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Internal revenue investigation. Report to the Committee on Ways and Means, House of Representatives, by the Subcommittee on Administration of the Internal Revenue Laws

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INTERNAL REVENUE INVESTIGATION

REPORT

TO THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

BY THE

SUBCOMMITTEE ON ADMINISTRATION OF THE INTERNAL REVENUE LAWS

BY MR. KEAN

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INTRODUCTION

Since May 1951, an investigation of the administration of the internal revenue laws has been conducted by the Committee on Ways and Means, operating through this subcommittee and under authority of section 136 of the Legislative Reorganization Act, House Resolution 78, 82d Congress, and House Resolution 91, 83d Congress. The subcommittee now considers its major objectives to have been substantially achieved and therefore is discontinuing active investigation. However, against the possibility of a renewed need for congressional study of revenue administration, the subcommittee proposes to remain in existence on a standby basis until the end of the 83d Congress. Meanwhile, this report is presented to review the subcommittee's activities and to set forth its recommendations for future action.

Corruption and incompetence at all levels of revenue administration have been the chief targets of the subcommittee's investigation. By drawing attention to the more startling cases in public hearings, the subcommittee has hoped to alert the Congress and the people to these twin evils. A résumé of these revelations is included in this report to perpetuate the lessons to be derived from the hearings.

In preparation for the hearings, several hundred alleged instances of corruption or incompetence have been investigated. Nearly a thousand interrogations of witnesses in various parts of the country have been conducted. The record of the public hearings alone runs to 5375 pages.

These activities have brought to the subcommittee's attention numerous weaknesses and defects in revenue administration procedures and methods. Remedies and preventive measures have suggested themselves. Some of these have been set forth in the subcommittee's report to the 82d Congress. In certain instances, effective changes have been adopted by responsible administrative officials after discussions with representatives of the subcommittee. In the present report, the subcommittee will comment on the present status of some of its former proposals and will offer certain further suggestions of like nature.

The subcommittee has also sought to contribute to efficient revenue administration by studying certain broad problems not necessarily involving the corruption issue. In three areas formal reports have been prepared and are included as sections of this report. These concern reorganization of the Internal Revenue Service, the relationship between the Office of the Chief Counsel of the Internal Revenue Service and the Tax Division of the Department of Justice, and the role of the Treasury in revenue administration.

CHAPTER I

SUBCOMMITTEE INVESTIGATION OF MALADMINISTRATION IN THE FEDERAL REVENUE SYSTEM

In the past 2 years the subcommittee has conducted an intensive and extensive investigation of almost every phase of internal revenue administration. The results of the investigation are reflected in the tremendous number of changes in personnel and organization which have taken place in the past 2 years. The significance of these changes can be best understood if they are related to the hearings which produced them. Accordingly, this narrative of the subcommittee's investigative work is presented.

COLLECTORS OF INTERNAL REVENUE

One of the first tasks to which the subcommittee addressed itself at the commencement of the investigation was a review of those cases of employee misconduct which had been investigated in previous years by the Bureau of Internal Revenue.[1] The object of this review was twofold: (1) To evaluate the methods followed by the Bureau in investigating and handling such cases, and (2) to ascertain the types of misconduct with which these employees became involved. It was established that a disproportionate number of these misconduct cases involved employees in the collectors' offices. Accordingly, the subcommittee made a review of the manner of appointment of each of the 64 collectors of internal revenue and of the conduct in office of a substantial number of them.

This investigation disclosed that collectors of internal revenue were appointed on the basis of recommendations made by local political organizations, often without regard to the character or ability of the nominee. Moreover, a collector, once appointed, was ordinarily not subject to control by the Bureau for the reason that the political strength of the collector often exceeded that of his Washington superiors. This meant that in some offices conditions were allowed to deteriorate to the point where revenue collections were endangered rather than offend the local collector. The situation in the Third Collection District of New York and in the collector's office in San Francisco were typical examples. In both these offices the subcommittee found instances of gross mismanagement or worse, which had been known to the Bureau for years and which had gone uncorrected.

During the subcommittee's investigation, 9 of the 64 collectors were either removed from office or forced to resign. Of these, 3 were subsequently indicted on criminal charges and 2 were convicted. All collectors were forbidden to engage in outside business activities, and the Bureau began a program of stricter supervision of collectors

[1] On July 9, 1953, the name of this agency was changed from the Bureau of Internal Revenue to the Internal Revenue Service. Where appropriate the subcommittee has referred to this agency as the "Bureau." Other changes in nomenclature are listed in appendix E.

and their offices. Finally, the administration proposed Reorganization Plan No. 1 of 1952, making these posts part of the civil-service system. These changes should prevent a recurrence of the situations which the subcommittee found in so many collectors' offices.

The following cases, taken from the record of the subcommittee's public hearings, are illustrative of the conditions which the investigation revealed.

James P. Finnegan

Finnegan was a lawyer, and upon becoming collector at St. Louis, Mo., continued to practice law with the knowledge and approval of his superiors. His law practice expanded substantially after he became collector. It was found that he had assisted clients with RFC loan applications and in lawsuits against the United States. It was also established that, while collector, Finnegan had referred names of delinquent taxpayers to an insurance agency which then attempted to sell insurance to these taxpayers. Finnegan shared in the profits thus received. He also accepted a gift of furniture from a taxpayer whom he thereafter allowed to postpone payment of taxes, and similarly accommodated one other taxpayer who retained him as counsel on a private matter. Finnegan was also on the payroll of the American Lithofold Corp. while collector and obtained for Lithofold the services of a former Commissioner of Internal Revenue, Joseph D. Nunan, Jr., and a District Supervisor of the Alcohol Tax Unit, James B. E. Olson.

Denis W. Delaney

Delaney was appointed as collector of internal revenue for the district of Massachusetts in 1944. The record of the hearings discloses that during 1949 and 1950 Delaney received, through third persons, $10,000 from delinquent taxpayers in return for which he unlawfully discharged Federal tax liens on their property. Delaney also accepted a rent-free summer cottage in return for his services in abating a tax assessment against a night club in his district, and on at least two occasions accepted fees from businesses which were conducting negotiations with various Federal agencies.

The Delaney case was another illustration of the Bureau's inability to control politically appointed collectors. On several occasions prior to the 1951 investigation, Bureau officials had ascertained that Delaney had illegally discharged tax liens and had remonstrated with him concerning this practice to no avail.

Joseph P. Marcelle

Marcelle was made collector of internal revenue at Brooklyn, N. Y., in 1944. He was also a lawyer and continued to practice while holding his Federal post; his many other business activities included participation in the vending-machine business. Marcelle's income from these activities was so large that his returns should automatically have been sent to the revenue agent's office for audit. Collector Marcelle kept his returns in his own office, however, and they were not audited until the subcommittee began its investigation of him in 1951. The resulting audit concluded with the determination of $32,835 as additional income subject to tax.

James W. Johnson

James W. Johnson was appointed collector of internal revenue for the Third District of New York in December 1943. This office had been one of the most unsatisfactory collector's offices in the Bureau for many years, and Johnson proved himself unable to improve matters. In December 1949, a complete report on the conditions in the office was submitted to Commissioner of Internal Revenue George J. Schoeneman, after which Johnson was deprived of all authority over his employees. For the next year and a half the office was run by a team of eight specially qualified Bureau officials sent in from Washington, but Collector Johnson was retained in office and drew his full pay.

NET WORTH INVESTIGATION OF FIELD AGENTS

In an organization such as the Bureau of Internal Revenue there are literally thousands of employees who daily make decisions involving large sums of money. Inevitably such a situation creates temptation on the part of dishonest taxpayers, practitioners, and employees, and the Bureau must therefore be constantly alert to any sign of corruption. The subcommittee concluded early in its investigation that a net worth and expenditures check would be of great value in detecting those employees who had succumbed to temptation. Before proposing this plan to the Treasury, however, the subcommittee undertook a net worth and expenditures investigation of a number of employees in field offices in the New York area. The results of this investigation were startling. Of those employees questioned, some refused to submit the required financial data. Others disclosed impressive accumulations of wealth and living standards far beyond their means. Acting on this information, the subcommittee then proposed that a net worth and expenditures questionnaire be submitted to all Bureau employees whose positions were such that they might be exposed to temptation. The Treasury resisted this program for a variety of reasons, until after the results of the subcommittee's investigation were made known in public hearings. The Treasury then acceded to the subcommittee's proposal and in November 1951 distributed net worth and expenditures questionnaires to 30,000 employees. These questionnaires, when used in conjunction with the financial statements which have for years been requested of all applicants for employment in the Bureau, will provide an effective means of detecting unusual increases in net worth and expenditures, and have already proved valuable to the Inspection Service in the course of its work.

HANDLING OF CRIMINAL TAX FRAUD CASES IN THE TAX DIVISION OF THE DEPARTMENT OF JUSTICE

The Tax Division of the Department of Justice reviews all proposed criminal tax fraud prosecutions before their submission to Federal grand juries and has authority to reject those cases which it feels are unsuitable for prosecution for any reason. Under the procedure in effect prior to 1952, prosecution recommendations were reviewed at 22 different stages in the Bureau and in the Tax Division. A decision against prosecution at any one of these stages was conclusive. Both

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the Bureau and the Tax Division pursued a policy of granting as many conferences to taxpayers and their counsel as were desired, and adhered to various policies which made it easy to decline prosecution. Among these were the so-called health policy under which a taxpayer would not be subjected to trial if it were found that the strain of a trial might endanger his life or sanity; and the voluntary disclosure policy under which a tax evader could avoid prosecution if he disclosed his evasion before being subjected to investigation by the Government. The abuses inherent in these old policies and procedures were fully discussed in the subcommittee's previous report.

The Assistant Attorney General in charge of the Tax Division at the time the subcommittee began its investigation was Theron Lamar Caudle. The subcommittee found that Caudle had accepted expensive fur coats for his wife and daughter from a law firm which had tax cases before him and which, incidentally, deducted the cost of the coats as a business expense on its tax return. He also received a $5,000 commission for his help in arranging the sale of a $30,000 airplane to one Larry Knohl. Knohl allegedly was employed as an investigator by two New Yorkers, Aaron and Freidus, who had been indicted for income-tax evasion. After the indictment Aaron had asserted that he was too ill to stand trial, and the trial judge appointed a physician to determine his physical condition. The doctor reported that while Aaron did have a heart condition, he should, nevertheless, be able to withstand the strain of a trial. Caudle received a copy of the medical report from Aaron's counsel, after which his office then wrote the United States Attorney at New York that prosecution of Aaron and Freidus would not have been recommended by the Tax Division if the Division had seen the medical report on the ground that such a prosecution would have been inconsistent with the Department's health policy. The United States attorney declined to accept the Tax Division's suggestion, however, and the taxpayers thereafter pleaded guilty. Caudle and his two assistants all admitted that the letter to the United States attorney misstated the Department's health policy and that Aaron should have been made to stand trial, but offered no explanation of why the letter was sent. Caudle insisted however, that the sending of the letter had nothing to do with his receipt of the $5,000 commission.

Subsequent investigations have further illustrated how the affairs of the Tax Division were conducted during this period. In October 1949, the Bureau of Internal Revenue recommended criminal prosecution of Garry D. Iozia for tax evasion. Iozia retained a succession of attorneys, on whose advice he made a number of different attempts to have his case closed through the use of outside pressure. One such attempt involved the retention of Washington "public relations" experts, one of whom has apparently never filed a Federal income tax return but who had easy access to Caudle's office. The Iozia case was subjected to a long series of delays in the Tax Division, during which time the statute of limitations was allowed to run on 2 of the 3 individual years involved, and 2 of the 3 corporate years, as well. The Government's chief witness, a man in frail health, was compelled to travel from Florida to New York and was subjected to a searching interrogation by four Government attorneys in an effort to ascertain whether his testimony could be shaken. When this proved impossible, Iozia's attorneys and various witnesses in his behalf were allowed

to go before the grand jury considering the case (an unprecedented maneuver) and the Tax Division attorney presenting the matter advised the grand jury that the Government was not free from doubt as to Iozia's guilt. Despite all this, the grand jury returned an indictment against Iozia, who has since pleaded guilty and been sentenced to jail. Iozia had spent some $116,000 in various attempts to avoid prosecution, and very nearly succeeded.

OLSON, MEALEY, NUNAN, AND TYDINGS INVESTIGATIONS

The Alcohol and Tobacco Tax Division, formerly known as the Alcohol Tax Unit, is charged with the regulation of the legitimate alcohol industry in this country and with the duty of stamping out traffic in non-tax-paid alcohol.

The subcommittee first became concerned with the Unit during the investigation of James B. E. Olson. Olson was formerly an official in the collector's office in Brooklyn, and had been appointed in 1947 to the post of district supervisor in charge of all Unit activities in the State of New York and the Territory of Puerto Rico. The investigation disclosed that Olson had left the collector's office in 1945 to become associated with a liquor firm headed by one Joseph Applebaum. Applebaum had had a long history of violation of Unit regulations, culminating in the revocation of his permit in 1942. After Joseph D. Nunan, Jr., became Commissioner in 1944, Applebaum applied for a new permit, which was issued at Nunan's direction in 1944 over the opposition of Unit field officials. Thereafter, Olson, who had been Nunan's assistant in the Brooklyn collector's office, joined Applebaum's firm at an initial salary of $25,000 a year. He had had no previous experience whatsoever in this business, and neither he nor Applebaum was able to tell the subcommittee what services he performed for this large salary. Within a few months after joining the firm, Olson became a partner, although he was not required to make any capital contribution, and remained a partner until the dissolution of the firm in January 1947. During this period Olson had received a total of $94,000 from the Applebaum firm. He was thereafter appointed district supervisor by Nunan, although he had had no previous experience in alcohol-tax matters.

After becoming district supervisor, Olson engaged in a variety of outside business activities with substantial profit to himself. For example, the American Lithofold Corp. hired Olson and Nunan on former Collector Finnegan's recommendation to obtain printing business. Olson obtained a number of such orders from liquor firms in his district, receiving commissions therefrom in excess of $6,000. He also formed the James B. E. Olson Corp., which sold trucks manufactured by another concern. The Olson corporation sold a substantial number of trucks to breweries and distilleries in the New York area. Olson also attempted to obtain a distributorship from the Tele King Corp., an enterprise controlled by Louis I. Pokrass, at that time a holder of a Federal liquor permit, but was unsuccessful. These varied business activities left Olson with little time to devote to his $9,400 a year Government post.

The subcommittee, in conjunction with the Bureau, conducted an extensive investigation of Olson's net worth and expenditures during the years 1946–50. This investigation established expenditures and

increases in net worth of $30,000 in excess of Olson's known income and resources during this 5-year period. Olson pleaded his privilege against self-incrimination when asked by the subcommittee to explain this situation. He was indicted for income-tax evasion on February 3, 1953.

The Olson investigation led the subcommittee to make similar inquiries into the financial affairs and activities of Nunan and Carroll E. Mealey, at that time Deputy Commissioner of Internal Revenue in charge of the Alcohol Tax Unit.

Joseph D. Nunan, Jr., served as collector of internal revenue at Brooklyn, N. Y., from 1941 to 1944, when he was appointed Commissioner of Internal Revenue. He served as Commissioner for 3 years, resigning on June 30, 1947. He thereafter became one of the most active tax practitioners in the country. His reported net income from the practice of law exceeded half a million dollars in the period 1946–50. At least one of his clients was a firm to whose tax matters he had given considerable attention while Commissioner.

While Commissioner, Nunan had adopted a policy of clearing all appointments of important civil-service posts in the Bureau with various national and local political groups. As a result, during Nunan's tenure there were appointed a number of top officials who were unqualified for the posts which they held, and whose conduct in office led to their separation from the Bureau. Among these appointees were Daniel A. Bolich, Carroll E. Mealey, and Olson.

The subcommittee investigation of Nunan disclosed numerous instances of official favoritism by Nunan to particular taxpayers, especially in Alcohol Tax Unit matters. The subcommittee investigation of Nunan's net worth and expenditures disclosed that he had unreported income during 1946–50 of over $161,000. When asked by the subcommittee to explain this situation, Nunan refused on constitutional grounds. He has since been indicted on charges of income-tax evasion.

Carroll E. Mealey had been employed in various capacities by the State of New York from 1922 to 1943 and was thereafter affiliated with the National Safety Council until his appointment in 1946 to the post of Deputy Commissioner by Nunan. Mealey was appointed to this civil-service post without an examination, on the basis of recommendations made to Nunan by the New York State political organization. The subcommittee investigation of Mealey disclosed numerous instances of favoritism by him toward political or personal friends. One such friend was Louis I. Pokrass, who had been engaged in the liquor business since before repeal. Pokrass' Federal liquor permit was revoked by the Unit in 1944 after the completion of an investigation of alcohol-tax violations by Pokrass. The basis for the revocation of the permit was that Pokrass had concealed the criminal records of himself and his associates in connection with his application for the permit. During the war, when there was an extensive black market in liquor, the Unit had made another investigation of Pokrass and had received substantial evidence of complicity by him in black-market violations. However, Mealey ordered the Pokrass investigation discontinued in November 1946. On November 21, 1946, a new Federal alcohol permit was issued to Pokrass at Mealey's direction, even though three previous applications had been denied by Unit officials in New York. Four days before the

issuance of the permit, Mrs. Mealey received a nutria fur coat costing $1,980 from a furrier to whom the Mealeys were introduced by Pokrass. The coat was paid for in cash. Four months later Pokrass purchased a new Pontiac automobile at a cost of $1,842.20 and transferred it to Mealey. It developed that Pokrass was unable to use his Federal permit because the New York State Liquor Authority refused Pokrass a State permit, without which he could not do business. Under Federal law, Pokrass' permit should have lapsed 2 years after issuance because of his failure to use it; however, Olson, at Mealey's direction, kept the permit in force until after the subcommittee's investigation had disclosed this state of affairs. The subcommittee found numerous other instances of official acts by Mealey in favor of personal friends.

