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(Topic: Foundations)

COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*

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Statement of Peter G. Peterson, Chairman, Commission on Foundations and Private Philanthropy

Before the Senate Finance Committee
Wednesday, October 22, 1969

Contents

PETER G. PETERSON,
Chairman of the Board and President,
Bell & Howell Co., Chicago, Ill.

Section I - BACKGROUND OF COMMISSION

My name is Peter G. Peterson. I am chairman and president of Bell & Howell Company, Chicago. I am here today in my capacity as chairman of the Commission on Foundations and Private Philanthropy. This is a group of private citizens who are making what we hope and trust is an objective study of foundations, of these important, these complex, these poorly understood, and -- in many ways -- uniquely American institutions.

Permit me to outline briefly the origin of this group. I was invited to head this commission in the spring of this year, by John D. Rockefeller 3rd, representing several major foundations, which in turn where stimulated by a proposal for such a citizens commission by Alan Pifer, president of the Carnegie Corporation, and, I am told, by the chairman of this Senate Committee among others. The reasons for these foundations' choice of a chairman have mystified me to this day, and perhaps at this point mystifies some of the foundations as well.

I, in turn, accepted this assignment on the following conditions:

1. That leaders in the legislative and executive branches would be consulted as to the potential value of such a commission. The matter was discussed with the Chairman of this committee and the Chairman of the Ways and Means Committee. Both were gracious enough to say such an inquiry might be useful. They of course bear no responsibility for our results. I should also say that Messrs. Tom Vail and Joseph Ingolia of the Senate Finance Committee staff and Dr. Larry Woodworth of the Joint Committee on Internal Revenue have been very helpful in posing relevant questions.

   I should mention appreciatively the Under Secretary of the Treasury, the Assistant Secretary of Treasury for Taxation, and the Director of Internal Revenue and their staffs, all of whom gave our various studies the benefit of their cooperation and obvious resources.

2. I also agreed to accept this assignment only if I could assure myself and others of the objectivity of such a commission and its staff, by selecting it myself with careful attention to the background of each person.

For example, I felt it necessary to withdraw invitations in a number of cases where I found that certain persons, however outstanding, had affiliations with foundations that might make the objectivity of their judgments about foundations subject to question.

In my own case, I have no foundation of my own, though Bell & Howell does have a company foundation. I am not on the board of any foundation, as I understood the term at the time I accepted this assignment. Upon reading the new definitions in the House Bill, I found that as a trustee of the Brookings Institution and the National Educational Television -- I am considered a foundation trustee and I leave it to you to decide how much prejudice to allow for. I do not propose in my testimony to go into any of the particular problems of those organizations with respect to the pending legislation.

I felt that this need for independence extended to the financing of our effort as well. We are raising our own money from companies, labor unions, and individuals and have not accepted funds from foundations. I think it is possible that some of our recommendations will not be popular with foundations and I would not have wanted foundation contributors to feel we were ungrateful or unfriendly recipients of their support.

I have attached a list of Commission members and staff to this statement. I believe you will agree that they represent a variety of backgrounds.

know you will also agree that foundations do not lack for critics d this Commission has wanted to be sure it noted these criticisms -- l of which you have probably heard before. Some of these allegations they have been reported to us are:

"Many, or most foundations are nothing more than tax dodges for millionaires."

"Foundations are heavily involved in politics and not charity. Why should these activities be fostered at public expense?"

"Foundations often use their money to further extreme ideologies -- left and right."

"Many foundations represent great concentration of in perpetuity power and money controlled by an 'Ivy League' self-appointed establishment."

"Foundations spend a great deal of money internationally and ignore the needs of our own society."

"Foundations squander money, that would otherwise go to charity, on high salaries and fancy overhead expenses."

"Foundations hoard money as though it were their own when it belongs to the public and should be spent on charity."

We quickly found that many of these observations, however hostile or entertaining, depending upon one's point of view, had one thing in common ... very little evidence by which they could be supported or refuted. Early in the life of this Commission on April 14, 1969, we developed a work outline of the Commission's study and I quote: "It is anticipated that the primary function of the Commission will be to formulate judgments on the principal policy questions which are raised by the role of foundations in our society ... the Commission does not expect to engage in any extensive fact-gathering activities. Very extensive data about foundations and their activities are available from both public and private sources."

No commission every started its inquiries upon a more erroneous assumption.

For example, when we asked how frequently each kind of foundation abuse occurred, we were told either that there were no such studies, or treated to an anecdote or two with no clear notion of whether the anecdote was an exception or expresses a persistent pattern.

Faced with a vacuum of information, we launched several studies of foundation abuses. For example, Arthur Andersen, a leading accounting firm, surveyed 200 tax accountants across America anonymously in an attempt to estimate the frequency and nature of tax abuse by foundations. The National Opinion Research Center is serving as an outside research consultant, and Market Facts, Inc. is conducting a survey among foundations of all sizes and types, randomly selected from the Internal Revenue Service files, with their complete cooperation. The so-called 990A forms which foundations must file annually were analyzed for evidence of various kinds of self-dealing transactions. May I say, parenthetically, that while the 990A form can, in our view, be substantially improved, it does contain valuable information. We find it distinctly ironic that, in view of widespread allegations about undations and the equally widespread ignorance, the 990A form parently remains one of the less utilized sources of information the government storehouse.

it of these studies of abuses have also come recommendations for your nsideration that deal with 1) additional, potential abuses that we lieve should be covered in legislation; 2) much more intensive IRS diting of foundations, and 3) concrete suggestions for some different ncepts of public disclosure and public reporting that should keep u and the public much better informed on the level of any such uses in the future.

the question of how much foundation money goes to quasi-political urposes, and how much to generally acceptable charitable purposes, could find either no estimates at all or what were frankly self- erving guesses. I will show you today our preliminary findings on he numbers of foundations making, and the amounts of money spent for, rious kinds of sensitive grants. I believe we would all agree that he kind of legislative action that is appropriate depends at least artly on the incidence of various kinds of grants -- if you knew hat questionable grants account for 1% of the total, you might feel uite differently than if you found they were 30%, 40%, or more of the rants, as some have apparently assumed.

nce again, I will offer today some practical recommendations on what believe to be appropriate new kinds of legislative action for the andling of sensitive grants that stand on the borderline between harity and politics.

the allegation of foundation hoarding of money and low payout of unds to charity, we will show you some data on the rate of return in 968 on foundation assets as well as the payout to charity. You will e how this and other evidence has led us to recommend that you onsider legislating a higher payout requirement for foundations.

liable data of the most fundamental nature is not obtainable. For example, you have heard testimony that there are approximately 22,000 foundations in the United States, with assets of 20.5 billion dollars. Confusion abounds as to the definition of a foundation which at least partially explains why others say there are 45,000 foundations. I must also remind you that the assets reported on the 990A form may often be carried at cost rather than market value. A prime example is the Irvine Foundation which recently testified before this Committee.

Its assets have been listed at 6 million dollars. Yet, testimony before this Committee clearly establishes that the value of the assets at a minimum is substantially in excess of 100 million dollars and our Commission has seen estimates that approach one billion dollars.

The loss, or perhaps the absence, of confidence in foundations may be a reaction to fear of the unknown -- in terms of assets, or activities, or both.

To move on, I would not be so fatuous as to suggest that our Commission, with its limited resources of time and staff, has answers to all these allegations or questions, or even all the answers to any one of them.

Perhaps you will agree, however, that we do have evidence that might make some of our recommendations, and perhaps some of your ultimate decisions, more firmly based on fact than the hearsay and anecdotal approach that seems to characterize the situation today.

What I will present to you is in the nature of a preview of a final report which is and always has been scheduled for completion prior to year end. Some of our studies are only partly completed and where that is true I will present only preliminary findings. Also, all my fellow Commission members were not able to attend our most recent meeting, and what I say today must be considered as my view of the consensus of our deliberations, and not as a final report.

Before presenting you with our findings and recommendations on foundati[illegible] I feel we must look at private philanthropy a good deal more broadly.

Unless we assess the present and future needs of charitable organizati[illegible] in our society which are the recipients, after all, of most foundation grants -- we cannot intelligently assess the roles of foundations, and indeed private philanthropy as a whole.

Foundation funds are the river that has irrigated many important crops. Prudence dictates that before we change the course of this stream, we calculate the effect on our resources.

Section II - THE FINANCIAL NEEDS OF AMERICA'S CHARITABLE ORGANIZATIONS

We are undertaking the hazardous and admittedly conjectural task of projecting the national needs in 1975 for each of the major charitable and social sectors of our society.....health and medicine, education, religion, welfare, the arts, and so forth.

Then, we propose to estimate the amounts of support that might be expected from various sources if current trends continue.

From this, we expect to come up with a kind of "giving-gap" -- the projected deficit in our social accounts.

You, I understand, have seen similar projections in the area of Medicare and Medicaid and have undoubtedly been as sobered as we have been by the projections of the experts. Quite frankly, we have been so taken aback by the dollar needs, and by deficits projected in tens of billions of dollars, that we are rechecking our own assessment of these needs..... though we are quite prepared now to believe the melancholy extrapolation that this society is going to need to find tens of billions of dollars more by 1975. And if by then, our economy reaches its current cosmic projection of over 1.3 trillion dollars, I think it is not too hopeful to say that our society will somehow energize itself to find the money it really needs to attain our minimum standards of social health -- or at least to cope realistically with our major social illnesses.

How else might we assess the needs of charitable organizations in 1975?

We have approached this question in two other ways, less quantitative perhaps, but nevertheless essential to a balanced understanding.

First, more than 750 distinguished citizens across the country have answered an extensive questionnaire.

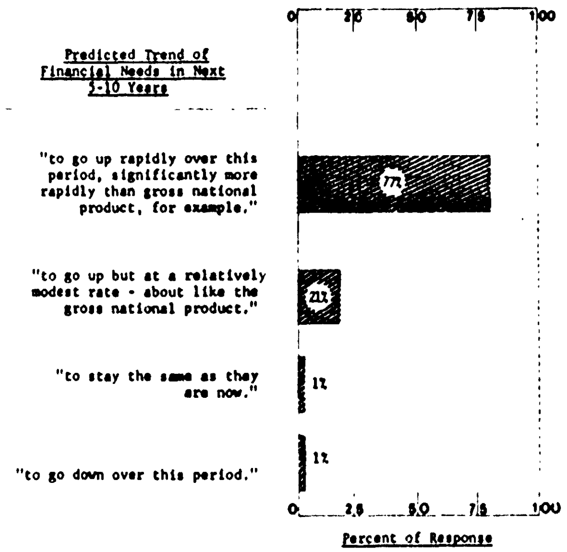
Who are these distinguished citizens? They are persons whom we expected to be knowledgeable about charitable endeavors in our society. They are citizens who, we expect, are going to continue to assume heavy responsibility for the various private sectors of our society.

They are, for example, scientists -- both Nobel Prize Laureates and operating heads of scientific institutions. There are medical people ..... both leaders of medical organizations and medical educational institutions. There are businessmen -- chosen from the ranks of chairmen and presidents of America's leading companies. There are labor leaders -- both at national and local levels. There are religious leaders and scholars. There are representatives from the arts. This group, then is a kind of 'Who's Who" of the knowledgeable citizens who also take a good deal of the responsibility for the operation of our private charitable organizations.

First, we asked them to tell us about which of the charitable sectors of our society they felt most knowledgeable. Then we asked for their best estimate of the trend of financial needs of their special field of philanthropy.

DISTINGUISHED CITIZENS STUDY
PRELIMINARY DATA
OCTOBER, 1969

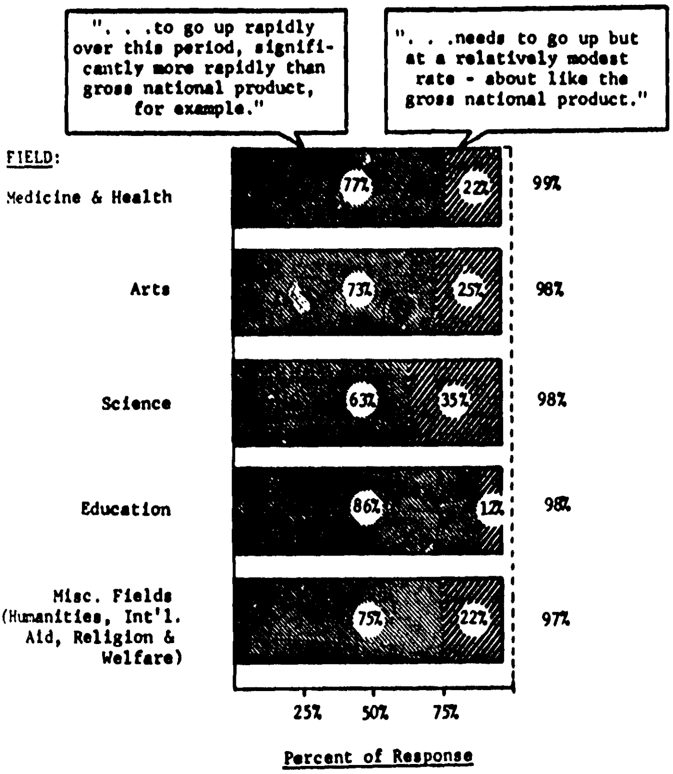
OVER THE NEXT 5 to 10 YEARS, WHAT WOULD YOU EXPECT TO BE THE TREND IN FINANCIAL NEEDS OF CHARITABLE ORGANIZATIONS IN THE PARTICULAR FIELD OR AREA OF SOCIETY IN WHICH YOU FEEL MOST KNOWLEDGEABLE ABOUT PHILANTHROPY?



You will notice in the following table that the substantial majority in every field felt that needs would go up rapidly over this period, significantly more than the gross national product. However, there are some differences: a striking 86% of those distinguished citizens involved in education saw the future needs this way, whereas significantly fewer, or 63% of those in science felt this way.....perhaps chastened by some of the recent cutbacks in grants to science.

DISTINGUISHED CITIZENS STUDY
PRELIMINARY DATA
OCTOBER, 1969

IN THE FIELD IN WHICH YOU FEEL MOST KNOWLEDGEABLE, WHAT DO YOU EXPECT THE TRENDS OF FINANCIAL NEEDS WILL BE DURING THE NEXT 5-10 YEARS



Another approach, of course, is to go to the charitable organizations themselves and get their projections. By now, over fifty Chicago charitable organizations of all types -- hospitals, universities, symphonies, museums, welfare agencies -- have submitted themselves generously and charitably, to very intensive 2 to 3 hour interviews plus an in-depth look at their financial and cost records.

It will not surprise you to know we found none of these organizations who expected charitable needs to go down or even stay flat, and it may not surprise you that they thought they would have financial problems in the future ... afrer all, we all have money problems and perhaps the fund raising instinct of charitable organizations is so well developed that it is hard to pass by an opportunity to say so.

Even allowing for this all too human tendency, our Commission is impressed by the degree to which these organizations feel they are facing urgent problems. For example, when asked ...

"Looking ahead to your 1975 financial situtation, which of the following statements reflects your feelings about the situation:	
To be sure, costs are rising and charitable needs are growing, but I'm also confident that outside revenues and contributions will also go up fast enough to meet our needs.	17%
I'm quite concerned about rising costs and increasing charitable needs. I'm not at all sure that outside funds will be adequate to meet these needs and some cutbacks will probably be necessary to make ends meet.	26%
I believe that by 1975 our organization will be facing a real budget crisis unless some major new sources of funds are developed.	57%

Chicago Charitable Study
Preliminary Findings
October 1969

Because we, and particularly you, are aware of the rapidly growing government investment in these charitable sectors, we wanted to determine what impact a drop in 25% in private giving would make. Over 82% of these Chicago charitable organizations reported that they would either "cease to exist" or "face a very serious budget problem."

How can this be, one might ask, in view of the rapidly increasing government expenditures in these same areas?

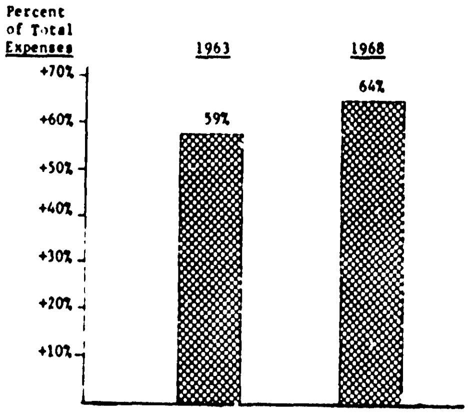
We are now in the process of putting together the answer to this question, but already some things are clear.

