

purchase; perhaps the amount is \$35,000. He asks the dealer to bill a certain school or college for perhaps one-fifth of the items, but at the full purchase price of the collection. He then advises the school that he has located several items he knows the library would like to own. He would like to buy them for the institution, even though the price is admittedly high. He has, therefore, asked the dealer to send them to the school, but he is sending his personal check to the school so that they can pay the bill.

Now what has happened in this literary version of the union "sweetheart contract"? The collector gets a tax deduction for the entire amount of his purchase and ends up with 80 per cent of the items in his own collection. The school is the innocent "dupe," though a knowledgeable librarian or curator might suspect something was wrong by virtue of the high price of the items received. The collector and the dealer, however, are not innocent individuals trapped in a maze of tax law; on the contrary, they are highly sophisticated sharpies who are trying to defraud the government.

Congress has passed certain laws affecting the collector and the institution. These laws are designed to encourage the collector to give materials to institutions so that they may be studied by the many instead of the few and so that the collector may receive some financial benefit from his generosity. Congress never intended that the main motive for the gift would be tax avoidance.

NOW IT SO happens, in the actual operation of this section of the Internal Revenue Act, that there are occasions when a donor of books, manuscripts, paintings, securities, or real estate may actually profit by making a gift to an educational, religious, or charitable institution or organization. But we must assume that this is an accident—the donor, when he bought or created the book, manuscript, painting, stock, or building, did not plan ultimately to make a gift on which he would realize a profit. It merely happened, and one day he found himself the possessor of materials worth much more than his cost.

# Nixon's Appraiser On the IRS

By Ralph G. Newman

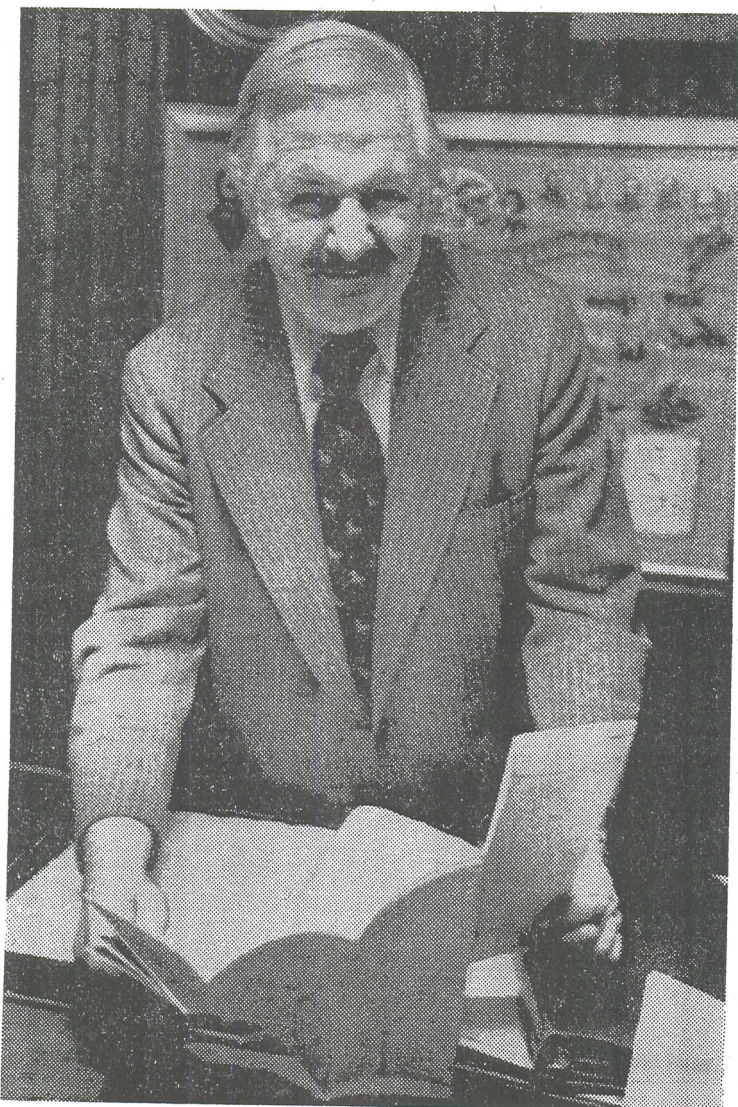
The author, a Chicago documents appraiser, was indicted last week on charges of conspiring to illegally backdate former President Nixon's 1970 gift of some public papers to the government. This article originated in the mid-1960s as a speech Newman delivered to the Manuscript Society and was first published in the society's magazine, *Manuscripts*. Another version, from which this is excerpted, then appeared in the June, 1966, issue of *American Heritage* magazine under the title "Appraisals and Revenooers."

