

Excerpts From Panel's Evidence on Nixon's

Special to The New York Times

WASHINGTON, July 26—Following is the text of the introductory sequence of events compiled by the House Judiciary Committee's impeachment inquiry. The material, contained in Vol. X of the committee's evidentiary report, deals with President Nixon's tax deduction for a gift of pre-Presidential papers made in 1969 and other tax matters.

Sequence of Events Respecting Deduction

After his election in November, 1968, President-elect Nixon paid a courtesy call on President Lyndon B. Johnson at the White House. President Nixon has stated that at that meeting he was advised by President Johnson to look into contributing some of his personal papers to the National Archives, and taking a tax deduction for the value of the papers contributed. At the same meeting, or soon thereafter, President Johnson or one of his staff gave to Mr. Nixon or one of his staff the name of Ralph Newman, who had appraised President Johnson's papers.

On Dec. 19, 1968, Mr. Nixon met at his New York apartment with Richard Ritzel, one of his partners in the law firm of Nixon Mudge Rose Guthrie Alexander & Mitchell, and asked Ritzel to look into the possibility of Mr. Nixon's making a gift of this kind and taking the tax deduction thus made available. Ritzel concluded that a gift could be made, but that time was of the essence because the end of the year was approaching. Ritzel reported this conclusion to Mr. Nixon. On Dec. 22, 1968, the President-elect told Ritzel to go ahead with the gift. Ritzel asked one of his partners, Pat Tannian, to draft Mr. Nixon's deed of gift. Tannian drafted two versions, one containing restrictions on access to the papers while Mr. Nixon was President, and the other containing no such restrictions.

Egil Krogh and Edward L. Morgan, who worked for John Ehrlichman on the Administration transition staff (and who each later became deputy counsel when Ehrlichman became Counsel to the President after the inauguration), were asked by Ehrlichman to assist Ritzel in the transfer of the papers. On Dec. 27 or 28, Krogh flew to Key Biscayne, bearing the two versions of the deed of gift, and a covering memorandum to Mr. Nixon from Ritzel. In the memorandum Ritzel outlined the differences in the two deeds, noted the target figure of \$60,000 for a gift which had been suggested by Mr. Nixon's accountant, and suggested that Mr. Nixon sign both versions of the deed so that either could be used, depending on whether or not papers "which should be restricted from public perusal while you are the President" were selected by Newman for giving.

On the evening of Dec. 28, Ritzel was telephoned at his New Jersey home by Mr. Nixon. In the conversation, which lasted about 20 minutes, they discussed Ritzel's memorandum—in particular, the problem of whether public access to the papers should be restricted. Mr. Nixon said that he was going to execute the restrictive deed, and gave Ritzel authority to annex to that deed a description of the papers selected for the gift when Newman chose.

Transfer of Papers

On Dec. 29, Krogh arrived in the Nixon Mudge law offices with the executed deed of gift. Morgan and Ritzel were present while Newman and Loie Gaunt, a long-time assistant to Rose Mary Woods, selected the papers for the gift. After the selection was completed, an exhibit describing those papers was

drawn up and attached to the executed deed. The next day a representative of the General Services Administration, of which the National Archives is a division, countersigned the deed as "accepted." Mr. Nixon's papers were then transferred from the Nixon Mudge offices to a G.S.A. truck, which took them to a Federal records center in New York City.

When the President's tax return for 1968 was prepared, the gift was valued by Newman at \$80,000. Of this, \$70,552.27 was deducted for tax year 1968, and \$9,447.73 was available as a deduction carryover for future years. Also, in accordance with Internal Revenue Service regulations, a statement was attached to the return, which included information as to the existence of any restrictions on the gift. It said in substance that the gift was free and clear with no rights remaining in the taxpayer.

After the inauguration, on Feb. 6, 1969, John Ehrlichman wrote a memorandum to the President on the subject of "Charitable Contributions and Deductions." Ehrlichman recited the 1968 gift of papers, and suggested that the President could continue to obtain the maximum charitable deduction of 30 per cent of his adjusted gross income by first contributing to charities proceeds from the sale of the President's writings in an amount equal to 20 per cent of his adjusted gross income. With respect to "the remaining 10 per cent," Ehrlichman's memorandum noted that it would "be made up of a gift of your papers to the United States. In this way, we contemplate keeping the papers as a continuing reserve which we can use from now on to supplement other gifts to add up to the 30 per cent maximum." There is a notation on the memorandum, apparently in the President's handwriting, which states "(1) Good (2) Let me know what we can do on the foundation idea—." There is no reference in the Feb. 6 memorandum to making a bulk gift of papers in the year 1969 which would be sufficient for the President's 30 per cent charitable deduction for 1969 and succeeding years.