First, as a businessman, I am struck by how much this business of charity is a personal service, a people business. Even without considering the substantial value of the volunteer inputs, notice both the level and the relative increase in the importance of this people expense. Obviously, the budgets of charitable organizations show a much higher percentage of people-related expenses -- two to three times higher than many manufacturing companies where the people expense in the last census of manufacturing firms was about 24%.

CHICAGO PHILANTHROPIC STUDY
PRELIMINARY--OCTOBER 1969

THE INCREASING COST OF PEOPLE

PERSONNEL EXPENSES*AS A PERCENT OF TOTAL EXPENSES
FOR SELECTED CHICAGO
CHARITABLE ORGANIZATIONS: 1963 - 1968



*Does not put any value on volunteer labor.

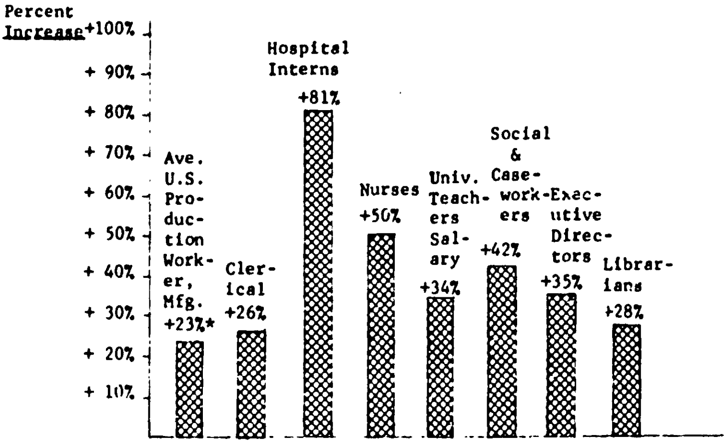
Why then, we asked, can one item increase so much not only in absolute terms but also increase 5 percentage points of the budget in only five years?

As we searched for the answers, one stands out above all others. The salaries being paid many employees of charitable organizations are apparently rising much faster than for the manufacturing segment of our labor force.

CHICAGO PHILANTHROPIC STUDY
PRELIMINARY--OCTOBER 1969

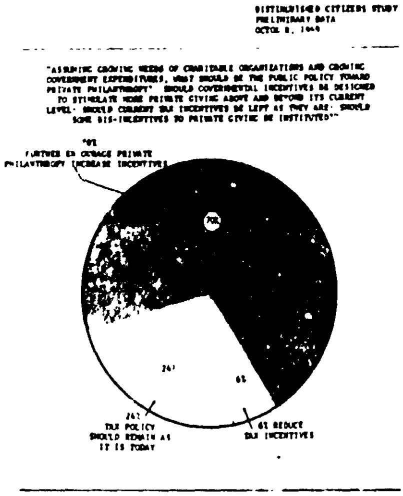
SALARY INCREASES FOR EMPLOYEES OF CHARITABLE ORGANIZATIONS
1963 - 1968

SELECTED COMPARATIVE SALARY INCREASES 1963-1968
(As Reported by Chicago Charitable Organizations)



*Source: U.S. Dept. of Commerce and Commission Survey of Chicago Philanthropic Organizations

It is then quite consistent for the leaders in our survey to tell us that they believe additional private incentives are one appropriate route to meet the growing financial crisis of charitable organizations.



The Commission agrees emphatically that a basic tax policy of further private incentives is the best one for this country - confronted as we are by limited dollar resources and rapidly accelerating demands on many fronts. The Commission would add that the productivity of the multi-billion dollar resources of the existing foundations should also be re-appraised to determine whether society might not get a larger return to charity on this very large investment. I will have more to say about this later.

The human and social values of the private sector's deep involvement and support of charitable organizations do not need restatement here. Your more specific interest now is how to get the highest social return per dollar spent -- whether in direct government support, or through tax incentives.

We hope to develop a clearer notion of the dollar-multiplier effect of the private charitable dollar as opposed to a government dollar for the same purposes.

First, the "cost" to the government of a charity dollar is obviously less than the cost at a dollar of direct government expenditure. Where the private donor is in the 70% tax bracket the government saves 30%. When the donor is in a lower tax bracket the saving to the government is proportionately greater.

Second, there is the question of cost and efficiency -- whether the private sector does the job more efficiently with less administrative expense to the government.

We are gathering evidence on one aspect of this cost-efficiency factor -- the value of the volunteer labor. For three-fourths of the Chicago charitable organizations studied so far -- the number of volunteer workers exceeded the paid employees. And if we place a $3 per hour value on the volunteer labor, we find an impressive list of charitable organizations where the dollar value of the volunteer labor exceeds the total dollar payroll. For example, this is true of the Chicago YWCA, Red Cross, United Cerebral Palsy and Girl Scouts.

This experience is confirmed by available national statistics that project some 55 to 60 million Americans engaged in full-time or part-time volunteer activity for nonprofit institutions during the year. From the business sector alone, Fortune Magazine recently estimated the value of volunteer services at five billion dollars annually.

We do not yet have an answer to the other aspect of the question -- what happens to this level of volunteer activity when the charitable institution becomes either state-supported or operated? In Chicago, we are trying to find out by comparing volunteer activity in Illinois or Cook County operated hospitals versus private hospitals, in Illinois operated welfare organizations as compared with private welfare agencies.

If this energetic and involved segment of the American public should sense that national policy is shifting away from strong encouragement of private philanthropy, I would hazard a guess that some, perhaps many, may conclude that they are not genuinely wanted, and reduce their personal efforts.

Thus, both for deeply philosophical reasons that have to do with the kind of society we really want, and for equally impressive pragmatic, dollar-and-cents reasons that have to do with getting this vital social work done at lowest cost, this Commission would urge you to reaffirm in attitude and action the strongest reassurance to the public that you share the view that however big and complex our social needs are, you want the private sector to contribute more of itself and of its money to a compassionate and effective solution of the massive and growing problems of the seventies.

III -- THE HOUSE BILL AND ITS IMPACT ON PHILANTHROPY

The attitude of many dealing with these issues is something to this effect: "There is no intention to hurt charitable organizations. All that is being done is to close loopholes, to broaden the tax base and to eliminate special preference so that the very rich cannot get away with paying a pittance in taxes."

In short, this justification says that whatever is being done is in the name of tax equity -- and certainly the vast majority of us think it both sensible and decent that we try to preserve the integrity of the tax system so that all who can share in the cost of governmental activity do so. The question, of course, is What are the specific inequities we should correct? And what are the costs to society of the proposed corrections?

I was describing some of the negative effects on philanthropy to a physician friend recently, who said: "That sounds like what we call an iatrogenic disease." He explained that the word "iatrogenic" derives from the Greek word "iatro," meaning doctor -- and it refers to unintended diseases or side effects that are caused by the medical treatment itself. We appear to have a similar problem here. Those of you who have the responsibility to decide tax policy must look at our entire body politic and balance the effects of treating afflictions of a part of the body with the effect upon the system as a whole.

The current tax bill represents a very understandable attempt to treat some defects in the equity of our tax structure. The effort is supported by the mood of the country to have every taxpayer pull his full weight.

I would raise the question of whether sufficient attention has been given to the encouragement of private charity. Were careful assessments made of the side effects of the bill?

Even today, our Commission has been [redacted] consistently unable to obtain a detailed assessment, provision by provision, of the probable effects of the House Bill on charitable giving. Please do not misinterpret my statement. We have had splendid cooperation in every sense from the staffs of legislative committees and from the Treasury Department.

With the frightful press of time during this last six hectic months of tax reform, I believe these estimates have not yet been made. The public interest would be richly served by a full analysis of

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the likely dollar effects of each provision affecting charitable giving, and upon the overall consequences of the Bill as a whole.

If these estimates are to be reliable, they require full access to data on revenue and charitable giving that are available only in the Treasury Department.

Our Commission has conducted its own research among large charitable donors whose names we obtained from charitable institutions throughout the country. In total, 85 such philanthropists cooperated with the Commission in estimating the effects of the House Bill on their future attitudes and actions.

Development directors of major charitable institutions tell us that these kinds of donors are not only enormously important for the gifts they make, but for the leadership role these gifts play in providing the initial impetus to fund raising efforts.

You will see in the attached chart that it is no overstatement to call them large donors -- their median annual giving over the last five years is $375,000.

DESCRIPTIVE CHARACTERISTICS

85 LARGE DONORS IN COMMISSION STUDY

AVERAGE MEDIAN ANNUAL DONATION TO CHARITY - IN LAST 5 YEARS	$375,000
DONORS HAVING FOUNDATIONS	74%
DONORS WHO IN RECENT YEARS HAVE REACHED 30% CEILING ON CHARITABLE GIFTS	82%
DONORS QUALIFYING FOR, OR WHO HAVE QUALIFIED FOR, THE UNLIMITED DEDUCTION	13%
DONORS WHO SAID THAT THEY WERE FAMILIAR WITH THE HOUSE TAX REFORM BILL	92%
HAVE DISCUSSED THE HOUSE BILL IMPLICATIONS WITH THEIR TAX OR FINANCIAL ADVISORS	78%.
CURRENTLY GIVING THROUGH A FAMILY FOUNDATION	69%
PLANNING FURTHER CONTRIBUTIONS TO A FOUNDATION, OR SETTING UP A NEW FOUNDATION	63%
OWNS OVER 20% OF THE STOCK OF A COMPANY	54%
DONOR OR HIS FAMILY HAS A FOUNDATION THAT OWNS OVER 20% OF THE STOCK OF A COMPANY	16%

PRELIMINARY - OCTOBER 1969
STUDY OF LARGE PRIVATE DONORS

The form of the gifts that large donors make is obviously of prime importance in view of the treatment of gifts of appreciated property in the House Bill.

FORM OF GIVING BY LARGE DONORS

"Over the past 5 years or so, what was the approximate distribution of your charitable giving as between these various kinds of gifts?"

APPRECIATED PROPERTY		
OUTRIGHT GIFTS OF APPRECIATED TANGIBLE PERSONAL PROPERTY		1%
BARGAIN SALES		5%
OUTRIGHT GIFTS OF ALL OTHER APPRECIATED PROPERTY (STOCK, PROPERTY, BONDS, ETC.)		61%
	SUB-TOTAL	67%
CASH OR UNAPPRECIATED PROPERTY		25% *
FUTURE INTERESTS, TRUSTS, ETC.		8%
	TOTAL	100%

* Some of the donors answered this question in terms of their foundations' giving rather than their own direct philanthropy. This has the effect of over-stating the percentage shown for "Cash or Unappreciated Property."

PRELIMINARY - OCTOBER 1969
STUDY OF LARGE PRIVATE DONORS

To give you some clues to the particular interests of these large donors, this chart indicates their dominant concern for higher education. Relatively small amounts go to churches and religion -- only 5% compared to almost 45%-50% of all private giving.

ESTIMATED CURRENT DISTRIBUTION OF GIVING OF LARGE DONORS STUDIED

HIGHER EDUCATION	45%
WELFARE, SOCIAL & COMMUNITY SERVICE	12
HOSPITALS & HEALTH CARE INSTITUTIONS	10
OTHER CULTURAL INSTITUTIONS, MUSIC, HUMANITIES	10
EDUCATION (OTHER THAN HIGHER)	7
ART MUSEUMS	6
CHURCH & RELIGIOUS AFFILIATES	5
OTHER MISC. (CONSERVATION, ETC.)	5
TOTAL ESTIMATED GIVING BY LARGE DONORS STUDIED	100%

Many have wondered precisely what effect tax incentives have on charitable giving. Members of the staff of this Committee expressed an interest in the extent to which charitable giving would be reduced with no incentives at all.

Here is what the big donors tell us in answer to the following question:

> "for the moment, let us assume that there <u>were</u> <u>no</u> <u>tax</u> <u>benefits</u> <u>at</u> <u>all</u> for charitable giving -- in other words, let us assume you had to make all your charitable contributions out of your after-tax income.
>
> "What effect would this have on your charitable contributions?"

Only 4% affirmed it would have no effect on their giving. The remaining 96% indicated it would reduce their giving -- and the median reduction was 75%.

<u>ESTIMATED EFFECT ON CHARITABLE GIVING</u>
<u>IF NO TAX INCENTIVES:</u>

"For the moment, let us assume that there <u>were</u> <u>no</u> <u>tax</u> <u>benefits</u> <u>at</u> <u>all</u> for charitable giving--in other words, let us assume you had to make all your charitable contributions out of your <u>after</u>-tax income.

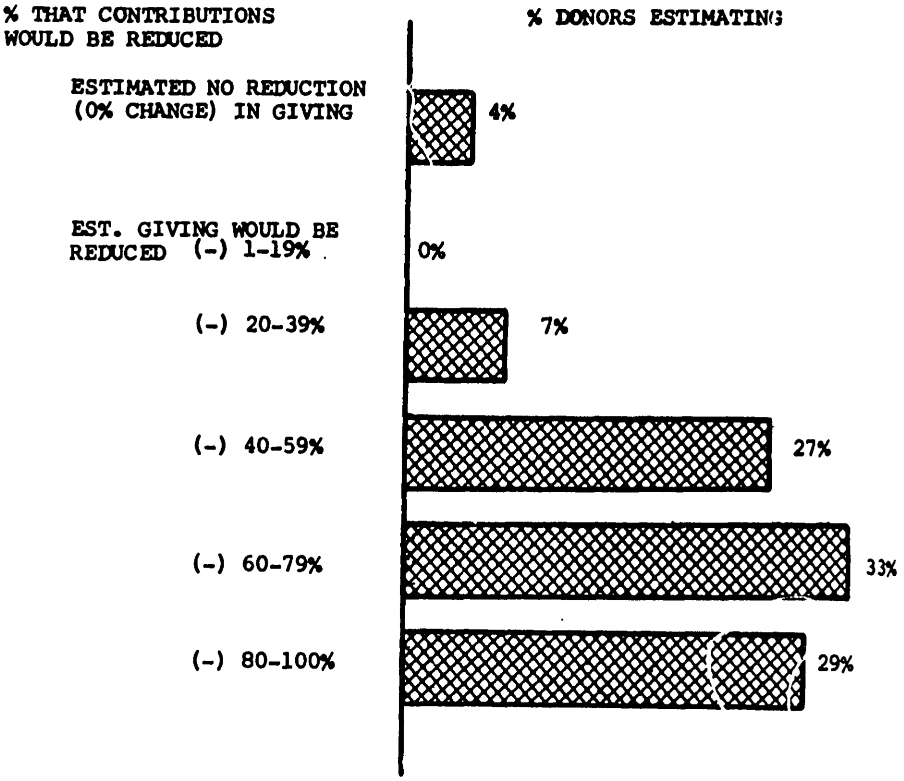
"What effect would this have on your charitable contributions?"

-75%

EST. AVERAGE (MEDIAN) REDUCTION
IN CHARITABLE CONTRIBUTIONS

PRELIMINARY - OCTOBER 1969
STUDY OF LARGE PRIVATE DONORS

ESTIMATED EFFECT ON CHARITABLE GIVING IF NO TAX INCENTIVE



PRELIMINARY - OCTOBER 1969
STUDY OF LARGE PRIVATE DONORS

My own hunch is that this response may be something of an over-reaction to the proposed changes in the tax bill. It is apparent that the amount of charitable giving depends on a mixture of at least two elements besides tax incentives: philanthropic interests and social pressures. While some moral purists might decry this mixture of motives -- a point to which I will come back later -- it is enough to observe first, that the recognition of mixed motives has been inherent in our tax laws for over fifty years; and, second, that tax incentives are a highly significant factor.

Any conclusion about motivations for giving is clearly conjecture. We went on to a more objective question -- the actual determination of the effect of the House Bill on the big donors' taxes (which quite a number apparently had their tax accountants recompute).

ESTIMATED EFFECT OF HOUSE BILL
ON 1968 TAXES OF LARGE PRIVATE DONORS

"First, we want to know what would have happened to the taxes you would have paid if your level of charitable contributions were the same type and at the same level as in 1968, but the new tax reform provisions were in effect."

+ 25% THE ESTIMATED AVERAGE (MEDIAN) INCREASE IN 1968 TAXES

COMMENT: Over 90% of the donors responding stated that their taxes would have increased.