During the time that Mealey was Deputy Commissioner he continued to maintain his residence in Albany, N. Y., and commuted to Washington each week, residing here in an expensive hotel. The subcommittee established expenditures by Mealey during the years 1946–50 in excess of $92,000, although Mealey's known income and resources during this period totaled only $51,000. Mealey has refused to give the subcommittee any explanation of his sources of funds.

The subcommittee found that during the postwar period decisions on personnel matters at every level in the Unit were made solely on the basis of political consideration. During this period six district supervisorships became vacant. Three were filled by men who had had no previous experience whatsoever in the Unit, and one was filled by a low-ranking administrative employee. Another was filled by a well-qualified candidate who was, nevertheless, instructed by top Bureau officials to obtain political and industry support in order to obtain the post. The sixth was offered to a man who was acknowledged to be totally unfit for the post but to whom it had been promised for political reasons. Similarly, there were many instances of appointments to lesser posts in the Unit which were made solely for political reasons. Indeed, the subcommittee has found that the records of the various candidates for these posts usually contained summaries of their political support and nothing else. The appointments were then made on the basis of this information. In two cases, district offices were reclassified and salaries of all officials therein raised in order to accommodate the desires of local political groups.

The record of Donald S. Tydings is a typical case of Unit personnel practices during this period. Tydings had been appointed to the Unit in 1933 on the basis of political support and throughout his career was saved from transfer or dismissal and obtained promotion after promotion solely because of his political connections. Two investigations made of him during the postwar period resulted in recommendations for disciplinary action, which were ignored because of Tydings' connections. In fact, he was promoted following each of these investigations notwithstanding a great mass of derogatory material contained in his personnel file.

TREASURY INTERVENTION IN TAX CASES

As a part of its work, the subcommittee undertook to determine whether top officials of the Treasury Department had intervened improperly in the decision-making processes of the Bureau of Internal

Revenue. One of the chief points of contact by the Treasury with the Bureau is through the Chief Counsel's office, and the subcommittee therefore sought access to the "log," or record of telephone conversations and office visitors maintained for Charles Oliphant when he was Chief Counsel. This log was finally obtained through the cooperation of the Department of Justice, but only over the strenuous opposition of Treasury officials. More recently, the subcommittee has obtained similar records kept by former Under Secretary of the Treasury Edward H. Foley, Jr., and by former General Counsel of the Treasury Thomas J. Lynch.

Based on an analysis of these records, the subcommittee presented evidence in public hearings concerning six cases in which top Treasury officials had intervened on behalf of the taxpayer. The Monsanto and Lasdon cases, summarized below, illustrate the way in which Treasury officials brought influence to bear to produce questionable results favorable to the taxpayer in these cases. The revenue loss as the result of the decisions in these cases was in excess of $10 million.

The determination of the proper relationship between the Treasury Department and the Bureau of Internal Revenue is most difficult. The subcommittee's views on this matter are set forth in chapter IV of this report. Whatever form that relationship may take, however, it is indisputably clear that intervention in tax cases by Treasury officials for political or personal reasons not only produced improper decisions in tax cases, but also had an adverse effect on the entire internal revenue system.

William S. Lasdon ruling

The Lasdon family controlled drug patents from which they received an average of $1,150,000 per year as royalties under a contract with American Cyanamid Co. In 1945 the Lasdons obtained a ruling that their interest in the patents was a capital asset for tax purposes.

Subsequently the Lasdons established the Lasdon Foundation, Inc., and in September 1947 received a ruling that the foundation was a charitable corporation exempt from income taxation under I. R. C. 101 (6). Immediately an application was filed for a prospective ruling that transfer to the foundation of the Lasdons' rights in sulfadiazine for a consideration of $6,500,000 or 90 percent of the payments to be received under the American Cyanamid contract, whichever was less, would be deemed to be the sale of a capital asset, the gain therefrom returnable on an installment basis. In March 1948, after numerous conferences between taxpayers' representatives and Bureau officials, the proposed plan was amended to provide for a fixed consideration of $6 million payable in 10 equal annual installments. Despite the efforts in the Lasdons' behalf of four different law firms or attorneys, the ruling appeared unobtainable, and application therefor was withdrawn on June 24, 1948.

Shortly thereafter, endeavors of a less orthodox nature were initiated by William S. Lasdon. Through another member of the family, Lasdon met William Solomon, known through hearings of this subcommittee as an intimate of Henry Grunewald. Solomon introduced Lasdon to Welburn Mayock, then counsel to the Democratic National Committee. After brief negotiations, Lasdon agreed to give Mayock $65,000 in cash should he procure the desired ruling.

On July 27, 1948, Mayock began his attempts to secure a ruling for the Lasdons by bringing the matter to the attention of the Under

Secretary of the Treasury, Edward H. Foley, Jr. Though Foley's duties did not include supervision of the Bureau, he made 4 inquiries of the Chief Counsel about the case in the next 2 weeks. On August 13, Lasdon's regular tax attorney, Norman Cann, caused the application to be reinstated.

On August 16 Mayock tried to see the Under Secretary, and upon finding that he was on vacation, made an appointment to see Secretary Snyder the next day. After Mayock's conferences with the Secretary on the 17th, the Secretary telephoned the Under Secretary at Newport, R. I., for a report on the Lasdon case, which the latter has told the subcommittee is the only call of such nature he remembers. The Under Secretary thereupon called the attorney in the Office of the Chief Counsel who had charge of the Lasdon case, and instructed him to report within 2 days whether the Lasdon application would be approved.

On August 20, Mayock saw the Secretary again and then announced to Cann that the ruling would come through. On September 22 Mayock pressed the Chief Counsel for an immediate issuance of the promised letter. The Chief Counsel then saw the Commissioner at 12:15, caused a rapid approval of the letter by the Income Tax Unit, affixed his own initials, and personally took the letter to the Commissioner for signature and mailing before the end of the day. On September 28, Lasdon paid Mayock $65,000 in cash in accordance with the agreement.

The formal decision to issue the Lasdon ruling was reached at a Bureau conference on September 17. The Chief Counsel's memorandum of that meeting stated:

> We are going to go ahead on Lasdon and try to hold the line on the others, if we can.

Likewise, on September 22, the Chief Counsel reported the issuance of the ruling to the General Counsel and commented:

> I don't think we can hold the line on the others.

These references were to pending applications of four other taxpayers for rulings on similar facts. Memoranda of law prepared in the Chief Counsel's Office in August had recommended refusal of all five applications on the ground that none was a true sale since it was a transfer of income-producing property to a substantially penniless charity, making it evident that payment of the scheduled installments on the purchase price could be made only out of income produced by the transferred property. The Chief Counsel was wrong in his prediction, since the Treasury found a basis to distinguish the other four cases and so to deny rulings.

Monsanto Chemical Co. ruling

The excess of proceeds of insurance over the insured's tax basis in destroyed property is taxable at capital gains rates. However, I. R. C. 112 (f) provides relief from such tax when the insurance proceeds are used to replace the destroyed property.

In a 1947 published ruling issued to Public Service Co. of New Hampshire, the Bureau decided that the relief afforded by section 112 (f) was not available to a taxpayer who borrowed money to replace the destroyed property and subsequently used the insurance proceeds to pay off the loan. In 1950 Congress amended section 112 (f) to

eliminate the requirement that payment of the insurance precede replacement of the property, but the change in law applied only to disasters occurring after 1950.

In January 1948, Monsanto Chemical Co. of St. Louis began discussions with the then Secretary of the Treasury and his General Counsel about the possibility of obtaining a ruling and closing agreement under section 112 (f) as to insurance proceeds to be received after reconstruction of a plant recently destroyed by fire. The company initially suggested that reconstruction might be financed out of the company's funds or out of bank loans pending receipt of the proceeds of insurance on the destroyed plant, but these suggestions too clearly violated the existing statutory language, regulations, decisions, and rulings to permit the issuance of the desired ruling. Thereupon, the General Counsel, the Chief Counsel of the Bureau, and various other Treasury and Bureau officials began a series of conferences among themselves and with Monsanto representatives to explore all possibilities for giving the company relief under section 112 (f). Consideration was given to various alternative methods of financing involving pledging, trusteeing, or otherwise committing the insurance proceeds to be received. Thought was even given to amending applicable regulations.

On March 1, 1948, apparently as a result of these unusual efforts, a formal application for a ruling and closing agreement under section 112 (f) was submitted, based on a modified plan of financing. Under this plan, the contractors reconstructing Monsanto's plant would agree to wait for payment until Monsanto received the insurance moneys and meanwhile would finance construction through bank loans to be guaranteed by Monsanto.

When this application was subjected to normal processing in the Bureau, recognition that the proposed bank financing depended on Monsanto's credit and therefore was tantamount to a borrowing by Monsanto led the Income Tax Unit and the reviewing attorney in the Chief Counsel's office to refuse approval. Issuance of the desired ruling to Monsanto appeared to them to be impossible without revocation of the Public Service Co. of New Hampshire ruling.

On March 23, within a mere 40-minute period, a reversal of this understandable Bureau attitude was achieved as a result of a new expression of interest by the Secretary. At 3:40 p. m. the Secretary asked about the status of the case. At 4 p. m. the Chief Counsel called a conference of interested Bureau officials and induced the Income Tax Unit to abandon its opposition to the ruling. At 4:20 p. m. the Chief Counsel advised the General Counsel, "It is all set." The closing agreement was sent to the taxpayer the next day.

THE GRUNEWALD INVESTIGATION

Henry W. Grunewald personifies the decay of the Federal tax system during the period following World War II. Grunewald, formerly an FBI agent and Alcohol Tax Unit investigator, had, for many years, been employed as a confidential secretary by a wealthy insurance executive. Through this connection Grunewald became acquainted with many important and influential men in both the public and business life of this country. He thus obtained access to various sources of information such as those maintained by banks and insurance com-

panies, and became intimate with officials in most of the Federal agencies which collect information on individuals.

Following the death of his employer, Grunewald set himself up as an investigator and public-relations man in Washington, specializing in the collection of uncomplimentary information on the past life of his subjects. He was hired, for example, by the United Mine Workers to investigate the personal life of the late Federal Judge T. Alan Goldsborough at a time when Goldsborough was deciding a contempt case against the union. He was also hired by numerous corporations whose officials were being subjected to lawsuits, and in each case, so far as the subcommittee has been able to determine, Grunewald obtained sufficient derogatory information about the plaintiff to persuade him to discontinue his action against the corporate official.

The date of Grunewald's entry into the Federal tax field is not clear, but it is known that he was friendly for years with Daniel A. Bolich when Bolich was Revenue Agent in Charge at Brooklyn, N. Y., as well as when he was Special Agent in Charge in New York, and Assistant Commissioner of Internal Revenue. He also was acquainted with Commissioner of Internal Revenue Schoeneman, and through him met Charles Oliphant, then Chief Counsel for the Bureau. The following cases illustrate the nature of Grunewald's tax activities:

The Gotham Beef case

The tax returns of the partners of the Gotham Beef Co., a New York partnership, were audited by the Bureau in 1945. The special agent on the case recommended criminal prosecution of the partners for income-tax evasion. While this recommendation was pending in the New York office of the Intelligence Division, the taxpayers decided to retain new counsel. Their new counsel, Samuel Schoppick, Irving Davis, and Max Halperin, were unable to obtain a conference with Special Agent in Charge Bolich on the case, and it was thereafter suggested to them that a conference could be arranged through the intercession of Grunewald. Information available to the subcommittee indicates that Grunewald was paid $60,000 in currency by the taxpayers, in return for which he is said to have arranged a conference on the case with Bolich. The case was closed in Bolich's office on a nonprosecution basis. The taxpayers and their counsel were interrogated by the subcommittee in public session and all pleaded their privilege against self-incrimination rather than answer questions concerning the handling of the case and their relationship with Grunewald. Grunewald himself denied any participation in the case.

The Patullo Modes case

Patullo Modes, Inc., is a New York corporation engaged in the dress manufacturing business. The returns of the corporation and its officers were audited by the Bureau in 1944, as the result of which criminal prosecution of the corporate officers for tax evasion was proposed by the special agent on the case. The taxpayers retained an attorney who discussed the case with Grunewald, whom he had known for some time. The results of the discussion were inconclusive. Thereafter the taxpayers retained Halperin, Schoppick, and Davis. Information available to the subcommittee indicates that the officers of Patullo Modes, Inc., paid a total of $100,000 in currency to Grunewald for his assistance in closing the case. The case was ordered closed by Assistant Commissioner Bolich, under the voluntary disclosure policy,

although under the most liberal interpretation of that policy there could not have been a voluntary disclosure. Bolich attempted to justify this decision on the ground that he had obtained a promise of cooperation from the taxpayers. The taxpayers, however, failed to cooperate, and to this day have not paid the additional taxes assessed against them. The officers of Patullo Modes and their counsel appeared before the subcommittee in connection with this matter and have all pleaded their privilege against self-incrimination rather than discuss the case or their relations with Grunewald. Grunewald acknowledges having met with an accountant named Milton Hoffman and Attorney Halperin in Union Station in Washington and having received from them a package, which he claimed contained sturgeon. Halperin stated that he had never brought any fish to Grunewald, but pleaded his privilege against self-incrimination when asked if he had ever brought currency to Grunewald.

The Klein case

During the war there was an extensive black market in whisky in which millions of dollars in currency changed hands. A Baltimore liquor dealer named Hyman Harvey Klein attempted to circumvent the OPA price regulations on liquor through a series of complicated maneuvers involving the creation of a number of foreign corporations, principally in Cuba. Essentially, his operation consisted of buying whisky in Canada, invoicing that whisky to his Cuban corporation, which then resold the whisky to his United States enterprises at a substantial markup. The purpose of the alleged transfer of the liquor to the Cuban corporation was to justify the price markup under United States ceiling price regulations. In fact, however, the whisky never left the United States, and the transactions with the Cuban corporation were simply matters of form designed to evade OPA regulations. The operations of Klein were made part of the extensive investigation of the black market in whisky which was then being made by the Alcohol Tax Unit. At the same time, the Intelligence Division began a tax fraud investigation of Klein, during the course of which jeopardy assessments in the amount of $7 million were placed on the assets of Klein and his corporations within the United States. Bolich was Special Agent in Charge of the Intelligence Division in New York until September 1, 1948. On August 31, 1948, his last day as Special Agent in Charge, Bolich ordered the discontinuance of the Intelligence Unit investigation of Klein, and the following day, upon becoming Assistant Commissioner, ordered the discontinuance of the Alcohol Tax Unit investigation.

The problem then remaining in the Klein case was that of freeing Klein's assets in this country which were tied up by the jeopardy assessments. Under the law then in effect, a jeopardy assessment could be administratively discharged only upon payment of the tax or the posting of a bond. Grunewald set out to persuade the Bureau to lift the jeopardy assessment, and Bolich bent every effort to do likewise. During the next year and a half Grunewald was in constant communication with Oliphant concerning the case, acting on behalf of Klein. Oliphant's records indicate that Grunewald was very familiar with the details of the case and was apparently in communication, not only with Oliphant, but with Klein and his attorneys as well. The Klein case was never resolved because of

the inflexible requirement of the statute governing rules of jeopardy assessments, but Grunewald continued his activities in this direction until Oliphant and Bolich left office. He has never offered any explanation of his interest in the case or of his complete familiarity with all the details thereof.

The Teitelbaum case

In the summer of 1951 the regional counsel in Chicago had transferred to Washington with recommendation for prosecution a criminal tax-fraud case against Abraham Teitelbaum, a Chicago attorney, and Paul R. Simon, a business associate. The Bureau by this time had begun its drive against racketeers and, as part of its drive, had determined that any tax-fraud case against a racketeer would be transmitted to the Department of Justice with a recommendation for prosecution if it was felt the Government could make out a prima facie case. In nonracketeer cases the Bureau continued its policy of sending over only those cases in which it was felt conviction was assured. The Teitelbaum case had been initially classified as a racketeer case and as such would have been sent to the Department of Justice for prosecution under the lesser standard set forth above. However, after the file was examined by Penal Division attorneys in Washington, it was determined that the case was weak in certain particulars and, moreover, that it was not a racketeer case. Accordingly, it was recommended the case be sent back to Chicago for further investigation. At this time Grunewald asked Oliphant whether or not the Teitelbaum case was to be classed as a racketeer case. Oliphant reviewed the file and advised Grunewald of its status. He thereafter caused the case to be reviewed again, concluded that it was a racketeer case, and accordingly sent it on to the Department of Justice.

Six months later Teitelbaum appeared before the subcommittee and testified that he had been advised by one Frank Nathan that he was about to be prosecuted for income-tax fraud unless he paid Nathan and his associates $500,000 in currency. Teitelbaum stated that the whole matter had been discussed in a series of telephone calls between him at his Florida home and various persons in Washington, including Nathan. A subcommittee analysis of the telephone records of the Washington Hotel established that numerous calls were made from suites occupied by either Grunewald or his associates to Teitelbaum's Miami telephone at the time when Grunewald was discussing the case with Oliphant. It was after Teitelbaum had refused to pay Nathan that his tax case was sent over to the Department of Justice. Oliphant testified that Grunewald had come to him and asked him not to inform the subcommittee of his interest in the Teitelbaum case. This was the first knowledge which the subcommittee had had of Grunewald.

