITCH HUNT'

BYLINE: By PHILIP SHENON

BODY:

Labor Secretary Raymond J. Donovan testified for more than four hours before a Bronx grand jury yesterday and later described the panel's investigation as a 'witch hunt.'

After completing his testimony in Bronx Criminal Court, Mr. Donovan revealed he had recently passed a lie-detector test about the subject of the investigation - the financial dealings of the New Jersey construction company where he was a senior executive.

Payments to Subcontractor

'I am angry,' he told reporters outside the court. 'I am sick of this line of questions. I know you are. I trust the American people are.'

The concern, the Schiavone Construction Company of Secaucus, N.J., has said that the grand jury is investigating the purported misappropriation of up to \$8 million through payments to a Bronx subcontractor in 1979 and 1980.

The subcontractor, the Jopel Construction and Trucking Company, was co-owned by a reputed organized-crime figure. Mr. Donovan was executive vice president of Schiavone until 1981, when he joined the Reagan Administration.

He said the questions raised in the grand-jury session had already been answered in 1982 by a special Federal prosecutor, Leon Silverman, who found insufficient evidence to justify allegations that Mr. Donovan had connections to organized-crime figures.

'As I had suspected, this is nothing more than a rehash of the Silverman investigation,' Mr. Donovan said.

He said the lie-detector test was administered Sept. 11 by John E. Reid and Associates Inc., which he called 'the premier polygraph company in this country.'

'With the hope, the real hope of once and for all ending this witch hunt,' he said, 'I submitted to a polygraph test - a lie-detector test, as it is known on the street. I was not surprised I passed it with flying colors.'

But, he said, the Bronx District Attorney, Mario Merola, who is supervising the grand jury, had refused to accept the test results. The District Attorney refused comment yesterday.

(c) 1984 The New York Times, September 25, 1984

Lawyers for the Schiavone company had argued in Federal District Court in Manhattan that Mr. Merola, a Democrat, was attempting to embarrass Mr. Donovan, a Republican, through the investigation. A Federal judge rejected their motion to end the investigation.

Asked if he agreed with the Schiavone lawyers, Mr. Donovan said, "I won't say that, but I don't forget that this is the fall of 1984."

Mr. Donovan made public a five- page report on the lie-detector test. It said Mr. Donovan had truthfully answered several questions about the relationship between Schiavone and Jopel, which was hired to assist with a multimillion-dollar contract for subway construction in New York.

Inquiry Stems From Murder

Mr. Donovan, the report said, was asked specifically whether he had "any personal knowledge of anyone at Schiavone Construction making any illegal arrangements or deals with anyone at Jopel as the basis for hiring them as the subcontractor."

He answered no. The report said, "It is the opinion of the examiner that he is telling the truth."

According to law-enforcement officials and court documents, the grand-jury investigation stems from a 1978 murder involving disputes among organized-crime figures over Jopel's profits.

The District Attorney's office has said the murder investigation raised questions of whether Schiavone had made fraudulent payments to Jopel.

GRAPHIC: photo of Raymond Donovan and William Bitman

SUBJECT: LIE DETECTORS

ORGANIZATION: LABOR, DEPARTMENT OF; SCHIAVONE CONSTRUCTION CO

NAME: SHENON, PHILIP; DONOVAN, RAYMOND J (SEC)

48TH STORY of Level 1 printed in FULL format.

Copyright (c) 1984 The Washington Post

October 2, 1984, Tuesday, Final Edition

SECTION: First Section; A4

LENGTH: 896 words

HEADLINE: Much of Term Spent Rebutting Allegations

BYLINE: By Kathy Sawyer and Peter Perl, Washington Post Staff Writers

KEYWORD: TERM

BODY:

Raymond J. Donovan, a political outsider whose 44 months as secretary of labor have been hampered by poor relations with Congress and organized labor, has spent much of his tenure rebutting allegations that he had ties to organized-crime figures.

Despite the series of investigations into his activities as former executive vice president of Schiavone Construction Co. of Secaucus, N.J., he has remained in the job longer than any Republican appointee since the Eisenhower administration. At the same time, as he followed President Reagan's agenda of making deep cuts in Labor Department programs, he has had what organized-labor officials describe as icier relations with them than have any of his predecessors.

Donovan has resisted intense pressure to resign by White House chief of staff James A. Baker III and other administration adversaries, choosing to stay and protest his innocence. In a famous "turkey-blind interview" in January 1983, for instance, Baker told a Texas newspaper, "Ray Donovan shouldn't be in here. What's he thinking about? He's got his good name now . . . He ought to do what's right for the president."

Only Reagan could have forced Donovan out, according to administration sources, but Reagan, reluctant to believe anything bad about his employees or to fire them, likes Donovan personally and has backed him throughout his service.

The indictment of a Cabinet member a month before a presidential election, however, could have an impact on the Reagan campaign, regardless of whether Donovan remains in office.

Donovan, 53, grew up with 11 brothers and sisters in a working-class area of Bayonne, N.J. His parents died when he was young. He attended Notre Dame Seminary and helped raise his siblings after his parents' death. In 1959, after working as a union electrician and insurance salesman, he joined the Schiavone company as vice president in charge of labor relations and financing. At that time, the firm had assets of less than \$20,000.

When he left it in 1981 as executive vice president, its contracts totaled more than \$600 million.

During the 1980 presidential campaign, at the request of Reagan aides, Donovan raised more than \$600,000 and persuaded Frank Sinatra to appear at a

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Reagan fund-raiser. He served as chairman of the Reagan-Bush committee in New Jersey for the fall campaign. It was then that he also reportedly charmed the future president.

Donovan's appointment as secretary of labor drew immediate opposition from organized labor, which contended that he was appointed only because he was a major Republican fund-raiser and that he lacked the background to deal fairly with unions.

Murray Seeger, spokesman for the AFL-CIO, refused to comment on the indictment last night, but he repeated complaints that Donovan had the worst relations with organized labor of any modern labor secretary, had cut back on virtually every program supported by unions, and had made many "anti-union" appointments to key jobs.

The only program to get beefed-up funding under Donovan was the inspector general's division that dealt with investigating unions, Seeger said, "and we contended all along that was part of the harassment."

Donovan met rarely with top AFL-CIO officials, who represent 13.5 million of the nation's 20 million union workers. He met only two or three times with AFL-CIO President Lane Kirkland, whose disdain for Donovan reached the point where he called Donovan "the custodian of the [Labor Department] building" and would not use Donovan's name in public comments, calling him "Secretary who?"

Donovan carried out an administration mandate to cut government costs by reducing his department's budget by more than any other department.

Under Donovan, the Labor Department reduced funds for health and safety inspections, mine safety, and various labor standards investigations such as "sweatshop" probes. The Comprehensive Employment and Training Act was eliminated and a revamped Job Training Partnership Act enacted during his tenure.

Donovan has maintained that he was representing the interests of all working people, not just union members and their leaders. He also pointed out that he maintained good working relationships with certain unions, including the construction trades and the Teamsters.

The combative Donovan surprised many of his critics with his staying power, combined with an aggressive campaign to overhaul his image.

Donovan once called his chief accuser, a government informer, "murdering slime" and portrayed himself as a victim of the "New Jersey syndrome," a reference to a popular stereotype of the state as riddled with underworld corruption.

Nearly a year ago, still hounded by rumors that he was on the verge of resigning, Donovan told a reporter that "I paid such a high entrance fee, I'm gonna stay for the double feature" -- indicating his intention to further confound critics by remaining through a second Reagan term.

Just last week, Donovan waived immunity and testified for almost five hours before a Bronx grand jury, telling reporters that the investigation was a "witch hunt."

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"I am angry. I am sick of this line of questions. I know you are. I trust the American people are," he said.

"With the hope, the real hope of once and for all ending this witch hunt, I submitted to a polygraph test. I was not surprised I passed it with flying colors."

42ND STORY of Level 1 printed in FULL format.

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October 3, 1984, Wednesday, Final Edition

SECTION: First Section; A1

LENGTH: 1156 words

HEADLINE: REAGAN;

Administration Officials Face 'Lynch Atmosphere,' He Charges

BYLINE: By Lou Cannon, Washington Post Staff Writer

DATELINE: BROWNSVILLE, Tex., Oct. 2, 1984

KEYWORD: REAGAN

BODY:

President Reagan, acting defensive for the first time in his reelection campaign, today responded angrily to the indictment of Labor Secretary Raymond J. Donovan by charging that administration officials faced a "lynch atmosphere."

Confronting reporters under the wing of Air Force One soon after he landed here for a campaign speech, Reagan was asked about "the sleaze factor," as critics have referred to the array of ethics charges against various administration appointees.

"The only sleaze factor that I've seen is all of the things that have been going on in these four years, if there is one, is on the other side, with their baseless charges of accusations that have all been proven false," Reagan said heatedly.

The brief planeside news conference was arranged by White House officials to allow Reagan to comment on the Donovan indictment. But Reagan wanted to talk first about the Sept. 20 bombing of the U.S. Embassy annex in Beirut, and his anger boiled over when reporters pressed him about "lax security" at the embassy.

Reagan said he took complete responsibility for the bombing, at which two Americans and more than a score of Lebanese were killed, but he held no one accountable.

"I'm not going to deliver somebody's head up on a platter, which seems to be the request of so many when things like this happen," he said.

Reagan said "these terrorist activities have been going on worldwide" and implied that there was no way to stop them.

Reagan's defensiveness today was unusual. Throughout the campaign, he has rarely deigned to respond to criticisms by his Democratic rival, Walter F. Mondale, and has largely ducked questions from the press.

Reagan's speeches were also unusually combative today. In Corpus Christi, site of a major naval air station, Reagan contended that "our struggle to

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protect Central America from communist aggression was hampered by obstacles thrown in our path by the liberal leadership of the Democratic Party." He said the party leadership is "out of step with . . . patriotic . . . Democrats."

He also charged that "the liberals" and the Carter administration had allowed U.S. military strength to erode and described his get-acquainted session last Friday with Soviet Foreign Minister Andrei A. Gromyko, his first such meeting as president with a high-level Soviet official, as a major peace initiative -- the first time the meeting has been described in such terms.

In remarks prepared for a Houston fund-raiser, Reagan's final speech of the day, he said he had "no apologies" to offer for the successful invasion of Grenada last year in which he said U.S. forces had rescued Americans from "Communist thugs." Reagan also charged that, in dealing with the Soviet Union, "our opponents . . . keep mistaking weakness for peace."

Reagan's political aides sought to minimize the importance of the impact of the Donovan indictment. Campaign press secretary James Lake said the impact would be short-term and largely limited to "overriding the president's message for a day or two."

But White House spokesman Larry Speakes, who on Monday had refused to say whether the leave of absence Reagan had approved for Donovan would extend beyond Election Day, emphasized today on Air Force One that Donovan would not return to his post or be paid until the charges are resolved.

That set the stage for Reagan's planeside news conference, in which he reportedly had determined to say as little as possible about his embattled labor secretary.

Reagan first said "there is a tradition in the law of our land that's as old as this country, that you are innocent until you're proven guilty, and Secretary Donovan took the step of voluntarily absenting himself"

But when reporters said there was "hardly any precedent" for having a Cabinet officer under indictment, Reagan turned his fire on his critics.

"I don't think there are many precedents for all the attacks and assaults that have been made on so many people of our administration with allegations and charges that were without any foundation in fact; the people were cleared," Reagan said. "There's a kind of lynch atmosphere in that."

Reagan declined, however, to endorse Donovan's claim that the charges against the labor secretary are politically inspired.

"He is the man who is charged, and I'm not going to comment," Reagan said.

Despite the president's claim that Donovan had decided voluntarily to ask for the leave, campaign officials made no secret of the fact that they were eager for him to do so.

White House chief of staff James A. Baker III, who was not available for comment today, has described Donovan as "an embarrassment" to the administration and once unsuccessfully pressed Reagan to fire him.

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On the Beirut bombing, Reagan's decision to accept responsibility was his latest response on the issue.

Last week, Reagan sought to put the blame on a decline of intelligence capability in the Carter administration. When even his national security officials differed with this view, Reagan called former president Jimmy Carter and blamed the account on a "distortion" in the press.

