

Memo: To: Dave Gergen

11-28-73

From: Ben Stein

Attached is the statement I suggest making about the gift papers.

I have typed it myself and made no copies.

I believe that a careful reading of the file reveals the following interesting facts:

- a.) no one in either the GSA or the WH had any reason to think a gift had been consummated before the law changed;
- b.) Frank De Marco's incompetence in this entire matter is scarcely believable;
- c.) Frank DeMarco's memo on why the gift is proper is on its face false and has factual misstatements;
- d.) Loie Gaunt's recollection and "supporting" documents do not support anything at all about the 1969 gift;
- e.) Several people at the GSA were ~~now~~ aware, and presumably are still aware, that the gift was never consummated (at least in their opinion);
- f.) In September of 1971, John Wesley Dean was told by his staff that the gift was never consummated and that the President should take it back and pay a revised tax. He is not recorded in the file as having done anything;
- g.) The exculpatory memo of Mr. Casselman, GSA,GC, is on its face wrong and contains factual misstatements;
- h.) There is a real question in my mind as to whether the President's 1968 gift was properly executed.

I herewith return all the papers and thank you for the opportunity to do this interesting job. I typed this and there are no copies.

On March 27, 1969, the President made a gift of a large volume of papers, books, and other artifacts of his career prior to becoming President to the United States of America through the National Archives of the United States of America, a part of the General Services Administration. The gift was made in ~~accord~~ accord with the Internal Revenue Code as it then existed, which allowed a charitable deduction for papers and other artifacts to be measured by the value of the gift if sold. The gift was valued at \$576,000 by Mr. Ralph Newman of Chicago, Illinois, a recognized appraiser of Presidential Papers, including the papers of Lyndon B. Johnson and earlier Presidents.

In accord with the Internal Revenue Code and regulations issued thereunder, the President and Mrs. Nixon's income tax return for the taxable year 1969 specifies, for the gift, the donee, the date of gift, an explicit description of the gift, an appraisal of the market value of the gift, and ~~any~~ any restrictions which have been placed upon the gift.

Further in accord with ^{the} Internal Revenue Code, the President and Mrs. Nixon were ~~extremely~~ limited in what ~~they could give~~ part of the deduction they could apply to ~~any~~ any one year's taxable income. The deductions for the gift were and are being applied against income in the years following the taxable year 1969, in accord with ~~The~~ Internal Revenue Code. All parts of the transaction were handled for the ~~President~~ President by

his designees, primarily Edward L. Morgan, in 1969 Deputy Special Counsel to the President and Frank DeMarco, Jr., an attorney in Newport Beach, California.

~~From a tax investigation by the Internal Revenue Service of the facts surrounding this gift and want and expect to be treated the same as any other taxpayer~~

(the President and Mrs Nixon's)
The Internal Revenue Service has had ~~my~~ income tax returns ~~xxx~~ covering this transaction ~~xxxx~~ for at least 44 months. ~~xxxxxx~~

No question as to the propriety of the gift or the deduction has been raised. However, ~~I~~ ^(the President) welcomes a full investigation by them and will meet such an investigation as any citizen is ~~xxxxx~~ entitled to do.

(the President and Mrs Nixon's)
The gift was made for the purpose of lowering ~~my~~ income tax liability in a lawful way, a practice which is explicitly encouraged by the Internal Revenue Service, which urges citizens to pay no more tax than is legally due. The gift was made for the further purpose of providing the nation's historians with historical material.

(the President's) ^{he}
It is ~~my~~ understanding that had ~~I~~ ^{he} sold the papers on the retail market at the time ~~I~~ ^{he} made the gift, the proceeds from such sale would have been taxed at the capital gains rate. ^{His} ~~My~~ net proceeds from such a sale would have then been significantly higher than the total tax saving ~~I~~ ^{he} expects to realize from the gift and the serial deductions.