Both Ritzel and Morgan have told the staff that there were probably discussions during this time on the desirability of giving the remainder of the President's pre-Presidential papers to the National Archives. They noted that this question had been discussed in 1968, but that there had been barely enough time for a one-year gift then, not to mention selecting papers for a massive gift. They did not recall any instructions from the President with respect to a bulk gift of papers.

In a Feb. 28, 1969, response to earlier

letters from Krogh, Ritzel noted that if Newman's appraisal of the 1968 gift proved to be "higher than anticipated, it will have to be taken into consideration in making any gifts this year." He also wrote, "If you will recall, it had not been our plan to give any of the Presidential papers, within the near future, to the Government since Newman made it quite clear to us that the volume of Vice-Presidential papers which we had would undoubtedly take care of the deduction for a number of years, and the thought was that we would use the oldest first, with the hope that we would be able to get the full deduction for practically the entire life of the President." Ritzel's letter makes no mention of a bulk gift of the President's papers.

Morgan and Ehrlichman were with the Presidential party in Europe during the President's visit from Feb. 23 to March 2, 1969. On March 11, Morgan and Charles Stuart, also of Ehrlichman's staff, met with Walter Robertson, executive director of the National Archives, and Daniel Reed, assistant archivist for Presidential Libraries. They discussed

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Income Tax

Deductions

and Audit

Presidential Libraries, the transfer of the 1968 gift papers from New York to the archives in Washington, and adding an archivist to the White House staff. In addition, the archives officials agreed to organize and inventory a large body of President Nixon's pre-Presidential papers located in the new Executive Office Building, and to recommend appropriate disposition of this material. After that meeting archives personnel found that the space in the E.O.B. was inadequate for doing archival work on the President's papers, and suggested that the papers be moved from the E.O.B. to the archives. Stuart wrote Dr. Reed on March 14, confirming that the logistics of the move had been arranged.

Appraiser Continues Work

On March 24 Stuart called and left a message for Reed, in which he stated that the papers at the E.O.B. should be moved to the archives and sorted there. On March 26 and 27, the papers were moved from the old and new E.O.B. to the National Archives Building. Also on March 27, Morgan signed a "limited right to access," allowing Newman to work with the 1968 gift papers which had been moved from New York to the archives on March 20. Newman did this work at the archives on April 8.

Newman first told the Joint Committee staff that on April 8, 1969, at the request of Frank DeMarco, who in early 1969 replaced Ritzel as the President's tax attorney, he had visited the area housing the papers delivered on March 26 and 27, and verified that there was sufficient volume to cover the \$500,000 requirement for a 1969 gift. After that interview, Newman was informed that Sherrod East, an archives employee, who had escorted Newman at the archives, stated that Newman had not seen the 1969 material on April 8. Newman thereafter stated that he checked his records, and discovered that his first contact with DeMarco was in October, 1969, and that before that time he did not see the papers delivered on March 26 and 27.

DeMarco insisted throughout the Joint Committee and I.R.S. investigations that his first contact with Newman was in April, 1969. He told the impeachment inquiry staff that when talking with the Joint Committee and the I.R.S., he had not remembered a meeting at the White House on Oct. 1, 1969. He told the staff that on that date he met with Morgan and Roger both, assistant to the Commissioner of the Internal Revenue Service. Morgan suggested to him that he contact Newman. On Oct. 31, 1969, he apparently contacted Newman for the first time.

On April 21, 1969, Morgan had a breakfast meeting with Herbert Kalmbach and Frank DeMarco at the Century Plaza Hotel in Los Angeles. DeMarco told the staff Morgan had telephoned him early in April to discuss coming to California, and mentioned that the Pres-

ident had made a gift of his papers to the archives. Morgan does not remember such a telephone conversation, but thinks that he must have spoken to DeMarco before leaving Washington. They both remember, however, that they met for breakfast, drove to San Clemente to see the property, and then drove to the Kalmbach, DeMarco, Knapp & Chillingworth office in Newport Beach. DeMarco

first told the Joint Committee staff that a deed was not executed on this day. Morgan's initial recollection was that a deed was executed, and now they both state that on April 21, 1969 Morgan, as deputy counsel to the President, signed a deed for the 1969 gift of papers, dated March 27, 1969, at the Newport Beach office. Morgan does not recall who had given him the authority to sign the deed on April 21, 1969, and he states that quite possibly he assumed the authority relying on DeMarco as the President's tax attorney.