On Sunday, Secretary of State George P. Shultz accepted responsibility for the bombing. Reagan said today, "that was typical of George, and I appreciate it very much," but added: "I was responsible, as I said that I was on the previous tragedy. I was responsible and no one else for our policy and our people being there."

Reagan's reference to the "previous tragedy" was to the Oct. 23, 1983, bombing in Beirut in which 241 U.S. servicemen were killed.

A reporter observed that Reagan had been critical of Carter in 1980 after U.S. diplomats were taken hostage by Iran. Reagan drew a distinction between the government of Iran "with whom we had relations" and unidentified terrorists.

"All I criticized the previous administration about was for our abandonment of the shah and our allowing what happened to happen," Reagan said.

In his Corpus Christi speech, Reagan defended his military buildup and linked it to his recent talks with Gromyko.

"Contrary to what the liberals would like us to believe, by restoring America's military strength, which the previous administration permitted to erode, we are now in a better position to negotiate with any potential adversary," Reagan said. "Just last week, I initiated a new effort to convince the Soviet Union to return to serious arms reduction negotiations.

"I am optimistic that, if we remain firm, the Soviet Union will find it in its interest to join with us in reducing the number of weapons now threatening both our peoples," Reagan said. "But we're not going to achieve this or anything else with self-doubt and unilateral concessions."

In what appeared to be an implied criticism of Mondale, who repeatedly has blamed Reagan for the low state of U.S.-Soviet relations, Reagan said, "in situations like this, all Americans should stand together."

40TH STORY of Level 1 printed in FULL format.

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October 3, 1984, Wednesday, Final Edition

SECTION: First Section; A13

LENGTH: 761 words

HEADLINE: Donovan Case Seen as Issue Of Leadership

BYLINE: By James R. Dickenson, Washington Post Staff Writer; Staff writers David Hoffman and Rick Atkinson contributed to this report.

KEYWORD: ISSUE

BODY:

Democrats charged yesterday that the criminal indictment of Labor Secretary Raymond J. Donovan is the latest example of President Reagan's failure of leadership, but none of those surveyed said it would have an adverse effect on his reelection campaign.

Some Democrats, referring to the numerous scandals and allegations that have plagued the Reagan administration almost from the start, contended that Donovan's troubles reintroduced the "sleaze factor" into the campaign.

But House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.) appeared to voice the opinion of many Democratic colleagues when he said that, although opinion polls show that many people do not like Reagan's policies, he is personally popular, and that "the sleaze factor never rubs off" on the man they call "the Teflon candidate."

Democratic presidential nominee Walter F. Mondale criticized Donovan yesterday as "the weakest secretary of labor in modern history" but said he should be presumed innocent and removed from office only if there is reason to believe that the charges are true. Mondale contended that the case is a test of Reagan's leadership.

On the ethics issue generally, Mondale said, "There has been a tacky element to this administration."

But he also said, "There will always be in any administration . . . , regrettably, examples of where public officers violate the public trust I think what really counts is how the president handles this matter.

"The president has a duty right now to investigate whether there is reasonable grounds to believe these serious charges are true. And if so, Donovan ought to be removed If Reagan doesn't do that, then I think that will strengthen the case that they're inattentive to the public trust"

Mondale has hit hard at what he considers Reagan's failure of leadership since the bombing of the U.S. Embassy annex in Beirut last month, but opinion polls indicate that the public's perception of Reagan as a strong leader is one of his major political assets.

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Many Democrats have long been frustrated by what they perceive as Reagan's insulation from the real world and his refusal to take responsibility for his administration.

"There seems to be a universal reaction that Reagan is a decent fellow," said Greg Schneiders, a strategist in Ohio Sen. John Glenn's presidential campaign and a political consultant. "Mondale and the others aren't in much of a position to press Donovan's indictment now. They should have done it before he was indicted and went into court. It's like religion in the campaign -- it's peripheral. If it doesn't go to the issue of war and peace, forget it."

The voters tend to absolve popular presidents from scandals in their administrations, as they did with Dwight D. Eisenhower when his White House chief of staff, Sherman Adams, got into trouble. And some Democrats believe that the difficulty Rep. Geraldine A. Ferraro (D-N.Y.), their vice-presidential nominee, had with her husband's finances has at least partially offset the Donovan issue.

"As a former prosecutor, I will make no comment," Ferraro said yesterday. "I think it is a difficult thing for me to comment on, quite frankly, because I've been the subject of many, many accusations, unfairly."

There is also the feeling that if Reagan has not been touched by earlier scandals and allegations, he won't be by this.

Donovan has spent much of his 44 months in office dealing with charges that his New Jersey construction firm had ties with organized crime. A special prosecutor concluded in 1982 that there was insufficient evidence to bring criminal charges against him.

Edwin Meese III, a longtime friend and political colleague of Reagan who is his nominee for attorney general, was cleared last month by an independent investigator of charges of criminal misconduct in his financial dealings.

Paul Thayer resigned in January as deputy defense secretary after being accused of passing "insider" information on the stock market to friends; Thomas C. Reed resigned as White House national security adviser when accused last March of "insider trading;" Rita M. Lavelle, a former Environmental Protection Agency official, was sentenced to six months in jail and fined \$10,000 for lying to Congress about her agency's activities.

Attorney General William French Smith came under fire in 1982 for benefiting from a tax shelter that the Internal Revenue Service had ruled was improper, and CIA Director William J. Casey has been criticized for being an active investor in the stock market while in office.

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October 3, 1984, Wednesday, Final Edition

SECTION: First Section; A1

LENGTH: 1613 words

HEADLINE: Donovan Pleads Not Guilty;
Labor Secretary Accused of Fraud, Grand Larceny

BYLINE: By George Lardner Jr, Washington Post Staff Writer

DATELINE: NEW YORK, Oct. 2, 1984

KEYWORD: GUILTY

BODY:

Secretary of Labor Raymond J. Donovan pleaded not guilty today to a grand jury 137-count indictment accusing him and nine other men of grand larceny and fraud on a New York subway project.

The felony indictment offered little detail about the alleged wrongdoing of Donovan and the other defendants. But the general charge was that they defrauded the New York City Transit Authority of some \$8 million in the construction of a \$186 million subway tunnel by Donovan's firm, the Schiavone Construction Co. of Secaucus, N.J.

Prosecutors for Bronx District Attorney Mario Merola's office said the alleged fraud involved Schiavone Construction's billing of the transit authority for more work than was done by a supposed minority-owned construction firm headed by William P. Masselli, a reputed Mafia member. The actual work was also less than the law requires be given to minority-owned firms, the prosecution said.

Pressed to explain the labor secretary's alleged culpability, Merola charged that Donovan "knew" of fraudulent billings that Masselli's company was passing on to the transit authority through Schiavone Construction, where Donovan had been executive vice president.

Merola said at a news conference that Donovan also "had his people sign these false documents" and benefited from transit authority payments that were siphoned off by Schiavone Construction instead of going to Masselli's minority-business enterprise.

"Schiavone got more money than it should have gotten," Merola said. "The people who were defrauded were the minorities of the city of New York and the transit authority."

Each defendant was accused of one count of grand larceny in the second degree, 125 counts, in the first degree, of falsifying business records and 11 counts, in the first degree, of filing false reports with the transit authority.

The grand larceny charge carries a maximum penalty of seven years in prison. Each of the other counts carries as many as four years. The two corporations

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involved could be fined millions of dollars, prosecutors said.

Democratic presidential nominee Walter F. Mondale reacted cautiously to the latest in a string of scandals affecting the Reagan administration, saying that Donovan should be presumed innocent and President Reagan should remove the labor secretary from office only if there is reason to think the charges are true. A number of leading Democratic politicians said that they doubt that Donovan's troubles will have an adverse effect on Reagan's reelection campaign.

The 73-page indictment was voted by a Bronx grand jury Sept. 24, five days before the five-year statute of limitations would have ruled out what Merola described as a crucial count involving \$800,000 in false billings that formally launched the scheme. Much of the evidence, prosecutors said, was contained on long-secret FBI tape recordings compiled in 1979 in an investigation code-named Operation Tumcon.

Donovan, who is taking an unpaid leave of absence from Reagan's Cabinet to fight the case, accused Merola of misusing his office.

"I commented yesterday Monday , without having seen the indictment, that it was not worth the paper it was written on," Donovan said in a hectic session outside the courtroom after arraignment. "Now that I've seen it, I realize that I overstated its value."

Merola said the case started out last year with the investigation of a 1978 homicide long listed as unsolved and that led into the business dealings of Masselli, one of the suspects in the murder.

"Nobody is above the law," Merola said in defending the Donovan indictment and his decision to seek it. "You gotta do what you gotta do, and this is what we did."

Masselli headed a trucking company that grew into a multimillion-dollar-a-year business as a subcontractor for Schiavone Construction on a series of New York subway projects, culminating in the digging of the \$186 million 63rd Street tunnel beneath the East River.

Masselli and longtime associate Joseph Bugliarelli were also charged in a separate indictment with murder in the Sept. 22, 1978, killing of Mafia member Salvatore Frascione.

Describing the slaying as essential to an understanding of the state's case, Stephen Bookin, head of Merola's homicide bureau, told acting New York Supreme Court Judge Barry Salzman that the Frascione killing removed the last big obstacle to Masselli becoming the leading minority subcontractor on New York subway projects for Schiavone Construction.

Reputedly a "soldier" in a rival Mafia family, Frascione had been a key backer of an earlier Schiavone subcontractor, Louis R. Nargi, the court was told. But, Bookin said, Nargi ran into financial problems and began borrowing money from "his friend, William Pellegrino Masselli," until the end of 1976 when he owed Masselli approximately \$350,000.

Masselli's money, Bookin said, came from Louis Cirillo, a convicted drug trafficker. And in return for it, Masselli demanded an increasing percentage

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of Nargi's profits as well as installation of a friend, Patty Simonetti, on the Nargi payroll.

Simonetti is the son-in-law of the late crime boss Vito Genovese. Bookin described him as "a connection with the construction industry in New Jersey."

Bookin said Masselli and a black Bronx state senator, Joseph Galiber, formed Jopel Contracting in the fall of 1976 "in anticipation of the fact that future subway contracts would require minority participation."

One of Jopel's first actions, the prosecutor said, was to take over Nargi's work on a Schiavone subway job in Queens. Bookin said this was done with the Schiavone Construction Co.'s approval.

The resulting dispute, the court was told, led Nargi to appeal to his wife's brother-in-law, Frascione, and arrange for a gangland meeting, or "sitdown," to settle the matter.

Masselli's claims were upheld, Bookin said, but Frascione "would not quietly agree." So in September, 1978, Masselli's Mafia captain in the Genovese crime family, Philip Buono, "told Mr. Masselli that Mr. Frascione would have to be hit."

According to Bronx prosecutors, Masselli enlisted his bodyguard, Michael Orlando, an FBI informer at the time, to kill Frascione. Bookin said Masselli served as the getaway driver after Orlando shot Frascione three times. Bugliarelli was accused of setting up Frascione by pointing to him as he emerged from his place of business in the south Bronx.

Lawyers for Masselli and Bugliarelli were indignant over a grant of immunity from prosecution for Orlando.

"Do I understand that the bodyguard, who was a federal informer since 1976, did the killing?" Murray Richman, the attorney for Bugliarelli, demanded at one point.

"That's what he Bookin said," Bugliarelli interjected.

"A federal agent did the killing?" Richman asked again in an incredulous voice.

Bookin indicated that this was so. He added that after the killing Nargi "walked away" from the business and left Masselli in a commanding position as the Schiavone Co.'s principal minority subcontractor.

Bugliarelli pleaded not guilty to the murder charge. Now serving a federal prison term on other charges, Masselli remained mute, insisting through his lawyer that he should first be permitted to contest the legality of the FBI's 1979 bugging of his south Bronx warehouse. Judge Salman entered a not-guilty plea for him.

The lawyers for Donovan and the other defendants in the fraud indictment avoided spelling out of details in that case by waiving a reading of the charges.

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In addition to the labor secretary, the fraud indictment named as defendants Schiavone board chairman Ronald Schiavone, company executives Joseph DiCarolus, Richard C. Callaghan, Morris J. Levin, Albert J. Magrini, Gennaro Liguori and Robert Genuario, as well as Masselli, state Sen. Galiber and the two corporations, Schiavone Construction and Jopel.