Grunewald's method of operation

Daniel Bolich was Grunewald's chief Bureau contact in most of these tax cases. Bolich originally entered Bureau employ on a political basis. Subsequent promotions similarly achieved eventually brought Bolich to the post of Special Agent in Charge in New York and then to the position of Assistant Commissioner (Operations). His authority and political background thus made him an appropriate target for Grunewald's attentions.

During the hearings, Bolich refused to explain the reason for his unusual interference in the cases in question. However, some inference

might be drawn from the net worth investigation conducted by the Bureau, which revealed his expenditures during the period 1946–50 as at least $115,000, while his known income for the longer period of 1945–50 was only $52,000. Bolich declined to explain the discrepancy. The records of the Hotel Washington in the District of Columbia show that he occupied a $20-a-day suite there for a year and a half, the bill being paid by Grunewald. Bolich also had free use of a new Chrysler automobile purchased by Grunewald and delivered under unexplained circumstances to a friend of Bolich. Bolich resigned from the Bureau after revelation of his role in these cases by the subcommittee, and is now under indictment for income-tax evasion.

Grunewald also bestowed favors on Chief Counsel Oliphant, including a television set and several air-conditioning units. Oliphant also received a Chrysler from Grunewald but paid for it after this subcommittee began its investigations.

Bolich, Oliphant, Commissioner Schoeneman, and other important revenue administration officials were frequent visitors in Grunewald's business suite in the Washington Hotel, as well as in his residences in Florida, New Jersey, and the District of Columbia. A surprising list of other Government officials and apparently reputable private citizens who frequented these Grunewald quarters has been accumulated by the subcommittee during its tax investigations. Few of these visitors have satisfactorily explained the occasion for such familiarity with a person of Grunewald's nature and activities.

The subcommittee attempted unsuccessfully to take testimony from Grunewald, who maintained a complete defiance of the subcommittee in a number of public and private sessions, after which he was cited for contempt by a unanimous vote of the House of Representatives. Before his trial on contempt charges, Grunewald requested the opportunity of appearing before the subcommittee in an attempt to expiate his contemptuous conduct, and the subcommittee agreed to hear him after the disposition of his case and before sentence. He thereafter pleaded guilty to 1 count of the contempt indictment, and then appeared before the subcommittee on 7 occasions. During these hearings it was ascertained that after the subcommittee began an investigation of Grunewald's activities, Grunewald, in turn, undertook an investigation of members of the subcommittee and its staff.

Grunewald refused during his testimony to divulge to the subcommittee his sources of income, claiming that most of his money came from betting on horse races. He claimed that the bets were placed with a bookmaker whose identity was unknown to him, but through whose efforts he had been able to amass more than $395,000 in the course of 7 years. The subcommittee found, however, a variety of sources of his income, none of which came from betting. These included a $60,000 fee (paid in cash) from a wealthy New Yorker for Grunewald's alleged assistance in the settlement of an estate tax matter; a $25,000 fee for Grunewald's assistance in various matters pending before the War Assets Administration, then headed by Jess Larson, a recipient of various favors, including a television set, from Grunewald. Grunewald also acknowledged having received fees totaling $10,000 from taxpayers for whom he did nothing other than introduce them to a tax attorney who subsequently arranged successful disposition of their cases. Grunewald refused to relate to the

committee the services which he performed for various individuals and corporations. Much information about Grunewald's activities was obtained by interviewing scores of persons who belonged to the "Christmas Tie Club." Members of this club, which included many high officials in Government and business, received special ties or other gifts from Grunewald each Christmas.

The fact that a man like Grunewald could enjoy business friendships with most of the highest officials in Federal tax administration is itself an indication of the moral climate in which tax matters were handled. More importantly, however, the Grunewald investigation also disclosed serious weaknesses in our Federal tax laws which enabled Grunewald to frustrate attempts of Bureau agents to audit his returns. The subcommittee has proposed legislative remedies to deal with this problem. Grunewald himself is now serving a 90-day term for contempt of Congress, his incarceration having been ordered after he had violated parole regulations while under suspended sentence.

CHAPTER II

ROLE OF THE DEPARTMENT OF JUSTICE IN REVENUE ADMINISTRATION

In its report submitted at the close of the 82d Congress, this subcommittee observed the division of responsibility for the conduct of tax litigation between the Bureau of Internal Revenue and the Department of Justice and suggested the advisability of studying whether that responsibility is properly divided. That report noted the dominant influence of the Tax Division of the Department of Justice over tax litigation policy, the absence of any mechanism for coordination of policy between the two departments, and the risk that duplication of effort may be causing waste and delay.

Your subcommittee has now completed an extensive study of organization and procedures in the Office of Chief Counsel of the Bureau and in the Tax Division of the Department of Justice. Descriptions of these two organizations and of their functions are set forth in appendixes A, B, and C of this report.

This study has disclosed duplication of effort between the Office of Chief Counsel and the Tax Division in every activity in which the Tax Division engages. The consequent delays both prejudice the Government's chances in litigation and impose undue burdens on the taxpayer. The waste of manpower reduces the number of cases which the Government can litigate. Effective coordination of tax policy is not being achieved. Immediate and drastic remedies are clearly required.

CRIMINAL CASES

Tax fraud prosecutions are proposed by special agents of the Bureau in the field and are conducted at grand jury, trial, and court of appeals stages by the local United States attorney. At the present time, proposals for prosecution are routed through the office of the local enforcement counsel of the Bureau, where they receive extensive study, and go from there directly to the Criminal Section of the Tax Division. In most cases, that Section's role is limited to giving approval to the proposed prosecution before reference to the United States attorney. Conduct of the prosecution by a Criminal Section attorney, or even on-the-spot assistance to the United States attorney, is rare.

Early in its activities, this subcommittee gave attention to inefficiencies in the processing of proposals for criminal tax fraud prosecution. A resultant major improvement was the reduction in the multiplicity of reviews through elimination of the routing of such proposals through the Office of the Chief Counsel. As a consequence, time consumed by Bureau attorneys in considering prosecution proposals has been halved. Moreover, relief of the Enforcement Division of the Office of the Chief Counsel from the duty of reviewing all proposed prosecutions has made possible more effective efforts to

coordinate prosecution policies and to study thoroughly every instance in which a Bureau proposal has not resulted in successful prosecution.

At the time of these changes, serious consideration was given to the direct referral of prosecution proposals from enforcement counsel to United States attorneys, thus eliminating processing by the Criminal Section of the Tax Division. This change was blocked at the time by the Tax Division.

Under present procedures, the Criminal Section of the Tax Division does not review proposals for prosecution made by special agents and disapproved by enforcement counsel. The Section's existence, therefore, cannot be justified on the ground that it is providing overall prosecution policy coordination, since its one-way review at best can prevent only excessive Bureau harshness to accused tax criminals, and not undue leniency.

The process of review followed until recently in the Tax Division, moreover, almost appeared designed to prevent disagreement with the enforcement counsel's recommendation. Even now, the Chief of the Criminal Section may, on his own authority, refer certain cases directly to the United States attorney for prosecution but may not reject a case without clearing through the Assistant Attorney General. Each case is studied first by an attorney in the Criminal Section, then by the Section Chief. If either recommends rejection, or a policy question is involved, the case goes next to the first assistant to the Assistant Attorney General, and finally to the Assistant Attorney General for final determination. In 1952 the operation of this review resulted in disapproval by the Criminal Section of only 6 percent of the cases disposed of after referral by enforcement counsel for prosecution. Inasmuch as a thorough study of law and facts is given to a proposed prosecution by the enforcement counsel of the Bureau, it is difficult to see the utility of this duplicate work in the Criminal Section.

Direct referral of fraud prosecution proposals to United States attorneys without consideration by the Department of Justice in Washington would be consistent with present practice in enforcement of criminal sanctions in areas of interest to other specialized Federal agencies. Most criminal prosecution proposals originating in the Veterans' Administration, Bureau of Customs, Bureau of Narcotics, Securities and Exchange Commission, Food and Drug Administration, and Interstate Commerce Commission receive no study in the Department of Justice before reference to the appropriate United States attorney. Particularly noteworthy is the fact that criminal prosecutions proposed by the Alcohol and Tobacco Tax Division of the Bureau of Internal Revenue are already being directly referred to United States attorneys.

COMPROMISES OF TAX CASES

Under section 3761 (a) of the Internal Revenue Code, authority to accept an offer in compromise is vested in the Attorney General after a tax case has been referred to the Department of Justice for litigation. Present procedure requires that separate recommendations on such an offer be prepared by the trial attorney handling or supervising the case in the Trial Section or Appellate Section of the Tax Division, by the United States attorney in some cases, by the Chief Counsel of the Bureau of Internal Revenue in most cases, and by the Compromise Section of the Tax Division. The preparation of each of these four recommendations requires thorough independent study of the offer

and of the case file by an attorney, followed by review by one or more supervising attorneys in each unit. Ultimate decision on the offer is made by or for the Attorney General, usually after yet further study of the four recommendations and case file.

The determination whether, in the course of litigation, to agree to receipt or retention by the Government of a lesser sum than the amount of tax originally claimed ordinarily can best be made by the attorneys and technicians who are familiar with the legal issues and with the taxpayer's financial circumstances through association with the matter during earlier stages of administrative and judicial proceedings. The putative advantage of securing the opinion of experts on the adequacy of any offer in compromise or settlement is offset by the expense and delay required to familiarize a new attorney with the law and facts of the case so late in its history. It is conceded by the Tax Division that evaluation of offers in compromise is not a task requiring specialists.

COLLECTION SUITS

Generally speaking, collection suits are technical proceedings to preserve or improve the Government's position in a tax case, for example, to prevent barring by the statute of limitations. Seldom is there involved any complicated factual or legal problem requiring expert study; indeed, the taxpayer frequently offers no defense. Those issues which do arise are not tax matters but priority questions with which the United States attorney is more familiar than Tax Division personnel. These suits originate in the field with the District Director of Internal Revenue and are conducted by the local United States attorney in Federal district court. However, they receive extensive Washington consideration in course of travel between these two officials. The District Director forwards the proposal for a collection suit, usually, to the office of the Assistant Commissioner (Operations). After approval in this office, the matter is reviewed in the Civil Division of the Office of Chief Counsel. Next it is forwarded to the Trial Section of the Tax Division and after further study and clearance is sent to the United States attorney, who carries the case forward.

The necessity for any Washington review of ordinary collection suit proposals is not clear. Certainly three independent studies cannot be justified.

REFUND SUITS

When a taxpayer sues for refund in the Court of Claims, the Government is represented by an attorney from the Trial Section of the Tax Division. When the taxpayer brings his action in Federal district court, the trial attorney likewise is customarily drawn from the Trial Section, though the Government is nominally, and sometimes actually, represented by the local United States attorney. In contrast, attorneys of the Bureau of Internal Revenue conduct all Tax Court cases.

The choice of forum in a tax dispute is ordinarily a result purely of the taxpayer's decision either to resist assessment in a Tax Court proceeding or to pay the tax and sue for refund in Federal district court or in the Court of Claims. Accordingly, the same types of legal and factual tax situations arise in each court.

The Office of Chief Counsel of the Bureau of Internal Revenue is required in all refund cases to submit to the Tax Division a lengthy exposition of the law and facts; this document is known as a defense letter. The defense letter is prepared by an attorney in the Civil Division of that office, restudied within that Division by both a reviewer and the Division head, and in exceptional cases reviewed for the Chief Counsel by the Assistant Chief Counsel for Litigation. In defending the suit, the Department of Justice frequently draws on the Chief Counsel's office for supplementary information and advice.

A complete new study of law and facts is made by the Tax Division in all refund suits, thus repeating the work done by Bureau attorneys in preparation of the defense letter. This wasteful duplication should be eliminated either by committing the Tax Division to making the maximum use of the information contained in the defense letter, thus reducing to a minimum its own basic research, or by eliminating the preparation of these letters. Even this step, however, would not completely eliminate the duplication in this area.

Until recently, no work on any refund case was begun in the Department of Justice until receipt of the defense letter. Inasmuch as preparation of the defense letter usually takes about 4 months (a questionably long time), while the Government's answer is required under court rules within 60 days, the court's permission for delay in answering had to be obtained in every case. In recent weeks new arrangements have been made for the loan of Bureau files to the Tax Division on a limited basis to permit preparation of pleadings before receipt of the defense letter. The subcommittee is pleased to note this evidence of recognition of the problem by the Bureau and the Tax Division, but doubts the adequacy of the remedy adopted. The basic problem of duplication resulting from complete restudy of law and facts in the Tax Division is not solved. The anticipated advantage of eliminating delinquency in pleading may be achieved only at the expense of delay in the readiness of the Government to proceed to trial after completion of the pleadings, since the new arrangement in no way accelerates preparation of the defense letter. Filing of pleadings before completion of the defense letter reduces the utility of that document. If trial were begun without the defense letter, its practical value would be destroyed.

APPEALS OF TAX CASES

The determination to appeal from an adverse decision in a tax case should be made through a weighing of two considerations, the impact of the lower court holding on revenue administration, and the chance of success in the appellate tribunal. One would expect the opinion of Bureau officials to be controlling in the former area, and that of the trial and prospective appellate attorneys in the latter. Ultimate decision should be made by an official fully appreciative of both aspects of the problem.

Present procedures do not conform to this expected pattern. At present, the Chief Counsel has a veto over proposals to appeal from Tax Court decisions, in that such cases must be approved for appeal by his office before reference to the Tax Division. The Bureau's role in determining whether to appeal from an adverse decision in district court, in the Court of Claims or in a court of appeals, how-

ever, is limited to the supplying of a Chief Counsel's letter of recommendation, which the Department of Justice is free to disregard. The subcommittee can see no logic in thus allowing the taxpayer's choice of trial court to determine the extent of voice allowed the Chief Counsel in consideration of appeal proposals.

At present, whatever the court in which a civil tax case is tried, the preparation of briefs and argument in the court of appeals is the responsibility of the Appellate Section of the Tax Division, though the Government is nominally, and sometimes actually, represented by the United States attorney in appeals from distict court decisions. The Solicitor General, however, has authority to determine what tax cases shall be taken by the Government to the court of appeals as well as to the Supreme Court. In proposed appeals from the Tax Court, he has as an aid in this determination the letter of referral by the Chief Counsel and one or more memoranda expressing the recommendation of the Appellate Section. All other proposals for appeal are accompanied to the Solicitor General's office by memoranda of recommendation independently prepared by the attorney who tried the case below, by the Chief Counsel and by the Appellate Section.

The subcommittee does not question the policy which imposes responsibility for Supreme Court litigation on the Solicitor General. No challenge to that policy is seen in the suggestion that the unit which will actually represent the Government in the court of appeals might better have final say on proposals to appeal to that tribunal. The subcommittee understands that this policy is substantially followed in present practice, in that the recommendation of the Appellate Section is normally adopted by the Solicitor General, but to the extent that this is true, reference to that official would seem an empty and wasteful formality.

LITIGATION PROCEDURES FOLLOWED WITH OTHER AGENCIES

Litigation procedures in cases involving other Federal agencies are markedly different from those involving the Bureau of Internal Revenue. As a general rule, when specialized or technical knowledge is required in a case nominally within the jurisdiction of a United States attorney, the interested agency rather than the Washington headquarters of the Department of Justice supplies the legal expert to assist or substitute for the United States attorney. Supreme Court work in such cases is frequently delegated to agency attorneys by the Solicitor General. In court of appeals proceedings to review orders of the National Labor Relations Board, Federal Power Commission, Federal Communications Commission, Securities and Exchange Commission, and Federal Trade Commission, the almost invariable practice is for the Government to be represented by attorneys from the appellee agency. Certainly for none of these other agencies is there maintained a special division of the Department of Justice to try civil cases, approve proposed criminal prosecutions, argue appeals, and accept offers in compromise.

That the Internal Revenue Code and the regulations, administrative interpretations, and judicial decisions thereunder constitute a complex and specialized body of law will be generally admitted. The frequency with which United States attorneys call on the Tax Division for specialists to conduct tax cases, or at least to give major assistance,

proves the point. The necessity, in conducting tax litigation, to draw on the Bureau's experience and to take into consideration its overall problems of revenue administration is recognized in the procedures discussed in this chapter. These essential involvements of the Bureau in tax litigation result in duplication of these efforts in the Tax Division.

CONCLUSION

Tax litigation is only a late chapter in a dispute between Government and taxpayer in which administrative proceedings in the field offices of the Bureau provide the early episodes. Tax case holdings, particularly at appellate levels, frequently determine the course of administrative disposition of thousands of similar tax disputes. The stake of the Bureau of Internal Revenue in every tax matter receiving judicial consideration, in the opinion of the subcommittee, necessitates the allowance to the Bureau of the greatest possible voice in the determination of the conduct of the litigation. Existing divisions of responsibility for tax litigation between the two Cabinet departments, Treasury and Justice, seem largely accidental. Certainly no logic can be found in allowing the taxpayer by his choice of trial court to determine, intentionally or accidentally, which department shall have control over the litigation. Moreover, the subcommittee has found an almost complete duplication of effort in all those areas in which the Chief Counsel's office and the Tax Division are jointly engaged.