I AM WRITING about a subject which in the past has not ordinarily been discussed in public, but the time has come for a public airing of it. Many librarians, collectors, curators, and dealers are called upon in the normal course of day-to-day activities to place a value on a letter, a manuscript, or a book, or on a collection of such items. And on occasion they are required to prepare a document to satisfy the whims of Internal Revenue Service examiners.

This is simply "appraising," but of late the word seems to indicate to many not the science of placing a true, current, acceptable value on an object, but part of a complex game of wits whose ultimate objective is to confuse, baffle, or outwit one or several exceedingly curious individuals in the Treasury Department. I shall cite a few dangerous examples.

John Smith has a collection of papers. Let us say they are his own, accumulated during seven less-than-earth-shaking months as ambassador to Mali and consisting in the main of carbons of letters to his political sponsor asking him, "For heaven's sake, get me out of this place!" He arranges for a friendly institution to buy a fraction (probably 5 per cent) of his collection for \$5,000 (and chances are that he donates the \$5,000 to the institution). The following year he donates the balance—95 per cent—of his collection to the institution and takes as his tax deduction 19 times \$5,000, or \$95,000. This may seem legitimate, but in actuality it is fraud perpetrated by the donor and a friendly official of the institution.

Another example: The benefactor goes to his favorite and very friendly bookseller and makes a very sizable



United Press International

The author, Ralph G. Newman, who appraised former President Nixon's papers.



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His income bracket made it possible for him to make a gift and actually be ahead in dollars because he had made the gift. In the case of the securities or real estate, he could, if he chose, have converted these items into cash, taken his profit, and paid his capital-gains tax—he would still have been ahead of the game. But could he really have done this with his manuscripts, books, or paintings? Perhaps. That's the big question the government asks and the appraiser must answer. He is required to state a figure that represents the price at which the object can be sold at the time of the appraisal or at the time of the gift. And he must be prepared to prove his case.

What should the would-be donor do? He should consult a capable tax attorney or accountant and use the services of competent appraisers.

What should a donor expect from an appraiser? His appraisal document should fully describe the gift and should be interpretive. The document can note the collecting, historical, and library value of the items involved and indicate the basis upon which a valuation has been established.

Prospective donors will be well-advised not to fall victim to some of the folklore of the gift-appraisal field. Example One: "It's none of the government's business where or when an item was acquired; the only concern is the appraised value at time of the gift." Wrong. The government can, and often will, ask where one purchased an item and how long one has had it, and can ask to see the original invoice.

Example Two: "Nine times out of 10 the federal examiner is baffled by the whole business and passes it because he can't figure it out." Wrong again. Some of the valuation men do know some of the fundamentals of the collecting world. They are familiar with auction catalogues, "Book Prices Current," and other guides, and often employ knowledgeable consultants.

Sometimes, unfortunately, there is a double standard in appraisal. Sen. "X" makes a gift of his papers to the Library of Congress and claims a deduction on his tax return. His return is audited and passed. His regional IRS office accepts the principle of his gift and agrees that his papers have value. They may question the amount of the valuation and there may be an adjustment, but in

the main, the donor and the governmental agency are in agreement.

"Thomas Z," an author, makes a gift of his papers to his alma mater and files a tax return from his home. In his district, the regional office takes the position either that (a) the papers have no value whatsoever or (b) they will accept a valuation only if "Z" can prove that other papers of his have been sold; that sale will be used as the guide. Even if the author is famous, if by chance no manuscript of his has ever been offered for sale, the government would refuse to accept any valuation! Of course, that seems preposterous, yet it has happened and is happening now.

THUS FAR, perhaps, I have devoted too much space to discussing money, and that is of little ultimate concern. Collecting is a noble pursuit. It is intellectual, it is stimulating, it brings benefits to many. The complete collector is not a grubby individual hotly in pursuit of a tax benefit or an honorary degree; he is a remarkably well-rounded individual whose knowledge, instinct, courage, and persistence all aid him in the hunt for the elusive, the mysterious, the almost unavailable, the unbelievable. He has knowledge and energy—although some money doesn't hurt, either—and he generously expends all three in his quest. He spends his money willingly, because he believes that what he receives for his cash is worth it—not primarily in dollars and cents, but in an intimacy with the greatness of the past.

I share with most persons who have a genuine affection for the printed or written word the sense of uneasiness that comes from hearing dealers, collectors, and institution officials discuss an item as an investment in the same sense one would discuss a stock. When you buy a book or an autograph you invest in incredible adventure, excitement, and mystery. Where else can you spend your money so wisely?

Spend it, then—wisely, freely, foolishly, carefully—it's your money. But don't try to make it back at the expense of our uncle in Washington. For I assure you that there isn't any dodge that some sharp mind in the Internal Revenue Service hasn't heard about. This doesn't mean that some people haven't gotten away with it. But the day of reckoning is drawing closer; when it comes, all of us, the calculating and naive, the bad and the good, will be asked to pay the price.