At his news conference, Merola said Schiavone executives and Masselli worked together on a scheme to trick the transit authority into thinking that Jopel was getting some \$12 million in contract payments on the tunnel job, most of the now-requisite 10 percent for minority businesses, when, in fact, it got \$4 million.

This was done, Merola said, by Jopel's pretending to rent equipment from Schiavone, such as \$1 million worth of special loaders, when it was actually still Schiavone equipment operated by Schiavone employees. The employees, officials said, found themselves abruptly switched in late September, 1979, to the Jopel payroll while Masselli submitted a first-time, backdated bill claiming to have been renting the loaders for months.

Transit authority officials, according to Bronx authorities, had the loaders listed as Schiavone equipment at that time.

Asked how he justified the indictment when special federal prosecutor Leon Silverman found no grounds for one during his 1982 probe of alleged ties between Donovan and organized crime, Merola said: "I suspect we developed a fuller picture than Mr. Silverman."

Silverman said he found "insufficient credible evidence" to warrant Donovan's prosecution for any federal crime. Merola said his office combined "credible evidence" Silverman did find with "credible evidence" from Justice Department prosecutors in Manhattan and Brooklyn and the independent work of his office over the past year.

Bookin said he would seek federal court permission as soon as possible to supply defense counsel with relevant tape recordings from the FBI's 1979 surveillance of Masselli's warehouse. Sources say there are more than a dozen conversations, never disclosed by Silverman, about the fraudulent nature of Masselli's minority-business enterprise and the questionable rental arrangements.

GRAPHIC: Picture 1, Secretary of Labor Donovan is surrounded by members of the news media after arriving at a courthouse in the Bronx, N.Y., to be arraigned on criminal charges. AP ; Picture 2, Donovan leaves criminal court in the Bronx after pleading not guilty yesterday. UPI

38TH STORY of Level 1 printed in FULL format.

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October 3, 1984, Wednesday, Final Edition

SECTION: First Section; The Federal Report; A19

LENGTH: 780 words

HEADLINE: Undersecretary Ford Takes Helm at Labor

BYLINE: By Peter Perl and Pete Earley, Washington Post Staff Writers

KEYWORD: FORD

BODY:

Firm Backer of Reagan's Policies

Undersecretary of Labor Ford B. Ford took charge of the department on an acting basis yesterday in the wake of Secretary Raymond J. Donovan's decision to take a leave of absence to fight his indictment on criminal charges.

The switch is not expected to result in substantial changes in policies the department has pursued under President Reagan.

Ford, 62, was a longtime California state official, lobbyist and Reagan associate whom Reagan appointed in 1981 to head the Mine Safety and Health Administration. In July 1983, he was promoted to undersecretary. A Virginia native, Ford served as deputy of the California Resources Agency and then as chairman of the state's Occupational Safety and Health Appeals Board when Reagan was governor.

Ford and Donovan conferred before Donovan announced his leave of absence, Donovan spokesman Michael Volpe said yesterday. The two had a close working relationship, had lunch together weekly and attended all important policy meetings, Volpe said.

Ford is known to share Reagan and Donovan's support for eliminating many regulatory constraints on business and relaxing enforcement of health and safety laws by telling inspectors to act less like policemen and more like consultants to help businesses improve their work places.

That approach at the mine safety agency earned Ford the strong opposition of the United Mine Workers of America. Union spokesman Joseph Corcoran said the UMW thought Ford had been "dead wrong" in softening the agency's approach to mine inspections and penalties.

Before Ford took over that agency, all violations except technical ones were designated "significant and substantial," which usually meant a substantial fine for the mine owner. Ford narrowed the criteria for significant violations and established a flat \$20 fine for all other transgressions.

As a result, the number of so-called "S & S" violations dropped from 101,593 in 1980 to 23,126 in 1982. Average fines fell from \$141 in 1980 to \$65 in 1983, according to the UMW.

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While at the mine safety agency, Ford said he emphasized "cooperation rather than confrontation" with mine operators, and told inspectors that he didn't want citations issued for "nit-picking" violations.

"We at MSHA have taken important steps towards making cooperation more than a catchword," Ford said before being tapped for the No. 2 job at Labor.

On Capitol Hill yesterday, congressional staffers on the labor committees said they expected Ford to continue as caretaker for the programs and policies Donovan pushed. These have come under strong criticism from House Democrats, but have been supported in the Republican-controlled Senate.

"Labor has been a mess" under Donovan, said a staffer for the House Education and Labor subcommittee on labor-management relations. "What he has done is to systematically, either through neglect or design, dismantle many of the programs" designed to protect labor and curb management abuses.

Under Donovan, funds for health and safety and labor-standards enforcement were cut substantially. A subcommittee review of department programs also showed he had sharply reduced enforcement of the program under which companies are required to register with the department when they employ "labor consultants" to thwart unionization.

An aide to Senate Labor and Human Resources Committee Chairman Orrin G. Hatch (R-Utah) offered a different assessment, saying that Donovan had assembled "a good core of people who have gotten a lot done." Among the accomplishments, he said, were the passage of the Job Training Partnership Act, reforms of the scandal-ridden Teamsters union Central States Pension Fund, pension reform and relaxation of some burdensome legislation.

Donovan, the aide said, has received some of the credit for helping Reagan replace the Comprehensive Employment and Training Act program, which had been slated for \$5 billion in its final year, with the \$3.5 billion job-training program in which the government consults new regional "private industry councils" on how to spend job-training funds.

Donovan aide Volpe said, "In a nutshell, there will be no leadership vacuum" under Ford. He added that morale was "quite good."

A sharply different view came from Michael Urquhart, president of the 5,000-member Local 12 of the American Federation of Government Employees. Urquhart said the department had suffered "tremendous demoralization" under Donovan because "people who have developed programs have seen them destroyed . . . by an administration that does not believe in the Labor Department and thinks its goals and mission are better left to private industry."

GRAPHIC: Picture, Ford B. Ford, a Virginia native, served in California government under Reagan. AP

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October 3, 1984, Wednesday, Late City Final Edition

SECTION: Section B; Page 4, Column 1; National Desk

LENGTH: 718 words

HEADLINE: LITTLE EFFECT SEEN AT THE LABOR DEPT.

BYLINE: By BILL KELLER

DATELINE: WASHINGTON, Oct. 2

BODY:

For sharply differing reasons, admirers and detractors of Labor Secretary Raymond J. Donovan said today that his leave of absence to combat a criminal indictment would have little impact on the Labor Department.

Supporters, including Labor Department aides and Republican senators, said they were confident the Secretary would bounce back quickly, and that meanwhile it would be 'business as usual' under the temporary watch of Under Secretary Ford B. Ford.

Critics, including union officials and Congressional Democrats who have strongly disagreed with Mr. Donovan since his nomination, said there was little activity left at the Labor Department to suffer from his absence.

Under Mr. Donovan, they said, the Labor Department had been depopulated by budget cuts, estranged from labor leaders and cut adrift from its traditional course.

The department's temporary caretaker, the 61-year-old Mr. Ford, came to Washington after 25 years in Sacramento, Calif., where had worked as an aide to the State Legislature, as the head of Governor Reagan's occupational safety review panel, and as a lobbyist for business groups on job safety issues.

He was named by President Reagan in October 1981 to head the Mine Safety and Health Administration of the Labor Department. In that job, he presided over the introduction of new, 'non-adversarial' mine safety policies that reduced fines for safety violations and stressed worker-management cooperation.

Companies Praised Work

The changes were praised by mine companies but denounced by the United Mine Workers' union as jeopardizing coal miners' safety.

Mr. Ford was promoted to Under Secretary of Labor, the No. 2 job in the department, 15 months ago. He declined interviews today, maintaining the low profile that has been his style throughout his career.

In a 1982 book on Reagan appointees, two associates of the consumer advocate Ralph Nader said they had difficulty finding officials in California who were familiar with Mr. Ford's record. They remarked that in 25 years of activity he

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had 'worked his way from total to relative obscurity.'

Mr. Donovan was appointed to the Cabinet after his success as a New Jersey fund-raiser for the Reagan Presidential campaign in 1980.

From the beginning of his term, Mr. Donovan has been distracted by legal and political battles, beginning with confirmation hearings that inquired into allegations of organized crime ties to his New Jersey construction company, and continuing with an internal fight against White House aides who wanted him to resign for the President's sake.

'He has expended most of his energies on his defense rather than on his job,' said Glenn Watts, president of the Communications Workers of America. 'But with the way he does his job, perhaps it is just as well.'

More recently, Mr. Donovan has diverted much of his attention to the campaign hustings.

Donovan on the Road

Michael J. Volpe, Mr. Donovan's spokesman, estimated that the Labor Secretary has spent 30 percent of his time on the road this year, logging 85,000 miles on trips that combined official speeches and dispensing of Federal grants with overtly political appearances as a Presidential surrogate.

Mr. Donovan's relationship with leaders of the American Federation of Labor and Congress of Industrial Organizations, the umbrella group for unions representing 13.7 million workers, has ranged from indifference to hostility. Officials of the federation castigated Mr. Donovan for appointing deputies they considered antiunion, for lopping the budget for such programs as workplace safety and job training and for proposing such legislative changes as a sub-minimum summertime wage for teen-agers.

Since 1980, the Labor Department has cut it's staff by 20 percent and its discretionary budget by 33 percent.

Thomas C. Komarek, Assistant Secretary of Labor for administration and management, defended the cutbacks today, saying the department 'is discharging all of its responsibilities and doing it with 20 percent fewer people.' He said in addition to increased auditing of union pension funds, the department had increased spending for some other activities, including a program to promote labor-management cooperation and employment and training for veterans.

SUBJECT: Terms not available

ORGANIZATION: LABOR, DEPARTMENT OF; SCHIAVONE CONSTRUCTION CO

NAME: DONOVAN, RAYMOND J (SEC); KELLER, BILL

31ST STORY of Level 1 printed in FULL format.

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October 3, 1984, Wednesday, Late City Final Edition

SECTION: Section A; Page 24, Column 1; National Desk

LENGTH: 752 words

HEADLINE: DONOVAN ISSUE TRAILS REAGAN IN TEXAS

BYLINE: By BERNARD WEINRAUB

DATELINE: HOUSTON, Oct. 2

BODY:

With flags, balloons and buoyant crowds, President Reagan surged into Texas today on a campaign visit chilled by the indictment of Secretary of Labor Raymond Donovan.

Arriving at Brownsville-South Padre Airport, Mr. Reagan told reporters, "There's a kind of lynch atmosphere" against Administration officials. But he added: "I can't say that about what has taken place here. It's before the courts."

Mr. Reagan's advisers were uneasy about the indictment of the Labor Secretary on charges of falsifying records and grand larceny and his decision to take an unpaid leave of absence while defending himself in the case involving his former role in a construction company.

Today Mr. Reagan was asked if he would be hurt politically by recent controversies involving ethics in Government, sometimes referred to as "the sleaze factor."

"The only sleaze factor that I've seen in all the things that have been going on in these four years, if there is one, is on the other side, with their baseless charges of accusations that have all proven false," said Mr. Reagan.

His visit to Texas was essentially designed to solidify his support among Hispanic residents and conservative Democrats as well as to raise campaign funds at a benefit tonight in Houston.

Taking on the Donovan Issue

Although Mr. Reagan's political aides had expected a lively and exuberant day in Texas, the mood was dampened by the news about Mr. Donovan.

After leaving Biloxi, Miss., this morning, Mr. Reagan and his aides decided to speak out about the Donovan issue. At Brownsville, Mr. Reagan told reporters: "There is a tradition in the law of our land that's as old as this country, that you are innocent until you're proven guilty."

Responding to a question about the "precedent" for an indicted Cabinet officer, Mr. Reagan responded: "I don't think there are many precedents for all the attacks and assaults that have been made on so many people of our

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Administration with allegations and charges that were without any foundation in fact and which were later revealed as having no foundation in fact. The people were cleared.'

'There's a kind of lynch atmosphere in that,' Mr. Reagan said. He added, however, 'I can't say that about what has happened here.'

