

Saxbe Says I.R.S. Referred Study of Possible Fraud in Returns' Preparation

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Special to The New York Times

WASHINGTON, April 9 —

The question of whether there was fraud in the preparation of President Nixon's tax returns has been referred to the special Watergate prosecutor by the Internal Revenue Service, Attorney General William B. Saxbe said today.

Mr. Saxbe insisted, however, that the question of whether the President himself was involved in fraud was one for the impeachment inquiry to decide, not the special prosecutor.

"I think this is an area that the Judiciary Committee must dispose of," Mr. Saxbe said at a breakfast meeting with reporters. "I just don't think you should have criminal actions against the President" when the Constitution provides impeachment as a "remedy," he said.

The special prosecution's involvement in the case, as Mr. Saxbe described it, has come about as a result of a decision by the revenue service to give the prosecution material about at least one of the persons who helped to prepare the President's now disputed tax returns, Frank DeMarco.

The Justice Department is the "enforcer" for the revenue serv-

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ice, Mr. Saxbe pointed out; the special prosecution is the unit of the Justice Department assigned to Watergate-related cases, and the Internal Revenue Commissioner is entitled to refer to the special prosecutor "items which he believes to be in his area."

Mr. Saxbe told of the transmittal of the DeMarco material after being asked about reports that such a transfer had taken place. He added that he could not recall whether the revenue service had given the prosecutor material involving any of the others who had helped to prepare the tax returns.

At first, when asked whether the DeMarco material had been given to the prosecutor "in connection with fraud on the President's tax matters," the Attorney General replied, "I don't know what it is in con-

nection with."

Subsequently, however, a reporter said to Mr. Saxbe, "Well, we're talking now about the question of fraud in connection with the President's tax returns. Has this gotten to Mr. Jaworski in any way?"

"To my knowledge, it has," Mr. Saxbe replied.

"It has? On DeMarco?"

"On DeMarco," came the reply.

"Who else?" the reporter asked.

"I don't recall," the Attorney General replied.

Then Mr. Saxbe was asked

whether the material had been transmitted directly from the revenue service. He replied that it had been.

Earlier in the session, Mr. Saxbe disclosed that the special prosecutor had requested and apparently obtained the tax returns of a dozen persons who were either under indictment or investigation.

In each case, Mr. Saxbe said, the special prosecutor asked Mr. Saxbe for the returns and contended that they were necessary for the completion of the prosecutor's investigation. The Attorney General said that he had transmitted the requests to the revenue service.

In the DeMarco matter, however, he said, he did not receive such a request from the prosecutor.

Spokesmen Silent Spokesmen for the revenue

service and for the special prosecutor declined to comment on the Attorney General's remarks.

Both the revenue service and the Joint Committee on Internal Revenue Taxation concluded last week that President Nixon had underpaid his taxes by more than \$400,000. They did not make any ruling on the question of possible fraud by

the President, however, and the White House has disclaimed any such possibility.

Mr. DeMarco has been reported as fearing that he may be made the scapegoat. In one interview he contended that it was "ridiculous" to believe that the President did not know about his tax returns, and that he had gone over the returns "page by page" with Mr. Nixon.

During the session with reporters this morning, Mr. Saxbe also disclosed that he was in frequent contact with the President's chief defense counsel, James D. St. Clair, regarding requests by the House Judiciary Committee for Justice Department files and information.

He said that the material turned over to the committee included antitrust questions and "you name it." Specifically, he mentioned the International Telephone and Telegraph Corporation case and the milk fund case.

'Something of a Zinger'

Sources familiar with the committee's proceedings said that the committee had received material from the Justice Department, including information about I.T.T. and the milk fund.

The Attorney General took the occasion of the meeting to

try to allay the controversy caused by his remark last week that "the Jewish intellectual" was "enamored" of the Communist party in the Nineteen Fifties.

He said that he considered it "something of a zinger," in that "only one" of the reporters who had heard him make the remark "saw fit to take it out of context and give it exposure."

Justice Department personnel made it clear that he was referring to The New York Times. Both The Times and The Washington Star-News reported the remark immediately; several other papers, including The Washington Post and The Los Angeles Times, reported the remark subsequently and the controversy it caused.

"God knows I'm not anti-Semitic," Mr. Saxbe said. "I was stating a thing which I consider a fact."

"I've got a long record that I have to stand on," he said a moment later. "My deputy's Jewish, my daughter-in-law's Jewish, some of my closest friends are Jewish."

Mr. Saxbe said that if he had "learned to keep my mouth shut 30 years ago," he would still be practicing law in Mechanicsburg, Ohio, his home town.