PRELIMINARY - OCTOBER 1969
STUDY OF LARGE PRIVATE DONORS

We moved from here to a question of principal interest to us -- the effect of this tax bill on charitable giving. This is necessarily a hypothetical question but the attitude expressed in the following numbers if indeed a disturbing one for anyone concerned with the need for substantially increased giving.

ESTIMATED EFFECT OF HOUSE BILL
ON CHARITABLE GIVING BY LARGE DONORS

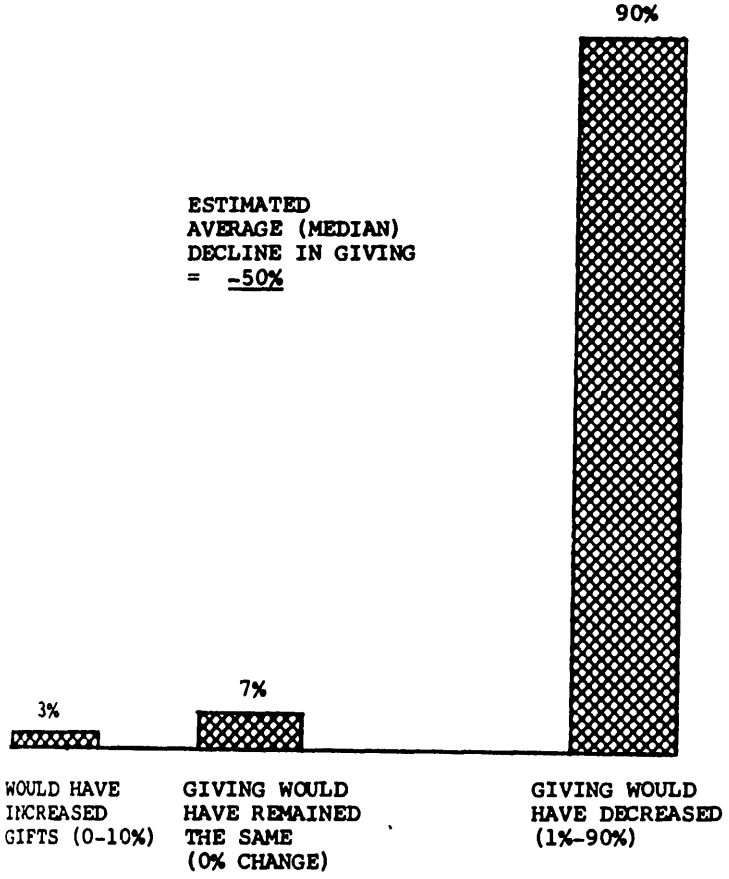
"Second, having some feel of the effect of this on your taxes paid, we would like your opinion on what effect these tax reforms, in turn, would have on your level of charitable giving."

-50%

ESTIMATED AVERAGE (MEDIAN) REDUCTION IN CHARITABLE GIFTS BY LARGE PRIVATE DONORS, HAD HOUSE BILL BEEN IN EFFECT

PRELIMINARY - OCTOBER 1969
STUDY OF LARGE PRIVATE DONORS

ESTIMATED EFFECT OF HOUSE BILL
ON CHARITABLE GIVING BY LARGE DONORS



PRELIMINARY STUDY - OCTOBER 1969
STUDY OF LARGE PRIVATE DONORS

Given any effect of this magnitude, it becomes essential to determine which provisions of the Bill play the largest role. Therefore, we asked those same donors to indicate the comparative effect of the various provisions upon their charitable contributions. While the complexity of computations makes it difficult to assign precise effects to each provision, it seems clear that the provision having the largest negative effect on contributions was the allocation of deductions feature whereby deductions, including charitable contributions, will be allocated between taxable and non-taxable income. Next in negative impact on charitable giving is the limit on tax preference provision, with gifts of appreciated property being included as a tax preference.

OPINIONS OF LARGE DONORS STUDIED

Concerning which one (of several) House Bill Provisions would cause the greatest reduction in their charitable giving

	% OF DONORS WHO THOUGHT PROVISION(S) WOULD HAVE GREATEST NEGATIVE IMPACT ON GIVING	
ALLOCATION OF DEDUCTIONS PROVISION	58%	82% *
LIMIT ON TAX PREFERENCE PROVISION	24%	
CHARITABLE TRUST RESTRICTIONS		8%
"BARGAIN SALE" PROVISION		2%
SPECIFIC FOUNDATION PROVISIONS		8%
REMOVAL OF DEDUCTABILITY OF TANGIBLE PERSONAL PROPERTY		0%
TOTAL OF LARGE DONORS STUDIED		100%

* Since many Donors expected that these two provisions would have to be evaluated simultaneously, it was difficult for them to say precisely which of them would have the greatest single effect. However, most estimated the "Allocation of Deductions" provision would have the greatest negative effect on contributions.

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The House Bill would increase to 50% the present 30% limitation on charitable giving. It is perhaps the one provision of the House Bill designed to strengthen the incentive effect of charitable deduction for the taxpayers generally.

I am sorry to report that not one large donor in our study believed that this new 50% provision provides an incentive to increase his total contributions, when taking the total reform bill into account. The allocation of deductions and limited tax preference provisions apparently minimize the benefit of this provision.

Perhaps an additional word on the complexity of the House tax bill is in order. A number of the large donors emphasized this point by referring to the "necessity of solving simultaneous equations" and "requiring your own computer". Complexity is troublesome because of its effect on decision-making in charitable giving. The vast majority of charitable gifts cost the donor something, and it is usually a bit traumatic for him to make the final decision to give. Thus, people who raise money for charity worry about additional barriers to the already difficult decision to give.

Fund-raising experts say that simplicity is an important stimulant to giving.....so that the donor clearly understands the specific effect upon him. Under the House Bill, the donor will often not know until late in the year what the amount and distribution of various kinds of his income will be. Therefore, he is likely to delay giving; to "think about it a little more", to say "let's see how things turn out later in the year". Those who raise money for charity decry any additions to the already formidable store of excuses for not giving. They know from experience that a gift delayed is often a gift denied.

While we believe the times most emphatically do not call for disincentives to charitable giving, this Commission is certainly anxious to remedy tax inequities that relate to charitable giving. Particularly we find ourselves concerned about the situation in which the donor ends up better off by giving something to charity rather than selling it. The concept of "making money off charity" is not an attractive one.

Tax experts point out a number of ways in which this can happen and we would suggest specific legislative treatment to deal with each of the following:

1. It is clear that inflated valuation of property -- can have such an effect. We believe that the requirement of objective appraisal procedures, and prompt verification of the value of contributions of appreciated property, would significantly reduce this inequity.

2. I am told that contributions of property which the donor has already fully depreciated or where the sale would produce ordinary income rather than capital gains, can improve the after-tax position of the donor. Such effects can and should be dealt with in legislation.

3. We can see this "money-making effect" where the gift is in the form of high-markup products whose direct cost as a percentage of market value is less than the income tax rate -- such as drugs, certain kinds of machinery, etc..

We would not want to encourage philanthropic giving at the expense of the basic integrity of the tax system and at an excessive cost to federal revenues. We would urge you to take action to control the above inequities.

Up to now, I have covered our deep concern over 1) the effects of the House Bill on charitable giving, and have suggested that you get data on the effect of specific provisions on charitable giving. 2)Also, I have suggested that you limit those kinds of charitable gifts that result in the inequity of a high tax cost to the governmer and a net dollar benefit to the donor.

We have one longer term, and we believe important, tax policy recommendation dealing with private philanthropy. Let me be presumptuous and assume you accept our basic premise that the charitable crisis of the seventies requires significantly more funds, and that the private sector should be encourage to give more.

What kind of new tax incentives for charitable giving would achieve this objective?

We would like to suggest the criteria for such a new tax incentive. It would:

1. Produce significantly more money for charity.....in the range of several billion dollars.

2. Be compatible with tax equity, and prevention of tax avoidance.

3. Spread the giving among more people; democratize philanthropy more, and be less "elitist". It is obvious that only the very wealthy can make the really large gifts and if we are to increase the total flow of funds, they too must be further encouraged. However, we believe a better tax incentive system would give more people an incentive to participate in philanthropic giving, and therefore to participate in the decisions on how to allocate these funds.

4. So at relatively low cost to federal revenues, consistent with the above guidelines.

Our Commission has reviewed this objective with perhaps a dozen of America's foremost tax economists and tax lawyers, both in and out of government. Their views can be briefly summarized:

1. The area of really new and effective tax-incentive approaches to private giving has received remarkably little attention over recent years. It is certain that the need for such incentives was not a serious concern in the development of the current legislation.

2. Much of the publicly available data of charitable giving and the effects of various incentives is either primitive, out of date, or non-existent. The development of new incentives requires detailed revenue cost and charitable giving data that only the Treasury Department has.

3. Every expert the Commission has talked to agrees that current incentives have serious defects, and that the assignment to define new approaches that meet the criteria I mentioned earlier is indeed a worthy one that would challenge the best economists and tax experts in the country. They also agree that this is a highly complex and difficult task. There are no "quick and easy" solutions.

It is the recommendation of this Commission that a group of the best informed experts in the country be assembled and charged with the responsibility to recommend to Congress and the Administration new incentive approaches to philanthropic giving. Such recommendation should, if possible, be ready for your consideration in 1970.

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IV. FOUNDATIONS -- THEIR NATURE AND THEIR ROLE

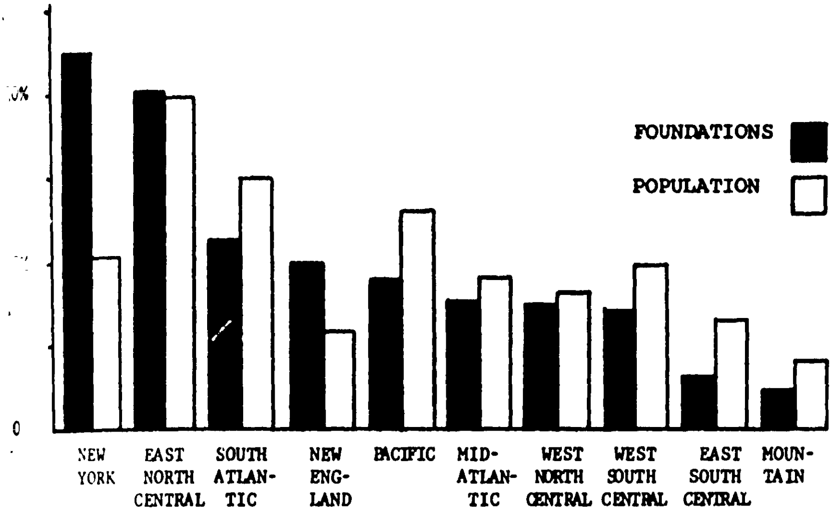
The principal focus of our Commission's work has been on foundations. We have, of course, looked beyond foundations into the much broader field of philanthropy because foundations are an integral part of philanthropy and because many proposals affecting foundations have an impact on philanthropy generally. To place foundations into perspective within the philanthropic field, it may be noted that annual foundation giving is approximately one-tenth of total private giving.

As you well know, there is no accepted definition of foundations. For the purpose of our study we have defined foundations as organization whose principal activity is grant-making, thus excluding operating organizations. We have also excluded from our definition organizations whose funds come from public subscriptions, and so-called "feeder" organizations whose grants go solely to a single organization.

Foundations are found in every state of the Union although a disproportionate number appear to be located in the Eastern part of the country.

FOUNDATIONS BY REGION VS. POPULATION BY REGION

(IRS Listing of 30,262 "Foundations")



NEW YORK: F=22.36%; P=9.11%

EAST NORTH CENTRAL: F=20.14%; P=19.64%
Illinois, Indiana, Michigan, Ohio, Wisconsin

SOUTH ATLANTIC: F=11.14%; P=14.99%
Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia

NEW ENGLAND: F=9.87%; P=5.71%
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

PACIFIC: F=8.88%; P=12.95%
Alaska, California, Hawaii, Oregon, Washington

MIDDLE ATLANTIC: F=7.84%; P=9.38%
New Jersey, Pennsylvania

WEST NORTH CENTRAL: F=7.50% P=8.04%
Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota

WEST SOUTH CENTRAL: F=7.04%; P=9.66%
Arkansas, Louisiana, Oklahoma, Texas

EAST SOUTH CENTRAL: F=2.89%; P=6.50%
Alabama, Kentucky, Mississippi, Tennessee

MOUNTAIN: F=2.34%; P=4.02%
Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming

F = Foundations' per cent of total

P = Population's per cent of total

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In arriving at this geographical distribution we have used the 1968 listing of foundations which was compiled by the Internal Revenue Service. This list contains 30,262 foundations.

We have undertaken a survey of a sample of grant-making foundations, to determine where their grants go, the form of their contributions, their method of operation and other basic information about the operation of a cross-section of foundations. In many respects this survey represents one of the first systematic attempts to gather comprehensive data on foundations. Because so little is known, there are few guidelines for designing a sample of these institutions. It is difficult for example, to achieve a precise sample when there is no adequate data on numbers, assets, or amount of grants.

The final report of the Commission will include data for some 350 foundations distributed across the various categories of foundations. At this time we have completed information from 163, about half of the total sample. For example, we plan to get completed interviews from as many of the top 26 foundations as possible. We have now completed 14 of those interviews.

Nevertheless, even these preliminary findings show some strong trend.

In our study we have divided foundations into four categories by asset size: over 100 million; 10 - 100 million; 1 - 10 million and under 1 million. We have treated company foundations and community foundations separately. It is significant to note that the 26 largest foundations hold over 10 billion dollars in assets and account for roughly 479 million dollars in grants per year. These large foundations, of which Ford, Rockefeller and Carnegie are familiar examples, usually operate on a national or even international scale although some, such as Duke and Mott, operate on a regional basis. Most of the small foundations, which are generally closely identified with the donor, operate on a regional or local basis:

Community foundations, of which the Cleveland Foundation, the Permanent Charities Fund of Boston and the Chicago Community Trust are examples differ from other foundations in several significant respects. Their endowment assets represent the pooling of gifts and bequests from a number of donors within the community and their trustees are usually appointed by various community leaders. For example, there may be one trustee nominated by the Mayor, one by the head of the local bar association, a third by the president of a university, and so forth. Their grants are devoted, almost entirely, to one metropolitan area.

A final category is the company foundation. These are usually closely tied to the corporation which sets them up, with company officers serving as trustees of the foundation. Such foundations often are simply a convenient alternative method for channeling corporate giving or a means of evening out corporate earnings by contributing more in good years and reducing contributions when earnings fall off. Some company foundations are so called conduits, where annual grants are roughly equal to the annual contributions received from the corporation. These conduit type foundations have little or no endowment. There are, however, a number of company foundations which have substantial endowments.