Larry Speakes, the White House deputy press secretary, said, 'Donovan will stay on leave until the matter is resolved, one way or another.'

Mr. Speakes said that Mr. Reagan and Mr. Donovan had not spoken, adding, 'There's no plan to.'

In Corpus Christi Mr. Reagan acerbically attacked Mr. Mondale as seeking 'an enormous tax increase' to cut the Federal budget deficit.

In addition, Mr. Reagan criticized Mr. Mondale today as being 'tied to the politics of the past,' and 'focusing on the negative.' Not 'By Bread Alone'

In Brownsville, the somewhat impoverished southernmost city in the state, with 14.6 percent unemployment, Mr. Reagan told a largely Hispanic group of college students, 'Even though economic matters are important, well, the old, old saying is true: Man does not live by bread alone.'

'We really almost diminish all the things we are when we limit the debate to money and how it is distributed in our country,' said Mr. Reagan. 'We lose a sense of the mystery in men's souls and the mystery of life.'

Mr. Reagan said his 'philosophy' was 'to help those who truly need assistance, even if it's only for a while, as they try to get their share of the American dream.'

Without naming Mr. Mondale, Mr. Reagan termed his Democratic opponent 'hopelessly old-fashioned.' Mr. Reagan told the students at Texas Southmost College in Brownsville, that 'they just don't understand that the American people are tired of the tax- and-tax, take-and-take mentality. And so, I know, are all of you.'

In 1980, Mr. Reagan overwhelmingly defeated President Carter in Texas, gathering 55 percent of the vote to Mr. Carter's 41 percent. At the moment, statewide polls indicate a wider margin for Mr. Reagan over Mr. Mondale.

Within the past two days, Mr. Reagan has focused his attacks on Mr. Mondale's program to reduce the Federal budget deficit, in part, by raising taxes, into a campaign issue.

'My opponent has made an enormous tax increase his first option, the centerpiece of his campaign,' Mr. Reagan told the airport crowd in Corpus Christi. 'Well, I think he's a little confused. Doesn't he know you don't want greater taxes, you want a greater Texas?' The crowd whooped.

GRAPHIC: photo of President Reagan

SUBJECT: PRESIDENTIAL ELECTION OF 1984; SPANISH-SPEAKING GROUPS (US); ELECTION ISSUES; FINANCES; ETHICS

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ORGANIZATION: TEXAS SOUTHWEST COLLEGE (BROWNSVILLE); LABOR, DEPARTMENT OF;
SCHIAVONE CONSTRUCTION CO

NAME: REAGAN, RONALD WILSON (PRES); DONOVAN, RAYMOND J (SEC); WEINRAUB, BERNARD

GEOGRAPHIC: TEXAS; BROWNSVILLE (TEX)

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October 3, 1984, Wednesday, Late City Final Edition

SECTION: Section A; Page 1, Column 5; National Desk

LENGTH: 1061 words

HEADLINE: ASSESSING THE DAMAGE

BYLINE: By STEVEN R. WEISMAN, Special to the New York Times

DATELINE: WASHINGTON, Oct. 2

BODY:

The indictment of Labor Secretary Raymond J. Donovan has jolted President Reagan's re-election campaign, but officials said today that they hoped any damage would be eased by Mr. Donovan's decision to take a leave of absence. Both James A. Baker 3d, the White House chief of staff, and Edward J. Rollins, Mr. Reagan's campaign manager, directed subordinates not to discuss the matter with reporters.

Nevertheless, a senior campaign official, speaking on condition that he not be identified, said the indictment dismayed top campaign aides because it had come so close to the election.

Concern Over Impact

He said there was some sentiment within Mr. Reagan's inner circle that Mr. Donovan should have resigned his post outright, and there was fear that Mr. Reagan might be further embarrassed if the Secretary sought to defend himself publicly against the charges in the days ahead.

"My instincts tell me this will go away after a couple days," said the official. "But if he tries for some sort of public vindication in the next few weeks, it would put the President in a tough spot."

Mr. Reagan said today that he had confidence in Mr. Donovan, asserting that in general there was "a kind of lynch atmosphere" against the Administration resulting from "baseless charges of accusations that have all proven false." (Page A24.)

Mondale Urges Inquiry

Walter F. Mondale, Mr. Reagan's Democratic opponent for the Presidency, called that reaction "not nearly good enough." He urged Mr. Reagan to investigate the charges and dismiss Mr. Donovan if need be. (Page A25.)

Several members of the Administration resigned after being criticized on their ethics, though none was convicted of crimes.

Most recently, there was a Federal investigation into the dealings of Edwin Meese 3d, the White House counselor, who is Mr. Reagan's nominee for Attorney General. Mr. Meese was cleared of wrongdoing in his financial dealings with

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people who received Administration appointments.

Mr. Baker and some other top political advisers to the President have expressed political misgivings about Mr. Donovan in the past. Early last year, after the Secretary was cleared of allegations of criminal activity by a special Federal investigator, Mr. Baker told a reporter in Texas that he should resign anyway for the good of the President.

Mr. Baker later apologized to Mr. Donovan for that comment, saying that he did not realize the reporter was going to quote him.

White House officials have said that Mr. Baker, Mr. Rollins and others also thought Mr. Donovan had unnecessarily antagonized organized labor in the last few years. Although many Administration policies are disliked by union leaders, White House officials have said that the Administration had missed opportunities to win their support for Mr. Reagan's tough line on military spending and on defeating communism in Central America.

Early Reagan Backer

The Labor Secretary has a loyal following among conservative, longtime Reagan aides, however. In the early days of Mr. Reagan's 1980 campaign for President, Mr. Donovan was almost alone among business executives in the Northeast in backing him.

At that time, he won the confidence of such Reagan aides as William J. Casey, now Director of Central Intelligence, Mr. Meese, Lyn Nofziger, a longtime Reagan political adviser, and Helene Von Damm, Ambassador to Austria.

These officials stood by Mr. Donovan in recent years as Mr. Baker, Mr. Rollins and others known as political "pragmatists" appeared to grow disenchanted with him.

Campaign officials said today that internal disagreements over the Secretary and his role have continued into this year. Both Mr. Donovan and Governor Kean of New Jersey sought to lead Mr. Reagan's re-election drive in that state. Mr. Rollins, mediating in that dispute, resolved the matter by selecting Representative James A. Courter.

Little Worry Until Recently

A White House official said that until the last 10 days, there had been little concern that Mr. Donovan would be a factor in the election this year.

Then last week, Mr. Donovan was summoned before a Bronx County grand jury. Later his lawyer, Dean Burch, passed word to the White House that the Secretary had been asked to waive his immunity from prosecution for testimony made against himself.

A White House aide said this was the first sign that Mr. Donovan might be a target of the investigation. He said Mr. Burch informed Mr. Baker and Fred F. Fielding, the White House counsel, on Monday afternoon that he had just heard that Mr. Donovan had been indicted.

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Two officials familiar with the sequence of events in the last 24 hours said Mr. Donovan had decided on his own, with his lawyers, to ask for a leave of absence. But one official said he felt certain that had he not done this, Mr. Baker would have pressed him to do so.

Donovan Draws Praise

Larry Speakes, the White House spokesman, praised the Secretary today for acting promptly.

'Donovan did the right thing,' he told reporters traveling with Mr. Reagan in Texas. 'He stepped aside. He stepped aside promptly. The matter is in the court, and that's where it will remain. Donovan will stay on leave until the matter is resolved one way or another.'

Various officials said they felt confident that the indictment would not undermine the continuing lead in the polls that Mr. Reagan enjoys over Mr. Mondale. However, there was some concern that Mr. Mondale might raise the matter in his debate on Sunday with Mr. Reagan.

A campaign aide said that if Mr. Mondale tried to make a major issue of the Donovan indictment, Reagan aides would resurrect their allegations of irregularities in the finances of Geraldine A. Ferraro, the Democratic Vice-Presidential candidate.

A different reaction came from Governor Cuomo of New York, who suggested that the Donovan indictment would reinforce feelings that 'all politicians look bad.'

'I don't think it wins political points for Democrats against Republicans.'

Opinion polls have shown that various well-publicized difficulties of Mr. Reagan's appointees have lowered the public regard for the quality of people serving in the Administration. However, some of the polls indicate that this public concern has not hurt Mr. Reagan himself.

GRAPHIC: photo of Raymond Donovan (page B4)

TYPE: ANALYSIS

SUBJECT: ROBBERIES AND THEFTS; FRAUDS AND SWINDLING; PRESIDENTIAL ELECTION OF 1984; TRANSIT SYSTEMS; SUBWAYS; ELECTION ISSUES

ORGANIZATION: LABOR, DEPARTMENT OF; SCHIAVONE CONSTRUCTION CO

NAME: WEISMAN, STEVEN R; DONOVAN, RAYMOND J (SEC); REAGAN, RONALD WILSON (PRES); BAKER, JAMES A 3D; ROLLINS, EDWARD J

GEOGRAPHIC: ;NEW YORK CITY

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October 3, 1984, Wednesday, Late City Final Edition

SECTION: Section A; Page 1, Column 6; National Desk

LENGTH: 1311 words

HEADLINE: DONOVAN SUBMITS A NOT-GUILTY PLEA TO BRONX CHARGES

BYLINE: By PHILIP SHENON

BODY:

Labor Secretary Raymond J. Donovan pleaded not guilty yesterday to a 137-count indictment charging him with participation in a multimillion-dollar scheme to defraud the New York City Transit Authority.

The indictment, which was released publicly after Mr. Donovan was arraigned in State Supreme Court in the Bronx, charged him and nine other people with grand larceny, falsifying documents and filing false documents.

The purported misconduct by Mr. Donovan occurred before he joined the Reagan Administration in 1981, prosecutors said.

Granted Leave of Absence

Mr. Donovan, who has been granted a leave of absence from his post to defend himself, said the indictment was part of a politically motivated "inquisition" by the Bronx District Attorney, Mario Merola.

"Mr. Merola may have won today's battle by misuse of his office," Mr. Donovan told reporters in a courthouse hallway, "but he will not win the war."

After entering his plea, a judge released the Labor Secretary without bail until a hearing Nov. 12. Mr. Donovan is the first Cabinet officer indicted while in office.

Others Named in Indictment

Two companies and 10 individuals were named as defendants in the 73-page indictment. Among them were Mr. Donovan's former company, the Schiavone Construction Company of Secaucus, N.J.; six of its current executives; one of the company's subcontractors, the Jopel Contracting and Trucking Corporation, and Joseph L. Galiber, a co-owner of Jopel and a New York State Senator.

Jopel, a Bronx concern, was a subcontractor for Schiavone on a \$186 million contract to build a subway tunnel for the Transit Authority.

At a news conference in his office at Supreme Court, Mr. Merola said Mr. Donovan had joined in a scheme to inflate the value of Jopel's work and to submit fraudulent bills for that work to the authority. "He knew about all these illegal transactions," Mr. Merola said. "He certainly got the benefit of the skullduggery." The authority, he said, was defrauded "in the range of \$8 million."

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The indictment lacks details of the purported crimes such as how much Schiavone is supposed to have overcharged the authority.

Mr. Merola said the scheme, which began in 1979, was also "a fraud upon the minorities of New York," since Jopel was chosen for the job largely because it is co-owned by a black, Senator Galiber, a Democrat of the Bronx. Federal rules required Schiavone to give 10 percent of the contract to subcontractors controlled by minority-group members.

Mr. Merola said the alliance between the two companies was made in March 1979, when Mr. Donovan signed a \$200,000 check that was an interest-free loan from Schiavone to Jopel.

Under sometimes heated questioning, the District Attorney, a Democrat, denied charges by Mr. Donovan, a Republican, that the indictment had been timed with next month's Presidential election in mind. He said that a statute of limitations would have run out Monday on several of the crimes.

The investigation of Schiavone, Mr. Merola said, was prompted by the murder in the Bronx of the son of William P. Masselli, another owner of Jopel. "And homicide is not politics," Mr. Merola said.

Previous Inquiry Used

He said the murder of the son, Nat Masselli, had led the authorities to information about financial misconduct in the company.

The investigation, he said, had built upon the findings of a 1982 inquiry by a special Federal prosecutor, Leon Silverman, who found there was "insufficient credible evidence" for Federal criminal charges against Mr. Donovan.

