W. Post

Mr. Nixon's Taxes

STILL ANOTHER judgment has now been returned on Mr. Nixon's conduct of his responsibilities as President and citizen. The Internal Revenue Service determined that he owed $432,787 in back taxes, plus interest. This interesting piece of news is contained in the White House announcement that Mr. Nixon intends to pay it. The anouncement, in turn, was triggered a few hours earlier by the decision of the congressional Joint Committee on Internal Revenue Taxation to release its staff's report on the President's taxes. That report, in nearly a thousand pages of text and documents, set out in great detail the defects in Mr. and Mrs. Nixon's returns for the first four years of his presidency, 1969 through 1972.

In forming an opinion of these events, there are several points that the reader will want to keep very much in mind. First, the President is paying up, promptly and without further argument, as he said he would. The White House statement last night asserts that his lawyers consider his side of the case to be very strong. But last December, when he asked the Internal Revenue Committee to review his returns, he promised to abide by their decision. Second, the issue of fraud has not yet been satisfactorily laid to rest.

The White House tells us that the IRS report, which has not appeared publicly, "rebuts any suggestion of fraud on the part of the President." The staff of the Internal Revenue Committee does not deal with the issue at all, apparently having decided that it lay beyond the committee's assignment. But the possibility of fraud cannot be avoided in any case involving large and consistent underpayments. So far there has been no finding of willful wrongdoing on Mr. Nixon's part, but this unpleasant question lies directly ahead on the path that his affairs are now travelling. He would contribute to public understanding of the issue by releasing the IRS report to which he refers. But the IRS is not necessarily the only judge of the matter.

It is a question that needs to be considered by the House Judiciary Committee, in its deliberations on a possible bill of impeachment. It may very well turn out that Mr. Nixon, like many other taxpayers, underpaid his taxes without any fraudulent intent. But the Judiciary Committee has a responsibility to arrive at its own conclusion. Mr. Nixon's lawyers have argued in the past that a President can be impeached only for acts done in the conduct of official business. Is that true? If so, is it an official act to make out a personal income tax? What degree of error in that return properly becomes an element in a bill of impeachment? These are questions for the Judiciary Committee, not the tax specialists on the Internal Revenue Committee's staff.

The President himself, in a familiar pattern, lays the blame on unnamed persons to whom he "delegated the *responsibility* for preparing his returns," while he was preoccupied with higher affairs. What it is that allows him, alone among all taxpayers, to disavow his *responsibility* for his tax obligations, he did not say. Any errors, according to the White House statement, "were made without his knowledge and without his approval." The list of errors made in Mr. Nixon's name and for his benefit, but without his knowledge or approval, is now very long. It runs from disallowed tax deductions to burglary to the ferociously efficient collection of illegal campaign contributions. It includes wiretapping and perjury. All of it was done by people working for and with Mr. Nixon, in and around his White House. We have never had a President who confessed himself so sublimely unaware of the activities of his closest associates. In this particular case, other citizens are left to reflect that, whatever the pressures of their own business, they are required by law to take responsibility for the tax returns that they sign.

The whole development of the issue of Mr. Nixon's taxes is at once a cause and an effect of his loss of authority and public standing. Questions regarding the financing of the San Clemente property were raised during the 1972 election campaign, but the President's spokesmen were able simply to ignore them. As other scandals began to surround him, Mr. Nixon found it progressively more difficult to wave the tax questions away. They became sharper when, last fall, the Providence Journal-Bulletin published his 1970 and 1971 tax payments, both strikingly small. At his press conference in Orlando last November, Mr. Nixon acknowledged that the payments had been "nominal." The pressure rose, and it was at that point that he turned to the Joint Committee on Internal Revenue Taxation for its opinion.

The issue of Mr. Nixon's very large deductions was not raised through the normal processes of review within the Internal Revenue Service. It resulted from outside inquiries and controversy. When the President turned to the Joint Committee, the IRS roused itself at last and decided to have another look at those returns. It realized, belatedly, that more than Mr. Nixon's net worth was at stake. The crucial question here was the integrity of the IRS itself. Its activity over the winter, apparently in fairly close collaboration with the Joint Committee, does something to restore its reputation. But it would have been a good deal more impressive if it had started moving before, rather than after, the Joint Committee took hold of the matter.

As for the White House statement, it is profoundly inadequate. Mr. Nixon begins by complaining that the Joint Committee released its staff report before his lawyers could "advise the committee of their views." But the staff were clearly working closely with the President's lawyers throughout their four months of study. Having gone in desperation to the Joint Committee four months ago to get an opinion, Mr. Nixon now turns sourly on it.

Mr. Nixon seems hardly to understand what a sorry spectacle it is for this country to see the President called to account for his tax returns. His excessive deductions turn out to be a squalid dodging of the duty that falls, not only on our first citizen, but on every citizen. In the statement issued last night, he hardly addresses himself to the main issues. He says that his lawyers consider his position "valid and compelling." But the staff of the Joint Committee says that the famous donation of his vice-presidential papers was clearly improper. Not only were the papers not legally donated before the 1969 deadline, it found, but the conditions in the deed raise great doubt that they could have qualified for a deduction regardless of the date. It found against him not only on the papers and the San Clemente financing, but on six or seven other deductions and considerations. The errors in these returns are sufficiently widespread to strengthen the impression that Mr. Nixon never really thought that the law applied to him.