The subcommittee accordingly recommends that the Secretary of the Treasury and the Attorney General begin an immediate study of this problem with a view to ending the present duplication of effort in these areas:

(1) Legal review of proposed criminal prosecutions;

(2) Legal review of proposed suits to collect delinquent taxes;

(3) Preparation of the Government's defense in suits for tax refund;

(4) Deciding whether the Government should appeal a particular tax case, and preparing the Government's argument in those cases which are appealed;

(5) Consideration of proposed offers to settle or compromise tax cases.

CHAPTER III

REORGANIZATION OF THE BUREAU OF INTERNAL REVENUE

EVENTS LEADING TO REORGANIZATION

The Bureau of Internal Revenue annually processes some 80 million tax returns and collects more than $65 billion in taxes. In this operation 55,000 people are employed in more than 1,400 offices throughout the Nation. The Bureau is thus one of the largest agencies in the Federal Government, exceeding in size 5 of the 10 Cabinet departments.

The Bureau is also one of the oldest agencies in the Federal Government, having existed in one form or another since 1791. The "modern" Bureau was created in 1862, and its organization remained basically the same until adoption of Reorganization Plan No. 1 in 1952. The numerous reorganizations of the executive branch which took place in the late 1930's left the Bureau untouched, and even after such postwar groups as the Hoover Commission had finished their work, the basic organization and functions of the Bureau of Internal Revenue were unchanged.

The Bureau was divided organizationally into several units, most of which were concerned with a particular type of tax; thus the Income Tax Unit audited income-tax returns, and the Alcohol Tax Unit enforced collection of liquor taxes. Each unit had a number of field offices, and the United States was divided into operational districts for the separate functions of each unit. No two units had identical field operating areas. For example, there were 64 collection districts, 12 technical staff districts, 39 Income Tax Unit districts, 15 Alcohol Tax Unit districts, and 14 Intelligence Unit districts. In all, some 200 main field offices reported directly to Washington, with no coordination of field-office activities except through their respective unit headquarters in Washington. Almost all decisions, important or trifling, had to be made in Washington. The performance of everyday functions was so involved with administrative routine and the necessity for observation of protocol among the various units and field offices that even the simplest administrative matter took days or even weeks to accomplish. As the advisory group to the Joint Committee on Internal Revenue Taxation observed in its 1948 report, this type of organization was exposed not only to the hazards of duplication of authority and effort but also to underdiffusion of responsibility.

In addition to all these organizational difficulties, the Bureau for years had been staffed at almost every level with political appointees. The impact of politics on the selection of personnel was most severely felt in the offices of the collectors of internal revenue. These offices employed more than half the total number of Bureau employees, and prior to the passage of the Ramspeck Act in 1940 even minor posts in these offices changed hands with each new administration. The

collectors themselves were ordinarily persons of considerable political strength, and were not amenable to control by the Bureau.

The investigation conducted by the subcommittee in the 82d Congress uncovered corrupt practices and exposed dishonest personnel at all levels of the Bureau. This investigation, moreover, demonstrated that the Bureau was inefficiently organized and its top officials apparently unable either to control the operations of the Bureau or to move quickly to correct those conditions which the subcommittee's investigation had found to exist. After the subcommittee's public hearings had been underway for some time, the public demand for reform in the Bureau led to the proposal of Reorganization Plan No. 1 of 1952.

This plan was essentially a combination of various proposals made by different groups which had studied the organization of the Bureau during the past 10 years but whose recommendations had gone substantially unheeded. These groups included a Special Committee on Administration appointed by the Commissioner of Internal Revenue in 1947, the advisory group to the Joint Committee on Internal Revenue Taxation, whose report was submitted on January 27, 1948, the investigative staff of the Committee on Appropriations of the House of Representatives, whose report was submitted in February of 1948, and a Committee to Direct Management Studies in the Bureau of Internal Revenue, headed by the then Under Secretary of the Treasury, A. L. M. Wiggins. In 1949 the management engineering firm of Cresap, McCormick & Paget submitted an exhaustive study of the Bureau's organization together with its recommendations for improvements in Bureau management. The authors of the reorganization plan borrowed ideas from all of these sources.

The three basic changes made in the Bureau pursuant to Reorganization Plan No. 1 of 1952 were: (1) The abandonment of political appointment of revenue officials, (2) consolidation of field functions of the Bureau into regional offices, and (3) increased decentralization of authority to the field. Under this plan, it was proposed to divide the country into a maximum of 25 regions,[1] each headed by a Regional Commissioner with a large staff. Within each region there was to be a District Director for each collection district. The District Director was to take over the field functions of the former internal revenue agent in charge, special agent in charge, collector of internal revenue, and district supervisor of the Alcohol Tax Unit. Both the Washington and the field organizations were to be laid out on functional lines as follows: collection, enforcement, administration, and appellate. The posts of the two Assistant Commissioners and the Chief Counsel, which had formerly been filled by Presidential appointment, were converted to civil-service status, and the offices of collector of internal revenue and deputy collector abolished. One additional Assistant Commissioner was created to take charge of the new Inspection Service. The reorganization plan was approved by the Congress on March 13, 1952.

Some changes were made before the plan was implemented. The number of regions was reduced from the 21 originally contemplated to 17, and the divisional structure was altered by dividing enforcement work into two categories, intelligence (tax fraud investigations) and

[1] The designation of areas and titles of officers has been changed on several occasions during the past year. For purposes of clarity the current nomenclature of titles of officers and geographical areas will be used here.

audit, and by the creation of an additional division to handle the field responsibilities of the Alcohol and Tobacco Tax Division.

The reorganization of the Bureau was a gigantic task. Regional boundaries had to be drawn and new offices located. The functions and responsibilities of literally thousands of key positions had to be determined and personnel selected to fill them. For example, a national selection board charged with the responsibility of recommending candidates for the 180 posts of regional commissioner, assistant regional commissioner, and district director, considered the qualifications of 1,835 candidates, holding personal interviews with over 650 of them in Bureau offices all over the country.

EVALUATION OF THE REORGANIZATION

The subcommittee has now completed an extensive study of the reorganization of the Bureau. This study has disclosed that the Bureau has been transformed into a highly decentralized Federal agency, organized along functional lines. Its employees, with the single exception of the Commissioner, are hired and promoted under the civil-service system. These basic changes in organization and personnel practices have been recommended for years by a number of outside groups and individuals, and appear to be sound. Inevitably, some mistakes were made in the initial drafting and implementation of the reorganization plan; many of these have since been corrected. Other changes will come as experience with the new system indicates their advisability. Some problems of major importance remain to be solved. Overall, however, the subcommittee has concluded that many of the changes made in organization and structure of the Federal revenue system during the past 2 years should result in substantial improvement in revenue administration.

Active study and evaluation of the reorganization plan was commenced by the subcommittee in late March of this year. During the course of this study all available Bureau and Treasury files relating to the reorganization were examined and almost every official who had had a significant role in preparing the plan or in putting it into operation was interviewed by the staff.

It has been difficult to obtain much information about the events leading up to the promulgation of Reorganization Plan No. 1 of 1952. There are almost no records on the subject either in the Treasury or in the Bureau. It has been established, however, that the decision to submit a reorganization plan was made late in December 1951, at a time when the subcommittee's activities were a matter of great concern to Treasury officials. The plan was evidently drafted in haste. No one outside the Treasury Department was consulted. Bureau officials interviewed by the subcommittee staff disclaimed any knowledge of the origin or preparation of the plan, stating that the whole thing was handled in the Treasury.

A comparison of the provisions of the reorganization plan with various recommendations made in the course of earlier studies demonstrates that the plan was in large part based on such recommendations. Three previous study groups had recommended a change in the manner of appointment of collectors and other revenue officials; four advocated some form of consolidation of field activities.

This subcommittee at the outset of its study directed its attention to the number of regions most desirable from the standpoint of effi-

ciency and economy. The 21 regions (chart A) tentatively considered by the Treasury were patently excessive, and during the period of installation the regions were reduced in number to 17 (chart B).

If the Regional Commissioners and their staffs were to have performed operating functions, little criticism could have been leveled at the number of regions or their locations. In fact, however, the Regional Commissioners and their staffs of Assistant Regional Commissioners, with the exception of the Assistant Regional Commissioners Appellate and Alcohol and Tobacco Tax, were expected to function in a management capacity, coordinating and supervising the work of the District Directors. In that respect the subcommittee found the number of regions and of Regional Commissioners, and the size of the regional staffs excessive and so advised the officials of the Internal Revenue Service.

Moreover, the coordinating function presupposed a number of District Directors under the supervision of a Regional Commissioner. Manifestly, the creation of a Regional Commissioner's office in Detroit to supervise and coordinate the work of a single District Director was inconsistent not only with the stated functions of the Regional Commissioner but also with fundamental principles of organizational management.

The large number of regions also left many Assistant Regional Commissioners with relatively little to do. For example, under the old system, Intelligence Division field activities were directed by 14 special agents in charge, each of whom was an operating official in charge of all tax fraud investigations in a large area. The post-reorganization equivalent of the special agent in charge is the Assistant Regional Commissioner (Intelligence) who is, however, a staff official, not charged with operational responsibility. Under the reorganization there were 17 Assistant Regional Commissioners (Intelligence) and their staffs. Thus, there were 3 more such officials, even though the Assistant Regional Commissioner had less work and less responsibility than had been given to the special agent in charge. The same situation obtained with respect to the alcohol and tobacco-tax work. The 15 District Supervisors of the Alcohol and Tobacco Tax Division were succeeded by 17 Assistant Regional Commissioners (Alcohol and Tobacco Tax). However, the 17 Assistant Regional Commissioners did not have operating responsibility for the law-enforcement work which had formerly been one of the tasks of the district supervisor. Thus, in both intelligence and alcohol-tax work it was necessary to create new posts at the District Director's level to handle operational responsibilities.

The subcommittee proposed to Internal Revenue Service officials that the number of regions be reduced. At about the same time, the new Commissioner of Internal Revenue undertook his own study of these problems. On July 1, 1953, a reduction of the number of regions from 17 to 9, and a relocation of some of the Regional Commissioners' headquarters was announced (chart C). These changes should bring about a substantial increase in operating efficiency as well as savings in the cost of tax administration.

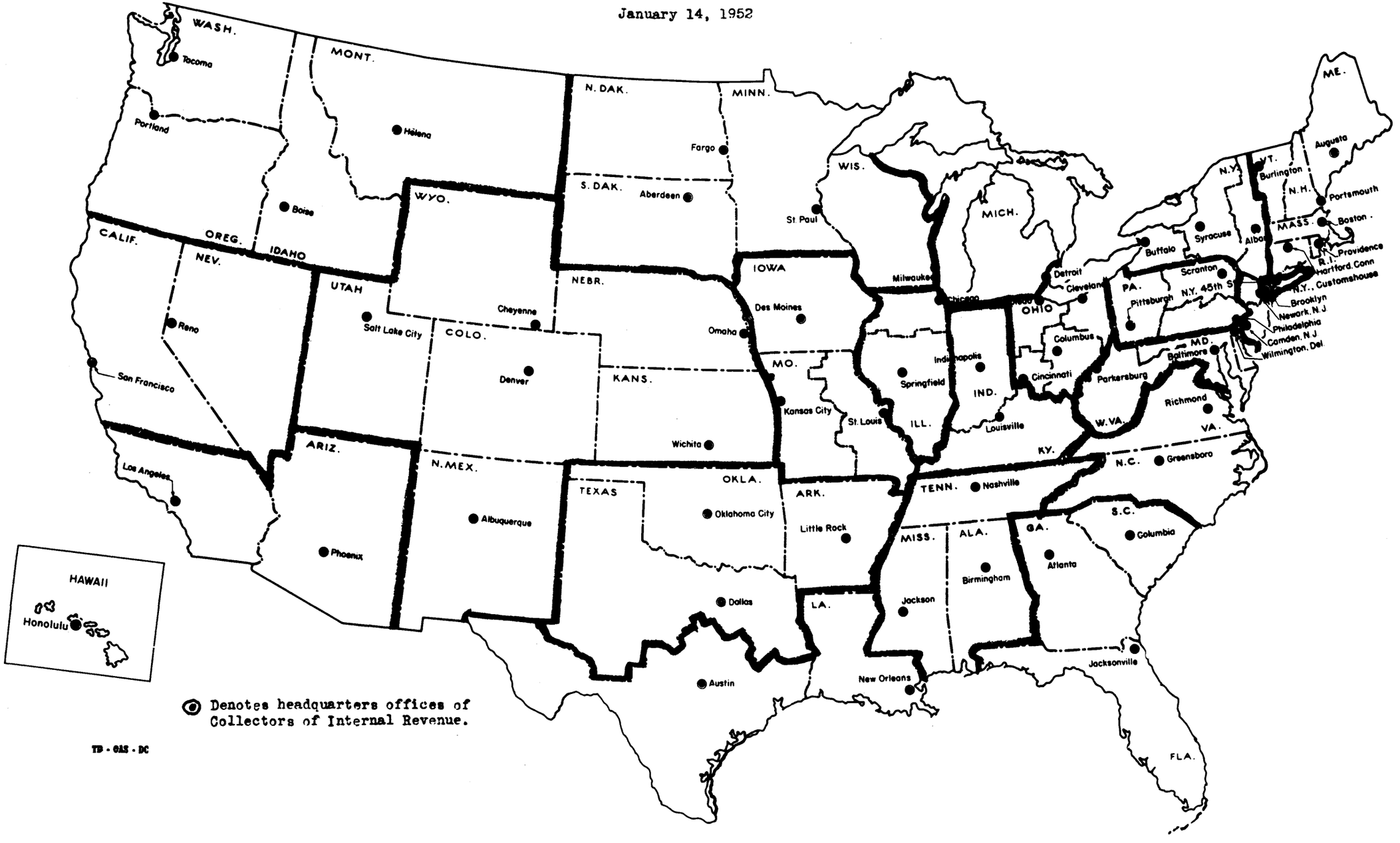
The basic framework on which the reorganization is based is the 64 collection districts. The number of these districts and their boundaries were fixed many years ago and bear little relation to the realities of present-day revenue administration. For example, there