While classification of foundations by size is helpful in obtaining a picture of the foundation field, we have concluded that there is no practical basis for classifying foundations for purposes of governmental regulation. Neither distinctions in size, purpose, or such factor as the presence or absence of a professional staff or of independent trustees provides a sound basis for differences in legal treatment. Contributions to all types of foundations receive the same tax benefits from the government. We can see no reasons why all foundations should be subject to such regulations as pay-out requirements, prohibitions on self-dealing, and prohibitions against involvement in elective politics. Public disclosure obligations should apply to all.

not

A. Reasons for Establishing Foundations

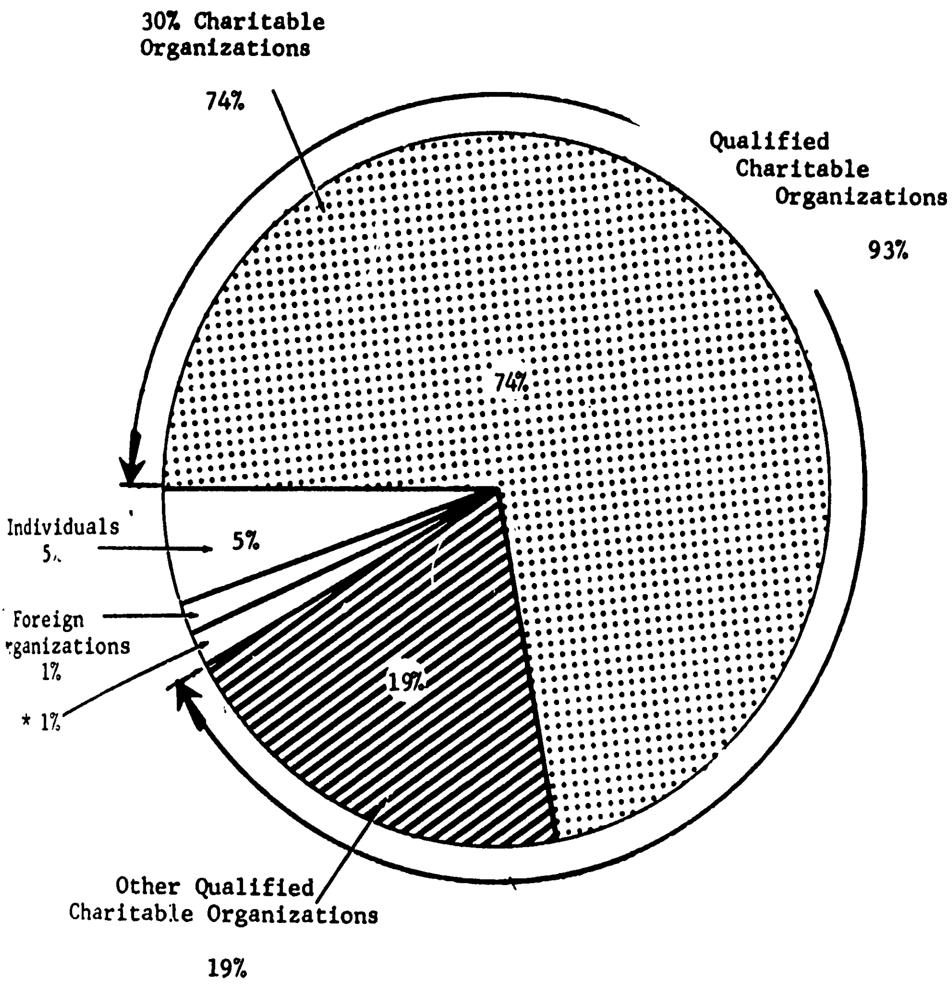
The reasons why a donor establishes a foundation--instead of giving directly to operating charities--are highly varied. There undoubtedly is a mixture of "pure" philanthropic motivations and of personal motives, including tax advantages. The existence of mixed motives is, of course, inherent in the use of tax incentives to encourage philanthropy. While no quantitative assessment is possible, it is clear that more funds have gone to charity in general, and to foundations in particular, than would have been the case without the tax inducements which have been granted to foundations and foundation donors.

First, the use of a foundation makes possible certain types of grants which would not be tax deductible when made by an individual donor. A foundation may make grants to individuals and it can also make foreign grants while an individual can obtain a tax deduction only for his contributions to tax-exempt organizations in the United States. However, a study of the grant making activity of foundations does not suggest that grants to individuals or to international organizations are of major importance.

Most grants are to tax-exempt organizations in the United States--74 percent to 30 percent charitable organizations. Only about 7 percent of all foundation grants go to recipients for which an individual would not receive a tax deduction for the same grant.

Foundation Study
Preliminary October, 1969

RELATIVE IMPORTANCE OF VARIOUS CLASSES OF RECIPIENTS OF FOUNDATION GRANTS - IN DOLLARS



* Other tax-ememept, non-profit, or profit organizations less than 1%.

Second, foundations may also provide various elements of administrative convenience. Thus, it may be simpler for an individual with appreciated property to transfer that property to a foundation, and then make a number of donations from the foundation. This is likely to be simpler than to transfer such assets directly to a large number of recipient organizations.

Third, use of a foundation may also serve to insulate the donor from direct appeals from contributors, This point may well be one of the reasons why corporations organize foundations. It enables the top management of the corporation to some extent to avoid personal solicitation by channeling requests to the company foundations.

Fourth, foundations are also useful as a means of "evening out" gifts between different years. Thus a company or an individual may put more money into a foundation in a good year than in a poor year and still maintain the same level of support to various charitable organizations. Foundations can also be used for the opposite reasons: accumulating several years' contributions in order to make a large grant at a later date.

Fifth, an individual may, with tax-deductible dollars, hire a professional staff in order to systematize and develop expertise in giving. However, it appears that professional staffing is largely limited to the largest foundations, and even there the staffs are often surprisingly small. We are now estimating our total full-time personnel count of all foundations for our final report, but it would now appear to number in the very low thousands.

% of Foundations with Paid
Officers and Professional Help

	TYPE OF FOUNDATION						
	Under $1 Million in Assets	$1 Million $10 Million in Assets	$10 Million $100 Million in Assets	Over $100 Million in Assets Total	Company Founda-tions	Community Founda-tions	All Founda-tions
No professional staff	87%	41%	25%	0%	92%	69%	84%
Part-time profess-ional staff	10%	41%	42%	7%	0%	6%	11%
1	3%	29%	25%	0%	0%	0%	5%
2-5	5%	12%	17%	0%	0%	6%	5%
6-10	0%	0%	0%	0%	0%	0%	(**)
Over 10	2%	0%	0%	7%	0%	0%	2%
Full-time profess-ional staff*	3%	21%	42%	93%	8%	25%	5%
1	3%	12%	17%	0%	8%	19%	4%
2-5	0%	3%	17%	28%	0%	0%	1%
6-10	0%	6%	0%	14%	0%	0%	(**)
Over 10	0%	0%	8%	50%	0%	6%	(**)

*These figures are not additive to 100% because some foundations have both part and full time employees.

**Less than 1/2 of 1%

Sixth, very personal considerations are also sometimes mentioned as a reason for setting up foundations. The foundation provides an opportunity for perpetuating the owner's name and his charitable interests after his death, and perhaps giving him a certain status and distinction while alive.

In all likelihood the most attractive feature of the use of a foundation is that it enables the donor, at least in some measure, "to have his cake and eat it too." He obtains a tax deduction at the time he makes a donation to the foundation; yet he can still exercise a substantial measure of control over the assets which he has donated to the foundation. This point is, of course, of particular importance when the asset contributed to the foundation is stock in family-controlled or otherwise closely-held business. Placing such stock in a foundation allows the donor to maintain his control over the business in a manner which probably could not be achieved if the stock was given to a charitable institution not under the control of the donor.

A related factor is that a grant to the foundation leaves the donor with continuing control over the charitable distributions which the foundation will make. If the funds were given to a university, the donor can specify at the time of his gift the purpose for which the money can be used. Thereafter, however, the money passes beyond his control.

In sum, it is clear that a wide variety of reasons may motivate the establishment of foundations. We believe, however, that the ability to obtain a tax deduction and still maintain an element of control over the asset which is contributed, is likely to be the most important factor. This is suggested by the way in which foundations get their money.

to Foundations in Various Forms

Form of Contributions	Type of Foundation: Under $1 million in assets	$1 million $10 million in assets	$10 million $100 million in assets	Over $100 million in assets: Total	Over $100 million in assets: Excluding Ford	Over $100 million in assets: Ford	Company Foundations	Community Foundations	All Foundations: Total	All Foundations: Excluding Ford
Appreciated Property Tangible: Personal Property	-	2	*	*	*	1%	-	-	*	*
Real estate	7	6	1	3	3	3	8	2	3	3
Intangible (stocks, bonds, etc.)	58	53	78	88	86	91	72	65	76	74
Stocks of company in which donor or family owned controlling interest (20%+)	18	21	75	62	48	90	13	-	53	47
Other intangible property	40	32	3	26	38	1	59	65	23	27
Cash or unappreciated property	29	29	18	9	11	6	20	32	17	19
Partial interest in property (other than trust)	-	-	2	-	-	-	-	-	1	1
Charitable trust income or remainder (*less than 1/2 of 1%)	7	10	1	-	-	-	-	-	3	3

As the attached chart shows, more than three-fourths of the assets of foundations were contributed in the form of appreciated intangible property. And more than half was stock of a company in which the donor and his family has an interest in excess of 20%.

Most foundations in terms of numbers have not received control stock in a corporation. Our data show that only 8% of foundations have ever owned more than 20% of the stock of a company, and only 4% now do. But over half of the large foundations in our study with assets over 10 million dollars have such control stock, and this, of course, explains why such a large portion of total contributions is in these forms.

OWNERSHIP OF CONTROL STOCK

Foundation Type	% of Foundation: Ever owning 20% of stock in a company	% of Foundation: Now owning 20% of the stock in a company
Under $1 million in assets	7%	4%
$1 million - $10 million	11%	6%
$10 million - $100 million	54%	39%
Over $100 million	57%	36%
Community	13%	7%
Company	17%	13%
All foundations	8%	4%

It is apparent that the privilege of contributing control stock and other appreciated property is of paramount importance in the creation of new foundations of significant size. And both of these forms of contribution to foundations are severely limited in the House Bill.

B. Distinctive Characteristics of Foundations

Recognizing that great variety exists within the foundation field, what characteristics make foundations distinctive? We believe that there are two factors which most clearly distinguish foundations from other institutions in our society.

First, and most important is the fact that foundations have funds which are not committed to their own on-going activities. Practically every other organization in our society, whether it be a government agency, a corporation or a university, is likely to have its future activities dictated in part by the momentum of its on-going programs. The budget pressures of existing programs generally make it very difficult to find funds for different kinds of programs. The most distinctive thing about foundations is that they have substantial amounts of "free" money which their trustees can spend next year for purposes quite different from those pursued in the present year. This gives foundations a degree of flexibility, unmatched by any other institution in our society. This potential for doing new things is of very great importance to a society confronted by an era of great change.

Second, foundations with endowments are not required to raise new funds. This frees them from an element of external control which most other institutions must face. Government agencies must satisfy Congressional authorization and appropriations committees, as well as the Budget Bureau. Corporations must satisfy both their customers and their investors. Universities must satisfy a variety of existing and potential sources of funds. The absence of such external controls is also of first importance in giving foundations a potential for flexibility far greater than that possessed by other institutions.

Both the freedom from internal compulsions and from external financial controls are, of course, of great value to foundations. However, they also represent a real risk. Foundations are not subject to the discipline which institutions with budgetary pressures inevitably have. This manifests itself in a variety of ways. First, foundations have not been under pressure to maximize the return on their investments. Second, they have been free, within relatively broad legal limits, to decide whether to spend money currently or to let their assets appreciate for future years. Third, they have not been under the same pressure to control costs and expenses as are other organizations, particularly those which must compete in the market place.

In sum, the distinctive characteristics of foundations give them a great potential for doing important work. However, they also create a considerable potential for abuse or for inadequate performance.

C. Assessment of Foundations

On balance, do the advantages of foundations outweigh the dangers? In approaching this question we have attempted to review both the accomplishments and shortcomings of foundations. Any evaluation of foundation accomplishments is, of course, enormously difficult. No "cost-benefit" analysis, comparing the loss of tax income with the social benefits produced by foundations, is possible. There are no meaningful yardsticks to "measure" foundation performance. Would similar results have occurred if funds went directly from Donor to recipient or if the project had been funded by government? Even the significance of a particular grant is invariably difficult to assess. This is inherent in the fact that foundations are grant-making institutions: How can one accurately apportion the relative degree of credit (or of blame) for a foundation-financed program between the foundation which provided the money and the recipient who did the work? For example, the fact that a foundation has assisted a long list of Nobel Prize winners may mean that the foundation has made some very productive grants. It could also mean that the foundation has been quite unimaginative and limited its grants to big names who could readily have received help from other sources.

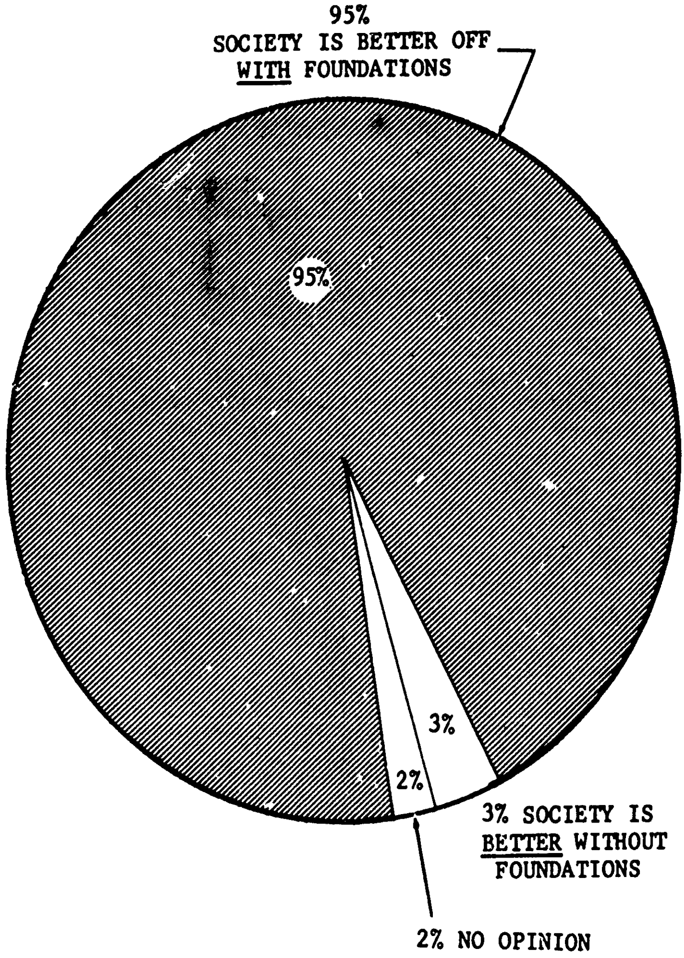
Recognizing that no present assessment of the "value" of foundations can be made, we are nonetheless convinced that a favorable judgment on their role in American life is justified. This conclusion is based on the fact that foundations have been closely associated with a large number of highly-significant projects, many of which might not have been performed without foundation support. We believe this judgment is shared by leading authorities in all of the principal areas of activity in which foundations have worked, including education, medicine, science and technology, the humanities and the arts, civil rights, welfare and others.

In our survey of distinguished citizens we sought their opinion on whether society is better off with foundations:

An overwhelming 95 percent responded that they believed that we were better off.

DISTINGUISHED CITIZENS STUDY
PRELIMINARY DATA
OCTOBER, 1969

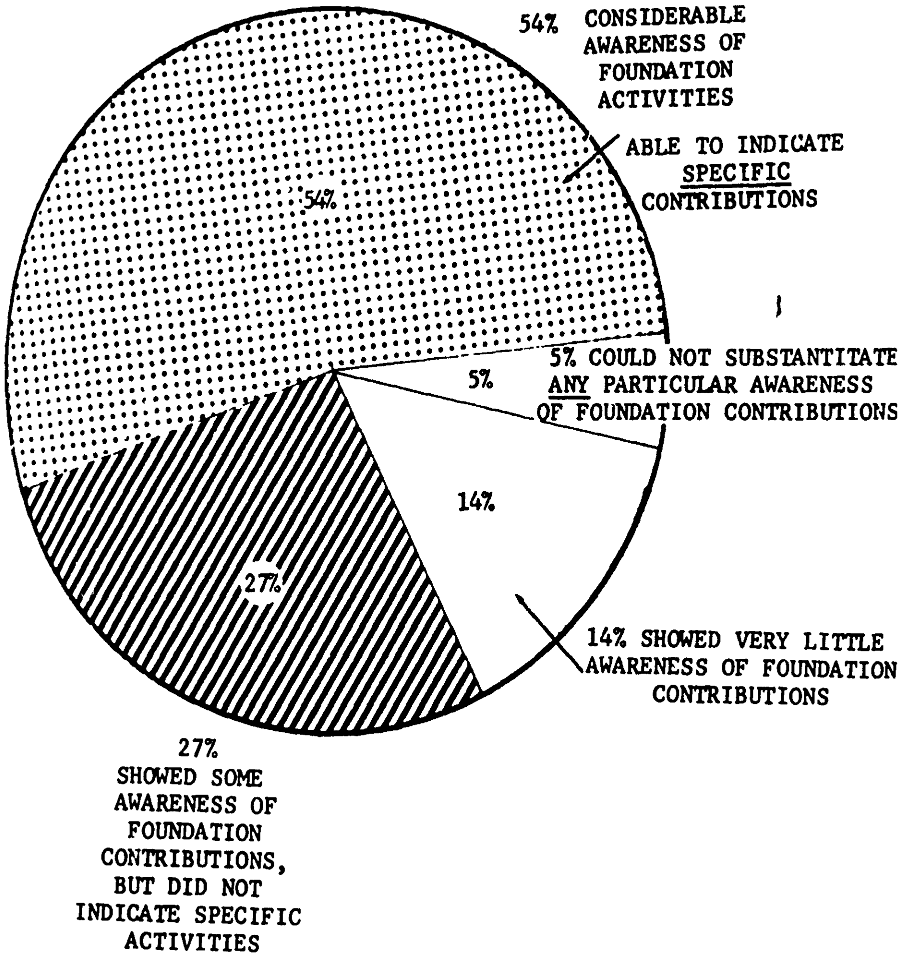
"IN YOUR VIEW, IS OUR SOCIETY BETTER OFF WITH FOUNDATIONS, OR WOULD IT BE BETTER OFF IF THEY DID NOT EXIST AND ALL PRIVATE CHARITY WENT DIRECTLY FROM THE GIVER TO THE RECIPIENT?"