He had never previously signed a deed on behalf of the President. DeMarco told the staff that he based the 1969 deed on the 1968 deed, which he received from either Morgan or Kalmbach. Neither Morgan nor Kalmbach remembers sending it to DeMarco. DeMarco also said that only one copy of the deed was executed in 1969, and that at all times he kept that copy in his personal custody.

DeMarco told the staff that he had expected Morgan to bring with him some form of archives receipt for the papers, or a description of them. When he discovered that Morgan did not have it, he typed a temporary "schedule A" to the deed, "just to have something." Morgan does not remember any conversation about receipts for the papers or a description of them. After the meeting in Newport Beach, Morgan was driven to Los Angeles, and flew out of California.

Both DeMarco and Arthur Blech, an accountant retained by the Kalmbach firm, told the staff of a conversation between them early in May, 1969. In that conversation, DeMarco posed a hypothetical question of a client with an income in the \$250,000-\$300,000 range, who had given a gift worth \$500,000. He wanted to know for how many years the carryover would be good. After doing the calculations, Blech asked who the donor was, and DeMarco replied that it was the President. Blech told the staff that he dated and kept his notes of this conversation, but that he could not find them.

In Washington on April 21, 1969, the President sent to Congress his proposals for tax reform. The proposals did not include provisions affecting charitable deductions for gifts of personal papers. On May 27, 1969, the Committee on Ways and Means announced in a press release that it was considering eliminating the charitable deduction for "all gifts of works of art, collections of papers, and other forms of tangible personal property." On July 25, 1969, the Ways and Means Committee announced that it had decided to recommend this action to the House.

On Aug. 2 the Tax Reform Act of 1969 was reported out of the Ways and Means Committee to the House. That committee recommended that the proceeds from the sale of collections of private papers be taxed as ordinary income (effective after July 25, 1969), and that the charitable deduction for gifts of collections of private papers be eliminated (effective after Dec. 31, 1969). The bill containing these provisions was passed by the House on Aug. 7, 1969.

Most Papers 'Not Yet Deeded'

In a memorandum dated May 27, 1969, a National Archives consultant retained to work on the President's papers noted that the papers delivered to the archives "for the most part are not yet deeded to the United States . . .

10. INCOME TAX AUDIT CHANGES 1969-72, APRIL 2, 1974, IRS FORM 4549A.			
FORM 4549-A (DEC. 1970)	DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE	Page 1 of 2	RETURN FORM NO. 1020
NAME AND ADDRESS OF TAXPAYERS Richard M. and Patricia R. Nixon The White House Washington, D. C. 20500		S.S. NO. NUMBER 567-68-0515	FILING STATUS Married Filing Joint Return
PERSON WITH WHOM AUDIT CHANGES WERE DISCUSSED Name and title Kenneth Gemmill P/A H. Chapman Rose P/A Peter Work P/A			
1. ADJUSTMENTS TO INCOME			
	Year: 1970	Year: 1971	Year: 1972
a. Contributions other than Cash - Papers	123,959.28	128,668.37	134,093.77
b. GSA Expenditures to San Clemente	16,301.92	13,808.21	-0-
c. GSA Expenditures to Key Biscayne	1,580.00	2,040.70	2,313.12
d. Income Increased-Sale of Florida Lots			5,808.30
e. Sale of San Clemente Property	54,581.50		
f. Royalty Income Increased		10,384.50	
g. Total Adjustments from Page 2	25,144.90	15,682.03	30,460.19
2. TOTAL ADJUSTMENTS			
	221,567.60	170,033.81	172,675.38
3. CORRECTED TAXABLE INCOME SHOWN ON RETURN			
	(46,114.36)	5,358.06	19,707.77
4. CORRECTED TAXABLE INCOME			
	175,453.24	175,411.87	192,383.15
5. TAX			
	94,088.20	94,080.47	105,724.37
6. ALTERNATIVE TAX IF APPLICABLE (From Page 3)			
	88,091.00	93,122.33	92,503.13
7. TAX SURCHARGE 1970 - 2.5%			
	2,202.28		
8. CORRECTED TAX LIABILITY (Lesser of line 5 or 6, plus line 7)			
	90,293.28	93,122.33	92,503.13
9. LESS CREDITS (Specify)			
a.			
b.			
c.			
10. BALANCE (Line 8 less amounts on lines 9a through 9c)			
	90,293.28	93,122.33	92,503.13
11. PLUS:			
a. Tax from recomputing prior year investment credit			
b. Self-employment tax	538.20	585.00	
c. Minimum Tax Form 4625	75.79		
12. TOTAL CORRECTED INCOME TAX LIABILITY (Line 10 plus amounts on lines 11a through 11c)			
	90,907.27	93,707.33	92,503.13
13. TOTAL TAX SHOWN ON RETURN			
	792.81	878.03	4,298.17
14. STATUTORY DEFICIENCY (Difference between lines 12 and 13)			
	90,114.46	92,829.30	88,204.96
15. PENALTIES Section 6653(a)			
	4,505.72	4,641.47	4,410.25
OTHER INFORMATION:			
(A) Maximum tax on earned income from Form 4726			
(B) Maximum tax on earned income from Form 4726			
EXAMINING OFFICER'S SIGNATURE <i>Arthur Blech</i>	DISTRICT	DATE 4/12/74	
FORM 4549-A (12-70)			