Additional information was provided to the Bronx District Attorney's office by Federal investigators and city detectives, Mr. Merola said. According to Mr. Merola, his office was the first "to put together all of the pieces."

"We have developed a fuller picture than Mr. Silverman had," he said.

Two Indictments of Masselli

William Masselli, the Jopel official, has been identified by law-enforcement officials as an organized-crime figure.

Prosecutors announced two indictments of Mr. Masselli yesterday. In the first, he was named along with Mr. Donovan in the purported fraud. In the other, Mr. Masselli was charged with the slaying of Salvatore Frascione, a reputed racketeer. Investigators said the murder was the result of a dispute over Jopel's profits.

During his arraignment in the cavernous Bronx courtroom, Mr. Donovan sat quietly near the front, his hands clutched near his chin. He displayed no emotion.

Plea Is Entered

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His lawyer, William Bittman, stood before Acting Justice Barry Salman and answered 'not guilty' when asked Mr. Donovan's plea to the charges in the indictment. If convicted, Mr. Donovan could receive up to seven years in prison.

The nine other individuals named in the indictment with Mr. Donovan also appeared in court yesterday and pleaded not guilty. All but Mr. Masselli, who is serving a prison sentence for an earlier hijacking conviction, were released without bail.

In a statement read in a congested hallway outside the courtroom, Mr. Donovan, calm but stern, charged that he had been prejudged and that the indictment was drawn up before his appearance before the Bronx grand jury last week.

During four and a half hours of testimony, 'I was not asked any questions that related to the charges in the indictment,' he said.

Further Criticism by Donovan

The indictment was dated Sept. 24, the day Mr. Donovan testified before the panel.

Mr. Donovan had also criticized the District Attorney's refusal to review the findings of a lie-detector test that he had recently taken. He told reporters that the test had cleared him of any involvement in a fraud.

'Now you tell me whether or not I have been afforded basic fairness and due process under law,' he said.

'I commented yesterday, without having seen the indictment, that it was not worth the paper it was written on,' Mr. Donovan said. 'Now that I've seen it, I realize that I overstated its value.'

Swift Action Is Requested

He said he had asked the judge to expedite the case. 'It is essential that this matter be laid to rest so that I and many other innocent people can remove ourselves from the clutches of this inquisition,' he said.

Mr. Donovan arrived at the Bronx Criminal Court by taxi at about 8:30 A.M. and was quickly surrounded by reporters, who blocked his entrance to a side door.

After a few tense moments, Mr. Donovan was able to walk into the concrete-facade courthouse, where he was booked and fingerprinted.

Like so many other defendants in the city's criminal-justice system, Mr. Donovan had to wait more than two hours for a computerized fingerprint check to be made in Albany.

When the test was completed, he was taken by detectives to State Supreme Court two blocks away.

Details of the Indictment

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In addition to the single count of second-degree grand larceny, the indictment charges the defendants with 125 counts of first-degree falsifying business records and 11 counts of first-degree offering of a false instrument for filing.

Grand larceny carries a maximum prison term of seven years. Each of the other counts carries up to four years in prison. The corporations also face fines of up to \$16 million, Mr. Merola said.

The indictment also named the following: Ronald A. Schiavone, chairman of the Schiavone company; Richard C. Callaghan, senior vice president; Joseph A. DiCarolus, president and chief operating officer; Morris J. Levin, secretary and counsel; Albert J. Magrini, vice president, and Gennaro Liguori, second vice president.

Among the other defendants was Robert Genuario, treasurer of a joint venture of companies involved in the subway contract, which was awarded in 1978 for construction of a tunnel under the East River.

GRAPHIC: drawing (page B4)

SUBJECT: Terms not available

27TH STORY of Level 1 printed in FULL format.

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October 3, 1984, Wednesday, Late City Final Edition

SECTION: Section A; Page 1, Column 4; National Desk

LENGTH: 1276 words

HEADLINE: U.S. INQUIRY ON DONOVAN REPORTED MORE LIMITED THAN NEW YORK'S

BYLINE: By STUART TAYLOR Jr. , Special to the New York Times

DATELINE: WASHINGTON, Oct. 2

BODY:

Labor Secretary Raymond J. Donovan cites a special prosecutor's report in 1982, which concluded that there was "insufficient credible evidence" that he committed any Federal crime, as evidence for his assertion that there was no basis for his prosecution by the Bronx District Attorney.

But Mario Merola, the Bronx District Attorney, said in an interview today that he had access to more evidence about the alleged crimes than did Leon Silverman, who was the special prosecutor.

And both Mr. Merola and Mr. Silverman said that the latter's legal mandate, which was to investigate only the possibility that Mr. Donovan had committed Federal crimes, was more limited than that of Mr. Merola, who could examine possible violations of state law by anyone.

Silverman Report in 1982

Both Mr. Silverman and Mr. Merola declined either to endorse or to reject the conclusions reached by the other. And Mr. Silverman, noting that he had not seen the Bronx indictment and knew little about it, stressed that he had no intention of taking sides in the war of words between Mr. Merola and Mr. Donovan.

Mr. Silverman's voluminous report, issued in June 1982, indicated that he was aware of some of the dealings on which Mr. Merola based the indictment. Mr. Silverman concluded that these dealings did not involve any Federal crime by Mr. Donovan.

The Labor Secretary has said the Bronx investigation was "nothing more than a rehash" of matters that had been fully investigated by Mr. Silverman, and that the special prosecutor's conclusion showed that there was no basis for the grand jury's indictment.

Conversely, if the indictment obtained by Mr. Merola holds up in court, Administration critics might question whether Mr. Silverman or the Federal Bureau of Investigation, which assisted him, missed something.

But the prosecutors indicated today that it did not necessarily follow that if one of them was right, the other must be wrong. The jurisdiction of a Federal special prosecutor is much more limited than that of a state prosecutor.

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In addition, Mr. Merola said today that he had access to evidence that was not obtained by Mr. Silverman.

Mr. Silverman's legal mandate as a Federal special prosecutor was limited to investigating and prosecuting any Federal crimes by Mr. Donovan. He had no jurisdiction to prosecute any alleged violations of state law, nor to investigate any allegations of crimes by Mr. Donovan's company, the Schiavone Construction Company of Secaucus, N.J., or its executives, except to the extent that they involved Mr. Donovan.

It is for crimes charged under New York State law, on the other hand, that Mr. Donovan, the Schiavone company, seven other current or former company executives and two other men were indicted by a Bronx grand jury. The 137-count indictment does not charge any Federal crime.

Actions that violate state criminal laws may sometimes be Federal crimes as well, but this is not always the case. And it is not entirely clear whether the allegations on which the indictment of Mr. Donovan is based, involving complex business transactions, would amount to Federal crimes if they were true.

'Limitation Imposed Upon Me'

Mr. Silverman said in a telephone interview today: "Not having seen the indictment, I cannot comment on the controversy between the Secretary and the District Attorney.

"I was appointed by an order of the court which gave me jurisdiction to investigate any allegation or evidence of the violation of any Federal criminal law by Secretary Donovan. That was my charge and it was the limitation imposed upon me. There would have been grave constitutional issues raised if I had gone beyond my mandate.

"I was not charged with investigating the Schiavone Construction Company or any of its officers except the Secretary of Labor. We did investigate the Schiavone-Jopel relationship until we concluded that there was insufficient credible evidence to link the Secretary of Labor with the commission of any Federal crime."

Mr. Silverman's reference to Jopel was to the Jopel Contracting and Trucking Corporation, which had a subcontract with the Schiavone Company that is central to the Bronx indictment.

The indictment involves allegedly fraudulent dealings between the two companies for the purpose of evading a legal requirement designed to aid minority-owned contracting concerns, in connection with a \$186 million federally financed project to dig a subway tunnel under the East River in New York.

Schiavone Hired Jopel

The Schiavone Company was one of the main contractors on the project. It hired Jopel as an excavating subcontractor and used its alleged payments to Jopel to satisfy a requirement of both Federal and state law that 10 percent of all payments under such construction contracts go to companies owned by minority group members.

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Jopel was allegedly owned by William P. Masselli, an organized crime figure now serving a Federal prison term on hijacking and drug conspiracy charges, and Joseph L. Galiber, a New York State Senator who is black.

The central allegation underlying the Bronx indictment is that the Schiavone Company, its executives, including Mr. Donovan, and Jopel's executives submitted false documents to the New York City Transit Authority overstating the amount paid to Jopel. Mr. Merola's office alleges that Jopel was actually paid only about \$4.8 million, not \$12.4 million as the documents submitted to the transit authority stated.

Mr. Silverman's three-volume report, unlike the Bronx indictment, deals with dozens of alleged ties between Mr. Donovan and organized crime figures, of which Mr. Masselli was only one. The report indicted that Mr. Silverman looked into the Jopel subcontract primarily for the purpose of determining whether Mr. Donovan had violated the Federal perjury statute when he denied having a significant relationship with Mr. Masselli.

No Basis for Perjury

The Silverman report concluded that there was no basis for a perjury prosecution of Mr. Donovan, and that the investigation "failed to disclose any documents suggestive of anything other than a straightforward business relationship" between the two companies.

In discussing the subcontract, the report notes that the Schiavone Company "rented" about \$1 million worth of equipment to Jopel, but that instead of taking rental payments the Schiavone Company deducted the rental charges from its own payments to Jopel under the subcontract.

"The net effect was to increase the amount of work attributable to a minority business enterprise," the Silverman report observed. But while Mr. Merola sees this arrangement as part of a fraud designed to evade the 10 percent requirement, Mr. Silverman's report did not indicate whether he even considered this possibility.

Section 1001 of the Federal Criminal Code makes it a felony intentionally to use false documents "in any matter within the jurisdiction of any department or agency of the United States."

But Mr. Silverman today declined to comment on whether the Federal statute could apply to the circumstances alleged by Mr. Merola, and Mr. Merola said, "I'm not that familiar with the Federal setup."

The District Attorney said that he had no criticism of the Silverman investigation. "Maybe I was in the catbird seat," he said, stressing that in addition to the evidence amassed by Mr. Silverman, he had other evidence obtained from the Federal authorities, witnesses and an examination of transit authority records.

"We had a lot of pieces, we in effect had a mosaic," Mr. Merola said. "We had the complete picture."

GRAPHIC: photo of Raymond Donovan; photo of jMario Merola

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SUBJECT: Terms not available

22ND STORY of Level 1 printed in FULL format.

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October 4, 1984, Thursday, Final Edition

SECTION: First Section; A3

LENGTH: 1011 words

HEADLINE: Other Prosecutors Were Thwarted in Donovan Case

BYLINE: By George Lardner Jr, Washington Post Staff Writer

DATELINE: NEW YORK, Oct. 3, 1984

KEYWORD: OTHERS

BODY:

Federal prosecutors in Brooklyn were frustrated by officials in New York and Washington last year from pursuing the lines of inquiry that led a Bronx grand jury to indict Secretary of Labor Raymond J. Donovan this week, it was learned today.

Sources said government prosecutors for the Organized Crime Strike Force in Brooklyn tried to open an investigation after disclosures to them by a secret witness about a Mafia "soldier" who had been working as a subcontractor for Donovan's construction company on New York subway projects.

But the prosecutors were rebuffed, the sources said, when they tried to gain access to secret FBI tapes compiled during a 1979 electronic surveillance of the mobster's warehouse-headquarters in the south Bronx.

Those tapes, sources said, contain evidence of numerous crimes, including murder. According to Bronx authorities, they also reflect the fraudulent nature of the "minority-business enterprise" that was working for Donovan's company under the aegis of William P. Masselli, a reputed member of the Genovese crime family.

Discouraged from pursuing the cases in their office, the sources said, strike force prosecutors notified Bronx District Attorney Mario Merola's office of the secret witness who had aroused their interest: Masselli's onetime bodyguard, driver and "hit man," Michael Orlando.

A onetime FBI informer who was spurned by the bureau in 1980, Orlando had numerous stories to tell, including an account of how he killed another Mafia soldier, Salvatore Frascione, in 1978, allegedly with Masselli's help and on Masselli's orders.

