

# I.R.S. Aide Still Has Not Been Queried by Jaworski Office on Error in I.T.T. Case

By E. W. KENWORTHY

Special to The New York Times

WASHINGTON, May 14—Although more than two months have elapsed since the Internal Revenue Service admitted legal error and revoked a highly favorable tax ruling given to the International Telephone and Telegraph Corporation in 1969, the Watergate special prosecutor's office has not yet questioned the official who signed the ruling about possible political influence behind it.

The official is John F. Bogaard, chief of the Reorganization Branch, a part of the Income Tax Division, which in turn is under the assistant commissioner handling technical matter.

The special prosecutor's office, it was learned, has interviewed the New York office.

In a telephone interview last week, Mr. Bogaard said that he had not been interviewed by anyone in the office of the prosecutor, Leon Jaworski, regarding the ruling that made possible the merger of I.T.T. and the Hartford Fire Insurance Company. The investigation is in charge of the assistant special prosecutor, Joseph J. Connolly. There have been reports that the investigation is proceeding slowly.

Mr. Bogaard said that he also

had not been interviewed by staff members of the Congressional Joint Committee on Internal Revenue Taxation, the Senate Watergate committee or the House Judiciary Committee that is considering a bill of impeachment.

But he said firmly, "There was absolutely no pressure on this case from any source whatsoever."

Mr. Connolly, adhering to Mr. Jaworski's prohibition of comment by the investigative staff, would not answer questions. One source said that certainly Mr. Bogaard would have to be questioned.

Among tax lawyers here the possibility of White House pressure, despite disclaimers to the contrary, is regarded as real and one that should be explored. This is because the ruling has been regarded by most tax lawyers, including some retained by I.T.T., as unprecedented.

These lawyers consider the possibility of White House pressure in the tax ruling to be as important as the possibility that the corporation's pledge of \$400,000 for the Republican National Convention played a part in the 1971 settlement of an antitrust suit permitting I.T.T. to retain Hartford.

The ruling allowed a merger of I.T.T. and Hartford through an immediately tax-free exchange of I.T.T. for Hartford shares, on condition that I.T.T. before Hartford shareholders voted on the merger, sold unconditionally 1.7 million shares it had acquired for cash. The law requires that an acquisition of this kind be solely by an exchange of shares. No shares acquired for cash can be involved.

So far, the ruling was in accordance with law and practice. What was unprecedented, in the view of tax lawyers, was that the terms of the sale of I.T.T.'s shares to Mediobanca, a Milan bank, made plain that the sale was not unconditional.

Nevertheless Mr. Bogaard, seven days after receiving the ruling application, granted the ruling on Oct. 21, 1969. With the ruling, I.T.T. was assured of the votes for the merger.

### Control of Resale

In April, 1973, the New York district office of the I.R.S. concluded that the sale was not conditional because, it said, Mediobanca assumed no risk in the transaction, and simply held the shares for a fee until it "resold" them and transmitted the proceeds and accumulated dividends to I.T.T.

I.T.T., the district office concluded, effectively controlled the time and price of any resale by Mediobanca and therefore "never disposed of the shares" unconditionally, as it promised to do in its ruling application.

The office, in what amounted to a judgment of the national office, also said that "the Service erred as a matter of law" in issuing the ruling "holding that the execution of the proposed contract of sale [to Mediobanca] would constitute an unconditional disposition" for purposes of the law.

The New York office recommended revocation, and 11 months later the national office — on March 6 — followed this advice.

In telephone interviews, all of Mr. Bogaard's principal superiors have disclaimed any responsibility for the ruling, saying that it was issued routinely. Some have disclaimed

any knowledge of it until it surfaced in the press later as a part of the "I.T.T. matter." Thus, Randolph W. Thrower, the I.R.S. commissioner at the time, said he had "only the haziest recollection" of the ruling, and was "not at liberty to comment on whether it came to a judgment of the national office, also said that "the Service erred as a matter of law" in issuing the ruling "holding that the execution of the proposed contract of sale [to Mediobanca] would constitute an unconditional disposition" for purposes of the law.

### Reports No Intervening

Harold T. Swartz, then Assistant Commissioner for Technical, said: "I never saw the ruling letter [to I.T.T.], adding that 'no one intervened.' John Littleton, then director of the Income Tax Division, said: 'I was not familiar with it. I know nothing about the case whatsoever. I don't recall that I ever heard of the thing mentioned until it got in the newspapers.'"

And K. Martin Worthy, then the service's chief counsel, said, "so far as I recall, it did not come to me."

When asked in view of these comments, whether no other official "signed off" on the ruling, Mr. Bogaard said, "that is not correct." But he would not say who reviewed his decision.

One of the mysteries in the situation is how Mr. Bogaard came to make the ruling since he has a reputation in the agency and among tax lawyers of being, as one former colleague put it, "stiff and straitlaced" in application of the law and regulations.

In fact, I.T.T. internal memos contained in a 110-page analysis of the ruling's history, prepared by the New York agency office, repeatedly commented on how Mr. Bogaard reiterated to I.T.T.'s lawyers that the disposition of the company's Hartford shares must be complete and unconditional. One I.T.T. memo said that I.T.T. is proposing is undoubtedly unprecedented in

the history of I.R.S. and whether it will be acceptable will depend largely on the disposition of I.R.S. to be helpful." The author doubted that Mr. Bogaard would be helpful.

Another mystery is why Mr. Connolly has not yet gone into the matter. Last Nov. 27 Mr. Jaworski wrote Representative J. J. Pickle of Texas, ranking Democrat on the investigations subcommittee of the House Commerce Committee, that his office was "vigorously pursuing" the I.T.T. matter, "including allegations of improper influence" in connection with "I.R.S. proceedings."

Also Laurence N. Woodworth, head of the staff of the Joint Committee on Internal Revenue Taxation, assured Mr. Pickle before the revocation of the ruling that his office would look into the circumstances of the ruling, once his staff had completed its review of President Nixon's tax returns.