Part of the Internal Revenue Service's audit report on President Nixon's taxes in which deficiencies were assessed. Form was included in new evidence.

Further work should await some further clarification of White House wishes and intentions. . . There are no National Archives memoranda which indicate that a gift of papers had been made by the President in 1969.

On June 16, 1969, Ehrlichman wrote two memorandums to Morgan, which posed a number of questions relating to the President's taxes. In one of them he asked, "Will you please have someone carefully check his salary withholding to see if it takes into account the fact that he will be making a full 30 per cent charitable deduction." Morgan apparently referred the questions to I.R.S. Commissioner Randolph Thrower, and they were answered by a memo, dated July 16, 1969, from Roger Barth, assistant to Commissioner Thrower, to Morgan. No mention is made in either the Ehrlichman or the Barth memorandums

that the President had made a bulk gift of papers in March, 1969.

On Nov. 3, 1969, Newman began his work at the archives on the papers delivered March 26-27. This was apparently occasioned by a meeting among DeMarco, Morgan and Barth on Oct. 8, and a telephone conversation from DeMarco to Newman on Oct. 31, in which DeMarco requested Newman to go to the archives and tell him how much was there. On Nov. 7, 1969, Newman sent to the President, with copies to DeMarco and Morgan, a preliminary appraisal of the President's pre-Presidential papers, valuing them at \$2,012,000.

Reception Line Chat

Newman told the staff that on Nov. 16, 1969, he was in Washington with his wife. A friend, who was a military aide at the White House, arranged for the Newmans to be invited to a White House

prayer breakfast on that morning. After the service, Newman said that he and his wife stood in the receiving line. When they reached the President, Newman introduced himself and asked the President if he had received Newman's preliminary appraisal. The President replied that he did receive the appraisal and stated that he did not believe the figure could be so high. Newman told the President that the figure was a conservative estimate.

Newman returned to the archives on Nov. 17-20 and Dec. 8, 1969 to continue his examination of the President's papers. During that time he worked almost exclusively on the "General Correspondence" file of the President.

On Nov. 21, 1969, the Senate Finance Committee reported out its version of the Tax Reform Act, recommending that the charitable deduction for gifts of private papers be eliminated for gifts made after Dec. 31, 1968. This effective date was retained in the bill when it passed the Senate Dec. 11, 1969. On Nov. 26 and Dec. 8, 1969, Edwin S. Cohen, Assistant Secretary of the Treasury for tax policy, wrote memoranda to Peter Flanigan, assistant to the President, on the sections of the proposed tax act which would eliminate charitable deductions for gifts of private papers. In the Nov. 26 memorandum Cohen noted, "If the effective date of the provisions relating to contributions of papers is changed back to that in the House bill (from Dec. 31, 1968 to Dec. 31, 1969), then a contribution could be made in December, 1969, and deducted this year up to 30 per cent of income. . ."