Orlando had been instrumental, as an FBI informer, in the 1979 bugging and wiretapping of Masselli's south Bronx warehouse. Masselli ran his operations from there, including those of Jopel Contracting & Trucking, a subcontractor for Donovan's company, the Schiavone Construction Co. of Secaucus, N.J.

Merola said this week that he began with Frascione's murder, allegedly committed to end his grumbling about Masselli's success as a Schiavone subcontractor, and took it from there.

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The result, which Donovan has denounced as a "political hatchet job," was the indictment this week for fraud and grand larceny of the labor secretary; his longtime partner, Ronald Schiavone; six other company executives; Masselli; his minority "partner," a black Bronx state senator named Joseph Galiber, and their two companies.

The 137-count indictment accuses each of them of defrauding the New York City Transit Authority -- and "the minorities of the City of New York," as Merola put it -- of some \$8 million that was supposed to go to Jopel as a minority contractor but allegedly was pocketed by Schiavone Construction during work on a \$186 million subway project.

The Masselli tapes, sources said, contain numerous references to the fraudulent nature of Jopel and its alleged origins as a mob-financed company. At one point, for example, sources said, Masselli says that Galiber, the supposed 51 percent owner of Jopel, "didn't put a penny into it." At another point, sources said, Masselli is overheard saying of Jopel: "It's not illegal -- on the surface."

Special prosecutor Leon Silverman, who in 1982 investigated alleged ties between Donovan and organized crime, had access to these recordings. But he concluded that there was "insufficient credible evidence" to prosecute Donovan for any federal crime.

Asked today about possible evidence on the tapes of federal crimes that did not seem to him to involve Donovan, Silverman said he sent copies of his "expurgated" report, four volumes in all, to agencies that might be interested, including Merola's office.

Asked whether these authorities could know of conversations and any other evidence that he did not print, Silverman said: "I'm not going to comment on that." He also would not comment on whether there was anything in his "unexpurgated report," which went to the attorney general, that would have alerted authorities to Jopel's possibly fraudulent nature.

Silverman took the position that his "mandate" under the Ethics in Government Act was confined to determining whether Donovan had been involved in any federal crimes. He noted that Merola has a much broader jurisdiction.

"I found that there was 'insufficient credible evidence' to indict him Donovan for a federal crime," Silverman said in a telephone interview.

Silverman concluded his investigation in September 1982. The Justice Department, however, said it was still looking into the status of Jopel as a minority contractor. Assistant Attorney General Robert A. McConnell informed the Senate Labor Committee in March 1983 that "the results of this part of the FBI's Masselli investigation were provided to the office of the U.S. attorney for the Southern District of New York, and a prosecutive opinion has not yet been rendered."

Rudolph Giuliani, U.S. attorney for the Southern District, said in an interview today that this was incorrect. He said the entire Masselli investigation, including all 857 FBI tapes, was shut down in late 1981 in a memo written by the prosecutor in charge, Assistant U.S. Attorney Michael Ross. Giuliani said Ross, who entered private practice that year, was unavailable

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for comment this week.

"There was no investigation pending in March of 1983," Giuliani said. But he said the Organized Crime Strike Force, "at the time the letter was written," had "indicated at least an investigative interest in that whole Masselli matter."

Asked why his predecessors in the Manhattan-based Southern District had closed the case two years earlier, Giuliani said he did not know.

"I do know you don't close a case you think you can make -- unless you're crazy," he said.

The head of the Brooklyn-based strike force, Edward McDonald, refused to comment on whether he had sought access to the Masselli tapes and been rebuffed. He confirmed, however, that his office had dealt with Orlando and concluded, in light of his statements about the Frascone murder, that "the best thing to do was to pursue this as a local matter.

GRAPHIC: Picture 1, Leon Silverman . . . says his mandate was limited; Picture 2, Mario Merola . . . reportedly was told of witness.

19TH STORY of Level 1 printed in FULL format.

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October 4, 1984, Thursday, Late City Final Edition

SECTION: Section A; Page 30, Column 1; Editorial Desk

LENGTH: 390 words

HEADLINE: The Burden in the Donovan Case Despite its length and predictable political importance, the 137-count indictment of Labor Secretary Raymond Donovan and his former business associates discloses little about the alleged crime or, if there was a larceny, whose money was stolen. That makes it especially important to bear in mind the obligation of the prosecution to prove its charges beyond a reasonable doubt. It's a burden too often forgotten in the court of public opinion, especially when a grand jury accuses such a prominent official at the climax of an election campaign.

BODY:

The burden rests squarely now on Mario Merola, the Bronx District Attorney. He charges that Mr. Donovan, and others in the construction company he served before joining the Cabinet in 1981, are guilty of grand larceny, false bookkeeping and false filings with the New York Transit Authority.

The timing of the indictment was bound to create suspicion of a political motive; the charge is now notorious but no trial is possible until after the election. Mr. Merola explains that the five-year statute of limitations was about to expire for key elements of the charge. That may excuse the timing. Whether the charge should have been brought at all depends on the quality of evidence not yet divulged.

The indictment accuses the Schiavone Construction Company and its officers, including for a time Mr. Donovan, of having overstated, for a period of five years, the amounts they passed on to a minority-owned subcontractor for work on a New York City subway tunnel. It makes no charge that Schiavone billed the city or Federal Government for work not done.

The indictment implies that the reason for exaggerating the payments to the subcontractor, Jopel Contracting and Trucking Corporation, was a desire to satisfy the requirement that a minority-owned enterprise obtain 10 percent of the work. There is no charge that Jopel was merely a front for white owners.

Who, then, was defrauded? The Transit Authority, which contracted for a tunnel under the East River, apparently got the construction work for which it paid. If there was a crime, it concerns the accusation that the principal contractor held on to more of the work and more of the money than the Transit Authority was led to believe.

And what was Mr. Donovan's involvement? If his company did anything illegal or shady, to what extent, if any, did he participate in the alleged larceny or phony bookkeeping? The indictment does not say.

Mr. Donovan has not been a lustrous Secretary of Labor and has had to spend much of his time defending against these and other charges. A court-appointed special prosecutor sifted most of them and found two years ago that there was

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'insufficient credible evidence' for any Federal indictment. Mr. Merola thinks he has more credible evidence. But until it unfolds, Mr. Donovan is entitled to the presumption of innocence.

TYPE: Editorial

SUBJECT: Terms not available

8TH STORY of Level 1 printed in FULL format.

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October 7, 1984, Sunday, Late City Final Edition

SECTION: Section 4; Page 1, Column 1; Week in Review Desk

LENGTH: 441 words

HEADLINE: MAJOR NEWS IN SUMMARY ;

Donovan Indicted In New York Contract Case

BODY:

From the start of his tour in Washington, there were questions about the business dealings of Raymond J. Donovan, a New Jersey construction executive before he was sworn in as Secretary of Labor. The questions continued even after inquiries by a Senate committee, which decided to drop the matter, and by Leon A. Silverman, a special prosecutor, who investigated allegations linking Mr. Donovan to organized crime and ultimately reported that there was "insufficient credible evidence" to justify Federal charges.

Last week a New York State grand jury in the Bronx handed up a 137- count criminal indictment that named Mr. Donovan, two businesses and nine other people - many of them executives of Mr. Donovan's former company, Schiavone Construction of Secaucus, N.J. The charges included one count of grand larceny but for the most part involved the keeping of false records and the filing of false documents with the New York City Transit Authority. Prosecutors said there was a scheme to evade laws requiring that 10 percent of a \$186 million subway tunnel project be awarded to minority-owned subcontractors by overstating by \$8 million the amount paid to a Bronx concern, the Jopel Contracting and Construction Corporation. One defendant is Joseph L. Galiber, a co-owner of Jopel and a New York State Senator.

Mr. Donovan, the first Cabinet officer indicted on criminal charges, said he was "outraged and disgusted" by what he called the political motivations of the Bronx County District Attorney, Mario Merola, a Democrat. Mr. Donovan pleaded not guilty - as did the others named - and began an unpaid leave of absence "to assure that this matter does not become a part of the current election campaign." A judge released him without bail for a hearing Nov. 12, six days after the election.

President Reagan, who had reportedly rejected past recommendations by senior advisers that he discharge Mr. Donovan, complained during a campaign stopover in Texas that a few members of his Administration had been engulfed by a "lynch atmosphere." Walter F. Mondale said Mr. Reagan should examine the charges and dismiss Mr. Donovan if need be.

Mr. Merola, conceding that politically "the timing is most unfortunate," said a five-year statute of limitations would have expired for some of the charges had the indictment been delayed until after Election Day. Responding to an assertion by Mr. Donovan that the Bronx prosecution was a "rehash," Mr. Merola said his office had had access to more evidence than either the Senate panel or Mr. Silverman and, consequently, had been able to "put together all of the pieces."

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GRAPHIC: photo of Labor Secretary Raymond J. Donovan

SUBJECT: ETHICS; ORGANIZED CRIME

ORGANIZATION: LABOR, DEPARTMENT OF

NAME: DONOVAN, RAYMOND J (SEC)

GEOGRAPHIC: NEW YORK CITY

THE WHITE HOUSE
WASHINGTON

March 14, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Donovan Statements

Attached are the drafts you requested, and a copy of what the President said when Donovan was indicted. The President, on October 2, stressed the "innocent until proven guilty" principle, and declined to comment further since the matter was before the courts. On October 1, however, he had also stated that he retained confidence in Donovan and had complete trust in his integrity. The second alternative draft omits, as I think it must, those expressions of support.

Attachments

I was very pleased with the news that the charges against Ray Donovan have been dropped. This action by the courts vindicates Ray and brings to an end a long and arduous personal ordeal. Through it all Ray never lost faith that he would prevail in court, and I never lost faith in Ray. It will be good to have him resume his responsibilities as Secretary of Labor.

As I said when Ray took a leave of absence to defend himself against these charges, we should all remember that, in this country at least, a man is innocent until proven guilty. Perhaps this whole episode should serve to underscore the importance of that principle.

It is with sincere regret that I accept Ray Donovan's resignation as Secretary of Labor. Ray has not been convicted of anything. As I have said before, I believe that he, no less than anyone else, should be afforded the benefit of the presumption that a man is innocent until proven guilty. I must agree with Ray, however, that his need to devote himself fully to his defense now precludes his continuing in office.

The matter is before the courts, so it would not be appropriate for me to comment further. I can only say that I have every confidence in the ability of our judicial system to arrive at the truth. Ray leaves office with my heartfelt thanks for all his efforts on behalf of the Administration.

they are still the best damned kids in the world.

Now and then on the news, a commentator will be talking to one of our young people in uniform. And it's kind of struck me that so often you hear the—when the young man in uniform or woman in uniform answers, you so often the proud and lilting cadence of Charleston or Memphis or Jackson or Gulfport, Biloxi. The South was the home of patriots in 1776, when a southerner wrote our Declaration of Independence. And today, more than two centuries later, the South is the home of patriots still.

So, maybe when you see one of our young people in uniform walking along the street here in Gulfport or Biloxi or wherever, maybe, if you think of it, just nod and smile and say hello, and maybe let them know how all of us feel about them. It'll make you feel real good, and I know how good it'll make them feel.

Well, now, I do have to go. And I—
Audience. No!

4 more years! 4 more years! 4 more years!

The President. All right. Four more years it'll be. And God bless you, and God bless America. Thank you very much. Thank you.

Send us all back there.

Note: The President spoke at 6:25 p.m. at Joseph T. Jones Park. Following his appearance at the rally, he returned to the Broadwater Beach Hotel.

Earlier in the evening, the President attended a reception for Mississippi Reagan-Bush campaign leaders at the hotel.

Foreign and Domestic Issues

Question-and-Answer Session With Reporters. October 2, 1984

Q. Mr. President, Walter Mondale says that you should look into these charges against Donovan; and if there's anything to them, he should resign. What's wrong with that?

The President. Well, let me take—first of all, let me make a statement.

Q. Please.

The President. You asked a question yesterday, and there was no time and it was not the place to answer that. I thought that probably during the day, there would come an opportunity to answer. There didn't. So, let me just make a statement.

Your question had to do with Secretary Shultz—

Q. And who's responsible for Lebanon, sir.

The President. Who was responsible for Lebanon. Secretary Shultz had acknowledged a responsibility himself on the air on Sunday. That was typical of George, and I appreciate it very much. But the answer to the question is, I am responsible, as I said that I was on the previous tragedy. I was responsible—and no one else—for our policy and our people being there.