Next we asked these individuals if they were aware of significant developments, achievements or innovations in their field in which foundations made a contribution. A total of eighty-one percent were able to indicate contributions.

DISTINGUISHED CITIZENS STUDY
PRELIMINARY DATA
OCTOBER, 1969

"ARE YOU AWARE OF ANY SIGNIFICANT DEVELOPMENTS, ACHIEVEMENTS OR INNOVATIONS IN YOUR FIELD OR AREA OF SOCIETY IN WHICH FOUNDATIONS MADE A CONTRIBUTION?"



We also asked for opinions as to the overall impact of foundations on fields of philanthropy and found that 85 percent reported that foundations had played a significant or positive role.

DISTINGUISHED CITIZENS STUDY
PRELIMINARY DATA
OCTOBER, 1969

WHICH STATEMENT COMES CLOSEST TO EXPRESSING YOUR VIEW OF THE ROLE OF FOUNDATIONS IN THE AREA OF SOCIETY YOU FEEL MOST KNOWLEDGEABLE?

OVERALL IMPACT:

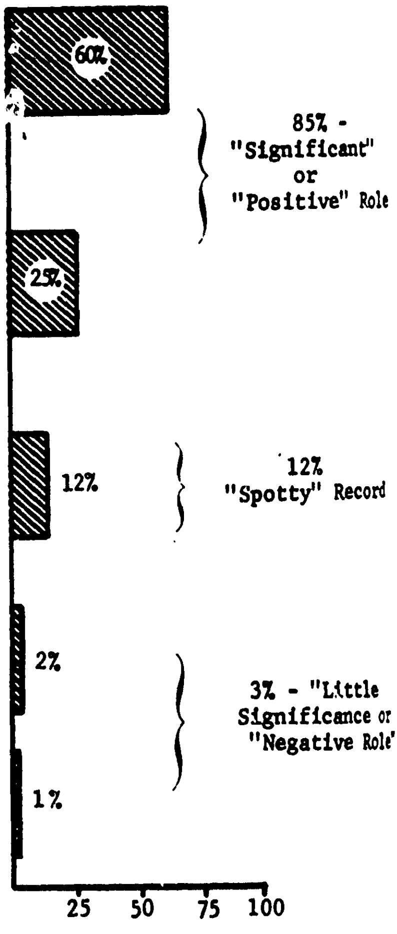
Foundations have played a very significant role in this field - without them, some of the significant developments perhaps would not have taken place at all, or at least would not have been delayed.

On balance, foundations have played a positive role - they have tended to support worthwhile projects - but on the whole they have been worthwhile.

My overall reaction to the contribution of foundations is a mixed one - the record is a "spotty" one, good some of the time, but insignificant, non-existent and even negative at other times.

Foundations have contributed very little of significance in this field.

Foundations have played a negative role in this field - I believe the field would have been better off without them.

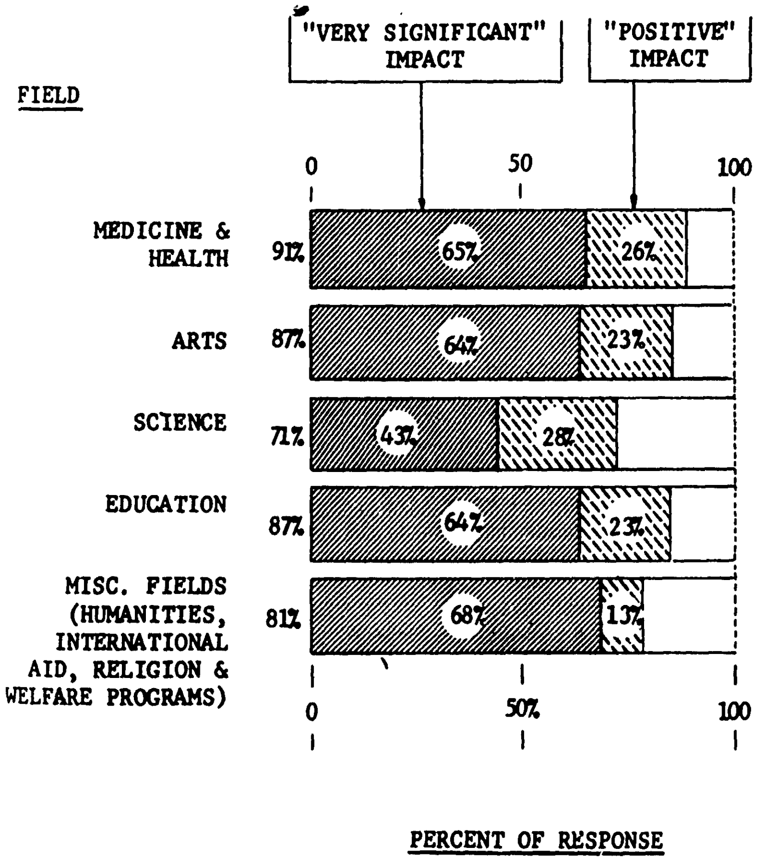


Percent of Response

Finally, we segregated the "significant" or "positive role" responses by field of philanthropy best known to respondent. Note the somewhat less favorable response from the scientific community, where governmental funds which have played a dominant role in recent years for scientific research and development.

DISTINGUISHED CITIZENS STUDY
PRELIMINARY DATA
OCTOBER, 1969

THE OVERALL IMPACT OF FOUNDATIONS ON FIELDS OF PHILANTHROPY:
"VERY SIGNIFICANT" OR "POSITIVE ROLE" RESPONSES:
ANALYSIS OF RESPONSE ACCORDING TO FIELD OF SPECIALTY



In our final report we will examine some of the achievements of foundations, drawing on the expertise of members of our Commission and on various studies which we have sponsored. I do not think it would be helpful at this time to attempt to elaborate at length on examples of particular foundation achievements, especially since your Committee has already heard from foundation representatives and recipients on this subject.

It is our overall judgment that foundations have demonstrated some unique capability to support useful work which other organizations, individual donors, and government were unable to unlikely to sponsor. And we believe foundations have important potential to make more important contributions in the future.

It is apparent to us that the record of foundations includes significant abuses and shortcomings, as well as great accomplishments. We believe that both the defneders and the detractors of foundations are mistaken when they endeavor to draw up some kind of equation between accomplishments and abuses. Visualize trying to apply such a test to government or to a particular administration. Such a task is both impossible and irrelevant.

Foundation accomplishments do not excuse the abuses; nor do the abuses justify the hamstringing of foundations. As our specific recommendations will indicate, the abuses can be dealt with effectively without reducing the potential for accomplishments.

D. Foundations and Government

One justification for the grant of a tax incentive is that it encourages work of great public interest which government institutions either are not or cannot perform. This has traditionally been true in the field of education, in scientific research, and in many other areas of foundation activity. Over the last 30 years the vast expansion in the role of government has radically changed the basic relationship between foundations and government. In all of the traditional areas of foundation activity, including health, education, welfare and scientific research, government expenditures--federal, state and local--are now far higher than foundation spending. This is true even in newer areas such as civil rights, the population problem, and environmental protection. Perhaps only in the religious field and in the arts are the foundations spending larger sums than government agencies.

The rationale for foundations can no longer be that they are working in fields in which the government is not active. The basic question which must be answered is whether, notwithstanding governmental responsibilities, foundations are capable of making a useful contribution. This is a question to which our Commission has devoted very substantial time and on which we have obtained the thoughts of many knowledgeable people.

We believe that foundations have significant advantages over government agencies in several important respects:

1. It is much easier for a foundation to carry on a controversial experiment than it is for a government agency. The system of checks and balances under which government programs are conceived and executed makes it extremely difficult to tolerate failures. It also makes it very difficult to operate on a small scale. Political administrations are often not around long enough to wait for the five or more years it may take to know whether a given approach works. This introduces a two-fold bias. An experimental program which looks as though it may produce negative results may well be killed too early. A program which looks promising may well be given broad application prematurely.

   Many knowledgeable observers suggest, for example, that one of the major problems with such anti-poverty programs as Community Action has been that experimental approaches were proliferated too widely too early, with inadequate evaluation of results. Similar criticism has been leveled at the Model Cities Program.

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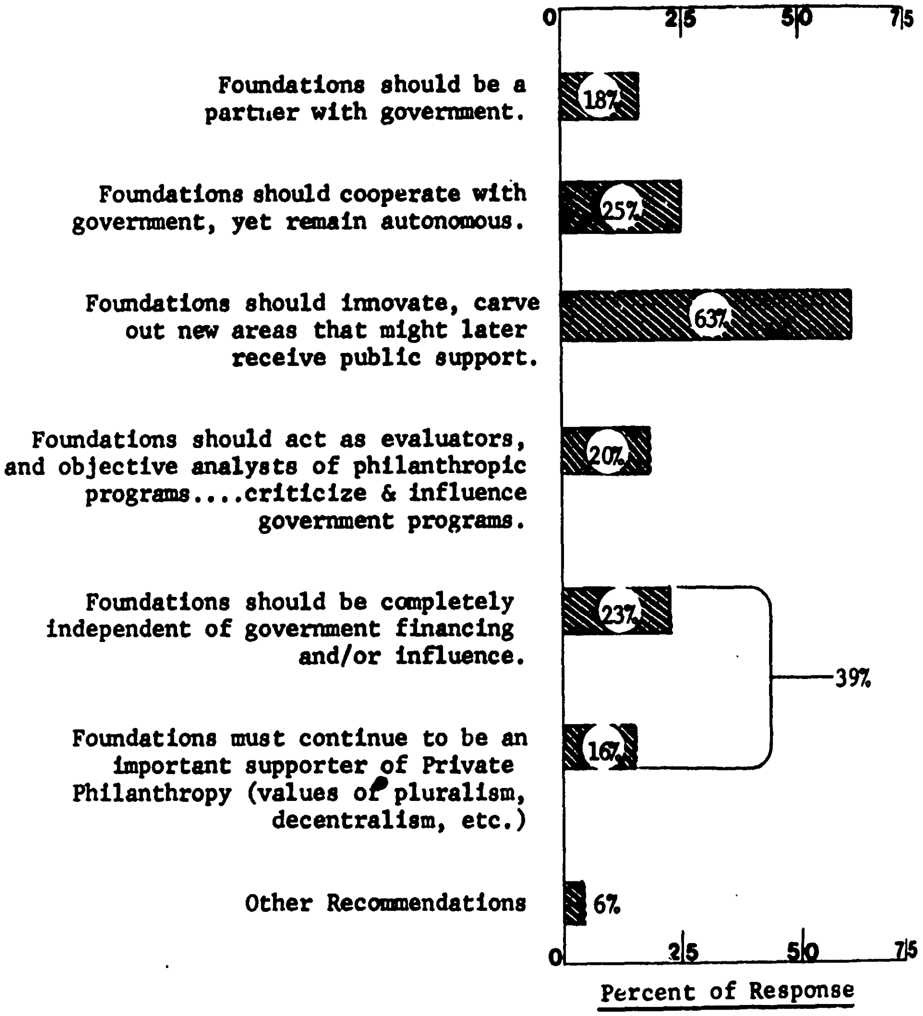
DISTINGUISHED CITIZENS STUDY
PRELIMINARY DATA
OCTOBER, 1969

ATTITUDES REGARDING THE PROPER <u>ROLES</u> OF
OF FOUNDATIONS AS THEY RELATE TO GOVERNMENT ACTIVITIES.



Foundations are considerably freer than government to experiment. It is possible for a foundation to sponsor a project in one community without being exposed to pressure to duplicate the experiment in every other Congressional District. Similarly, the flexibility of a foundation as a grant-making institution makes it possible to write off an unsuccessful experiment without the dangers this would involve in a government program.

2. Government programs are difficult to launch in sensitive areas which are likely to arouse controversy. The objections of a vocal minority can often stop a government program. The fact that foundations are relatively freer from public pressure allows them to be considerably more venturesome.

   Foundation work in the birth control field provides an excellent example. A growing national acceptance fostered by work supported by foundation funds made it much easier for government to enter this field.

   The national assessment program in education provides another example. The hostility to federal intervention in the operation of local schools made it impossible for the federal government to undertake a program which would involve the measurement of the levels of achievement in different school systems throughout the country. It was, however, possible to launch such a program with foundations. Once under way it has become possible for the government to get aboard.

3. The need for government action to meet requirements for a broad consensus makes it much harder for the government to proceed in areas where only a minority has a significant interest. Government support of the arts, of the humanities, provide early examples. Perhaps the growth of educational television illustrates this pattern. In the early days of educational television it is unlikely that much enthusiasm could have been generated for government support. Nurtured by Ford Foundation support almost exclusively, then studied by the Carnegie Commission under the leadership of James Killian; we saw the concept of public educational television born in the form of the Public Broadcasting Corporation. In each of these areas the foundations have filled a need which was not being met by government.

4. Government programs rarely cover a field uniformly. Thus foundations can generally pick niches where special needs

or opportunities exist. Thus, for example, while much government money is available for manpower training, foundation funds were able to recognize the need for programs designed to up-grade existing employees at a time when government funding was directed primarily to low-level entry jobs.

5. The greater flexibility of foundation procedures makes it possible to respond much more quickly to unusual situations than government agencies can. This has been proven time and again in areas such as the safeguarding of recreational lands for National Parks

6. Foundation-financed programs may often be acceptable where government-financed programs would be unwelcome. For example, studies of student unrest in the colleges can be more readily conducted with foundation funds than with government money. Similarly, international programs in some non-aligned countries may well have an acceptance which government programs do not have.

7. Studies of public policy issues in which the government has a direct interest are much more difficult to carry on with government funds. It is far easier to assure the objectivity of such studies when the funding comes from a foundation. Currently, for example, until the Brooking Institution launched its pioneering efforts to appraise defense policy, there was not a single, independent institution reviewing military policy and premises--at a time when much of the public probably welcomes another view. We believe that this is a point of very substantial importance. With the increasing complexity of governmental programs, objective studies of governmental programs at a federal, state and local level are essential.

All in all, we are persuaded that a complex society like ours benefits when an independent and sophisticated private sector institution can pioneer, respond, complement, fill the niches, and even criticize and evaluate government programs.

V - REGULATION OF FOUNDATIONS

While we conclude that foundations are institutions that have vital and in some ways unique roles to play in our society, we also conclude that certain abuses and dangers exist that deserve serious attention.

Precisely because foundations are private sector organizations, it is important they be given a great deal of freedom to make their distinctive contribution in their own way. On the other hand, precisely because foundations have been granted substantial tax deductions, the public has a distinct interest in knowing that charity receives a proper return on the investment society has made. Like any capital investment -- and a foundation is ultimately a form of capitalized philanthropy -- it is essential to look at both the short term -- what are foundations doing for charity currently -- and long term -- what are foundations going to do for charity in the years ahead.

What kind of actions are needed to assure that foundations provide society with an adequate social return on the capital invested in them?

First, of course, we need to be concerned about various kinds of financial abuses that benefit the donor at the expense of the foundation and therefore of charity. This may be attributable, in some measure, to the donor's misconception that it is "his" foundation and therefore "his" money.

As an aside, let me note that the use of the term "private foundation" in the House bill is unfortunate. We believe the emphasis should be on the public, rather than on the private, character of foundations. Substituting the term "philanthropic foundation" might help to emphasize that foundations are there to benefit charity, not private individuals.

Second, there are what we might call grant making abuses that result from spending foundation money for purposes that are not properly charitable.

Third, and perhaps most serious are problems which adversely affect the amounts paid out to charity. This may be due either to poor investment management or to decisions to save foundation earnings for future uses.

Self-Dealing Problems

Let us start with the financial abuses -- the so-called self-dealing problems that give rise to a good deal of the "tax dodge" criticism.

