

Grand Jury Is Probing Nixon Taxes

Washington

For the past five weeks a federal grand jury here has been investigating preparation of President Nixon's 1969 tax returns, sources reported yesterday.

The probe now has progressed to the calling of witnesses, presumably including former Nixon aides and associations, the sources said.

The disclosure by the sources came after the House Judiciary Committee released documents revealing that the Internal Revenue Service last April requested a grand jury investigation of Mr. Nixon's tax return.

Although the special prosecutor's office would not comment, it was disclosed in another document filed this week that some form of investigation is underway.

Chief Republican counsel Sam Garrison argued in a brief filed with the committee that willful tax violations by the President could not

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be inferred from action by his aides.

Without elaborating, he added that: "The special prosecutor has recently begun a grand jury investigation."

The IRS request for a probe was disclosed in documentary material collected by the committee on Mr. Nixon's disputed \$576,000 donation of pre-presidential papers to the National Archives.

It is on this matter that the charges of fraud have been most widespread.

And it was with relation to this deduction that top IRS officials suggested that if certain aides of Mr. Nixon were compelled to testify,

they could "possibly connect the taxpayer" — that is, Mr. Nixon himself — "with the preparation of the tax return and therefore change our recommendation against the 50 per cent fraud penalty."

(As a result of the IRS investigation, the President was assessed \$432,787, which included a civil negligence penalty.)

William Jackson, the agent who did the bulk of the fraud investigation, had reported to IRS officials that "inconsistencies abound" in the testimony of various persons who had a hand in the preparation of the returns.

Jackson reported that three key witnesses had changed their testimony during the course of the investigation. They were Frank Demarco Jr., a private lawyer who prepared and signed Mr. Nixon's 1969 tax return; Ralph G. Newman, the Chicago appraiser who evaluated the papers Mr. Nixon donated, and Edward L. Morgan, a lawyer

on the White House staff.

In addition, Jackson's report noted that another private lawyer serving Mr. Nixon, Demarco's partner, Herbert W. Kalmbach, had denied having anything to do with the preparation of the 1969 tax return — the key one, because it was the first one on which the gift of the papers was claimed as a deduction.

But, the Jackson report went on, Kalmbach's diary notations indicate that he was involved in the matter.

The Jackson report also noted that John D. Ehrlichman, formerly Mr. Nixon's top adviser for domestic affairs, was apparently also involved in the gift of the papers and the 1969 tax return.

The charge that Mr. Nixon's tax returns were fraudulent was one of the articles of impeachment proposed by the staff of the Judiciary Committee, which said that investigation of the alleged fraud "remained incomplete and inconclusive" solely because Mr. Nixon is the President.

It is not yet clear whether this article, or one like it, will be among the charges

made against Mr. Nixon by the committee.

In the report released yesterday, the committee reprinted a letter dated April 2 from IRS director Donald C. Alexander to special prosecutor Leon Jaworski, which referred to the Nixon tax case.

He told Jaworski that the IRS had been unable to complete its investigation "in view of the lack of cooperation of some of the witnesses and because of the many inconsistencies in the testimony of individuals" to IRS agents.

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