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Treasury Says I.R.S. Chief Halted Audit of Montoya

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WASHINGTON, April 12—An official Treasury Department report disclosed today that in 1973 Donald C. Alexander, the Commissioner of Internal Revenue, personally ordered subordinates to shelve an audit of Senator Joseph M. Montoya.

The Treasury's report on the Montoya case was released simultaneously with a separate statement by Attorney General Edward H. Levi, who said that a Justice Department investigation of other instances of alleged misconduct by Mr. Alexander "has revealed no evidence to support any of these allegations."

The Treasury's investigation also disclosed that after intervening in the Montoya matter, Mr. Alexander said things to various subordinates that the subordinates "erroneously" understood to mean that no action was to be taken against the Senator without Mr. Alexander's approval.

On the basis of this "mistaken belief," Internal Revenue officials in Washington and in field offices withheld from the Albuquerque office information that was "possibly relevant to any review of the Senator's returns," according to the report.

The report, a summary of the investigation into the actions of Mr. Alexander and others in connection with the failure to pursue an audit of the Senator, was made public by the Treasury Department. The inquiry was conducted by Richard R. Albrecht, general counsel of the department, who said he took full responsibility for all of the report's conclusions.

The release of the report was accompanied by a statement by Secretary of the Treasury William E. Simon, who said, "Some of the actions and decisions by I.R.S. officials described in that report appear to have involved questionable judgment."

Mr. Simon added, however, that the order to delay the audit of Senator Montoya was made at a time when Internal

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Revenue was being criticized for conducting politically motivated audits of Nixon Administration critics. Senator Montoya, a Democrat from New Mexico, had been a vocal critic of Internal Revenue.

Mr. Simon said "the very actions" by Commissioner Alexander and others "that might now be questioned were taken at that time in the good faith desire to avoid further allegations of improper conduct by the I.R.S."

He said that Mr. Alexander would continue to head Internal Revenue, which is part of the Treasury Department.

One of the charges on which Mr. Alexander was cleared by the Justice Department was an allegation that, in an attempt to protect clients of his former law firm, he had acted improperly in halting an investigation of the movement of money to the Bahamas.

The other allegation was that Mr. Alexander had had improper contacts with a convicted swindler against whom internal revenue had an outstanding lien and that he had accepted an invitation to go on a yacht trip with the swindler and some old Cincinnati business associates. The yacht trip never took place.

After the issuance of the Levi statement, Justice Department official conceded under questioning that the statement had not dealt with the issue of Senator Montoya's audit. He added that the department would have something to say about that issue "shortly." The spokesman would not explain why the department had issued its statement though its inquiry into charges against Mr. Alexander was not complete.

The Justice Department inquiry dealt only with allegations of criminal misconduct against Mr. Alexander and does not necessarily clear him or fail to clear him of improper conduct that was not criminal in nature, a department spokesman said.

Simon 'Pleased'

Mr. Simon's statement contended otherwise. He said he was "tremendously pleased" that the Justice Department had been "able to conclude that there was no evidence to support any of the allegations of improper conduct by the commissioner."

The allegations that Mr. Alexander had blocked an audit of Senator Montoya's tax returns were first made public by The Washington Post last October.

At the time, Walter Coppinger, the service's regional commissioner for the Southwest, denied that anything improper had been done in connection with Mr. Montoya's tax returns.

The Treasury's report on the Montoya case contained no allegation of improper behavior on the part of the Senator.

However, the report did say, "There are legitimate audit issues on at least two of the Senator's returns that should be reviewed" and, "All information concerning the Senator the I.R.S. has in its possession, from whatever source derived, should be made available to the persons in charge of the review."

The report noted specifically that "no stigma should be attached" to the existence of items deserving audit, adding: "The purpose of an audit is to review and verify the information submitted by a taxpayer on his return."

Among the many allegations of wrongdoing by Internal Revenue personnel that were covered in the Treasury's investigation was a charge that the former director of the Albuquerque district had been transferred to Denver because of his insistence that Senator Montoya be audited.

The report found that there were, indeed, high-ranking officials in the Washington office —apparently not Commissioner Alexander himself — who tried to get the district director transferred. But the report concluded that the transfer, which occurred in 1975, had not been based on the controversy over the Montoya case.

Throughout the report on the investigation Mr. Albrecht noted that although many persons in Internal Revenue thought the Montoya case was being handled improperly, they did not make their views known to the inspection division, the agency's internal policing arm, which is supposed to receive reports of any action a service employee believes to be improper.

"In this instance, the system did not work properly," Mr. Albrecht's summary concludes.