What is the incidence of these abuses? Are they so frequent as to cause one to doubt whether the institution of foundations is worth saving, or are financial abuses at a level which represents an irritant which must be cured but not a cause for severely restricting foundations.

The problem this question presents to a non-governmental commission such as ours is an obvious one. We have no subpoena powers, nor the authority to audit. Thus, we had to try some indirect approaches. I use the word indirect to suggest that it obviously isn't as simple as asking the given foundation whether it engages in financial abuses.

Our first approach was to estimate the extent of transactions between the donor and the foundation that give rise to the possibility for abuse. Foundations are required on their tax return (Form 990-A) to answer certain questions relating to self-dealing transactions. We decided to tabulate some 500 of these forms. The answers are shown below and suggest that a relatively small fraction of the foundations seem to have transactions between the donor and the foundation.

SAMPLE OF IRS 990-A FORMS
PRELIMINARY--OCTOBER 1969

EXTENT OF SELF-DEALING TRANSACTIONS* REPORTED ON FORM 990-A

BORROWING INCOME OR CORPUS	1.5%
RECEIVING COMPENSATION FOR SERVICE	2.5%
USING SERVICES OR ASSETS	.5%
PURCHASING SECURITIES OR OTHER PROPERTY	3.5%
SELLING SERVICES OR PROPERTY	5.5%
RECEIVING INCOME OR CORPUS IN ANY OTHER TRANSACTION	1.1%
NUMBER OF FORM 990-A's EXAMINED	492

* It must be emphasized that the current law does not prohibit self-dealing transactions but rather imposes an arms-length or reasonable standard. Thus, while these transactions are potential self-dealing abuses, it should not be assumed they are violations.

All this indicates of course is the potential for abuse and we searched for ways of getting at least an indication of the extent to which this potential was realized.

It occurred to our staff that tax accountants are perhaps better informed than anyone else and might be a source of information.

Arthur Andersen, a leading accounting firm, promised complete anonymity to some two hundred accountants across the country (they did not sign the questionnaires) if they would indicate their own experience with foundation abuses.

The answers of the accountants speak for themselves. They indicate that a very substantial majority feel that self-dealing abuses are rare. At the same time 5% to 10% believe these abuses to be quite common.

FOUNDATION ABUSES: ARTHUR ANDERSEN

STUDY C.P.A. FIRMS

A. "There are loose financial self dealings between small foundations and the donor or friends which work to the advantage of the donor or friends."

- Very infrequent	69%
- Not common	22
- Fairly common	7
- Very common	2
	100%

B. "There is loose record-keeping by small foundations which make it difficult to know whether personal advantage is being taken by the donor or his friends."

- Very infrequent	68%
- Not common	24
- Fairly common	5
- Very common	3
	100%

C. "There are high operating expenses relative to the assets or income of the foundations."

- Very infrequent	72%
- Not common	22
- Fairly common	4
- Very common	2
	100%

Clearly any tax abuse is bothersome, but when it reaches a level above the extreme exception -- then something drastic should be done. Our reading of these findings is that while it is quite unwarranted to suggest "foundations are nothing but tax dodges" there is enough potential for abuse to warrant vigorous action. We strongly support legislation that prohibits self-dealing.

A study of abuses would be superficial if it assumed that the currently acknowledged abuses are the only ones to be concerned about. Through a wide variety of sources we have identified some additional abuses that we believe are worth your specific attention. Permit me to illustrate some of these.

1. Company foundations have been largely ignored in much of the anxiety over foundation abuses. They should not be. We believe these are situations in which company foundations seem to be making grants that are more appropriately business expenses. The privilege of tax exemption on income is, of course, extended to foundation income but not company income. It is thus improper to use foundation funds for what are properly business expenses.

   Two illustrations will suffice. First, grants of a foundation for research in the industry in which the company operates has significant potential for special benefits to the company. How should the public be made aware of and benefit from such research? How do competitors gain access to this research? Second, company foundation grants to customers or suppliers of the company present some complex issues which deserve careful scrutiny.

2. Serious abuses may result from the over-valuation of property contributed by a donor to his foundation. Although over-valuation problems can also arise in connection with contributions to other charitable organizations, the potential for abuse may be somewhat more acute in the case of foundations where the donor is in effect on both sides of the transaction. The risk of self-dealing abuse is aggravated by the infrequent level of government auditing; the passage of time after a transaction has taken place complicates the problem of determining a fair valuation.

   We would recommend that significant contributions of property to foundations be validated by independent appraisals at the time of the contribution.

3. Substantial overlap in stock ownership between donors and foundations appears to be fairly common. This raises some rather interesting questions of how one can be sure that the foundations' interest in maximizing the return from portfolio protected. One need not be unduly imaginative to visualize a case in which the donor has the foundation buy stock in a company in which he also owns stock, in order to inflate the price artificially so that he can profit; or, alternatively, sell his stock in a market downturn before the foundation stock is sold.

   Disclosure requirements specifically directed to such transactions would probably help reduce their incidence.

4. We have also heard about cases in which the foundation conditions a grant to a charitable organization by specifying that an individual related to the donor should receive benefits, such as free tuition in a religious school. Once again, improved disclosure on all grants where individuals are specified, could be helpful in discouraging such practices.

5. We have seen a few cases where excessive administrative expenses resulted in a diversion of funds from charity.

   The Commission favors a legislative prohibition on payment of excessive or unnecessary expenditures. Such expenditures should be limited to the same kind of "ordinary and necessary" rule of reason that is used in the deductibility of business expenses.

Increased IRS Auditing

Once the abuses to be corrected have been identified, it is obviously necessary to make sure that the legislative intent be carried out. We believe that the most effective weapon both for determining the level of abuses and minimizing them in the future is an intensive auditing program. That audits program has not been adequate, at either the federal or the state level, is obvious from the following chart from our foundation survey.

GOVERNMENT AUDITING OF FOUNDATIONS

"To the best of your knowledge, has the foundation been audited in the past ten years by state officials or the Federal Internal Revenue Service?"

	% of foundations reporting
Yes, had been audited	34%
State audits	8%
IRS audits	29%

PRELIMINARY
10/20/69
FOUNDATION SURVEY

We understand the serious budgetary pressures of the Internal Revenue Service and the fact that high priority is placed on audits that increase tax revenues. Thus it is not surprising to discover such a low level of audits. How low is perhaps best illustrated by reminding you that the Ford Foundation, largest of all foundations by a 4-fold margin, is only now undergoing the second IRS audit in its history.

The crisis in confidence confronting foundations merits intensive action. It is not only irrational but it is unfair both to foundations and to the public interest to permit allegations of tax dodging to persist without using the available regulatory tool to correct abuses.

Our Commission recommends that all foundations be audited at least once in the next three years. We recognize that this will involve a substantial step-up in IRS auditing activity. However, we believe that only an effort on such a scale will be adequate to assure the public that the privilege of setting up a foundation is not being abused. The result of such a three-year program should also provide sufficient data to enable Congress to make informal decisions regarding the proper level of future surveillance.

We recognize that the cost of an increased audit program is substantial and we propose that this cost be paid by a special user charge payable by the foundations. Such a charge should reasonably reflect the actual cost increase of this special regulatory effort, and would be limited to the three-year period. The Commission believes costs should be an earmarked fund in which the costs of this auditing program are carefully cost justified at least annually. This cost is likely to be substantially less than the 7½% tax on investment income proposed by the House and perhaps even the 2% tax recommended by the Treasury.

As a matter of principle, we question the desirability of charging philanthropic institutions for the cost of IRS supervision when the cost of supervising corporations as well as charitable institutions is borne by the regular administrative budget and is not made a special charge. We would suggest, therefore, that the precedent of the user charge be limited to the special three-year audit program we are recommending.

STATE REGULATION

Some students of the problem of regulation have urged that the states be given a larger role in policing foundation activities. They contend that the states have an incentive to supervise foundations because of their interest in the collection of estate, income and other taxes.

This contention seems refuted by the evidence that in the last ten years only 9 percent of the foundations in our survey have been audited by state agencies. New York State has shown a deep interest in foundations and their activities, but most states have neglected the problem, a condition reflecting their lack of staff and resources for the task.

Another defect in proposals to refer the regulatory problem to the states is the lack of uniform state laws in a field where uniformity is clearly desirable. We shall discuss this need at greater length in our final report, but for the time being it seems conclusive that until the states agree on standards of auditing and related subjects, and work out a complementary system of regulation, it would be imprudent to rely on state agencies to do the job. The public concern is too urgent to be dismissed by a shift of responsibility that in most states would be tantamount to no regulation at all.

Self-Regulation

Self-regulation by the foundations themselves has also been advanced as a solution to the abuses which have been exposed. Over the long term, an organization from the foundation field may indeed play such a role. But we are concerned with the large number of foundations unaffiliated with existing foundation organizations and among whom may well be some of the most likely offenders.

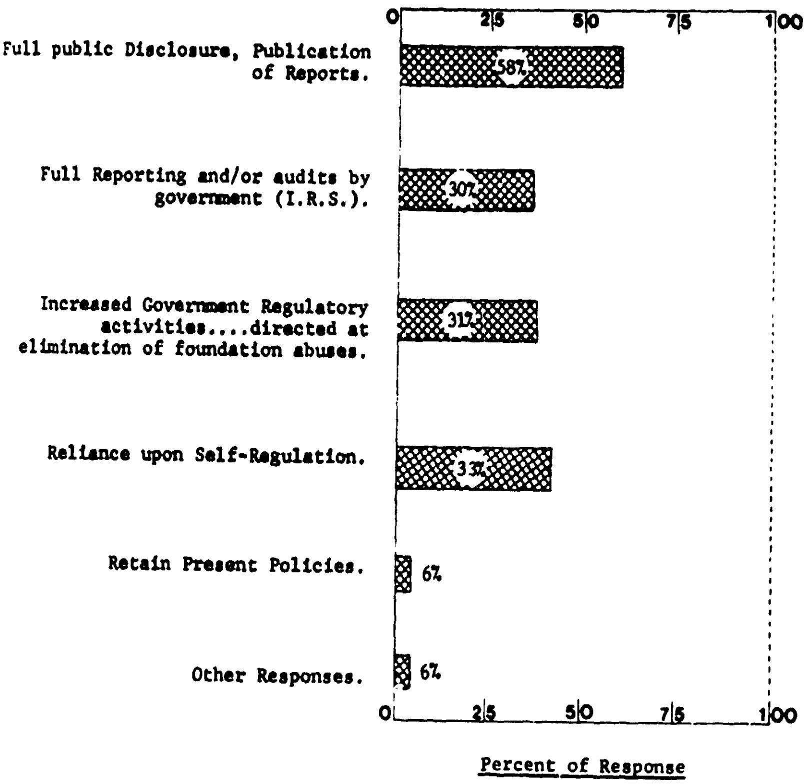
Responsible foundation groups are now beginning a commendable effort to police the field, but the lack of sanctions limits the effectiveness of their efforts to meet the current urgency. Perhaps in the future, when government measures have curbed the less scrupulous and there is fuller membership in a central organization, self-regulation can play a larger role.

Public Disclosure

It is interesting to note that our distinguished citizen group when asked what methods of regulating foundations were desirable, frequently mentioned more extensive public disclosure. That view is endorsed by our Commission.

DISTINGUISHED CITIZENS STUDY
PRELIMINARY DATA
OCTOBER, 1969

APPROACHES TO ACHIEVING MORE FOUNDATION ACCOUNTABILITY TO THE PUBLIC:



There is, of course, an important distinction between formal disclosure and adequate public communication. Events of the past year have demonstrated the existence of a communications chasm between foundations and a number of their constituencies.

There is no reason why policy makers, such as your committee, should not have answers to the many questions that today remain unanswered. What are the assets of the foundations? How are these assets being managed? What return do they bring? For what purpose are grants being made? What is the degree of foundation involvement in various areas of our society?

Our Commission believes the best interests of foundations and the public would be served if some new approaches to disclosure were adopted.

Perhaps the first step of such a program is to modify the annual reporting form in fundamental ways so as to provide some of the following kinds of information and benefits:

1. Uniform Accounting Standards

   There are enormous variations in the meaning and interpretation of such terms as value of assets (cost or market), grants (amounts actually paid or amounts authorized for payment), administrative expenses (with or without investment management fees), etc.

2. Purposes of Grants

   The 990-A form does not include adequate information about the purposes of the grants. Both for purposes of statistical analysis and for prospective recipients more information would be useful.

3. Investment Activities

   In this area, too, the 990-A form is inadequate. More detailed information will be helpful as a means of preventing and policing abuses, and measuring investment return.

In addition to annual disclosure we believe there are occasions for special reports, on a more immediate basis, in connection with potentially controversial activities. In particular, we urge that prompt disclosure to government agencies be made in connection with any foundation program which involves payments to government employees. We also believe that any policy studies which involve more than occasional contacts with members of Congress and their staffs should require registration under the Federal Lobbying Act.

Requiring individual foundations to furnish more detailed reports is not by itself sufficient to overcome the information gap. We recommend two other steps: First, there should be an annual statistical report to Congress and the public on the activities of foundations. This country has too large a financial stake -- at this point unknown billions -- not to be better informed on the return from this investment. Second, We recommend that the accessibility of reports about foundations be improved. We commend the program of the Foundation Center in New York to provide access to such information. Similar efforts should be encouraged in other parts of the country.

The public disclosure procedures we are urging would serve five purposes:

1. They would help to re-establish public confidence in foundations.

2. They would provide information to help Congress and the Executive Branch to reach wise policy decisions about foundations.

3. They would make it easier for prospective recipients of grants to determine which foundations are interested in particular fields or work.

4. They should significantly reduce questionable practices. We need only to look to the field of securities regulations to see what a profound difference public disclosure can have.

5. Greater disclosure, if coupled with equity jurisdiction in the Federal courts, may make it possible to enjoin improper activities at an early stage.

Sanctions for Violations

There are serious shortcomings both in the existing penalties for violations of the legal rules applicable to foundations, and in the new sanctions proposed in the House bill. The principal existing sanction -- loss of tax exemption -- is so drastic as to be useless except in the most extreme cases. The provision of the House bill for a graduated system of "taxes" for various forms of violation has other shortcomings. We recognize that this is a highly technical subject and I am not in a position to make detailed recommendations. Let me outline, however, the general principles which we believe a satisfactory system of sanctions should embody:

First, the objective of the system of sanctions should be to make charity whole, not to increase the collection of taxes. As a general rule, penalties should not be levied against the assets of the foundations, but rather against the persons responsible for the violation. An individual who has enriched himself at the expense of the foundation, should be required to make the foundation whole.

Second, Fines should only be levied where the prohibited conduct can be defined in an unambiguous manner. In particular, fines should not be imposed in areas where there are difficult questions of judgment, as may arise in connection with certain investment-policy and grant-making decisions.

Third, provision should be made for promptly enjoining improper activities rather than penalizing them after they have occurred. We are attracted by the possibility of providing equity jurisdiction in the Federal courts. This can be readily provided by Congressional action; we see no constitutional problem. This is a subject which our Commission has under study.

We believe that Federal equity jurisdiction would provide a very useful additional tool for the regulation of foundations. Action in the Federal courts could be initiated by the U. S. attorney general. Such actions could be brought at the request of the Internal Revenue Service. An action for an injunction would be particularly appropriate in preventing questionable activities in the political or legislative area where legal remedies such as fines could be too little or too late.

The successful development of equitable remedies might well be a much more effective way to deal with controversial and difficult cases than would be possible through present administrative procedures. Particularly where sensitive issues are raised such as drawing the line between proper educational activities and improper political activities, we believe that the courts are uniquely qualified to provide prompt and effective relief.

Fourth, sanctions should be geared to the seriousness of the violation, and whether it is willful or inadvertent. For minor or technical violations, a warning with an opportunity to make corrections may be sufficient. In other cases monetary penalties will be necessary. Such penalties should not be automatically measured by the amount involved in the improper transaction.

Penalties should increase in the event of repeated violations. The level of fines should not be so severe as to discourage individuals from becoming trustees and officers of foundations. We believe that the penalties contained in the House bill, particularly in connection with grant-making and investment activities would have a chilling effect. The difficulties which corporations have been encountering in obtaining the services of outside directors, notwithstanding the availability of directors' liability insurance, makes it clear that this can be a very real problem.

