



VIEWPOINT

by Elin Lake Ewald, ASA

JOURNAL Editor Nancy Smith dropped by our New York office recently for a brief chat that transformed itself into a three-hour conversation about possibilities for ASA members to better communicate news and ideas beneficial to all of us. This column has been initiated in the hope of gathering comments from members nationally, enabling anyone who wishes to give voice to views about the art market, legislation relating to appraisers, new rules and regulations affecting us, or, in fact, anything newsworthy of importance to personal property appraisers.

A review of an art/insurance seminar was preempted by "My Chat with IRS," a one-on-one conversation with a local representative of that governmental agency who had called "as a friend". The conversation focused on estate appraisals and what transpired that afternoon seemed of sufficient interest to think it might be worthwhile passing on and asking for comments.

According to the gentleman who handles art matters in the local IRS office, the reference books of choice are THE ANNUAL ART SALES INDEX and GORDON'S PRINTS AT AUCTION, their "bibles". When estate appraisals come through their venue the local gurus look first at paintings, silver, American furniture, and books in descending order of interest. There's no question that IRS is taking greater care in scrutinizing estate appraisals and will be stepping up this activity in coming months. One reason is that donations are down (or have become so much more professional that there's less for IRS to pounce upon). So the gentlemen from IRS need to uncover new pastures on which to graze. And estate appraisals are it.

Fair warning. We were warned to find out, prior to undertaking an estate appraisal, if there had been a recent insurance appraisal of the same items. IRS will be hunting for these insurance appraisals and comparing notes.

It's important to mention specific condition in an estate appraisal, just as it is in insurance reports. Now it is also necessary to present auction prices or secondary market values, and their sources, for items over \$10,000; and it certainly doesn't hurt to provide comparable values for lesser goods. The local IRS officer said he also looked for an explanation of the current market for the properties being appraised. Appraisers, he said, should note where the goods would be sold on the secondary market, i.e., specific auction houses or dealers.

There is no doubt estate appraisals are becoming more like donation appraisals in their requirements for specificity. Appraisers should be able to answer the questions: What is the basis for the evaluation? What is the market in which these items should be most suitably sold? Sotheby's? Sotheby's Arcade? Butterfield & Butterfield? Arman's? Eldred's? Hindman's? Julia's? O'Gallerie's? Doyle's? Freeman's? DuMouchelle's?

It (*sic*) the item has obvious value, but the appraiser can't locate a comparable which has come up at auction, it is necessary to substantiate retail value. In valuing art and objects the appraiser can go back as much as five years to find comparables if there are none current.

Reviewing estate appraisals has given me the opportunity to speak with fellow ASAs I might not have met before. One of these was Richard-Raymond Alasko, ASA, Chicago, who agrees that scrutiny of estate appraisals is increasing because "IRS is becoming a little more sophisticated." Alasko finds that abuses in donation appraisals are down considerably and appraisers are becoming more careful. "IRS," he comments, "is ferreting out estate cases in order to justify its own bureaucratic existence." He continues, "IRS staffers repeat rules exactly, but don't always understand the larger tax implications. That's why IRS so often loses in tax court. In order to have the professional interpretation of the



appraiser understood, which is clearly placed in the report, the entire report deserves to be read.” The IRS Art Advisory Panel, Alasko points out, while competent, tends to evaluate on procedure and without interpretation. “Theory, practice and strategy are the weakest points in the Panel’s work.”

Alasko believes that the workings of the Panel should be changed and that appraisers should be represented, something which may come about through the growing importance of The Appraisal Foundation, now a recognized authority. “The method of review and response to IRS should be changed; its challenges tend to be of the pseudo-analytic approach. Instead, there should be the use of a wide range of statistics and full context.” Alasko takes issue with the method and way in which IRS responds and protests that its approach should be non-speculative. He refers to a recent New York Times Sunday supplement article entitled “The Power of the IRS”.

Continued queries on new approaches to estate appraising went to Terry King, ASA, of the Denver Chapter. “Our ultimate reader (for estate appraisals) is the tax court, not the local IRS office or the client.” King agrees that estate appraisals are definitely being more carefully scrutinized “because IRS is better able to scrutinize appraisals, having more knowledge of the art market at present.” Connoisseur Appraiser, Inc., the firm which Terry and his mother, Janie M. King, own uses among its guides the ASI, LEONARD’S (for lower values), as well as catalogs from auction houses east and west. If the most appropriate market for a work is outside the Denver area, the Kings will contact

auction houses in other parts of the nation in order to determine “the best price in the most appropriate market”.

Will the IRS Art Advisory Panel ever include ASA members, rather than sticking exclusively to ADA and museum personnel? “Yes,” said King, “because IRS operates on federal funds, and once appraisers are licensed the IRS will have to deal with licensed appraisers on a more equal level.” We couldn’t agree more. (Author’s comment).

In Memoriam

James St. Lawrence O’Toole, ASA, 1896-1989, charter member of the New York Chapter. It is on a sad personal note that I conclude this VIEWPOINT. Jimmy O’Toole, who would have celebrated his 94th birthday on November 5th, died in Venice on October 19th. In 1932 he established the firm now known as O’Toole-Ewald Art Associates, Inc., with offices in Venice (where he lived half the year), Paris and New York. During WWII, Jimmy served in OSS (Office of Strategic Services), stationed in Vatican City, engaging in art intelligence assignments and aiding in the recovery of numerous works of art for the Vatican, which awarded him the title Commendatore of the Military Order of the B.V.M. della Mercede. A Fellow of the Royal Antiquarian Society, Dublin, and listed in WHO’S WHO IN AMERICAN ART, this most senior member of Senior ASA members over a long and notable career appraised countless collections of art for museums and private collectors, among whom were Aristotle Onassis and J. Paul Getty. He left behind many friends and will be deeply missed.