CHART A

TREASURY DEPARTMENT
BUREAU OF INTERNAL REVENUE

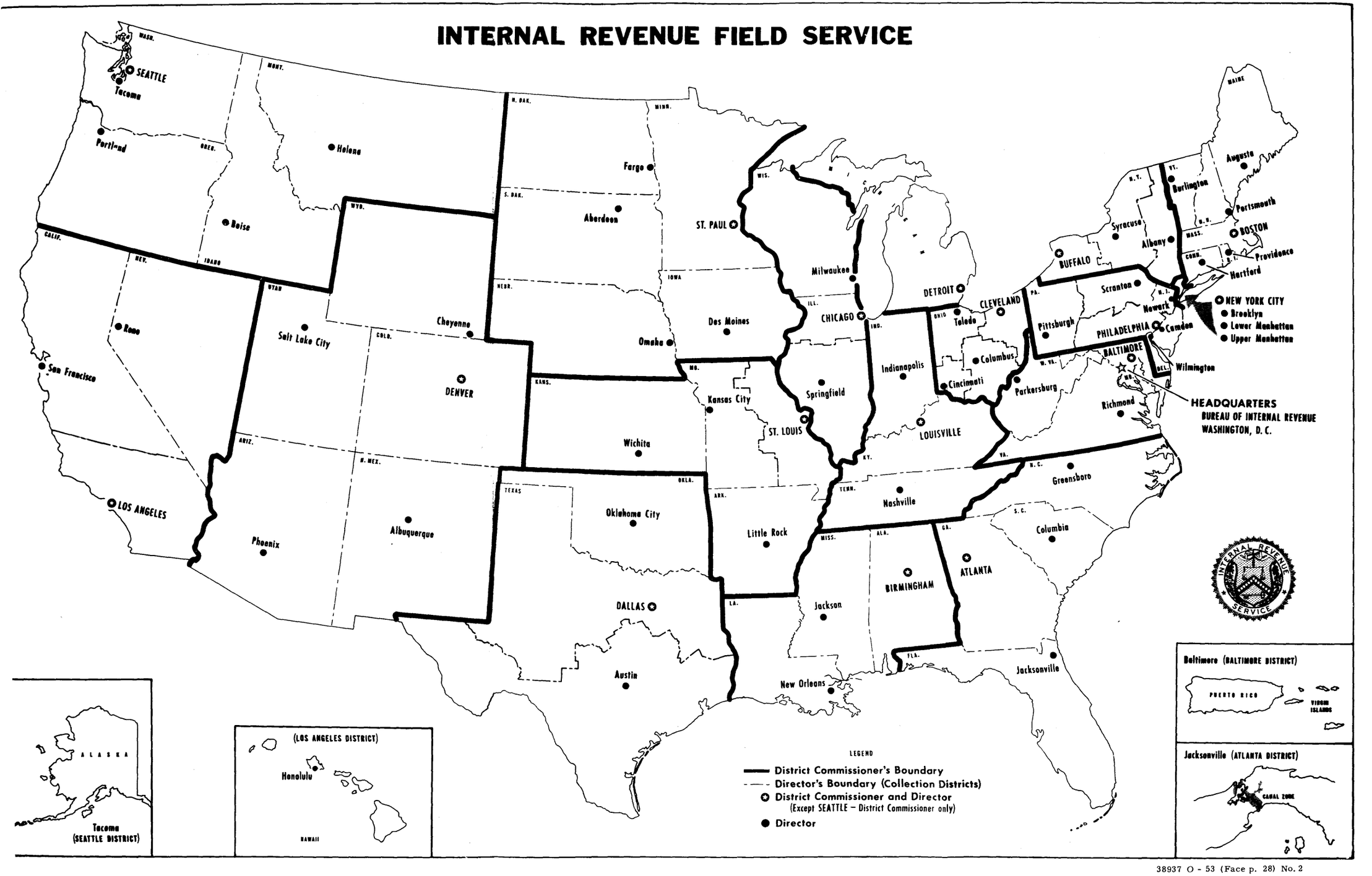
PROPOSED DISTRICTS

January 14, 1952



TD - OAS - DC

38937 O - 53 (Face p. 28) No. 1



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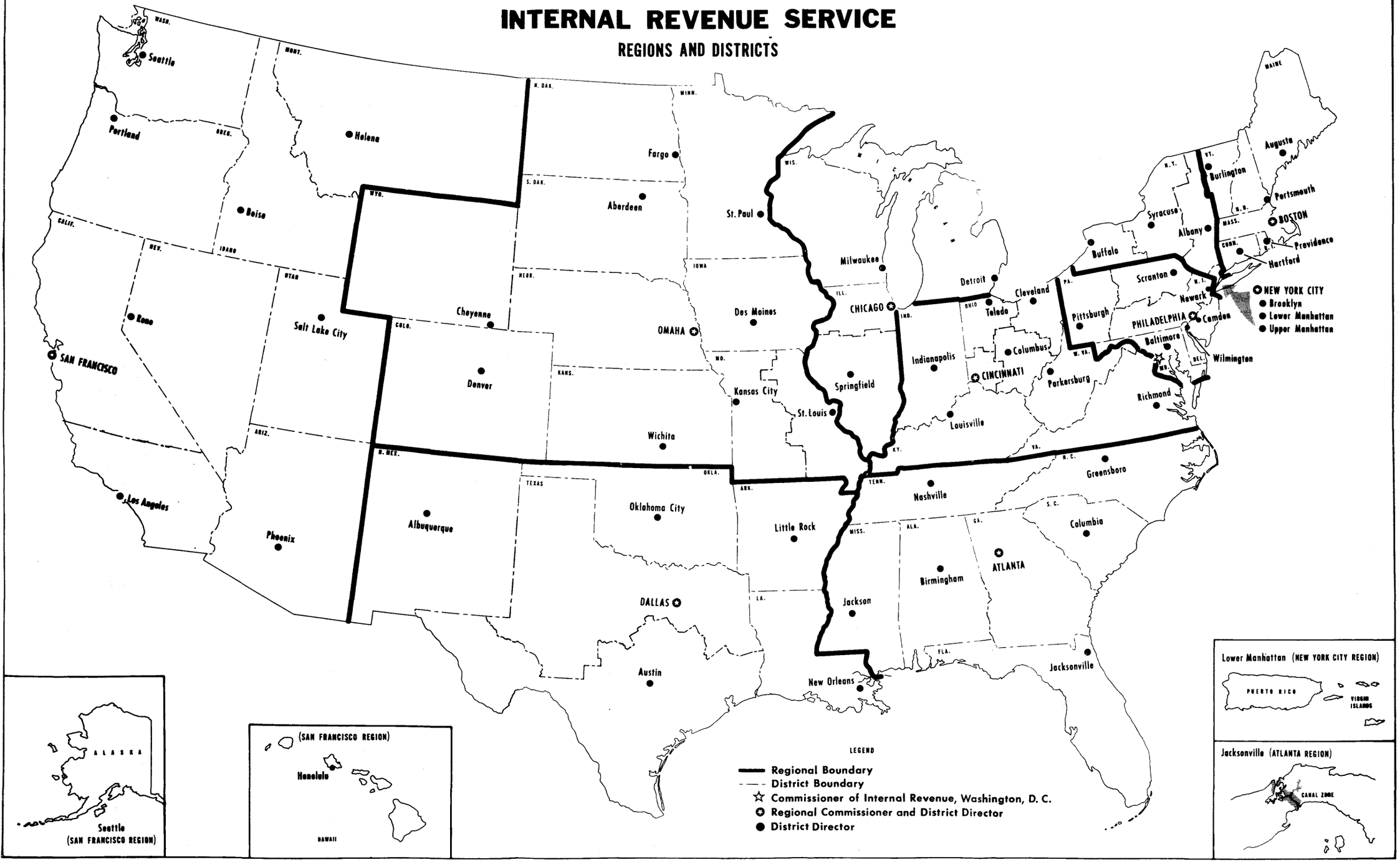
INTERNAL REVENUE SERVICE

REGIONS AND DISTRICTS



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38937 O - 53 (Face p. 28) No. 3

JULY 1, 1953

are 6 collection districts in the State of New York, 4 in Ohio, and 3 in Pennsylvania, but only 2 in California, and 1 in Michigan. The District Director's office at Chicago annually processes over 5 million returns; the office at Reno processes only 145,000. This framework was, nevertheless, adhered to by the Treasury when Reorganization Plan No. 1 of 1952 was proposed, ostensibly because of a fear that elimination of some of the districts would endanger approval of the plan. On the basis of its investigation, this subcommittee has concluded that there is little need for 64 such offices, and recommends the elimination of some offices and the relocation of others.

The relationship between the District Director and the Assistant Regional Commissioners employs a concept of responsibility and control which has been difficult to implement. The Division Chiefs under the District Director, while administratively responsible to the District Director, seek technical direction from the Assistant Regional Commissioner. The subcommittee has found that this dual control has resulted in confusion among field personnel. In some instances it was discovered that District Directors were being bypassed by their Division Chiefs who were reporting for administrative instructions to the Assistant Regional Commissioners. In many instances, varying with the degree of completion of the reorganization, field personnel indicated uncertainty as to whether their responsibility flowed to the District Directors or the Assistant Regional Commissioners and, in any event, to whom first. The subcommittee has therefore urged that the concept of this relationship be reappraised with a view to clarifying lines of authority and responsibility.

Under the reorganization plan, authority over alcohol and tobacco-tax matters was divided between the District Director and the Assistant Regional Commissioner (Alcohol and Tobacco Tax). A Division Chief under the District Director had charge of the law-enforcement activities of the Alcohol and Tobacco Tax Division, performing roughly the same functions as the old Investigator in Charge. The permissive and regulatory functions were given over to the Assistant Regional Commissioner, who did not have operational control over the Division Chief in the District Director's office. Instead, the Assistant Regional Commissioner was supposed to provide technical advice and assistance to him through an aide. The subcommittee considered this relationship to be cumbersome, and it has since proved to be so.

In many sections of the country there is little alcohol-tax work of a law-enforcement nature, and the creation of Alcohol and Tobacco Tax Divisions in all of the District Directors' offices was unnecessary and wasteful. Moreover, a regulatory organization such as the Alcohol and Tobacco Tax Division cannot effectively discharge its police function unless there is sufficient regional control to enable rapid deployment of investigative personnel. For these reasons the subcommittee concluded that all alcohol and tobacco tax work should be done at the regional level. Internal Revenue Service officials reached the same conclusion, and orders to that effect were issued by the Commissioner on July 1, 1953.

The proper location of the intelligence function (investigation of tax fraud cases), has been a matter of dispute for some time. Many authorities have advocated centralization of this activity, which is the function of the Intelligence Division, at the regional level, for substantially the same reasons which prompted centralization of the Alcohol

and Tobacco Tax Division. It has also been urged that this intelligence function be freed from the District Director's control on the theory that a more independent Intelligence Division would serve as a deterrent to corruption. Still others have recommended a lateral consolidation of Intelligence and Audit Division functions at the District Director level. This was the view taken by the Treasury when the reorganization plan was proposed. At the present time, although the Audit and Intelligence Divisions are separate, their functions are performed under the general supervision of the District Director.

The subcommittee, after considering these views, has concluded that centralization of the Intelligence Division at the regional level would be preferable. The subcommittee has noted that even now a number of the operational activities of the Intelligence Division are performed at the regional level. This fact, coupled with the acknowledged desirability of centralization which is reflected in the organization of most Federal investigative units, would seem to bear out the subcommittee's view. However, Internal Revenue Service officials have indicated a desire to give the current structure a trial before inaugurating any further changes.

This subcommittee studied the manner of selection of personnel for the posts of Regional Commissioner, Assistant Regional Commissioner, and District Director. A National Selection Board was to nominate three candidates for each such post. One of these three was then to be appointed by the Secretary after consultation with the Commissioner. The subcommittee found that while the Board members were occasionally subjected to extraneous pressures, they appear to have acquitted themselves well. However, two Regional Commissioners were appointed by the Secretary without having been processed through the Board. This regrettable departure from procedure was ordered by the then Commissioner.

Under the reorganization plan, modifications were also made in the Washington office. Not only was the number of Assistant Commissioners increased from 2 to 3 and their functions reapportioned, but also these Assistant Commissioners' posts were placed under civil service.

Other changes have been made in the Washington office during the past 6 months. The office of Deputy Commissioner was created in April of this year. This official is the executive officer of the Internal Revenue Service; the Assistant Commissioners and the Regional Commissioners are directly responsible to him. The post of Assistant Commissioner (Administration), has been created and all authority over budget, personnel, office space, supply and like matters has been placed therein; the office of Administrative Assistant to the Commissioner, created under the plan, has been abolished. Also, the office of Assistant Commissioner (Planning) has been created, to which have been transferred the functions of the Assistant to the Commissioner and other related research and planning responsibilities. The post of Assistant to the Commissioner has been abolished.

It has long been the practice in the Bureau to postreview, in Washington, the decisions of field agents in individual cases, in order to assure uniformity and to provide a check against erroneous or improper decisions. This was a relatively simple task in the prewar Bureau. The volume of cases was small, and most such decisions

were made in Washington. With the vast increase in caseload, authority to make such decisions was transferred to the field, but even after World War II every case in which a revenue agent proposed changes in tax liability was reviewed in Washington. By 1951 the postreview was expanded to included some cases handled by deputy collectors, and also a sampling of cases in which the revenue agent, after examination, had accepted the return as filed.

On July 1, 1953, the transmittal of cases to Washington for postreview was discontinued. It is planned to have this function performed instead at the regional level, but procedures for this change have not yet been worked out. In the meantime, no postreview work is being performed, except on the initiative of individual Regional Commissioners.

It may be that the postreview function can be performed as well at the regional level as it has been in Washington. Internal Revenue Service officials contend that regional postreview will require less time and will be more economical than Washington review. It must be recognized, however, that regional postreview will not be as effective in insuring uniformity unless this work is closely supervised by officials from the national office of the Internal Revenue Service. Moreover, it seems unfortunate that Washington postreview was abandoned before machinery had been worked out for performance of this function at the regional level.

Another critical problem is the determination of the degree to which the interpretative and rule-making function can be decentralized. Obviously the need for uniformity in the interpretation of the tax laws and regulations is as great as the need for uniformity in decisions on cases. In routine matters these functions can probably be safely delegated to the field. For example, since 1944 field officers of the Bureau have had authority to issue over their own signatures rulings as to qualification of stock bonus, pension, profit sharing, and annuity plans under section 165 (a) of the Code. Beyond the point of routine matters, however, the desirability of delegation of authority to the field is outweighed by the need for assuring uniformity in interpretations and rulings. For this reason the interpretative and rulemaking function in nonroutine matters is and must be reserved to some central group at the national office of the Internal Revenue Service.

CONCLUSION

The subcommittee considers that achievement of the basic feature of Reorganization Plan No. 1 of 1952, elimination of political appointment of Bureau officials, was a major accomplishment in revenue administration. Many of the changes made in Bureau organization and structure appear to be basically sound. Proper decentralization of authority to the field should result in better service to taxpayers at less cost to the Government.

CHAPTER IV

ROLE OF TREASURY IN REVENUE ADMINISTRATION

The Bureau of Internal Revenue is but one of several units comprising the Department of the Treasury, albeit by far the largest. The relationship between the Bureau and the Treasury has been a nebulous one, with the degree of Bureau independence not infrequently varying with the personalities of the officials of the Bureau and the Department.

By law, all authority exercised by the Commissioner of Internal Revenue or any of his subordinates is derived by delegation from the Secretary of the Treasury and can be withdrawn by his order. Federal revenue policy is determined in the Treasury, and Bureau activities affecting such policy accordingly receive close Treasury supervision. In the past, at least, the Treasury has also overseen many technical details of revenue administration, and controlled appointments and promotions of Bureau personnel as well. This control over the careers of Bureau officials has been an area of special vulnerability since it carries with it the risk of improper compliance by those officials with Treasury wishes in specific tax cases.

From time to time proposals have been advanced for divorcement of the Bureau from the Treasury. A bill was introduced in the 82d Congress by a then member of this subcommittee providing for creation of an independent agency under the bipartisan control of three commissioners serving staggered 9-year terms. A variation of this proposal, involving management of the Bureau by one commissioner, appointed for a term of 10 years and reporting directly to the President, was advanced during study of Reorganization Plan No. 1 of 1952. The proposal that the Bureau should be made an autonomous agency within the Treasury has also been offered.

These repeated suggestions stem from a recognition of the difference in functions and essential political consciousness of the Treasury and Bureau. The former is an instrument for the development and effectuation of the fiscal policies of the governing political administration. The latter should provide a quasi-judicial enforcement of revenue laws, free from any kind of political influence.

The fiscal officers of the political administration must participate in the formulation of tax legislation, treaties, and regulations. Opponents of separation of the Bureau from the Treasury assert that proper performance of these duties in the fiscal field requires preservation of the Treasury's power to supervise the administration of the internal-revenue laws. An examination of this contention would require a broad study of the development and effectuation of national fiscal policy, which this subcommittee, of course, did not undertake. The subcommittee, therefore, expresses no opinion as to the necessity of preserving Treasury control over revenue administration policies as an adjunct to its conduct of fiscal affairs, and so makes no recommendation on the divorcement proposal. It seems clear, however,

that there is no necessity for Treasury control over decisions on individual tax cases. This is properly the function of the Bureau.

The subcommittee's public hearings on six tax cases in which Treasury officials intervened are indicative of the abuses which can flow from Treasury control of the decision-making process in tax cases. These cases are discussed in chapter I. In each of them the power of Treasury officials was exerted to bestow a special benefit on the taxpayer. To terminate the authority of Treasury officials over tax administration would prevent recurrence of such improprieties.

Five of the six Treasury interference cases involved a tax result which otherwise would probably not have occurred, and thus deprived the Government of an aggregate of over $10 million in revenue. In the Lasdon and Monsanto cases, active meddling by Treasury officials resulted in the issuance of rulings in apparent conflict with established precedents. In the Leban and Igleheart cases, equally dubious rulings were issued by the Bureau after direct expressions of interest by the then Secretary of the Treasury. A like direct expression of interest by the Secretary induced the Chief Counsel to short-circuit normal procedures in approving the taxpayer's proposal for compromise of the Rand litigation. In the Universal Pictures case, the only apparent result of the Secretary's intervention was an acceleration of consideration of the case, but since expediting one case proportionately delays all like cases, the absence of other benefit is no reason to condone Secretarial intervention.

These disclosures of political meddling in revenue administration and of corrupt practices of revenue officials chosen for political reasons have added further impetus to proposals which have been advanced for divorcement of the Bureau from the Treasury. However, too much must not be read into the six Treasury interference cases. No redistribution of responsibility over tax administration can guarantee that the controlling official will be insensitive to personal or political considerations. A mere expression of interest by the then Secretary of the Treasury sufficed to produce extraordinary administrative efforts in behalf of the taxpayer in several of the studied cases. Substituting the Commissioner for the Secretary as final authority in revenue matters would still leave the possibility that the Commissioner might similarly intervene in the interest of a taxpayer. This result would be particularly likely if, as is quite probable, the Commissioner of Internal Revenue emerged as a strong political figure as a result of granting autonomy to the Bureau. Moreover, the subcommittee has found instances indicating that honest and capable Treasury officials, in the past, have acted as a check on venality and incompetence in the Bureau.

These six cases arose during a period when Treasury control of Bureau activities went beyond policy direction and covered minute details of Bureau operations, and the decision-making process as well. Even now the Secretary has to approve the designation of an official in a collector's office to maintain the petty cash account, the relief of such person from liability for cash shortages, the designation of persons authorized to sign checks in a collector's name, and the transfer of checking account funds from a deceased collector to his successor. The Commissioner will probably be authorized in the near future to handle all such operational details without reference to any Treasury official. While these changes would be unquestionably desir-

able from the viewpoint of efficiency, they would not attack the problem of Treasury power to influence handling of specific cases in the interest of a favored taxpayer.

Treasury control over the decision-making process apparently is not to be released to the same extent. Approval of the Secretary is still required for any closing agreement based on a prospective transaction. The power which was abused in the issuance of the Leban and Monsanto closing agreements accordingly still exists. Likewise, the vague rule that all requests for rulings involving a policy question shall be referred to the Treasury still obtains, permitting the kind of interference witnessed in the Leban, Igleheart, Monsanto, and Lasdon cases. The subcommittee understands that the Treasury presently intends to delegate final authority to approve all closing agreements to the Commissioner but to retain the requirement for consultation on applications for rulings involving policy questions.