Grant-Making Activities of Foundations

It is commonly assumed by many persons, in view of recent publicity, that foundations devote a large percentage of their funds to political, controversial or quasi-charitable activities. When we sought to investigate these assumptions we found that very little was actually known about how foundations spent their money.

As I noted previously, 93 percent of the grants of all foundations are made to qualified charitable organizations - 75 percent to 30 percent organizations. This distribution percentage remains relatively constant for each type of foundation.

DISTRIBUTION OF 1968
FOUNDATION GRANTS BY
TYPE OF RECIPIENTS

TYPE OF FOUNDATION

% of Total Grants Allocated to:	Under $1 Million in Assets	$1 Million $10 Million in Assets	$10 Million $100 Million in Assets	Over $100 Million in Assets-Total	Company Foundations	Community Foundations	All Foundations
30% Charitable Organizations	82%	67%	74%	71%	71%	54%	74%
Other qualified charitable org.	12%	24%	25%	16%	27%	21%	19%
Total, qualified charitable org.	95%	91%	99%	87%	98%	75%	93%
Other tax-exempt or non-profit org.	-	(*)	-	-	-	12% **	(*)
Foreign organizations	(*)	1%	(*)	5%	(*)	-	1%
Individuals	5%	8%	(*)	9%	1%	13% **	5%
	100%	100%	100%	100%	100%	100%	100%

(*) Less than 1/2 of 1%

** Community Foundations in some cases appear to have included non-charitable bequests with grants.

NOTE

Percentages may not add to 100 because of rounding

PRELIMINARY 10/20/69
Foundation Survey

We also sought detailed information on the purpose of foundation grants in the year 1968. We asked foundations to distribute their grants among the following purposes:

Educational (educational research, elementary, secondary, higher, and adult education programs [except manpower or vocational training])

Health and medicine (medical research, treatment, and education includes hospitals, clinics, public health education and services, such as birth control clinics, etc.)

General welfare (support of Community Chest, United Fund, Welfare Council and similar general welfare agencies)

Community action or services (organizing or supporting designated groups [including, for example youth groups, such as "gangs"], neighborhoods, or regions, planning for community improvement, and provision of community facilities not elsewhere classified)

Cultural organizations and facilities (libraries, art galleries, museums, symphonies, theater, educational television)

Religion (support of a church, synagogue, or other religious organization primarily for religious instruction, practice or other predominantly religious purpose)

Science and technology (all non-medical research and development in the physical and natural sciences and technological applications of scientific knowledge)

Arts and humanities (support of artistic endeavors - writing, fine arts, music, and research and publication in the humanities)

Social sciences (all social science research and publication not elsewhere classified)

Manpower training and employment (research on manpower problems, vocational and job training and related programs)

Community, ethnic or inter-racial relations (improvement of inter-group understanding and relations)

Individual and family services and support (provision of food, clothing, and other necessities, and services [except medical or educational services] for the needy)

Recreational and conservation (provision of recreation facilities and programs, parks, conservation of natural resources, wildlife preservation)

Housing (design, construction, or provision of housing, and improvement of housing conditions or access to housing for designated groups)

Projects directly related to the political process (Voter registration, voter education, schools for political candidates, etc.)

The data show that more than 50 percent of all grants were for education, health, and medicine.

Purposes of Foundation Grants	% of Foundation Grants
Educational	36%
Health and Medicine	25%
General Welfare	7%
Community action or services	7%
Cultural organizations and facilities	6%
Religion	3%
Science and technology	3%
Arts and humanities	3%
Social sciences	2%
Manpower training and employment	2%
Community, ethnic or inter-racial relations	2%
Individual and family services and support	1%
Recreational and conservation	1%
Housing	1%
Projects directly related to the political process	*
Other	1%

* Less than 1/2 of 1%

PRELIMINARY
10/20/69
FOUNDATION SURVEY

PURPOSE OF FOUNDATION GRANTS 1968

% of Foundation Grant Dollars for -	TYPE OF FOUNDATION: Under $1 Million in Assets	$1 Million $10 Million in Assets	$10 Million $100 Million in Assets	Over $100 Million in Assets: Total	Excluding Ford	Ford	Company Foundations	Community Foundations
Education	10	53	20	43	45	37	49	12
Health & medicine	46	14	34	20	25	9	6	13
General welfare	27	4	11	1	2	0	17	3
Community action	3	5	13	6	6	5	4	23
Cultural	1	9	4	7	5	12	5	20
Religion	9	3	4	1	2	0	-	*
Science & techno.	*	-	8	2	3	1	*	*
Arts & humanities	1	1	-	4	*	10	-	8
Social sciences	-	*	-	5	3	9	-	-
Manpower	-	2	2	3	2	4	-	1
Community relations	2	-	-	2	1	3	2	8
Indiv. & fam. services	1	3	1	1	1	0	1	3
Recre. & conserve.	*	1	1	1	*	3	*	*
Housing	-	3	-	2	1	3	-	1
Political process	-	-	-	1	1	1	*	*
Other	-	-	.	2	2	3	14	5
	100%	100%	100%	100%	100%	100%	100%	100%

Percentages may not add up to 100 because of rounding.

* Less than 1/2 of 1%

PRELIMINARY
10/20/69
FOUNDATION SURVEY

We have also calculated the percentage of foundations by type which make grants only to qualified charitable organizations. As shown on this chart 81 percent of all foundations limit their grants to this type of recipient.

PERCENTAGE OF FOUNDATIONS BY TYPE

MAKING GRANTS ONLY TO QUALIFIED CHARITABLE ORGANIZATIONS

Foundation Type	% of Foundations Making Grants only to Qualified Charitable Organizations
Under $1 million in assets	82%
$1 million - $10 million in assets	63%
$10 million - $100 million in assets	85%
Over $100 million in assets	64%
Company Foundations	81%
Community Foundations	56%
All Foundations	81%

PRELIMINARY
10/20/69
FOUNDATION SURVEY

We had heard that foundations are mainly interested in making innovative grants and thus we asked each foundation in our survey "Has the foundation made any grants or gifts in the past three years which you consider experimental or out-of-the ordinary?" Only 12 percent answered "yes" to this question.

We also asked "Have any of the projects supported by your foundation's grants or gifts in the past three years been considered controversial or particularly unpopular?" Less than 1 percent answered "yes".

We sought to test these answers by asking whether or not each foundation had made grants in the past three years for various specific activities which could be considered controversial. The minuscule percentage of foundation grant dollars devoted to each is reflected by the following chart:

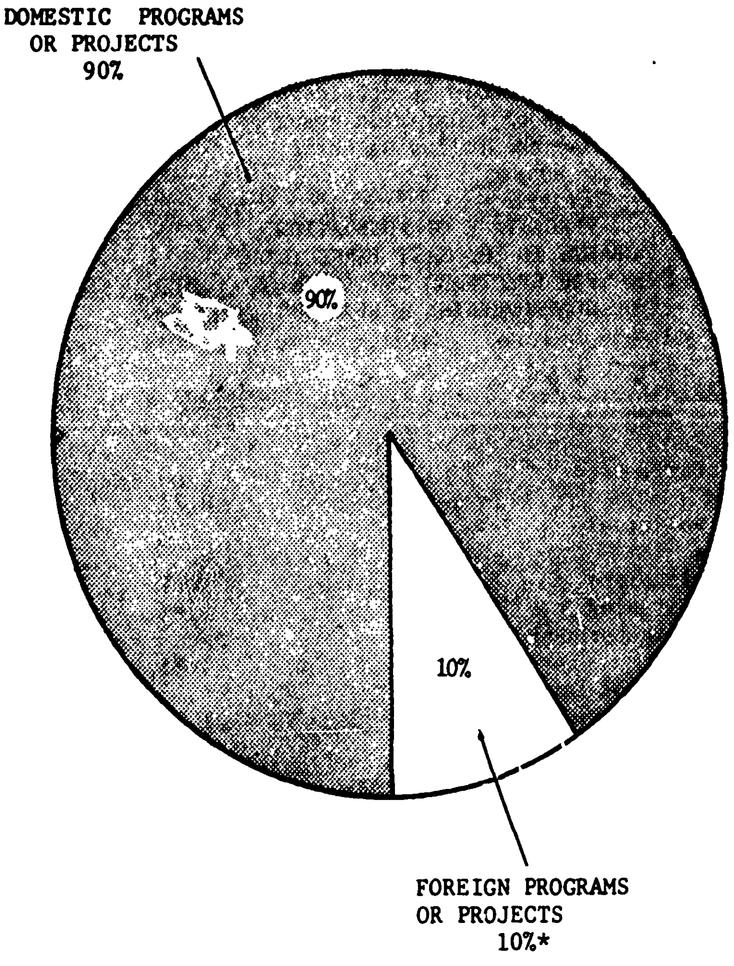
PERCENTAGE OF FOUNDATION GRANTS IN THE LAST THREE YEARS FOR SPECIFIED SENSITIVE OR CONTROVERSIAL ACTIVITIES

Activity	% of Foundation Grant Dollars
Voter Registration and Education	0.2%
Schools for Political Candidates	*
Student Organizations	0.2%
Public Policy Studies	1.9%
Community or Neighborhood Organizing	1.8%
Grants to Government Employees	*
Birth Control	1.2%
Sex Education	*
Grants connected with a specific election	0.1%

* Less than 0.1%

PRELIMINARY
10/20/69
FOUNDATION SURVEY

FOUNDATION GRANTS



* These grant amounts appear to have gone primarily to recipients in the United States.

Finally, we specifically investigated the reported grants to individuals (5% of total foundation grants) to determine the purpose for which each grant was made. Over 90 percent of these grants were either scholarships, fellowships or research grants.

PURPOSES OF GRANTS TO INDIVIDUALS

Grants to Individuals are 5% of Total Foundation Grants

	Percent of Grants to Individuals
Scholarships and Fellowships	87%
Research	5%
Support of creative work	2%
Travel and study:	
Ford Foundation	3%
Others	2%
Awards and encouragement for professionals and students	1%
Direct aid to indigent persons	1/2%
Religious missionary work	1/2%
	100%

Preliminary
10/20/69
Foundation Survey

fter considering all of this data we have reached the conclusion :hat the grants of foundations which have received the most publicity nd which have caused concern in many quarters are but a small fraction f the total annual grants made by foundations.

Since their grant-making activities are the basic reason for the existence of foundations, it is appropriate that this subject should have occupied more time than any other in our Commission's deliberations. We have listened to presentations by representatives of foundations and by distinguished citizens with governmental and other experience relevant to foundation grant-making.

Unquestionably, the most sensitive area of grants is that in which the purpose may involve contact with government -- at some point, through interaction with welfare programs, through possible influence on voters, or on possible legislative or administrative action. The subject presents complex problems, requiring a balancing of conflicting considerations.

Studies of Public Issues and the Legislative Process - We reached the basic premise that it is impossible to draw any line of demarcation between the foundations' fields of interest and those of government. Federal, state and local governments are active in practically every significant area of foundation interest, and usually on a much larger scale. This is true both of the conventional fields of philanthropy - health, education, welfare, science and technology - but also in newer areas such as urban problems, civil rights and population studies.

Far from deploring this intertwining and interaction of private and governmental programs, we consider this a healthy feature of American society. Interchanges between the private and public sector in the formulation of policy is an essential part of the democratic system. In the infinitely complex problems facing government today it becomes at once more important to have private participation in decision-making, and more difficult to make significant private contributions.

The work of our own Commission will serve as an illustration of the difficulties I describe. We have, up to this point, operated without foundation financing. I can testify from personal experience how difficult it is to raise funds from other sources. We quickly discovered that private individuals cannot deal adequately with even a relatively limited subject except after extensive study and far-ranging fact-gathering. This is not only time consuming, but can be very costly, even though the members of the Commission serve without compensation. Our experience is far from unique, and leads us inexorably to the conclusion that foundation funds are much the best source for financing private efforts to study significant policy issues. Any legal restriction on the use of such funds for studies of public issues must inevitably impair private contributions to decisions on public policy.

In view of the desirability of such contributions, we do not think distinctions should be made between legislative decision-making and executive decision-making. One of the members of our Commission, who has had extensive Congressional experience, feels strongly that the massive scale of the executive branch contributions to the legislative process makes it particularly useful that there be well conceived private contributions to Congressional deliberations. Furthermore, we think there is no practical or logical basis for distinguishing between public issues which may become the subject of legislative or administrative action and those which will not. Almost any significant public issue may become the subject of legislative attention. The purest research on cancer may eventually bring restrictions on tobacco advertising, or a study of highway safety result in automotive design regulations.

The higher the quality of the research, the more likely the results are to influence governmental action, as witness Professor Einstein's famous equation. For this reason we consider it unwise and undesirable to attempt to shield legislators and their staffs from contact with private groups engaged in studies which are of legislative interest, as the House Bill seeks to do. If the only pressures on legislators came from the foundations, perhaps you could elect to lead a trouble-free life, but as a practical matter an informed voice ought to be more welcome than a merely self-seeking one.

Let me add, and here again I am speaking from personal experience, the exchange of ideas between private individuals and members of Congress and their staffs is mutually beneficial. On most major matters of public interest, members of Congress and their staff are among the foremost experts. The work of our Commission has benefited greatly from our communications with the members and the staffs of this Committee and those of the House Ways and Means Committee.

The provision in the House Bill permitting foundations to make available the results of "non-partisan analysis and research" is, in our opinion, far too limited an exception to the restriction on communication affecting legislation. The word "non-partisan" is highly ambiguous. If it means free from any possible impact on party politics, the exemption would be practically meaningless, for any significant public issue can become a matter of partisan controversy. If "non-partisan" means that no conclusion may be drawn it would cancel the purpose for which most studies are undertaken. Could we have interested the 15 members of our Commission, for example, to spend much of their valuable time in earnest study of an urgent public problem if they could not come to any conclusions?

While we feel strongly that there should be no impediment on foundation-financed studies, even though they may have an impact on the formulation of legislation, we recognize that this is an area of genuine sensitivity. The solution, we believe, lies in prompt and full disclosure rather than in prohibitions. We believe there should be advance disclosure of any foundation-financed study if such study involves any substantial number of contacts with members of Congress or their staffs. In addition, any foundation grant which involves compensation to government employees should be disclosed before such payments are made. With respec t to executive branch employees, prior notice should be given to the head of the department employing the particular individual. Where legislative employees are involved, notice might go to the Clerk of the Senate or of the House.

Lest there be any misunderstanding, let me emphasize that foundation involvement should be limited to legitimate studies of public issues. The privilege to engage in educational activities which may have an impact on legislation must not be abused. It clearly does not provide a license to carry on pure and simple lobbying activities.

Elective Politics - Our Commission fully endorses the prohibitions on foundation involvement in elective politics. Tax-exempt funds should not be used in election campaigns, whether to support the election of candidates or to influence the vote on measures in referendums. The policy considerations in this area are well settled and do not need further elaboration.

"Grass Roots" Campaigns - We agree that foundation funds should not be used for "grass roots" campaigns designed to bring pressure on legislators. The only proper role of foundations in the political process is an educational one. Where the objective is political pressure rather than dissemination of ideas, foundation involvement becomes improper. We recognize, of course, that this principle is more easily stated than applied in practice. However, the fact that there may be some difficult borderline case is no reason for ignoring the underlying principle. We would encourage foundations to seek advanced rulings before venturing into questionable areas. This should not be a legislative requirement.

Definition of Propaganda - Starting from the premise that the legitimate functions of foundations in the political process is an educational one, we agree that the use of foundation funds for propaganda purposes should be barred. However, we would urge a redefinition of what constitutes propaganda. Truth may be used as propaganda as in the public exhortations to send your child to the dentist. The test should not be whether "both sides" are presented in an impartial manner, or whether conclusions are drawn, but whether the material being distributed is educational in character. We recommend that this test be applied in a conservative manner. The line between "propaganda" and "education" should not provide a basis for censorship of ideas. Only in very clear-cut cases, such as hate material, which no reasonable man could consider as educational, should the restriction on propaganda be invoked.

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Payout Requirement

We start out with the simple proposition that every institution should be judged according to how well it achieves its basic purpose. Thus, a business corporation is measured by its growth in sales and profits; a foundation, by what it contributes to charity.