On Dec. 22, 1969, the Conference Report on the Tax Reform Act of 1969 recommended an effective date for the elimination of the charitable deduction for gifts of papers of July 25, 1969. This

effective date was adopted by both Houses of Congress on the same day. The President signed the bill into law on Dec. 30, 1969.

On Dec. 24, 1969, Newman telephoned DeMarco and asked him whether there was anything more to do in light of the deduction for gifts of papers being eliminated effective July 25, 1969. Newman's telephone bills reflect a call to DeMarco's office on this date. According to Newman, DeMarco told him that there was nothing more for him to do. Newman told the staff that as of the end of 1969 he did not know that a gift of papers had been made by the President. "I thought he'd blown it," he said. DeMarco told the staff that he does not recall the Dec. 24 telephone conversation with Newman.

Date of Second Gift

On Jan. 9 and Feb. 2, 1970, Dr. James Rhoads, Archivist of the United States, wrote the Administrator of General Services that the "second installment" of the President's gift of papers was not given in 1969. On March 3, 1970, Ralph Newman wrote to Frank DeMarco, asking "what the procedure will be with reference to the Nixon papers . . ." in light of the Tax Reform Act of 1969.

Newman noted that the President still had material in the archives which was not affected by the section of the bill eliminating deductions for gifts of papers. DeMarco told the staff that during this period he repeatedly called Newman, asking him to finish the appraisal, and that he also called Morgan, requesting his aid in having Newman do the work. Neither Newman nor Morgan remembers such calls.

On March 27, 1970, Newman said he was called by DeMarco, who told him that the President had made a bulk gift of papers in 1969 and this was accomplished when the papers were delivered to the archives on March 27, 1969. Newman has told the staff he was surprised when DeMarco told him on March 27, 1970, that the President had made a gift of papers a year earlier.

DeMarco told Newman during that conversation that he needed a description of papers worth around \$500,000. Newman told DeMarco that he had selected some materials in late 1969, but would have to go back to the archives for an additional selection. He called Mary Walton Livingston, an archives employe, and asked her to select additional items to bring the value up to about \$550,000. About an hour later, he received a call from Mrs. Livingston, who described several series of papers to him. Newman telephoned this information to DeMarco and later in the day sent a letter to Mrs. Livingston enclosing a description of the items.

Newman told the staff that in his March 27, 1970, letter to Mrs. Livingston he was careful to say that the items were "designated as a gift by Richard Milhous Nixon in 1969." He said that this is what he had been told by DeMarco, and that he wanted the record to reflect what he had been told. He said that his letter made no reference to his conversations of that day with Mrs. Livingston, or her selection of a portion of the materials for the gift, because he had already thanked her on the phone for her work.

On April 3 Newman called DeMarco and said that he was preparing an appraisal document and would mail it out shortly. Newman did prepare an appraisal document and sent it to DeMarco on April 6 or 7. Included in that document is an affidavit by Newman dated April 6, 1970, which states that Newman examined the papers constituting the 1969 gift on April 6-8, Nov. 3 and Nov. 17-20, and Dec. 8, 1969. Newman stated to the staff that this affidavit was inadvertently incorrect in stating that he examined on April 6-8 the papers constituting the 1969 gift. The first time that

he viewed the papers delivered to the Archives on March 26 and 27, 1969, was on Nov. 3, 1969.

On April 6, Newman called Mrs. Livingston. She reported to the Joint Committee staff that Newman said his March 27 letter was the only deed of gift the archives would receive, and that he wanted an acknowledgment of that letter. She also told the Joint Committee staff that Newman said it would be better for everyone, including the White House, "if all dealings on this point would stay between the two of us." Newman denies stating on April 16 that his March 27 letter would be the only deed of gift the archives would receive. He acknowledges that he may have said to Mrs. Livingston that "all dealings on this point should stay between the two of us," but explained that he meant that the archives should not make any public announcement of the President's gift. On April 9, Newman called Mrs. Livingston again. She read him a draft reply to his letter of March 27, 1970. That draft made no acknowledgment of a gift, but simply listed some pre-Presidential papers, and noted their date of delivery to the archives. Newman stated that her letter was sufficient.

DeMarco has stated that after his March 27 telephone call from Newman, he dictated a "schedule A" to the deed to replace the temporary schedule which he had typed himself on April 21, 1969. He said that on April 7, he noticed that the typestyle, and the color and texture of the paper of the schedule, were different from the type and paper used for the deed executed on April 21, 1969. DeMarco asked his secretary, LaRonna Kueny, to copy the original document so that the appearance of the deed and the schedule would be the same. Mrs. Kueny has testified before the California Secretary of State that, after typing an original deed in April 1969, she retyped the document in late 1969 or early 1970.