If the Treasury needs to retain control of revenue administration policies because of their significance in fiscal matters, continued reference to the Treasury of rulings involving policy matters may be essential. Certainly the practice of reviewing policy rulings in the Treasury appears to be inextricably involved in the broader question of control of revenue policy as an element in effectuation of the fiscal program. The subcommittee therefore considers it inadvisable at this time to recommend abandonment of the present system to achieve the more limited objective of preventing improper interference in behalf of a taxpayer, particularly if the latter end can be reached by other means.

Careful study of the four Treasury interference cases involving rulings suggests that a policy of publication of all policy rulings might have deterred Treasury officials from intervention in behalf of the taxpayers. Thus, publication of the Monsanto ruling would have caused embarrassing protests by the Public Service Co. of New Hampshire, to which a ruling had been denied on like facts. Likewise, had publication of all rulings been standard procedure, the pendency of four applications by other taxpayers for rulings on substantially similar facts might have served as a brake on the Treasury officials who promoted the Lasdon ruling.

A decision to continue Treasury review of policy rulings may resolve the related question of the subordination of the Chief Counsel of the Bureau to the General Counsel of the Treasury. Prior to 1934, the chief law officer of the Bureau reported to the Commissioner. Proponents of separation of the Bureau from the Treasury recommend restoration of this relationship even in the absence of total divorcement. Opponents of separation urge retention of the General Counsel's authority over the Chief Counsel as one means of preserving the Treasury control over tax policy which to them seems advisable. The subcommittee has therefore concluded that no change in the Chief Counsel's titular subordination to the General Counsel of the Treasury should be made until the larger question of Treasury control of tax administration has been resolved. However, the Chief Counsel's obligation to obtain the General Counsel's approval for decisions in legal matters should be restricted to questions clearly affecting overall fiscal policy.

Despite the possibility that fiscal considerations may dictate continued control of revenue administration policies by the Treasury and

thus prevent total separation of the Bureau, the six cases do strongly suggest the advisability of granting autonomy to the Bureau in all matters not involving formulation of policy. Corruption, of course, is possible at any level of Government, but political influence conceivably would be less strongly felt by career employees of the Bureau than by politically appointed Treasury officials. If the Treasury no longer has ultimate control over personnel questions or like matters personally affecting Bureau employees, Treasury officials will possess less power to influence what should be impartial administrative decisions in the Bureau.

In practical terms, this recommendation would result in continued participation by the Treasury in legislative proposals, tax-treaty negotiations, and issuance of internal-revenue regulations and policy rulings. With minor exceptions, this withdrawal has been achieved by recent delegations of authority by the Secretary to the Commissioner, and the subcommittee understands that further delegations to achieve this objective are planned. Since delegations of authority can be revoked in the discretion of the Secretary, however, preservation of revenue administration from possible political meddling in the future can more nearly be assured by embodying these changes in the Internal Revenue Code. The subcommittee therefore recommends enactment of code provisions specifically defining the authority of the Secretary in revenue administration matters, and bestowing on the Commissioner all other authority. Since the form of such legislation depends on resolution of the overall fiscal policy question, no specific legislation has been prepared by the subcommittee at this time.

CHAPTER V

OTHER RECOMMENDATIONS

TAXPAYER RECORDS AND INFORMATION

In the opinion of this subcommittee, taxpayers are not at present required to maintain adequate records or to file sufficient information concerning taxable transactions. Several provisions of H. R. 7893, introduced by the then chairman of this subcommittee in the 82d Congress, were designed to remedy this situation. To some extent, however, the noted defects may be reduced by stricter Bureau enforcement of existing legislation.

The inadequacy of filing requirements is illustrated by the case of Henry Grunewald, about whom much has been told in chapter I. During the years when the subcommittee suspects that Grunewald was receiving major sums for tampering with tax cases, his returns reflect large earnings from unidentified sources. For example, his 1950 return shows a gross income of $119,361; the attached schedule explained that $1,580 came from one named corporation, and $117,781 from "brokerage fees and commissions." When asked what the latter entry meant, Grunewald testified to the subcommittee that this sum represented horserace winnings.

The revenue agent who attempts to check the accuracy of such a return is handicapped by a lack of leads. He can easily verify the $1,580 item by inquiries directed to the corporation which made the payment, but where does he seek information about the $117,781, as to which Grunewald claims to have kept no records indicating the source?

Moreover, if the revenue agent suspects that Grunewald has understated his income, the lack of specification of source hampers his investigation. If Grunewald had been required in filing his return to specify the sources from which the $117,781 was derived and the revenue agent discovered any item of income derived from a source not so listed or in excess of the amount attributed to the particular source, he would have demonstrated understatement. The actual Grunewald return means that the revenue agent must uncover items aggregating more than $117,781 before a case of understatement is made.

Section 54 (a) of the Internal Revenue Code requires taxpayers to maintain such records as the Commissioner, with the approval of the Secretary, may require. Section 54 (b) authorizes the Commissioner to require any taxpayer upon notice to make a return, render under oath such statements, or keep such records, as the Commissioner deems sufficient to show his tax. Section 145, discussed below, provides penalties for willful failure to file a return or to keep records required by law and for the filing of a fraudulent return. Regulations 111, section 29.54–1, gives the Commissioner authority to prescribe the form of income-tax returns.

The subcommittee does not understand why this authority is not sufficient for the Commissioner to require taxpayers like Grunewald to give fuller information as to sources of income on their returns, to maintain records permitting verification of such sources and amounts of income, and to supply such supplemental information as may be required.

INFORMATION RETURNS

The subcommittee's investigations indicate a lax enforcement of information return requirements, and an even less excusable failure to make proper use of such information returns as are received. A revamping of the entire information return program is in order.

Section 147 (a) of the Internal Revenue Code requires any person making payment to another person of rent, compensation, or other income of more than $600 in any year to file an information return. Sections 147 (b), 148, and 149 permit the Commissioner to require filing of information returns as to stock brokerage transactions, and payments of interest and dividends in any amount.

The subcommittee is unaware of any genuine effort to enforce the requirement of the filing of information returns as to isolated but significant transactions. Such were the payments received by Henry Grunewald, whether derived from horserace betting or services to distressed taxpayers. Had information returns been received, Grunewald's lumping most of his income under one vague heading would have presented less of an obstacle to the investigating revenue agent.

The subcommittee is convinced that the Bureau has failed to give adequate publicity to the requirements of section 147 (a). The public in general seems unaware of the obligation to file an information return upon payment of more than $600 a year to a doctor, lawyer, domestic servant, or private landlord. Immediate efforts to remedy this situation seem appropriate.

A particular effort to punish failure to file information returns as to substantial cash payments is advocated. The absence of documentary evidence of such transactions makes their detection substantially impossible. In the subcommittee's experience, payment of large cash sums is usually indicative of a conspiracy to evade taxation. Strict enforcement of information return requirements would cause many payors in such circumstances to hesitate to further the fraudulent purpose of the payee, whereas under present lax policies the payor stands in no real jeopardy.

A second well-recognized tax-evasion device is the partial compensation for services through the making of what purport to be gifts of goods or services. Such payments of compensation in kind are clearly taxable income but too infrequently appear on tax returns. As an aid to detection of such evasion, the subcommittee proposed in H. R. 7893 to add to section 147 of the Internal Revenue Code a requirement for the filing of information returns by anyone making payments in kind worth more than a specified sum in any year to any officer, employee, partner, or shareholder of such person. A proposal of this nature is still favored by the subcommittee.

Complaints have been received that information returns are frequently not associated with the tax return before audit. Such inefficiency not only handicaps the revenue agent performing the audit, but also imposes an undue burden upon the taxpayer to

produce records substantiating return entries which he had a right to assume would be verified from information returns.

The subcommittee understands that the magnitude of the job of processing all information returns actually received has led the Bureau to adopt a policy of utilizing only limited percentages of certain classes of returns. Requiring employers, banks, stock corporations, and brokers to file information returns imposes upon them some of the expense and burden of the Government's task of checking on the honesty and accuracy of tax-return filings. The subcommittee urges the Bureau to avoid whenever possible demands for information returns which it knows in advance are not going to be utilized.

CRIMINAL TAX FRAUD SENTENCES

The basic purpose of criminal penalties is the deterrent effect upon potential violators. This effect is achieved only when these sanctions are imposed promptly and with certainty upon those who transgress. This is not always the case with tax violations. Courts appear reluctant to impose the full penalties set out in section 145 of the Internal Revenue Code and elsewhere. In many cases, only money fines are imposed. Prison sentences tend to be quite short and frequently are suspended. There is a noticeable lack of uniformity in the manner in which penalties are imposed for similar offenses in various judicial districts.

The reliance upon fines is inadvisable. A money penalty for a money offense permits the potential violator to weigh possible gain against risk of loss. The present statutory maximum fine of $10,000 doubtless appears small to high-bracket evaders. For such offenders, the 50-percent fraud penalty applied as a civil sanction is the real financial deterrent, and no punishment for the crime of tax evasion will be felt unless imprisonment is ordered.

One reason for the present dubious leniency is a popular feeling, shared by some courts, that tax evasion is a minor offense. Actually, every successful tax evasion imposes an additional tax burden on the millions of honest taxpayers. Tax evasion is thus a crime affecting all citizens. With the national security depending on the Government's ability to finance adequate defense measures, every taxpayer must shoulder his share of the burden. Willful failure to do so in these times is an offense of serious proportions and should be so regarded when sentences are imposed.

ENFORCEMENT

Section 145 of the Internal Revenue Code sets out the penalties which shall attach to willful violations of tax law. Subsection (a) thereof makes willful failure to file required returns or other information or to pay the tax a misdemeanor, punishable by a maximum of 1 year of imprisonment and a $10,000 fine. The period of statutory limitation is 3 years. Subsection (b) makes any willful attempt to defeat or evade the payment of taxes a felony with a maximum prison term of 5 years and $10,000 in fines. The statutory period is 6 years.

The distinction between the offenses contemplated in the two subsections is not clear. Currently the courts require evidence of a definite affirmative action, intended to defeat or evade the tax laws,

to qualify as a felony, holding that a mere passive failure to comply with the requirements of the law is covered only by subsection (a). This interpretation results in the punishment of willful nonfiling as a misdemeanor, while willful falsification of a tax return is accorded more severe treatment as a felony.

Your Subcommittee has difficulty discerning sufficient distinction between the two crimes to support the more lenient treatment accorded willful failure to file. The degree of blame to be attached to either offense appears equal, the ultimate purpose in both cases being to avoid the payment of proper taxes. The Supreme Court opinion which provided the precedent for the current judicial position voices the same inability to recognize the logic of the distinction.

Moreover, the short statutory limitation placed upon the passive offense is inadequate. The Government is faced with a greater enforcement problem in a case of nonfiling than in a fraud case, since in the latter the Bureau of Internal Revenue is placed upon notice of a possible violation by the very fact of the filing.

The subcommittee therefore recommends that legislative action be taken equalizing the two offenses, or at least extending the period of limitations for willful failure to file a return. A provision of H. R. 7893 was designed to achieve the latter.

PUBLICATION OF RULINGS

In its report to the 82d Congress, this subcommittee praised adoption by the Bureau of a new policy of publishing in permanent form all decisions and rulings involving points of law upon which the Bureau would thereafter rely as precedents. This policy has now been implemented by detailed instructions which, if properly applied, will result in publication in the Internal Revenue Bulletin of all rulings of general interest issued to taxpayers and their representatives as well as to field officers of the Bureau.

The subcommittee's advocacy of broad publication of rulings stems from the recognition of the deterrent effect of such a policy on possible favoritism to particular taxpayers. As stated in chapter IV, the subcommittee believes that the discriminatory rulings in the Lasdon and Monsanto matters would never have been issued had the responsible Treasury officials known that publication would follow, permitting protests by other taxpayers denied rulings on similar facts.

A second benefit of broad publication is the dissemination of tax knowledge among both practitioners and Bureau agents. Knowledge of the Bureau's position on a particular question will enable tax counselors so to guide their clients' affairs as to avoid unnecessary disputes, to the advantage of both the taxpayers and the Government. Moreover, preservation of all rulings of general interest in the Internal Revenue Bulletin should promote uniformity in administrative decisions by field agents, which the recent decentralization of Bureau activities has made a larger problem than heretofore.

The new instructions contain exceptions which excuse publication of rulings involving no legal question of interest to anyone other than the immediately affected taxpayer. Two of these exceptions could lend themselves to abuse. One exempts rulings dealing with

secret formulas or business practices; the other, rulings "which in the interest of a wise administration of the Revenue Service should not be published." To prevent frustration of the twin purposes of the publication policy, the subcommittee cautions against overfrequent application of these two exceptions.

The new instructions contemplate publication of many rulings in digest form. In some instances, the facts of the ruling application may be omitted altogether; in others, the language of the ruling may be substantially altered. To the extent that the objective is the avoidance of unnecessary printing expense, digesting may be a meritorious modification of a strict publication policy. The achievement of the objectives of the policy, however, requires an unvaried accuracy and honesty in the preparation of such digests. Frequently a full statement of the facts is essential to the understanding of a ruling.

The Bureau's instructions governing publication of taxpayer rulings became effective on October 12, 1953. The subcommittee, accordingly, has had no opportunity to study the new program in actual operation.

COHAN RULE

In the case of *Cohan* v. *Commissioner* (39 F. 2d 540 (1930)), the taxpayer was engaged in an activity clearly involving deductible expenses but failed to keep any records thereof. The Bureau disallowed taxpayer's estimated expense deductions for lack of substantiation. The Court of Appeals for the Second Circuit ruled that a reasonable deduction must be allowed, though doubts could be resolved against the taxpayer since they resulted from his omission to keep adequate records.

The subcommittee believes that the Cohan rule allows the indifferent taxpayer to shirk the burden of assisting the Government in determination of his tax liability by keeping reasonable records of his deductible expenses. In H. R. 7893, the subcommittee accordingly proposed amendment of section 23 (a) of the Internal Revenue Code by adding a prohibition of allowance of deductions unless substantiated in a manner reasonable under the circumstances. The subcommittee again urges adoption of such a provision.

The subcommittee is not proposing a strict rule to determine the type and amount of substantiation for claimed deductions. Receipts should be required to evidence an expenditure where prepared in normal course of business, as in the case of hotel bills, but should not otherwise be demanded, as in the case of taxi fares. A contemporaneous record of expenses of the latter type should ordinarily suffice. Where a particular transaction is generally substantiated, normal related expenses may often be allowed without requiring further substantiation. For example, where the taxpayer satisfactorily establishes the fact of a business trip by producing airline tickets and hotel bills, deductions for reasonable expenses for taxi fares, tips, and meals might also be approved without further evidence. Taxpayers should also keep records which would enable an examining officer to determine whether or not expenditures are directly connected with taxpayer's business activities.

COLLECTION OF DELINQUENT TAXES OF FEDERAL EMPLOYEES

At the present time a large number of officials and employees of the Federal Government and its instrumentalities are delinquent in their tax payments. Since these employees have practically no property, these payments can be collected only from the income received from their Federal employment. The courts, however, have decided that in the absence of specific legislation, the Federal Government cannot reach a Federal employee's salary to satisfy his indebtedness to the Government. Ordinary taxpayers, in contrast, are subject to garnishment of their salaries under section 3670 of the Internal Revenue Code.

To remedy this situation, a provision of H. R. 7893 gave the Bureau power to garnishee wages of such delinquent Federal employees by notice to the employing agency. Amounts to be deducted from salary to satisfy unpaid tax assessments were limited to 10 percent of the first $10,000 in any year, and 25 percent of the excess. The subcommittee reaffirms its advocacy of this provision.

ASSISTING IN PREPARING RETURNS

Many taxpayers, confused by the intricacies of tax law, obtain the assistance of others in the preparation of their Federal tax returns. Low-income taxpayers in particular are prey to unqualified persons temporarily posing as tax consultants during the period just prior to March 15. Under the Internal Revenue Code there is no obligation on the part of any such assistant to acknowledge his responsibility for the return by signing it in the space provided.

The subcommittee has discovered instances where these unscrupulous persons were falsifying returns. The Bureau of Internal Revenue, though well aware of the problem, is handicapped by lack of ready proof of the authorship of such small-scale tax frauds. Therefore, your subcommittee recommends that the Internal Revenue Code be amended to provide that any person who for compensation assists in preparing any Federal tax return for another be required, under appropriate penalty, to state his name and address on such return. A provision to such effect was included in H. R. 7893.

PLEADING OF PRIVILEGE BY PRACTITIONERS

The opportunity to represent taxpayers before the Treasury is a privilege accorded to attorneys and accountants meeting prescribed standards of character and fitness. In its last report, this subcommittee devoted attention to the inadequacies of the system of enrolling practitioners and of disciplining those whose conduct in Treasury matters fell below proper standards of professional ethics. As a result, the Treasury practitioner program has been completely revamped.

The subcommittee has several times encountered Treasury practitioners who, as witnesses in subcommittee hearings, pleaded privilege under the fifth amendment when asked about their roles in conduct of tax cases. Certain of these witnesses refused on constitutional grounds to answer the question whether they had ever bribed a Federal officer. The subcommittee does not believe that a person

who cannot answer such a question with an unequivocal negative is entitled to continue to enjoy the privilege of practice before the Treasury.