Q. But shouldn't—

Q. On that same subject, sir—

Q.—the President be held accountable, sir?

Q. On that same subject, the old saying, you know, "You fool me once, my fault. Fool me twice. . . ." But the U.S. has—

The President. These terrorist activities—

Q.—three times now.

The President. These terrorist activities have been going on worldwide and taken place against our allies. They've taken place against Arab states, the Greeks, the British, the French, ourselves. And obviously there is an international effort going to try and find a way to apprehend, to prevent these things from happening. But how do you without knowledge beforehand of what a target is going to be or why someone, who with no regard to who they kill, is going to kill themselves in an effort to do this?

We're doing everything we can to finally try to get an international movement that can give us better protection—

Q. You were pretty tough on Mr. Carter in 1980, when the Iranian hostage situation happened. And now this has happened to us three times.

The President. No. Bill [Bill Plante, CBS News], there, a government, with whom we had relations, a government allowed this to happen. There was no war or anything else with regard to the hostages. And all I criticized the previous administration about was

for our abandonment of the Shah and our allowing what happened to happen. I think it is a blot on our record.

Q. But you say you're responsible, sir. But are you to blame for lax security?

The President. We are doing our utmost to provide security—

Q. But it wasn't enough.

The President. —at all of these places.

No, it wasn't. And it wasn't because the threat had been while we were in a much less protected place, and we moved ahead of schedule into this place where the defenses were only about 75 percent complete.

Q. Mr. President, you say that you take responsibility, but shouldn't the people who actually made the decisions be held accountable?

The President. No, I'm not going to deliver somebody's head up on a platter, which seems to be the request of so many when things like this happen.

Q. So, there'll be no blame-finding here, sir?

The President. No, we've had an investigation. There was no evidence of any carelessness or anyone not performing their duty.

Q. Is the case closed, as far as you're concerned, sir?

The President. Yes—

Q. Can we ask you about Donovan, sir?

The President. Well, the case of terrorism will never be closed.

Q. Walter Mondale says that you should immediately have someone investigate these charges, and if there's anything to them, Donovan should step down completely and resign. What's wrong with that?

The President. Well, he has already had a complete investigation of a great many charges—this through a grand jury—and he does not know, nor do any of us know, what is in the indictment or what he's being charged with. But I'm going to tell you—there is not any point in taking a great many questions on this—I'm going to say one thing about this. There is a tradition in the law of our land that's as old as this country, and you are innocent until proven guilty. And Secretary Donovan took the step voluntarily of absenting himself and taking a leave of absence without pay while this

issue is revolved—or resolved, and I accept that and I also—

Q. But how does it look having a Cabinet officer under indictment? There's hardly any precedent for that.

The President. I don't think there are many precedents for all the attacks and assaults that have been made on so many people of our administration, with allegations and charges that were without any foundation in fact and which were later revealed as having no foundation in fact; the people were cleared. There's a kind of a lynch atmosphere in that. Now, I

can't comment further on this—

Q. Well, Mr. President—

The President. —he is innocent unless

Q. Do you think it might be politics? He says it's politics.

Q. Do you believe this is political, if partisan politics are to blame?

The President. I'm not going to comment on that. I would be glad to say I just said it before the courts. It's before the

Q. Well, Secretary Donovan commented on it. He seemed to believe there's some kind of political vendetta here.

The President. He is the man who's charged, and I'm not going to comment.

Q. Why do you—

Q. Mr. President—

Q. Will this hurt you politically? I mean, the Democrats say this is part of the sleaze factor. Will this hurt you politically—the Donovan case?

The President. The only sleaze factor that I've seen in all of the things that have been going on in these 4 years, if there is one, is on the other side, with their baseless charges and accusations that have all been proven false.

Q. Mr. President, how long will Raymond Donovan remain as Labor Secretary?

Q. How can you say you still have confidence in his integrity when you don't know what's in the indictment, sir?

The President. I'm not going to comment on that.

Q. How long will he remain your Labor Secretary, sir?

Q. Have you talked with Mr. Donovan, sir?

The President. I have not had a chance to talk to him.

Q. Why not?

The President. You know where I've been and what I've been doing.

Q. No telephone?

Note: The President spoke at approximately 11:30 a.m. to reporters assembled at the side of Air Force One, which had just landed at Brownsville-South Padre Island International Airport after a flight from Mississippi.

Brownsville, Texas

*Remarks at a Reagan-Bush '84 Rally.
October 2, 1984*

Thank you very much, and thank you, Phil Gramm. And I hope the next time I'm here, I'll be able to say Senator Phil Gramm.

But thank all of you for a most heartwarming welcome.

It's great to be in Brownsville and it's a real pleasure to visit one of the most spirited campuses I've seen. All I can say, after touring your school, is *viva* Texas Southmost College.

Well, it's great to be in Texas again, and to be here with—as I said a little earlier in different words—one of Texas' greatest contributions to economic sense in Washington, Phil Gramm, and to see this Texas spirit in action here.

You know, when we were in Dallas in August, there were some of our people that were driving by the Texas Stadium, where the Cowboys play, and they were remarking about the stadium and how big it was in all, and then they noticed the interesting way in which the top sort of was scooped out to let in the sunlight. And they mentioned this to a Texan who was with them. And he said, "Sure, we do that so God can watch." Well, we can use more of that kind of spirit.

Now, there are so many things I want to talk with you about today, and just one of them is how the Texas spirit is spreading throughout the Nation. In the past 3½ years, as Phil was telling you, there's been a broad economic renewal in our country. The economy is expanding again, millions of jobs, as he told you, are being created; hundreds of thousands of new businesses are being incorporated. Inflation is down; interest rates are down, not down far enough, but at least they're moving in the right direction.

So, there's good news to report. And all of that good news is the direct result of the efforts of the American people, the efforts of all of you. It's your recovery. All we did was get the government out of your way.

You know, the other day I was on a campus—a college up in Ohio, and I was taking some questions from the students. And one of them said to me, "What do you want the American people to remember most about your Presidency?" Well, I hope they won't have to be remembering soon, but—[laughter]—I was taken aback. It's the kind of question you don't often hear—and you're a little surprised you hadn't thought about it—and then I said that I just felt if they'd remember that I gave the government back to the people.

It's your government, after all, just as it's your country. And our guiding philosophy has been that you know best what's right for you. You don't need a big government in Washington to tell you what's right for you.

I look at all of you today, and I think of the people I met this morning as—just a little while ago here, in touring this campus. And it's just so clear that the people of Brownsville are a marvelous mixture of pride and enterprise, and you have a lot to be proud of here in your city.

Audience. We want Reagan! We want Reagan! We want Reagan!

The President. Thank you.

Audience. 4 more years! 4 more years! 4 more years!

The President. Thank you. Okay, I'm willing. [Laughter]

But we know that Brownsville and some other cities here in the Rio Grande Valley have had some special problems the past

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October 2, 1984, Tuesday, Late City Final Edition

SECTION: Section A; Page 1, Column 6; National Desk

LENGTH: 1543 words

HEADLINE: DONOVAN INDICTED AND GIVEN A LEAVE TO DEFEND HIMSELF

BYLINE: By STUART TAYLOR Jr., Special to the New York Times

DATELINE: WASHINGTON, Oct. 1

BODY:

A Bronx grand jury has indicted Labor Secretary Raymond J. Donovan, the Secretary confirmed this evening.

Mr. Donovan immediately sought and was granted a leave of absence from his Cabinet post to defend himself.

It was not clear what charges were contained in the sealed indictments returned last week against Mr. Donovan, who said he was 'outraged and disgusted by the actions and the obviously partisan timing of the Bronx District Attorney,' Mario Merola.

Notified by Merola's Office

Mr. Donovan's former company, the Schiavone Construction Company of Secaucus, N.J., and seven current executives were indicted on one count of grand larceny, 11 counts of offering false documents for filing and 125 counts of maintaining false business records, according to a lawyer for the company, Theodore W. Geiser.

News of the indictments, which have not been officially made public by Mr. Merola's office, began to circulate in Washington today after Mr. Geiser and Mr. Donovan's lawyers here had been formally notified of them by Mr. Merola's office.

Mr. Geiser, reached by telephone at his office in Newark, said he had been told by prosecutors that the seven indicted employees, including the company president, Ronald Schiavone, should appear in state court in the Bronx for arraignment on Tuesday at 8 A.M.

Inquiry Into Subway Project

No incumbent Cabinet officer has ever been indicted, according to a reference librarian at the Library of Congress, Lois Korzendorfer.

The grand jury has been investigating allegations that the Schiavone company, while Mr. Donovan was its executive vice president, falsified documents to satisfy legal requirements in connection with a subcontract on a multimillion-dollar subway project in New York City.

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Mr. Merola did not return repeated telephone calls seeking confirmation that the indictments had been issued.

Mr. Donovan said he had asked and received from President Reagan "a leave of absence without pay effective immediately," to devote all his time to establishing his innocence and "to assure that this matter does not become a part of the current election campaign."

[REDACTED] When he was asked about the reported indictments, he said he did not know enough about the case to comment.

Larry Speakes, Mr. Reagan's chief spokesman, said on the campaign trail tonight in Biloxi that Mr. Reagan was informed of the Donovan indictment aboard Air Force One at about 3 P.M. on his way to Biloxi from Detroit. at about 3 P.M.

Asked why Mr. Donovan had taken a leave of absence rather than resigned, Mr. Speakes said: "Well, I can't pass judgment on the appropriateness of it, but certainly under our system an indictment does not constitute a finding of guilt."

Asked about the President's reaction to the news, Mr. Speakes said, "he doesn't have any specific reaction because the matter is in the courts." He said "the President has not spoken to Donovan," but that it was possible he would do so.

Mr. Donovan was en route to Texas for speaking engagements today when he was notified of the indictments between planes. He returned to Washington, conferred with his lawyers in their office for about two hours and read a brief statement to reporters. He said he had not seen the indictment, but that "I can assure you that it is not worth the paper it's written on."

"My concerns," he added, "are that my family has to endure this mindless inquisition and that this does not reflect negatively upon the President," he said. He added, "I fully expect to resume my duties just as soon as this injustice has been dealt with."

Under Secretary in Charge

A Labor Department spokesman, Michael J. Volpe, said this evening that Under Secretary of Labor Ford B. Ford would assume Mr. Donovan's responsibilities for the time being. He said that Mr. Ford had been promoted to the No. 2 position in the department about 18 months ago. Mr. Ford was previously assistant secretary of the Mine Safety and Health Administration in the Labor Department.

Last Monday, Mr. Donovan emerged from more than four hours of testimony before the Bronx grand jury to denounce the investigation as a "witch hunt" and say he had done nothing wrong.

The grand jury has been investigating the purported misappropriation of up to \$8 million through payments in 1979 and 1980 to a Bronx subcontractor, the Jopel Construction and Trucking Company, which had as a co-owner a reputed organized-crime figure.

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Statement by Donovan

Tonight, Mr. Donovan read this statement to reporters:

"First of all, let me say that I am outraged and disgusted by the actions and the obviously partisan timing of the Bronx District Attorney. I have not seen the indictment. But I can assure you that it is not worth the paper it is written on.

"My concerns are that my family has to endure this mindless inquisition and that this not reflect negatively upon the President. To assure that this matter does not become a part of the current election campaign, I have asked the President tonight to accept my request for a leave of absence without pay, effective immediately, and he has granted my request. I plan to devote all my time and my efforts to this matter.

"I fully expect to resume my duties just as soon as this injustice has been dealt with."

Mr. Geiser suggested the criminal charges were a politically motivated effort by Mr. Merola, a Democrat, to influence the November election.

"I do not believe that the public will have any difficulty in assessing the motives, timing and substance of this action," he said. "Coming at this time, in my opinion, it is unlikely that dismissal can be achieved before the election."

He said Mr. Merola's office notified him today that the sealed indictments were returned last Tuesday.

Mr. Geiser, who represents Mr. Schiavone as well as the company, has worked closely with Mr. Donovan in the past. Mr. Geiser said that the summons the company received today stated that "an accusatory document was returned on the 25th of September."