On April 8, DeMarco received the appraisal from Newman, and took it to Blech's office, to attach it to the income tax return. According to DeMarco, at Blech's suggestion, DeMarco also prepared a description sheet to conform with I.R.S. regulations, which stated, "Restrictions: None. The gift was free and clear, with no rights remaining in the taxpayer." After Blech assembled the return, DeMarco flew it to Washington on April 9.

Deed 'Re-executed'

On April 10, 1970, DeMarco went to Morgan's office in the Executive Office Building. DeMarco has stated that he asked Morgan to "re-execute" the deed which his secretary had retyped, and Morgan did so. In a written statement prepared for the White House in Aug., 1973, Morgan made no mention of signing a deed of gift in April, 1970. In his interview with the Joint Committee staff, he conceded that the signature on the deed was his, but said that he did not recall signing any deed a second time, nor signing anything on April 10, 1970. He told the Judiciary Committee staff that he now recalls being called out of a meeting by his secretary, going to his office where at DeMarco's request he executed copies of a deed previously executed by him, and returning to the meeting. He does not know whether that event occurred on April 10, 1970.

It should be noted that the deed dated March 27, 1969, in the G.S.A. files is a "duplicate original," that is, a photocopy of an original document which contains autograph signatures and seals. During the early stages of the Joint Committee and I.R.S. investigations, National Archives personnel pointed out that the Schedule A attached to the deed—which could not have been composed until March 27, 1970, because some of the papers reflected on the schedule were not selected until that date—contained the same photocopy marks as the deed itself, which on its face purported to be executed in 1969.

DeMarco, in a letter dated Aug. 22, 1973, to Coopers & Lybrand, had stated that a deed was executed on April 21, 1969, and did not mention a re-execution.

Morgan, in an August 14, 1973, memorandum to Douglas Parker, an attorney at the White House, emphasized his execution of a deed on April 21, 1969, and did not mention a re-execution. To the inquiry staff's knowledge, none of the principals involved in the President's deduction for the gift of papers described the re-execution of a deed in 1970 until Archives personnel examined the "duplicate original" and it became apparent that that document could not have been executed in April, 1969.

DeMarco stated that he had an appointment with the President for 12:15 on April 10. He met Kalmbach, his law partner, outside the President's Oval Office, and at 12:20 they were ushered in to see the President. They chatted about California politics and the law business for about five minutes. Then DeMarco explained to the President the double-entry books and the other aspects of the record-keeping systems which he and Blech had set up for the President.

Turning to the tax return, DeMarco pointed to the line on the first page of the return showing the refund due the President and said, "That is the bottom line." The President said, "That's fine, that's fine." Then DeMarco explained to the President the major items in the tax return, aside from his salary: the non-recognition of gain on the sale of his New York apartment, the deductions taken for interest, and pointed to the appraisal by Newman saying, "This, of course, is the appraisal supporting the deduction for the papers which you gave away." The President's response, "That's fine."

No Discussion of Deed

DeMarco said that there was no discussion about the deed giving the papers to the United States. DeMarco told the President that the gift of papers would be a "tax shelter" for several years. DeMarco stated there was no in-depth analysis of the tax return while he was with the President, but he said there was no question the President knew he was getting a refund and that a basis for the refund was the deduction taken for the gift of papers.

The President signed the return in the presence of DeMarco and Kalmbach and chatted for a few minutes about items other than the tax return. DeMarco told the President that he needed Mrs. Nixon's signature on the return.

The President called Mrs. Nixon and told her that DeMarco and Kalmbach were coming up. Kalmbach and DeMarco were escorted to the family quarters to see Mrs. Nixon. She asked, "Where do I sign?" and signed it in the appropriate space. She then asked DeMarco and Kalmbach to help pick out one of two busts of General Eisenhower which had been presented to the White House.

After leaving Mrs. Nixon, DeMarco and Kalmbach went back to Morgan's office. Morgan, Barth and Clinton Walsh, the chief of the Audit Sections of the I.R.S., were there to receive the President's return. Barth and Walsh looked over the return, checked to see that it was signed, put it back in its envelope, and left.