CHIEF COUNSEL'S OFFICE

Review Division and Joint Committee.—The Internal Revenue Code requires that all proposed credits to a single taxpayer which total more than $200,000 must be reviewed by the Joint Committee on Internal Revenue Taxation of the Congress. The Review Division of the Office of Chief Counsel occupies itself almost exclusively with a review of these $200,000 refund cases before they are submitted to the Joint Committee. This identity of function suggests that the primary purpose of the Review Division is to protect the Bureau of Internal Revenue from criticism by eliminating the questionable cases from among those which must, by law, be examined by the Joint Committee. The subcommittee believes that the efforts of the Review Division might better be directed toward a general review, on a spot-check basis, of all refund transactions, independent of sums involved. The recent delegation to District Directors of Internal Revenue of authority to make refunds up to $200,000 makes such sampling post-review particularly desirable.

Appeals Division.—Within the Appeals Division of the Office of Chief Counsel, there is a Court of Appeals Section, the primary function of which is the preparation of petitions and record on appeal from Tax Court decisions. In order to perform this function, the Court of Appeals Section attorney must first study the facts and record of the case. This time-consuming task represents an unnecessary duplication of effort. The trial attorney is already thoroughly acquainted with the case, while the attorney who is to handle the case on appeal must ultimately become familiar with the record. Either would be competent to prepare the petition and record on appeal. There appears to be no reason why these tasks should be performed by a third attorney who is unfamiliar with the case.

Preparation of the petition and record by the appellate attorney would assure inclusion of the elements he considers vital to his argument. On the other hand, performance of these duties by the trial attorney might be faster. The subcommittee expresses no preference between these considerations, but has concluded that the practice of having this work done by the Court of Appeals Section is wasteful. The subcommittee therefore recommends that the Court of Appeals Section be abolished.

AGENT PRODUCTION RECORDS

The Bureau maintains rather elaborate records of the additional revenue resulting from the efforts of individual revenue agents, special agents, and deputy collectors. Until recently, consideration was given to these records in the evaluation of employees for advancement. This practice still prevails in promoting revenue agents.

At best, the extra revenue gathered by an employee is a poor measure of his ability since so strongly affected by the type of case to which he happens to be assigned. Worse, an ambitious employee may be tempted to undue severity toward taxpayers to better his production record. The subcommittee, therefore, advises the discontinuance of the use of these records in promotion decisions.

APPENDIX A

ORGANIZATION OF THE OFFICE OF CHIEF COUNSEL OF THE INTERNAL REVENUE SERVICE

CHIEF COUNSEL

Reorganization Plan No. 1 of 1952 provides for the appointment by the Secretary of the Treasury of an Assistant General Counsel of the Treasury who will be under the classified civil service and who will be responsible for legal matters within the Internal Revenue Service. Although the primary function of this Assistant General Counsel is to provide legal advice and service to the Commissioner of Internal Revenue, the line of authority flows from him to the General Counsel of the Treasury, to whom he is directly responsible. The Assistant General Counsel is more commonly referred to as the Chief Counsel for the Internal Revenue Service and he and his staff are physically located in the Internal Revenue Building.

ASSISTANT CHIEF COUNSEL

Under the Chief Counsel of the Internal Revenue Service there are five Assistants Chief Counsel. One of these devotes himself primarily to housekeeping tasks such as personnel, supply, etc., and is known as the Assistant Chief Counsel (Administration). The other 4 have operating responsibilities, each exercising supervision over 2 of the 8 divisions in the national office where the legal work of the Service is performed. Each Assistant Chief Counsel also supervises corresponding elements of the Regional Counsel's offices. They are known respectively as the Assistant Chief Counsel for Claims, Enforcement, Litigation, and Technical.

There are, in addition, five special assistants to the Chief Counsel who operate in the capacity of special aides to the Chief Counsel. Usually, each of these is assigned to one of the Assistants Chief Counsel, serving as liaison between him and the Chief Counsel and taking on special tasks as assigned.

OPERATING DIVISIONS

There are within the Office of Chief Counsel eight divisions which perform, on an operating and/or supervisory level, the legal tasks for which the Office of Chief Counsel is responsible.

(*a*) *The Appeals Division*

The Appeals Division is concerned solely with the processing, trial, and argument of cases before the Tax Court of the United States. The Tax Court hears petitions by taxpayers who are protesting the validity of proposed assessments against them. Matters may be brought before the Tax Court only by the taxpayer, who is given 90

days following issuance of a deficiency notice to take such action before assessment is made. Once the assessment is made, the taxpayer no longer has access to the Tax Court and must take his case to the Federal district court or to the Court of Claims after payment of the tax assessed.

Most of the actual work of preparing a case for hearing before the Tax Court and the argument of the case itself is performed in the field by the appellate counsel, located in the offices of the several regional counsel (see below). The Appeals Division in the Washington office performs primarily a supervisory function with respect to the operations of appellate counsel in Tax Court matters, and for this purpose is divided into three sections:

(1) The Brief Review Section examines all briefs and other legal papers prepared in the field for filing with the Tax Court, checking them for adequacy, accuracy, and conformity with overall national policy. Action on decision memoranda prepared in the field when the Government has lost a Tax Court case are examined initially by the attorney who reviewed the case briefs, if he is available.

(2) The Court of Appeals Section does the necessary preparatory work when a Tax Court case is up for appeal before one of the United States courts of appeals. This entails the preparation of the record on appeal, preparation and filing of the petition for appeal if the Government is to be the appellant, and handling for the Internal Revenue Service all subsequent questions of compromise, certiorari, etc.

(3) The Section 722 Section is concerned with the handling of cases to be heard by the Tax Court which involve the excess-profits tax relief provisions of section 722 of the Internal Revenue Code. The section attorneys may advise the appellate counsel in the handling of a given case or may take over the case entirely under certain circumstances.

(*b*) *The Civil Division*

The Civil Division cooperates with and assists the Tax Division of the Department of Justice in handling civil tax litigation. It determines the legal position of the Internal Revenue Service in these cases. The bulk of its work consists of—

(1) Suits for refund. These comprise about 75 percent of the work of the Civil Division. Suits for refund are brought by taxpayers against the Government for the purpose of recovering tax payments which are alleged to have been erroneously made and retained. As soon as the suit is filed, the Tax Division assumes jurisdiction over the case, the Civil Division cooperating by preparing a "defense letter" for the use of the Tax Division, stating the law and facts in the case. The Civil Division also handles any subsequent servicing of the case, such as recommendations on compromise offers and appeals.

(2) Collection suits filed by the Government against the taxpayer for the purpose of effecting or aiding collection of delinquent tax assessments. Frequently, the purpose of such suits is to obtain a judgment extending the 6-year statute of limitations for collection of an assessed tax or to protect the interest of the Government against third parties. The function of the Civil

Division with regard to the collection suit is to pass upon its legal acceptability and feasibility before referring it to the Tax Division for further consideration.

(c) *The Claims Division*

This Division handles all legal work in such matters as proceedings under the Bankruptcy Act, receiverships or insolvencies, assignments for the benefit of creditors, corporate reorganizations, decedents' estates, applications for discharge of property from Federal tax liens, and foreclosure suits, arising as a result of tax claims against one of the parties involved therein. Wherever such a situation arises, the office of the local district director of internal revenue will forward the matter to the Claims Division for consideration of the appropriate legal steps to be taken. Where necessary, the Claims Division will refer the matter to the Tax Division of the Department of Justice with a request that specific legal action be initiated. The Head of the Claims Division has also been delegated the responsibility for performing the legal review of and preparing a legal opinion on offers in compromise as required of the General Counsel under section 3761 (b) of the Internal Revenue Code.

(d) *The Enforcement Division*

The Enforcement Division is charged with supervisory responsibility over the legal screening of all proposed criminal prosecutions for tax evasion and is the Office of Chief Counsel's counterpart of the Criminal Section of the Tax Division. Field attorneys in the office of the regional counsel, known as enforcement counsel (see below), pass upon the legal adequacy of proposed fraud cases and refer to the Criminal Section of the Tax Division those in which prosecution is approved; the transmittal letter undertakes, to a degree dependent upon the complexity of the individual case, a legal analysis of the facts, law, and evidence in the case. The Enforcement Division staff in Washington maintains administrative and technical control of the enforcement operation and conducts a program of postaudit of cases to insure uniformity and adherence to policy. Most negotiations with the Tax Division, e. g., where prosecution has been declined by the latter and a protest is under consideration, are conducted at the national level.

(e) *Interpretative Division*

This Division is concerned with the task of interpreting and applying to given fact situations the statutes, regulations, and decisions which comprise the Federal tax law. Requests for interpretations come from two sources: employees of the Internal Revenue Service, and the taxpaying public. Employees may request legal advice on cases before them for decision; such requests are handled by the Interpretative Division. Inquiries from taxpayers usually take the form of a request for a ruling on the tax consequences of a transaction, proposed or consummated. For example, a taxpayer's decision whether to enter into such a transaction often hinges on the tax consequences thereof. The Commissioner of Internal Revenue may, upon request, advise the taxpayer as to his views thereon. Requests for such rulings are initially considered by the Technical Ruling Division in the Office of the Assistant Commissioner (Technical), and most rulings are issued by him. Where the request presents a complex

fact situation or the legal issue involved is unclear or of great importance, the proposed ruling is forwarded to the Interpretative Division for review. Some requests for rulings are accompanied by a request for a closing agreement, which is a binding agreeement between the taxpayer and the Commissioner as to the tax consequences of a transaction. All proposed closing agreements are reviewed by the Interpretative Division.

(*f*) *Legislation and Regulations Division*

This Division is charged with the processing of all proposed new legislation, regulations, and Treasury decisions, with proposed amendments to existing legislation and regulations; and with all other work related thereto. The staff of this organization prepares drafts of proposed legislation and regulations, in conjunction with the Office of the Assistant Commissioner (Technical) the legal and technical experts of the Treasury Department, and congressional committees. The Division also prepares and reviews memoranda forming the basis for reports to congressional committees on pending bills relating to internal revenue matters, and coordinates the Service's position on questions involving the construction of existing statutes or regulations.

(*g*) *The Review Division*

The primary function of the Review Division is to examine any case, involving certain types of taxes, in which a refund or a credit to a taxpayer amounting to more than $200,000 has been proposed. This review is preparatory to the examination that will be made of each such proposed refund or credit by the Joint Committee on Internal Revenue Taxation. Section 3777 (a) of the Internal Revenue Code requires that a report be submitted to the joint committee covering such a proposed credit, and the Review Division is responsible for the preparation of this report to the committee.

(*h*) *Alcohol and Tobacco Tax Division*

This Division concerns itself with all of the legal work of the Internal Revenue Service pertaining to alcohol, tobacco, and certain firearms taxes. It performs, in this specific area, all of the combined functions performed by the above-listed Divisions in respect to other tax matters, including interpretation of laws, study and preparation of legislation, defense letters, and criminal cases. It also maintains technical supervision over the attorneys in charge (alcohol and tobacco tax) in the offices of the regional counsel.

FIELD STAFF

The Chief Counsel is represented in the field by 9 regional counsel, located in each of the regional administrative areas of the Internal Revenue Service. The regional counsel is the principal legal representative of the Chief Counsel in the field and acts as legal adviser to the regional commissioner. He is assisted by a staff, the organization and duties of which correspond somewhat to those of the Washington office of the Chief Counsel.

The appellate counsel and his staff handle all cases before the Tax Court in the regional area and provide legal advice to the assistant regional commissioner (appellate). The appellate counsel reports to

the regional counsel but is controlled in technical matters by the Appeals Division in Washington.

The enforcement counsel is similarly the field representative of the Enforcement Division in Washington. It is the enforcement counsel who performs the on-the-line task of screening fraud cases recommended for criminal prosecution by the regional staff of the Intelligence Division, the Washington Enforcement Division staff performing primarily a supervisory and administrative function. The enforcement counsel advises the assistant regional commissioner (intelligence) on legal issues.

The attorney in charge (alcohol and tobacco tax) supplies all the necessary legal services at the regional level in connection with the local operation of the Alcohol and Tobacco Tax Division.

The civil advisory counsel is the newest member of the regional counsel's staff. His function is to advise the regional commissioner on all legal problems of a civil nature which are not specifically within the purview of one of the other members of the regional counsel's staff.

In some of the regional areas, the entire legal staff is located at the regional headquarters. In other instances, usually in the regions covering a large geographical area, there are branch installations located at one or more of the district subdivisions of the region. The branches all report to, and operate under the supervision of, the regional counsel. They vary in makeup, some having representation from all four of the staff divisions of the regional counsel's office described above, while in others one or more may be omitted, depending on the workload in the area.

APPENDIX B

ORGANIZATION OF THE TAX DIVISION OF THE JUSTICE DEPARTMENT

The principal organizational breakdown within the Department of Justice is the division. One of these is the Tax Division, which assumes jurisdiction over and handles any case involving a Federal tax matter as soon as access to the courts is sought by either the United States or the taxpayer. This is pursuant to authority vested in the Department of Justice to represent the United States in all court actions. The Division is headed by an Assistant Attorney General who has the ultimate responsibility for and control over all the operations of the Division. The first assistant to the Assistant Attorney General acts in the capacity of an executive officer to the latter, handling considerable of the administrative routine of the Division, and relieving the Assistant Attorney General of some of the burden of case review. The Administrative Section performs the housekeeping chores for the Division.

FOUR OPERATING SECTIONS

Within the Tax Division there are four operating sections which carry out assigned duties as follows:

(*a*) *Trial Section*

The Trial Section handles all civil tax litigation to which the Federal Government is a party, except cases before the Tax Court. Its activities cover the various Federal district courts and the Court of Claims in the District of Columbia. Its operations are limited to these courts of original jurisdiction, since appellate cases become the responsibility of the Appellate Section, the activities of which are described below. The type of case with which the Trial Section finds itself concerned most frequently is the suit by a taxpayer against the Government for refund of tax payments. Suits for collection of taxes, filed by the Government against the taxpayer, constitute the second largest group of cases within the jurisdiction of the Trial Section. The balance involves miscellaneous matters such as representation of the Government's interest in bankruptcy petitions, suits for the release of Government liens for taxes, etc.

The Trial Section is numerically the largest within the Tax Division, since the attorneys of this Section have a wider area of responsibility and a larger group of cases to deal with than any of the others. Their function is to assume full responsibility for the processing of civil cases and includes the actual argument of the case before the court. For this purpose the Trial Section attorneys spend a substantial part of their time in travel status since the bulk of these matters are heard in Federal district courts all over the country.

(*b*) *Criminal Section*

All criminal tax fraud cases which the Office of Chief Counsel of the Internal Revenue Service wishes to refer to the United States attorney for prosecution are first routed to the Criminal Section of the Tax Division in Washington for clearance. Those cases which the Criminal Section feels are proper for prosecution are then sent on to the appropriate United States attorney with instructions to seek an indictment. The balance are returned to the Office of Chief Counsel. Unlike the Trial Section, the attorneys in the Criminal Section of the Tax Division do not, in the normal course of things, handle the court work themselves. Their primary function is to screen the cases referred for prosecution by the Office of Chief Counsel, which task is usually performed within the Washington office. On rare occasions, however, where the United States attorney requests help from the Washington office of the Justice Department on a specific case of a complex nature, one of the staff attorneys of the Criminal Section will be sent out to the field to assist in the preparation of the case for trial and, if necessary, in the actual trial.

(*c*) *Appellate Section*

The Appellate Section was organized for the specific purpose of handling tax cases before the United States courts of appeals. Any tax case which has been heard in a Federal district court or the United States Tax Court and in which an appeal is being taken will automatically be turned over to the Appellate Section for further handling.

(*d*) *Compromise Section*

Under the terms of Executive Order No. 6166, the Department of Justice has complete jurisdiction over any case in which it conducts the litigation. This includes the ultimate authority to pass upon offers in compromise. For the purposes of considering and acting upon such offers, there is within the Tax Division a group called the Compromise Section. All compromise offers will be turned over to this Section for processing regardless of whether the case is in a court of original jurisdiction, and thus within the orbit of the Trial Section, or up on appeal and thus within the jurisdiction of the Appellate Section.

APPENDIX C

INTERAGENCY PROCESSING OF THE PRINCIPAL TYPES OF CASES

TAXPAYER'S SUIT FOR REFUND

A taxpayer seeking a refund of taxes previously paid must first file a refund claim with the office of the local district director of internal revenue. After the claim has been rejected, or if it has not been acted upon within 6 months, the taxpayer may start a lawsuit against the district director (or under certain circumstances the United States) in the United States district court or sue the United States in the Court of Claims. In either case, the Tax Division of the Department of Justice has full control of the case as soon as the complaint is filed. Under present procedure, the Tax Division notifies the Chief Counsel's office by letter that the complaint has been filed, and requests that the Chief Counsel's office prepare a "defense letter." The defense letter, which is prepared in the Civil Division of the Chief Counsel's office, contains a statement of the fact situation involved, the applicable statutes and decisions, and a recommended defense position for the Government. Before preparing the letter, the Civil Division attorney sends for all the files on the case. No work is done on the case until the files are received. This takes, on the average, 3 weeks.

After the files are obtained, the attorney studies the case and drafts a proposed letter, which is reviewed at 2 or, in unusual cases, 3 levels in the Chief Counsel's office. The final version, produced about 4 months after the initiation of the case in the Civil Division, is then sent to the Trial Section of the Tax Division of the Department of Justice along with the administrative file.