A White House official said tonight that Dean Burch, an attorney for Mr. Donovan, had talked by telephone with James A. Baker 3d, the White House Chief of Staff, and Fred F. Fielding, the White House counsel, before Mr. Donovan made his statement. However, the official said, it was his understanding that Mr. Donovan was not asked to submit his resignation or seek a leave of absence.

The official said that the White House first learned of the indictment from Mr. Burch shortly after Mr. Burch got a call from the Bronx District Attorney's Office at 2:45 P.M. The White House official added that at this point Mr. Donovan did not know what the specific charges were against him.

An attorney for Mr. Donovan said this evening that the Labor Secretary was on his way to New York.

Mr. Donovan testified before the grand jury last Monday, after waiving immunity from prosecution in connection with a fraud investigation started last year by Mr. Merola's office. He said after his appearance that he hoped he had laid to rest "all the baseless allegations that have plagued me throughout my public life."

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\$8 Million Subway Subcontract

Mr. Donovan, who left Schiavone in 1981 to join the Reagan Administration, said then that the investigation was "nothing more than a rehash" of the lengthy investigation into his activities in 1982 by a special Federal prosecutor, Leon Silverman. Mr. Silverman concluded in a report that there was "insufficient credible evidence" to prosecute Mr. Donovan for any Federal crime.

Bronx prosecutors have been looking into whether the Schiavone company had submitted false billings and reports to the New York Transit Authority about a purported \$8 million subcontract payment to Jopel on a \$186 million subway project. Jopel was co-owned by William Masselli, a reputed organized-crime figure who is serving a Federal prison term for hijacking.

The suspected falsification of records that the grand jury was investigating related to a legal requirement that Schiavone pay 10 percent of its subway contract to subcontractors owned by members of minority groups. One issue was whether Schiavone overstated its payments to Jopel, which it classified as owned by a minority group.

Orrin G. Hatch, Republican of Utah and chairman of the Senate Labor Committee, said today that he thought Mr. Donovan would not have been indicted if he were not Secretary of Labor. "It looked to me like a politically called grand jury," said Mr. Hatch, whose committee investigated allegations linking Mr. Donovan to organized crime in 1981 and 1982.

Prosecutors in Mr. Merola's office have said if indictments were to be brought, they would have to be handed up soon, because the time for prosecution under the statute of limitations was running out.

Mr. Donovan, who is still a part-owner of Schiavone, has said he recently passed a lie-detector test in which he denied knowing of any wrongdoing in the areas being investigated.

GRAPHIC: photo of Raymond Donovan

SUBJECT: Terms not available

47TH STORY of Level 1 printed in FULL format.

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October 2, 1984, Tuesday, Final Edition

SECTION: First Section; A1

LENGTH: 1909 words

HEADLINE: Labor Secretary Faces Indictment

BYLINE: By George Lardner Jr. and David Hoffman, Washington Post Staff Writers

KEYWORD: DONVAN

BODY:

Labor Secretary Raymond J. Donovan notified the White House yesterday that a Bronx, N.Y., grand jury has indicted him on charges of grand larceny and fraud in connection with a New York City subway project on which his construction company was a major contractor.

Donovan said last night that he will not resign and that President Reagan has agreed to his request for a leave of absence without pay.

"I am outraged and disgusted by the actions and the obviously partisan timing of the Bronx district attorney," Donovan said in a statement.

"I have not seen the indictment. I can assure you it is not worth the paper it's written on," he said.

"I fully expect to resume my duties just as soon as this injustice has been dealt with," he added.

The leave of absence without pay was worked out in hasty consultations among the secretary, his lawyers and White House aides, including chief of staff James A. Baker III.

Some Reagan political advisers had pressed for the secretary's resignation.

Nine other men, including Ronald Schiavone, president of Donovan's firm, Schiavone Construction Co. of Secaucus, N.J., and William Masselli, a reputed Mafia "soldier," also were accused in the 137-count indictment to be unsealed today, sources said. They are to be arraigned in Bronx Supreme Court.

Theodore Geiser, a Newark attorney for Schiavone Construction, confirmed yesterday that an indictment had been voted involving "alleged false pieces of information." He was sharply critical of the prosecutor, elected Bronx district attorney Mario Merola, a Democrat, in part for bringing the indictment this close to the Nov. 6 general election.

"I can't assess his motivation," Geiser said. "But I can characterize the indictment as nonsense as we will shortly prove, although unhappily, probably not before the election."

Sen. Orrin G. Hatch (R-Utah), chairman of the Senate Labor Committee, which confirmed Donovan, also suggested that the indictment has a political basis,

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saying it looks like "a politically called grand jury."

Donovan has been dogged throughout his term at Labor by charges that his construction company had dealings with organized crime. Baker and other White House aides have regarded him as a political liability and pressed for his removal.

A special prosecutor, Leon Silverman, investigated and found "insufficient credible evidence" for prosecution of Donovan, and President Reagan has stoutly defended the secretary.

Campaigning in Mississippi yesterday, Reagan said of the latest turn: "I don't have information on it yet. I have complete trust in his integrity. I retain full confidence" in Donovan.

Donovan said in his statement: "My concerns are that my family has to endure this mindless inquisition and that this not reflect negatively upon the president. I have asked the president today to accept my request for a leave of absence without pay, effective immediately, and he has granted my request. I plan to devote all my time and attention to this matter."

Sources said that, in addition to the larceny and fraud indictments, Masselli was indicted on murder charges in connection with the 1978 slaying of another reputed gangster, Salvatore Frascione.

Bronx prosecutors said at court hearings last month that investigation of the homicide over the last year led them to explore financial dealings between Masselli and Schiavone Construction on a \$186 million subway tunnel under New York's East River.

Donovan's company, of which he and Ronald Schiavone are principal owners, claimed to have paid about \$12 million to a trucking company organized by Masselli as a minority-business enterprise with the job of excavating dirt from the tunnel.

But prosecutors for Merola said they suspected that about \$8 million of the alleged payments were based on phony billings and false statements to the New York Transit Authority.

Schiavone Construction and Jopel Contracting, the minority enterprise, were also named in the fraud indictment as corporate defendants, sources said.

Donovan's lawyers reportedly were notified of the indictment yesterday afternoon and were asked to bring Donovan to the Bronx this morning for processing and arraignment.

Donovan had been en route to Houston yesterday on a speech-making trip. He turned around in Atlanta and flew back to Washington, where he met with his lawyers last night.

Dean Burch, a lawyer for Donovan, told White House counsel Fred F. Fielding about the indictment yesterday afternoon, sources said.

Word was relayed to Baker, a long-time adversary of Donovan, who discussed the situation with Reagan as they flew to a Mississippi campaign stop, White

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House spokesman Larry Speakes said last night in Biloxi, where Reagan stayed overnight.

Baker talked by telephone with Donovan and Burch last night and took Donovan's request for leave without pay to Reagan, who accepted it, Speakes said. He declined to say whether White House officials initiated the request or whether the leave would extend beyond Election Day.

Speakes said Reagan has confidence in Donovan and, referring to Donovan, said, "I know the president has nothing else on his mind at this moment."

Donovan testified before the grand jury last week. He said then, "It is my hope that my appearance today and the presentation of . . . polygraph results from a test he took will put an end once and for all to the baseless allegations that have unfairly plagued me throughout my public life."

The indictment was kept under seal, sources said, at least partly to arrange for Masselli's extradition from Florida, where he has been serving a seven-year federal prison term for hijacking and drug trafficking.

In addition to grand larceny, the fraud indictment includes charges of falsification of business records and filing false statements with the New York Transit Authority, sources said.

Under federal law, minority contractors were supposed to receive 10 percent of work on the tunnel project. Masselli was principal minority contractor on the job. His black partner, Bronx state Sen. Joseph Galiber, was also named in the indictment, according to reliable sources.

Frascone, law enforcement sources have said, was killed after complaining about Masselli's takeover of another trucking company -- headed by a Frascione friend named Louis Nargi -- in the process of establishing himself as a Schiavone subcontractor in 1977 on a subway project in Queens.

Special prosecutor Silverman, appointed under the Ethics in Government Act, said he investigated the relationship between Schiavone Construction and Jopel, including a \$1 million arrangement on the 63rd Street tunnel project under the East River that Bronx prosecutors evidently regard as fraudulent.

Under the arrangement, Schiavone Construction and its two general partners on the project were to purchase \$1 million in equipment for Jopel to use because Masselli's company could not afford the investment.

Instead of making payments on the equipment, Jopel purportedly agreed to let Schiavone Construction deduct monthly rental charges from amounts paid by the New York City Transit Authority to Jopel as a minority contractor.

Silverman observed in one of his 1982 reports that "the net effect was to increase the amount of work attributable to a minority-business enterprise." He said a two-day search by his office of Jopel records in the possession of federal prosecutors in Manhattan "failed to disclose any documents suggestive of anything other than a straightforward business relationship between Jopel and Schiavone Construction."

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The Justice Department, however, said it was continuing to investigate Jopel's status as a minority-business enterprise. The inquiry had started in 1979 with the FBI's court-authorized electronic surveillance of Masselli's South Bronx warehouse and was alluded to, briefly, at Donovan's Senate confirmation hearings in 1981.

Dealing with allegations that Donovan and his company were "mobbed up" -- allegations dismissed by the FBI as unsound -- then-FBI executive assistant director Francis (Bud) Mullen told the Senate Labor Committee that Schiavone Construction records had been subpoenaed in New York in connection with a racketeering investigation.

"This investigation, in part, concerns the fraudulent establishment of a minority-business enterprise by certain individuals and the use of services of a subcontractor who is an alleged minority-business enterprise by Schiavone Construction Co.," Mullen testified on Jan. 27, 1981. However, he assured the committee, "Neither Mr. Donovan nor Schiavone Construction is the target of the investigation."

Mullen, as he acknowledged in a 1982 interview with The Washington Post and several other publications, consciously withheld the fact that Donovan's name had been mentioned at least once on the Masselli wiretaps.

Silverman, who later had access to all of the tapes, found six conversations in which Donovan's name had come up but said he found "nothing incriminating in any" of them.

Even after Silverman finished, the Justice Department took the position that Masselli, although in federal prison, was still under investigation. The department cited that in response to continuing Senate Labor Committee inquiries about the extent of Schiavone Construction's knowledge of Masselli's operations.

In a letter March 3, 1983, to the committee, for instance, assistant attorney general Robert McConnell said, "The status of the Jopel Construction Co. as a minority-business enterprise was explored" as an outgrowth of the 1979 surveillance.

"The results of this part of the investigation," McConnell declared in the 1983 letter, "were provided to the Office of the United States Attorney for the Southern District of New York, and a prosecutive opinion has not yet been rendered."

McConnell also declared that "the circumstances surrounding the takeover of Mr. Nargi's business by Jopel are still under investigation by the FBI, so comment about that matter would be inappropriate."

Asked whether and when a prosecutive opinion, such as McConnell wrote about, had been rendered, U.S. Attorney Rudolph Giuliani and one of his top assistants, Jane Parver, said last week that they did not know and would have to check.

There does not appear to have been any concentrated FBI investigation of Masselli's takeover of Nargi's trucking business since 1979 and 1980.

According to law enforcement sources, investigators were told at the time that a gangland "sitdown" had resolved the dispute in Masselli's favor in the

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spring or summer of 1978 but that Nargi's benefactor, Frascone, kept complaining.

Bronx prosecutors obtained access to the Masselli tapes, which reportedly contain references to the Frascone killing, earlier this year after months of bickering with the FBI's New York office.

The tapes, sources have said, also contain references to Masselli's dealing with Schiavone Construction that do not mention Donovan by name and were never disclosed by Silverman.

Silverman made clear at his last news conference that he did not consider it his province to pursue allegations concerning Donovan's company or organized-crime figures unless some clear connection with Donovan was asserted at the outset.

"I am not an ombudsman for the construction industry or for any company in the construction industry or for organized crime," Silverman declared at the time. "My mandate was to investigate the secretary."

GRAPHIC: Picture 1, Donovan will take an unpaid leave of absence; Picture 2, Donovan reads statement: "I am outraged by the obviously partisan timing of the Bronx district attorney. Photos by Frank Johnston -- The Washington Post