About two weeks later in April, DeMarco received a telephone call from Barth, who said that the 1969 return had been checked and approved, and that a refund check was being issued on that day.

Sequence of Events Respecting the Reopening of the President's Returns

Donald C. Alexander, Commissioner

of the Internal Revenue Service, told the impeachment inquiry staff that after he saw articles in the press and other indications of public interest in the President's income taxes, and after the President himself dealt with the subject in a press conference in Nov., 1973, he raised in his own mind whether the audit of the President's returns for 1971 and 1972 had been "in depth." After considering the matter, he told Secretary of the Treasury George Shultz, in a meeting on Nov. 28, 1973, that he was going to reopen the audit of the President's returns. The Secretary told him to go ahead, and said that he (Mr. Shultz) would inform General Alexander Haig, assistant to the President, of this fact.

Alexander said that he had reached the decision to reopen the audit on his own. He said he decided to have the I.R.S. examine the President's tax returns because the information which had been reported would have caused the examination of the return of any other taxpayer. Alexander stated that he had discussed this matter with no one before informing Mr. Shultz of his decision. He said that he did not want to have to put the Secretary on the spot by asking him to make the decision, but felt obliged to inform him.

On the afternoon of Nov. 28, 1973, on the following day, Alexander arranged for Raymond F. Harless, the Deputy Commissioner, to meet with him on Monday, Dec. 3. At that meeting, they looked at the President's returns. Harless then assembled an in-house audit team, which met with the Commissioner on Dec. 4. On Dec. 5, 1973, Alexander met with an aide and the Baltimore district director, whose jurisdiction includes Washington, D.C. On Dec. 7, 1973, letters were hand delivered to the White House notifying President and Mrs. Nixon that their Federal income tax returns for the years 1970, 1971 and 1972 would be re-examined.

White House Asks for Copies

Alexander said that on Dec. 7 the White House requested copies of the President's tax returns; they were sent over that evening. On Dec. 8 the President wrote to Chairman Wilbur Mills asking the Joint Commission on Internal Revenue Taxation to examine his tax returns for the years 1969-1972 in order to answer questions which had been raised in the press concerning his personal finances as President. This letter was made public. There was no public announcement that on Dec. 7, the President had been officially notified by the Internal Revenue Service that his tax returns would be audited.

On Feb. 4, 1974, Referral Reports for Potential Fraud Cases were submitted by the Audit Division, Baltimore district, to the Intelligence Division, Baltimore district, naming Frank DeMarco, Ralph Newman and Edward Morgan as potential subjects. DeMarco, Newman and Morgan were placed under full-scale investigation by the Intelligence Division, Baltimore district, on Feb. 20, 1974.

On March 28, 1974, it was recommended to the district director, Baltimore district, that the true story concerning the gift of the President's papers and the preparation of his 1969 income tax return could only be arrived at by a grand jury proceeding. The report recommending this action, signed by William N. Jackson, group manager "01," Baltimore district office, names DeMarco, Newman and Morgan as the subjects of the investigation. On April 2, 1974, this report was referred to the office of the special prosecutor for possible action.

The Internal Revenue Service notified President and Mrs. Nixon on April 2, 1974, that an adjustment of their tax liability was necessary for the years 1970, 1971 and 1972. A copy of the audit report justifying a tax deficiency of \$271,148.72 and a 5 per cent negligence penalty of \$13,557.44 was enclosed.

Also sent to President and Mrs. Nixon was a report on tax year 1969, which noted a tax deficiency of \$148,080.97. In his covering letter, Gerald G. Fortney, the new Baltimore district director, noted that there was no legal obligation to pay the 1969 deficiency.

The total deficiency for the years 1969 through 1972, including the negligence penalty for 1970 through 1972, was \$432,787.13. On April 3, 1974 the White House issued a statement that the President has "today instructed payment of the \$432,787.13 set forth by the Internal Revenue Service, plus interest."

On April 17, 1974, the President and Mrs. Nixon paid by check the amount of deficiency and penalty for 1970, 1971 and 1972, totaling \$284,706.16. On June 19, 1974, the staff was informed by William E. Williams Deputy Commissioner of the Internal Revenue Service, that the President had not yet paid the 1969 deficiency of \$148,080.97 and that no date has been set for such payment. Commissioner Williams also stated that the I.R.S. has been in contact with representatives of the President and it is the impression of the I.R.S. that the penalty for 1970 through 1972, was the 1969 deficiency.