Upon receipt of the defense letter and the file, the Trial Section attorney makes a new and independent study of the case, on the basis of which he then prepares the Government's defense. Rarely does he rely on the material supplied by the Civil Division without repeating the legal research. Where he finds it advisable, he communicates with the Civil Division attorney who handled the matter to obtain further information or advice or to request that supplementary information be obtained. Before trial, the Trial Section attorney may request, through the Civil Division, that the revenue agent who initially audited the case in the field be available for conferences at the place of trial. Only in rare instances will assistance be sought from the legal staff of the local regional counsel of the Internal Revenue Service.

The handling of offers to settle such cases is described in the section of this appendix on offers in compromise.

COLLECTION SUITS BY THE GOVERNMENT

Collection suits comprise about 25 percent of the work of the Civil Division and about 15 percent of that of the Trial Section. A collection suit is instituted for the purpose of assisting in collection of outstanding tax liabilities, frequently by extending the statute of limitations. Such suits are usually procedural in nature, the taxpayer not having disputed the Government's claim that the tax is due. Collection suits may also be brought in order to preserve the Government's claim in situations where the taxpayer has other creditors, or has transferred his assets to third parties.

The district director of internal revenue makes the initial recommendation that suit be instituted. The file in the case and the district director's recommendation are sent either to the office of the Assistant Commissioner (Operations) in Washington or directly to the Civil Division of the Office of Chief Counsel. If, in the former event, the recommendation is approved, the case is sent on to the Civil Division for further review. If the Civil Division approves, the attorney handling the case prepares a letter to the Trial Section of the Tax Division requesting that the suit be instituted, and outlining all the factual and legal background of the case. These letters are somewhat similar to the defense letters in refund suit cases. These cases are reexamined in the Trial Section in much the same manner as refund cases and, if approved by the Trial Section, are sent out to the United States attorneys' offices for initiation of the action.

TAX COURT SUITS

When the Internal Revenue Service proposes additional tax liability to which the taxpayer does not agree, the Commissioner issues a statutory notice of deficiency to the taxpayer, which allows him 90 days to appeal to the Tax Court before assessment is made. Thus, he may have his case reviewed in the Tax Court without having first paid the alleged deficiency.

Cases placed upon the docket of the Tax Court are processed by the Appeals Division of the Office of Chief Counsel and are tried by field representatives of the Chief Counsel, who are known as appellate counsel.

Upon receipt of the case file from Washington, the appellate counsel prepares appropriate pleadings, which are filed with the Tax Court after review in most instances by the Appeals Division in Washington.

The 16 judges of the Tax Court travel to the various field areas, as assigned, to hear the dockets of Tax Court cases. Following trial of the case, the appellate counsel prepares a brief which, like all the motions and pleadings prepared by him, is reviewed by the Brief Review Section of the Appeals Division before filing with the Washington office of the Tax Court.

TAX FRAUD CASES

The United States attorney prosecutes nearly all the criminal tax-fraud cases for the Government. Such cases, however, must first be approved for prosecution by both the Office of Chief Counsel of the

Internal Revenue Service and the Tax Division of the Department of Justice. Fraud cases begin with a recommendation for criminal prosecution following investigation by special agents of the Intelligence Division of the Internal Revenue Service. Each such recommendation is submitted to the regional enforcement counsel for approval. The enforcement counsel makes an exhaustive legal analysis of the facts and law of the case, and if, in his opinion, the case is up to prosecution standards, it is referred, through the regional counsel, to the Criminal Section of the Tax Division. It is accompanied either by a transmittal letter or by a lengthy criminal reference report. The short-form letter sets out the facts in the case, contains a short statement of the law involved, and requests that criminal action be initiated. The criminal reference report also is a request for prosecutive action but offers a very complete statement of the law and facts in the case, an analysis of the evidence, of the legal position of the Government, and of the possible defenses by the proposed defendant. It is used today, in accordance with recently revised procedures, in all cases except those where, in the discretion of the regional counsel, emergencies or limitations of time require immediate action.

In the event that the office of the regional counsel decides against prosecution, the Intelligence Division may protest this rejection. The positions of the local Intelligence Division office and of the enforcement counsel are then communicated formally to the Washington office, where they are reviewed respectively by the Assistant Commissioner (Operations), under whom the Intelligence Division operates, and the Enforcement Division of the Office of Chief Counsel, following which a final decision is made by the Chief Counsel. If the determination is in favor of prosecution, the case is then sent on to the Tax Division.

Upon receipt by the Criminal Section of the Tax Division, the case is assigned to an attorney in the Criminal Section who gives it a thorough reexamination. His recommendation is reviewed by the head of the Section. If both favor prosecution, and there is no policy question involved, the case is sent directly to the United States attorney for appropriate action. Under any other circumstances, it must go to the Office of the Assistant Attorney General for final decision. Where a case is unusually complicated or borderline in nature, the head of the Criminal Section may assign it to a second attorney in the Section for study before making a decision.

APPEALS

All appeals in tax cases are handled by the Appellate Section of the Tax Division, except cases in the United States Supreme Court. Where the Government has won in the lower court and the taxpayer files an appeal, the case file is generally turned over to the Appellate Section of the Tax Division, where the Government's argument on appeal is prepared. The Appellate Section attorney to whom the case is assigned will represent the Government before the Court of Appeals.

Where the Government has lost in the lower court, it is necessary to make a decision for or against appeal. The attorney who argued the case in the court of original jurisdiction prepares a memorandum in

which he recommends either that an appeal be taken, indicating the proposed basis therefor, or that the decision of the lower court be accepted.

The Trial Section attorney will also request the views of the Civil Division of the Office of Chief Counsel on the advisability of appealing the case. The Civil Division attorney who was originally assigned to this case for the purpose of preparing the defense letter or the request for a collection suit reviews the entire file and such record of the trial as is available, and prepares a recommendation for or against appeal. This recommendation is studied by one of the reviewing staff of the Civil Division and by the head of the Division. The recommendation is then considered by the Assistant Chief Counsel (Litigation), whose decision is final. His recommendation is forwarded, over the signature of the Chief Counsel, to the Tax Division.

The various recommendations are presented to the Chief of the Trial Section who, after study, transmits the file, after having noted his concurrence or nonconcurrence, to the Appellate Section. Here the case goes to one of the reviewers who, after studying the case and considering the previous memoranda, prepares the Tax Division recommendation. All of these documents, together with the case file, are then forwarded to the Office of the Solicitor General, who is vested with ultimate authority to decide all appeal questions. An attorney in the Solicitor General's Office is assigned the case for study and report. The recommendation embodied in this report is subject to at least one review and, in the event of disagreement, to a third review by a supervisory official, whereupon it goes to the Solicitor General for final determination. If the decision of the Solicitor General is against appeal, the case is closed. If an appeal is approved, the file is returned to the Appellate Section where the attorney who was originally assigned the case proceeds with the assembly of the record, the preparation of a petition for appeal, and an appellate brief.

Appeals from decisions of the United States Tax Court, although the Government has been represented in the lower court by the appellate counsel of the Internal Revenue Service, are also handled by the Appellate Section of the Tax Division. Where the taxpayer takes an appeal, the Court of Appeals Section of the Appeals Division of the Office of Chief Counsel takes charge of the preparation of the record on appeal, following which the Tax Division assumes control of the case. Where the Government loses in the Tax Court, the appellate counsel will prepare an action on decision memorandum similar to that described above. This memorandum, together with the entire file, is sent to the Appeals Division in Washington for review. Initial examination is made by the Brief Review Section attorney who reviewed the earlier documents in the case. His recommendation, together with the action on decision memorandum, then goes to an assistant head of the Division, who reviews the case and makes his own recommendation. The entire matter then goes to the head of the Appeals Division. He submits his views to the Assistant Chief Counsel (Litigation), who makes the final decision as to appeal. If the decision is to appeal, the Court of Appeals Section of the Appeals Division prepares a request to that effect which is forwarded to the Appellate Section of the Tax Division. The procedure in the Tax Division in such a case is the same as that described above with the exception that a staff attorney in the Appellate Section examines

and passes upon the request before it goes to the reviewer for final determination of the Division recommendation. If the ultimate decision of the Solicitor General is for appeal of the Tax Court decision, the Court of Appeals Section of the Appeals Division prepares the petition for appeal to the proper court and assembles the record. All further responsibility for the case is lodged in the Appellate Section.

Where an application to the Supreme Court for certiorari is under consideration, the procedure is approximately the same as that described above, except that the original action on decision memorandum is prepared by the attorney who had charge of the case on appeal or in the Court of Claims (these go directly to the Supreme Court). Also, cases which are to be argued before the United States Supreme Court are normally under the jurisdiction of the Solicitor General. However, the briefing is usually done by the Tax Division and, at times, responsibility for arguing such cases is delegated to an Appellate Section attorney.

OFFERS IN COMPROMISE

Section 3761 of the Internal Revenue Code authorizes the Commissioner of Internal Revenue, with the consent of the Secretary of the Treasury, to compromise any tax case. The same statute vests this authority in the Attorney General in any tax case in which litigation is pending or under way.

The term "compromise" has a broad area of application and is used differently by the Internal Revenue Service and the Tax Division. Extensive negotiations are carried on between taxpayers and the Internal Revenue Service on cases which have not reached the stage of litigation and which do not concern the ability of the former to pay an assessed liability. These are not considered by the Internal Revenue Service to be "compromise" situations and are not subjected to the multiple levels of review accorded the cases which are in litigation or which involve the issue of collectibility. It is with the latter types, processed under section 3761, that this Section deals.

Offers in compromise of assessed tax liability in cases which have not reached the litigation stage and which are based on alleged inability to pay are usually submitted to the district director of internal revenue in the field. Under a recently revised procedure, all such offers, where the liability in question is less than $500, may be finally accepted for the Government by the district director. All offers may be rejected at that level. Where the liability is $500 or more, the district director must submit his recommendation for acceptance to the Office of the Commissioner of Internal Revenue in Washington for approval.

Part (b) of section 3761 requires that a legal opinion be prepared by the General Counsel of the Treasury and be placed on file in the Office of the Commissioner in all cases where an offer in compromise is accepted. This function has been delegated to the head of the Claims Division of the Office of Chief Counsel. Therefore, all cases involving a liability greater than $500, which have been approved by the district director in the field and by the Office of the Commissioner, are sent to the Claims Division for study and for preparation of the required legal opinion before they can be acted upon.

When an offer in compromise is submitted in any case which is under consideration by one of the divisions of the Office of Chief

Counsel, the offer, regardless of amount, together with the recommendation of the district director, is forwarded to that organization for study and preparation of a further recommendation from a legal viewpoint. The case is then sent to the Office of the Commissioner for final determination. If the decision of the Commissioner is to accept the offer, the Claims Division prepares the required legal opinion.

Offers in compromise of tax cases in litigation (except those in the Tax Court) are submitted to the Department of Justice and are reviewed there by the Compromise Section of the Tax Division. Where such an offer is made, initial consideration is given it by the attorney who is currently in charge of the case. This will usually be a Trial Section attorney, but in the instance of a case which is up on appeal, it will be an attorney of the Appellate Section. Before making his own recommendation, the Tax Division attorney requests the views of the Chief Counsel's Office on the offer. A recent procedural innovation by the two agencies makes this step unnecessary in certain cases. Where a recommendation is sought, the attorney who originally had charge of the matter for the Office of the Chief Counsel obtains the views of the local district director of internal revenue, and of any other interested element of the Service, and then prepares his own recommendation, which is reviewed in the Chief Counsel's Office in the same manner as other such recommendations. The Tax Division attorney then forwards his own recommendation and that of the Chief Counsel to his section chief, who adds his own views and transmits the case to the Compromise Section. There the recommendation will be reviewed, usually by two other attorneys. In some of the less complicated cases, the section head handles the case without a prior staff recommendation. Pursuant to delegations from the Attorney General to the Assistant Attorney General in charge of the Tax Division, and from the latter to the Chief of the Compromise Section, all offers in which the recommendations by the Office of Chief Counsel and at the several stages within the Tax Division have been unanimous may be acted upon finally at the Compromise Section level, except certain types of cases involving large amounts of money. All such cases or those which the section head feels should go to the Assistant Attorney General, and all cases in which there are conflicting recommendations are sent to the Assistant Attorney General through his first assistant for further review. Those cases involving large amounts of money, or which the Assistant Attorney General believes to involve novel questions of law or policy, are then reviewed by the Attorney General. All others are disposed of finally by the Office of the Assistant Attorney General. The decision of the Department of Justice in such cases is binding upon the Internal Revenue Service.

APPENDIX D

CHRONOLOGY OF SUBCOMMITTEE ACTIVITIES FOR 1953

January 15, 1953.—Subcommittee reconstituted by 83d Congress with Robert W. Kean of New Jersey as chairman. Other members: Carl T. Curtis of Nebraska, John W. Byrnes of Wisconsin, Thomas E. Martin of Iowa, Cecil R. King of California, Thomas J. O'Brien of Illinois, and Hale Boggs of Louisiana.

January 16, 1953.—House Resolution 91 introduced authorizing Committee on Ways and Means to conduct studies and investigations of matters within its jurisdiction.

January 16, 1953.—House Resolution 92 introduced authorizing the Committee on Ways and Means and subcommittees thereof to sit during sessions and recesses of the 83d Congress.

January 23, 1953.—Rules of procedure of the subcommittee in the 82d Congress adopted by the subcommittee for use during the 83d Congress.

January 29, 1953.—Chairman Kean introduced House Resolution 123 providing funds for the expenses of the investigation and study authorized by House Resolution 91.

February 3, 1953.—Public hearings begun on the Alcohol and Tobacco Tax Division. Dwight E. Avis, Head, makes charge of political interference in operation of that Division and outlines its operations.

February 4, 1953.—Public hearings begun concerning financial affairs of Carroll E. Mealey, former Deputy Commissioner of the Alcohol Tax Unit.

February 18, 1953.—House Resolution 91 passed.

February 19, 1953.—Abandonment of health policy in criminal tax fraud cases announced by Attorney General Brownell.

February 20, 1953.—Carl T. Curtis, Nebraska, resigned from subcommittee. Antoni N. Sadlak, Connecticut, appointed in Mr. Curtis' place.

February 25, 1953.—Public hearings begun on career of Donald S. Tydings and general conditions of Atlanta office of the Alcohol and Tobacco Tax Division.

March 4, 1953.—Transcript of testimony given by Donald S. Tydings in public hearings sent to the Department of Justice with the recommendation that the Department examine such and ascertain whether perjury had been committed.

March 5, 1953.—House Resolution 123 passed appropriating $100,000 for the expenses of the investigation and study authorized by House Resolution 91.

March 9, 1953.—Study of the operations of and relations between the Chief Counsel's Office in the Bureau and the Tax Division in the Department of Justice begun by the staff.

March 12, 1953.—Public hearings begun concerning the appointment of personnel in the Louisville office of the Alcohol and Tobacco Tax Division.

March 17, 1953.—Public hearings begun on the Housatonic Dyeing & Printing Co.

March 27, 1953.—Executive session testimony by Henry W. Grunewald.

April 6, 1953.—Study of reorganization and administrative matters of Bureau begun by staff.

April 13, 1953.—Public hearings begun with Henry W. Grunewald.

May 25, 1953.—Public hearings held in re ruling of John L. Leban.

May 26, 1953.—Public hearings held on ruling obtained by General Foods Corp.

May 29, 1953.—Secretary of the Treasury Humphrey announced that effective July 1, 1953, the number of Bureau of Internal Revenue regions throughout the country would be reduced from 17 to 9.

June 3, 1953.—Grunewald testimony sent to the Department of Justice for consideration as to possible perjury.

June 3, 1953.—Subcommittee decided to return the Oliphant log to the attorney in the Department of Justice from whom it was subpenaed.

June 4, 1953.—Logs of T. J. Lynch, former General Counsel of the Treasury, and E. H. Foley, Jr., former Under Secretary of the Treasury, subpenaed.

July 9, 1953.—Secretary of the Treasury Humphrey announced that the Bureau of Internal Revenue would thereafter be designated as the Internal Revenue Service.

August 3, 1953.—Public hearings begun on the extent of the influence of Treasury officials on the decisions in tax matters in the Bureau.

August 5, 1953.—Transcript of the hearings on Lasdon case referred to the Department of Justice and to the Bureau of Internal Revenue, for such study and action on the matter as might seem appropriate to each department.

October 5, 1953.—Executive session, consideration of proposed draft of report.

October 6, 1953.—Executive session hearings with testimony by Commissioner T. Coleman Andrews and other Internal Revenue Service officials.

October 7, 1953.—Executive session hearings with testimony by Attorney General Herbert Brownell and other Justice Department officials.

October 8, 1953.—Executive session hearings with testimony by Under Secretary of the Treasury Marion B. Folsom.

October 30, 1953.—Subcommittee's report completed.

APPENDIX E

On July 1, 1953, the Commissioner of Internal Revenue established standard nomenclature for organizational units and principal officers of the Internal Revenue Service. This directive was a result of a study undertaken by the Internal Revenue Service to eliminate the confusion which resulted from the frequent changes in nomenclature during implementation of Reorganization Plan No. 1 of 1952.

The geographic divisions and subdivisions of the Internal Revenue Service were redesignated as regions and districts. New names were given to units of operation at national, regional, and divisional levels. The titles of some of the principal officers of the Internal Revenue Service were also changed.

The names of the major units and the titles of the corresponding officers now are as follows:

Internal Revenue Service—Commissioner
National office—Assistant Commissioner
Regional office—Regional Commissioner
District office—District Director
Division (national)—Director
Division (region or district)—Chief
Branch—Chief
Section—Chief
Unit—Supervisor
Group—Supervisor

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