Nixon Challenged on Audit

By Lawrence Meyer
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Sen. Lowell P. Weicker Jr. (R-Conn.) yesterday challenged President Nixon's statement that the Internal Revenue Service had conducted a "full field audit of my income tax returns for 1971 and 1972."

Weicker released an 11-page legal analysis he has sent to IRS asserting that Mr. Nixon's controversial gift of $576,000 worth of vice presidential papers to the National Archives was not properly made for him to claim deductions on his income tax returns.

Although Weicker asserted, "There was no gift," he repeatedly declined to say that Mr. Nixon was not entitled to the deductions. "I've listed what the facts are," Weicker said during a press conference. "The determination as to what's to be done should be made by the IRS."

In challenging Mr. Nixon's statement on Sept. 5 that IRS had conducted a full field audit of his 1971 and 1972 tax returns, Weicker said that neither the General Services Administration, the recipient of the gift for the National Archives, nor Ralph Newman, the appraiser of the gift's value, had been contacted by IRS.

"I think it's very clear ... that no full field audit took place," Weicker said. In a Dec. 10 letter to Donald C. Alexander, commissioner of the IRS, Weicker said, "In a gift situation involving a

LOWELL P. WEICKER JR.
... "there was no gift"

donor, donee, and appraiser, for the IRS not to have contacted two out of three principal parties clearly raises questions about the thoroughness of such a review or audit."

The controversial tax-deductible gift was a major reason for Mr. and Mrs. Nixon's payment of only about $5,969 in federal taxes in the last three years despite his annual salary of $200,000.

The Washington Post reported last June that there were serious questions about whether the 1969 gift of papers had been made to the National Archives prior to the deadline of July 25, 1969. After that date the law under which the gift was made was drastically altered, virtually eliminating the deduction claimed on his papers by Mr. Nixon.

Weicker's analysis supported by documents and correspondence, shows that 1,217 cubic feet of documents were delivered to the Archives on March 26 and 27, 1969.

A deed dated March 27, 1969 prepared by Mr. Nixon's lawyers, but not signed by Mr. Nixon, was delivered to the Archives a year later on April 10, 1970. Newman, did not actually select and separate the 392 cubic feet that constituted the gift until November or December, 1969—at least three months after the statutory deadline —and did not give the Archives a description of the gift until March 27, 1970.

According to Weicker's analysis, if the President was making his gift by execution of a deed, then several conditions had to be met: Mr. Nixon had to sign the deed himself, the deed had to be delivered before July 25, 1969, GSA had to accept the deed, and the deed has to identify what is being given. "The March 27, 1969 deed fails on all counts," the memo asserts.

The other method that Mr. Nixon might have used to make the gift would have been actual delivery of the gift property, according to the analysis. Although 1,217 cubic feet of documents were given to the Archives on March 26 and 27, 1969, the analysis states, the 392 feet constituting the actual gift were not separated by Newman until November or December 1969.

Failure to physically separate the gift before July 25 along with indications that Mr. Nixon was exercising control over the papers long after that date mean that the papers had not been actually delivered as the law requires to qualify them as a gift, according to the analysis.

Although Mr. Nixon has referred the question of the gift to the Joint Congressional Committee on Internal Revenue Taxation for a ruling as to whether it was proper, Weicker said yesterday, "There's only one agency responsible for the enforcement of tax laws in this country, and that's the Internal Revenue Service." For that reason, he said, he was sending his analysis to the IRS and not to the Joint Committee.

In a related matter, United Press International reported that all 43 of California's congressmen and both of its senators pay state income taxes. In releasing his financial statement over the weekend, Mr. Nixon disclosed that he does not pay local income taxes either in California or in the District of Columbia.

In Sacramento yesterday, the lone Democratic member of the State Franchise Tax Board accused Mr. Nixon of "tax evasion." William M. Bennett attempted to have the board seek payment of back state income taxes from the President but Bennett's motion died for lack of a second.