

# Nixon Tax Deal Called Fraud

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*An Expert Testifies*

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The former chief prosecutor of federal tax evaders has told the House Judiciary Committee that if President Nixon were an ordinary taxpayer his case "would be referred out for presentation to a grand jury for prosecution."

This conclusion, disclosed in the committee's summary of impeachment evidence, was given by Fred G. Folsom, who served in the Kennedy, Johnson and Nixon administrations as head of the criminal section of the Justice Department's Tax Division.

Folsom, who retired last year and still serves as a Justice Department consultant, gave the committee his judgment last month in previously secret testimony.

The legal opinion concerned Mr. Nixon's purported 1969 gift of pre-presidential papers to the National Archives and the \$576,000 deduction he claimed for them.

A proposed article of impeachment re-

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# Nixon Tax Return Criticized By Former Tax Prosecutor

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leased Friday by the committee staff accuses President Nixon of having committed "a fraud upon the United States" by claiming the deductions by means of a deed that was "back-dated" to avoid the effect of a 1969 law disallowing such tax benefits.

The committee's summary of evidence on "willful tax evasion" appeared to support the accusation, which will be debated when the committee takes up the impeachment articles starting Wednesday.

A volume of evidence on which the summary was based will be published in a few days, together with the response of presidential lawyer James D. St. Clair.

According to the summary, "willful evasion" of

taxes by a President would be conduct incompatible with his duties of office, which obligate him faithfully to execute the laws." It added:

"A violation of law in the context of the tax system, which relies so heavily on the basic honesty of citizens in dealing with the government would be particularly serious also if it entailed an abuse of the power and prestige of his office. As chief executive, he might assume that his tax returns were not subject to the same scrutiny as those of other taxpayers."

Both the Internal Revenue Service and the congressional Joint Committee on Internal Revenue Taxation ultimately rejected the deductions. The IRS has assessed a 5 per cent negli-

gence penalty, and has billed Mr. Nixon for \$432,787 plus interest.

At issue in the committee's analysis of tax fraud was whether Mr. Nixon knew, when he signed his 1969 tax return, that the return incorrectly reported a valid gift of papers as of March 27, 1969.

The 1969 Tax Reform Act, which Mr. Nixon signed into law on Dec. 30 of that year, eliminated tax deductions for gifts of papers made after July 25, 1969. The summary said there could be no doubt that Mr. Nixon, an attorney who had practiced tax law, knew what the law was and what claims he was making.

Polson's conclusion, the summary said, was based on "all the circumstances surrounding the alleged tax fraud."

Polson said the "lack of a satisfactory response by the taxpayer" to polite inquiries from the joint committee.

The summary said several witnesses "began revising stories which they had been telling for months" during recent inquiries. Among the witnesses were tax attorney Frank Costantini, former deputy White House counsel Edward L. Morgan and Chicago appraiser Joseph New-