Foundations represent a huge capital investment in philanthropy -- unknown billions, but probably somewhere between 20 and 30 billion dolla

This capitalized philanthropy has been jointly funded by the donor and by society at large through a tax deduction. Thus, the public has every reason to be interested in a satisfactory return on this capital investment. If indeed the value of foundations is, say, 25 billion dollars -- every percentage point improvement in return represents 250 million dollars more annually to charity. As one watches the tortuous process you must be going through to add 250 million dollars of additional tax revenues, this is not a moot point. And when you consider that the current evidence suggests that foundation rates of return might reasonably be expected to increase not one but several percentage points -- it becomes worth serious scrutiny.

What is the total rate of return on foundations -- total return being the virtually universal measuring stick used by mutual funds, profit sharing funds, pension funds, and endowment funds? It includes the interest, dividends, the realized and unrealized capital gains and does not differentiate between various kinds of income on the very rational thesis that for tax-exempt organizations (of all institutions) it makes no difference because no tax is paid on any income -- whether dividends, capital gains, interest, etc.

What is a reasonable total return? As you might expect, funds that have higher percentages of equity stock have done better over the last 40 years whereas balanced funds with more debt instruments have not generally done as well.

Over the last ten years, here is the total return as presented in a study entitled "Managing Educational Endowments" - -

	1959-1967 Annual Average
Twenty-one balanced funds	9.2%
Ten large general growth funds	14.6%

In 1968 we are told that an average performance of mutual funds was 15.3% return for a so-called common stock mutual fund, and 14.9% return for a balanced fund.

What has the total return been on the foundation assets?

To estimate this, however imperfectly, we asked the Arthur Andersen Company to compute the total return on a sample of 990A forms for various sizes of foundations.

We say imperfect estimates because we were not able to verify in all cases whether the market value was shown, but it is at least as good an estimate as we can make. Shown below is the median return (to help offset any major swings caused by any disproportionate effect of those not showing market values).

Asset Size	990A Foundation Forms 1968 Total Investment Return (Median)
1 to 10 million	6.1%
10 to 100 million	7.7%
100 million and over	8.0%
Community foundations	5.9%
Company foundations	6.0%

It might be said that one year is not an adequate period (though it does seem significant that in every category the return is substantially lower than balanced funds' performance of nearly 15% in 1968).

It might be said that our data are not as accurate as they could be because of possible confusions in reporting. (Here we would agree but we were hopeful the median calculation would help minimize any such effects).

In the case of 14 selected large foundations, we were able to confirm the accuracy of the total return data and here again for this one year, 1968, see a return of 8% for this foundation group vs. the 15% figure for balanced funds.

The Commission discussed this question of investment returns with a number of investment experts and found a good deal of confirmation -- or perhaps suspicion would be a more accurate word -- that returns on foundation investments were significantly lower.

For example, I quote from an article in the Institutional Investor of November, 1968, entitled "Foundations: The Quiet $20 Billion" -

"Is there a place as yet untouched by the revolution in money management? Where the winds of performance are not felt, where the opportuning cries of ambitious brokers are not heard, a last redoubt so quiet the clocks can be heard ticking?

There is such a place, and it is called foundationland. There, tax-exempt, is twenty billion dollars, one of the bigger pools of capital in capitalism and it is still run the way money used to be. The way it used to be, that is for Widows and Orphans, before currency began to depreciate. In foundationland the verities are Preservation of Capital and Yield, verities the current generation shies from. In foundationland, the managers do not often buy their stocks, because they already have them -- they were given them many years ago, and now they sit, quietly watching."

This article refers to stock turnover rate for foundations from an SEC study -- in the range of 1% to 2% a year -- which investment experts tell us is extraordinarily low (by a factor of 10 or more) compared to a variety of other funds.

What this means, of course, is that foundations are apparently much more likely as the article says, to "sit, quietly watching."

One can only speculate as to the reasons for this low turnover. Among reasons we have been given are that a good deal of the stock is often control stock in a company and it has not been considered appropriate to trade these securities. Others point out that the effective investment of funds has not been considered a high priority objective.

In some cases the legal instruments setting up the foundation prohibit the sale of the securities donated to the foundation.

This Commission has received expert advice from some nationally recognized experts, but we would certainly not claim we have the resources or the authority to review the investment performance of foundations in greater detail over longer periods.

Approaching this from several different standpoints, we arrive at the same point; namely, that the investment performance of foundations is sub-par, perhaps significantly, and the cost of this to society could easily amount to hundreds of millions and perhaps over a billion dollars annually.

We would welcome additional studies of foundation investment returns and indeed would hope that new foundation annual reporting forms would put a good deal more stress both on computing this return and providing the opportunity for more detailed analysis of the investment patterns.

Payout to Charity

We now look at another measure of society's return on this capitalized investment in philanthropy .. the payout to charity in 1968 as expressed as a percent of the reported assets ...

Reported Assets	Median Payout as a Percent of Assets (Grants, administrative expenses, etc.)
Foundations, 1-10 million	4.8%
Foundations, 10-100 million	4.9%
Foundations - 100 million and over	5.7%
Community Foundations	5.2%
Company Foundations (significant number of conduit foundations)	22.5%

What this tells, of course, is that on the average, about half the foundations studied paid out less than 5% and further analysis shows that about one-third paid out less than 4% of assets. I should remind you that to the extent we have foundations reporting their assets to us on a basis of cost rather than market value - even this payout figure is overstated.

The very substantial majority of the Commission believes that (1) our society should receive significant current benefit to charity, and (2) the foundation in turn should be encouraged to make reasonable and productive investments so as to earn over the long term amounts that are comparable to what a variety of professionally managed portfolios earn over this period of time.

Over the last 40 years the average rate of inflation has been 1.6% and closer to 2% over the last 10 years or so. Thus, if the objective were that one should permit a reasonable investor to earn enough to maintain the purchasing power of his assets -- then one could require an annual payout to charity of from 6% to 8%.

The precise number should depend on reasonable total investment return which we would leave to the determination of the Secretary of the Treasury to re-set every few years after appropriate consultation and review of the performance of relevant types of investment portfolios, balanced funds, pensions, etc. The Secretary's determination would be made in a formal "rule-making" procedure in which all affected parties would have an opportunity to comment.

The payout number also depends on how one balances the priorities between the future and the present. Those who view the problems facing charitable organizations as especially urgent would lean in the direction of a higher annual payout. Those who lean toward the longer range future would pick a lower figure in the range.

I would think, however, that virtually all of the Commission agrees that foundation investment returns deserve a great deal of improvement and emphasis.

Speaking only for myself, I would probably opt for a figure in the upper end of the 6% to 8% range because I believe the needs over the near term foreseeable future are demonstrably accelerating.

We see a high payout requirement having a number of advantages to society and, we believe, to foundations as well:

1. It results in substantial benefits to charity at a time in our lives when every reasonable projection says more and more money will be desperately needed to maintain the viability and thrust of the private sector's role.

2. Such a payout will provide an incentive to foundations to improve their rate of return and this in itself could mean benefits to charity compounded at hundreds of millions of dollars a year or more.

3. The disposition of control stock is an extraordinarily important question -- as our review of the sources of major contributions of existing foundations have made very clear.

The House Bill takes the view that the disposition of this control stock over 5 years, and in some cases 10, is required. Considering the motives of large donors in giving in the first place, this will not only present some serious problems to them but could well discourage philanthropic giving unduly, and perhaps decisively.

We believe the public interest is best served when we concern ourselves with the consequences and performance of foundation activity rather than to assess the motives of those who establish or operate these organizations.

Men's motives are always mixed; charity is not without its variety; generosity is not without its own kind of pride, and except for saints, we all perform our best and worst actions for a mixture of needs.

If the foundation provides an adequate return to charity, if abuses have been adequately controlled, if non-charitable grants are stopped, then it seems to us a bit fruitless to speculate upon the mixed motivations of foundation donors.

4. For this same reason, we strongly oppose the restrictions on appreciated property gifts to foundations as unnecessarily punitive, self defeating and potentially disastrous to the all important birth rate of new foundations to meet the charitable crisis of the seventies and beyond.

   Our survey of large donors indicates that 63% would not want to or wanted to set up a foundation at all if the restrictions on the contribution of appreciated property were in effect. Another 25% would contribute less to a foundation. The large donors view this as the provision with the greatest negative effect on their contribution to foundations.

ESTIMATED EFFECT ON FOUNDATIONS

"We would like to know what the impact of each of these provisions would be on you:"

PROVISIONS:	"Lead me not to want or have wanted to set up a foundation at all"	"Lead me to give or to have given less to a foundation"	"Have no effect on my giving to a foundation"
Tax on appreciated property given to a foundation	63%	25%	12%
7.5% tax on foundation income	28%	23%	49%
Distribute at least 5% of assets	24%	13%	63%

PRELIMINARY - OCTOBER 1969
STUDY OF LARGE PRIVATE DONORS

These severe House Bill restrictions on required divestment of control stock and on appreciated property contributions appear to us to be largely punitive in their effects and may achieve a pound of harm for every ounce of good they do.

A high payout requirement will present some problems to which flexible answers should be provided, as long as the fundamental requirement is met of a high payout to charity.

Relevance to Perpetuity Problem - We also believe that a high payout requirement provides a partial, and we think, sufficient answer to the concerns which have been expressed about perpetual existence of foundations. A high payout requirement means that foundations will have perpetual life only as long as they continue to make substantial contributions to charity. If a foundation's endowment is not sufficiently productive to meet the payout requirement, the foundation will gradually be phased out of existence. Thus perpetual life becomes a justified reward for continuing productivity, and not an automatic privilege which is granted without being earned.

If the foundation will not invest its funds productively for the long term genefit of charity and if continued donor contributions or outside support are not forthcoming, then it may well be the case that the foundation has not earned the privilege of perpetuity.

The Commission has considered proposals that the life of foundations should be limited to a fixed term. These proposals reflect concern about self perpetuating dynasties and the distrust of institutions without a clearly defined constituency or public accountability.

It is our tentative conclusion that the arguments for limited life are not sufficiently persuasive to make such a drastic step appropriate. A fixed term provides a bad precedent for other charitable organizations and does not discriminate between organizations which deserve to continue and those who do not. As noted in our discussion of the payout requirement the right to perpetual life should be earned, and should not be an automatic privilege. Only foundations which continue to make satisfactory contributions to charity should be entitled to perpetual existence.

We suspect that limited life may well have a discouraging effect on the birth rate of new foundations. The ability to create an institution, bearing the donor's name, and having perpetual life may be a very significant psychological incentive for the creation of foundations.

The evidence with respect to the bad effect of continued existence of foundations is largely conjectural. Particularly with the larger foundations, there appears to be some evidence to support the view that the institutions may improve with age. A number of foundations which started out under close control of an individual donor or his family have over time become completely independent of such control. There is also some question about the effectiveness of a limited life organization during its final years.

In sum, we believe that a very high burden of proof should be met before a mandatory death sentence should be decreed. The arguments against perpetual existence do not meet this burden of proof.

Specific Suggestions - Our studies of the payout requirement have suggested a number of specific improvements in the provision contained in the House bill:

(a) The payout requirement should be expressed solely as a percentage of assets and should not be measured by earned "income." In measuring a foundation's investment performance, it is inappropriate to distinguish between ordinary income and capital gains, or between realized and unrealized gains. Introducing distinctions between different types of income may result in distortions of foundation investment management in order to maximize one type of income at the expense of another.

(b) The required payout should be based on a two- or three-year moving average of asset values. This would avoid fluctuations reflecting short-term changes in asset values. A longer averaging period might be appropriate for new foundations and for those receiving substantial new contributions. This would provide an opportunity for obtaining an appropriate investment portfolio.

(c) Foundations should be exempted from the payout requirement to permit accumulation of several years' income for specific large scale projects. Such accumulation should not be made without prior notice to the Internal Revenue Service. We believe that prior notice to IRS is more appropriate than advance approval.

(d) All proper foundation expenditures should be included in determining whether the payout requirement has been met. For this purpose both grants and direct expenditures, including the costs of investment management taxes or use charges and other reasonable and necessary administration expenses, should be included.

Establishment and Revision of Payout Percentage - We question the desirability of including a specific payout percentage in the law. We recommend instead that the law define the criteria by which the percentage should be determined and give the Secretary of the Treasury the authority to establish the percentage, and to make revisions from time to time.

roblems of Diversification - A high payout requirement will
ıcourage foundations to dispose of unproductive assets and to make
:w investments. It may be desirable to provide a reasonable transition
:riod to afford foundations adequate time to diversify their portfolios.

›re difficult problems are raised where a foundation's assets are
ı the form of closely held stock or are not readily marketable for
:her reasons. Such problems are not insuperable. Without going into
.chnical detail, we might suggest some steps which should be considered:

) Provision for sales by the foundation back to the donor of assets which are not readily marketable. Such sales should be made at an independently appraised price, and should be exempt from the self-dealing prohibitions.

,) Recapitalization of a closely-held business to provide the foundation with a higher yield security in order to enable it to meet the payout requirements.

:) The Internal Revenue Service should have administrative authority to provide additional time in situations of unusual difficulty. The granting of additional time would be coupled with a requirement to make up the deficiency, after the appropriate reinvestments have been made.

Philanthropic Policy Board

We recommend the formation of a Philanthropic Policy Board to provide at the highest possible level informed and balanced policy judgments on major issues affecting philanthropy. The Board should be quasi-governmental in character, with full access to governmental data and with power to obtain data from private sources.

The Board should be composed of ten to fifteen top level private citizens and government officials. We suggest that the majority of the members be from the private sector. The Board might include individuals from the Senate and the House of Representatives, from the Executive Branch, from state regulatory agencies concerned with philanthropy, and from a variety of philanthropic organizations. Both the chairman and several other members should come from the public-at-large.

It may be appropriate to provide the Board with a federal charter and to provide for Presidential appointment and Senate confirmation of its members. The members should be appointed for fixed terms, perhaps for four years. The Board would meet on a periodic basis, perhaps four to ten times per year. It should have a small full-time staff and should also be authorized to arrange for studies by individual consultants and organizations. Its funding might come from both private and public sources.

Among the functions to be performed by the Board are:

1. Annual report to the Congress and to the President on the state of philanthropy. The purpose of such a report would be to provide a basis for proper formulation of laws and public policies.

2. Compilation of adequate statistical and other information about the entire field of philanthropy.

3. Establishment at several locations around the country of repositories of information about foundations and other philanthropic institutions. For example, the information about foundations should be organized in a manner to enable prospective grantees to determine which foundations may be active in his field of interest. A second purpose would be to provide for an interchange of information between foundations in order to reduce useless over-lapping of programs among foundations.

4. Policy studies of various problem areas affecting philanthropy. Such studies might be undertaken on the Board's own initiative or at the request of congressional committees or governmental agencies. It should make such public recommendations as it may deem appropriate.

5. Periodic assessments of government supervision of foundations and of other governmental programs which have an impact on philanthropy.

The recommendation for the establishment of the Board stems from the experience of our Commission. In particular it reflects our concern about the lack of adequate information regarding the philanthropic sector and its needs and the great difficulty of making accurate assessments of the effects of government policies on philanthropy.

The work of our Commission has also uncovered a number of very difficult issues on which the Commission will not be able to make any firm recommendations. These might well be useful subjects for studies by the Board:

First, the Board might encourage and review the development of a new tax incentive structure which will provide adequate incentives for increased contributions to philanthropy, without unreasonable costs to the Treasury and consistent with considerations of tax equity. I have already commented on the importance of such a study. This is a highly complex subject requiring the talents of tax specialists, economists and statisticians among others.

Second, a number of complex questions are raised by the role of the government in supervising foundations and philanthropy, including the proper method of meshing the responsibilities of the federal government with those of the states; the encouragement of uniform state laws dealing with charitable organizations and foundations; the proper balance between administrative regulations and judicial remedies; the reconciliation of the government's interest in encouraging philanthropy and in regulating possible abuses.

Third, the Board might undertake a basic policy review of the tax law definitions which define the areas of activity entitled to tax deductions and exemptions. Such a review might deal both with the adequacy of the existing statutory definitions and with the policy principles which should guide the Internal Revenue Service administrative rulings defining the borderline between charitable and non-charitable activities. Such a study should deal with the activities of all charitable organizations and not merely with foundations.

Fourth, an examination of the role and responsibilities of trustees of charitable organizations would be useful. There is much confusion now in the minds of trustees of many charitable institutions as to their appropriate responsibilities.

We believe that the foregoing examples illustrate the many important tasks which the Philanthropic Policy Board will be able to perform.

More important than its task is its mission. . . to preserve, to nurture and to relate the role of the philanthropic sector to the society as a whole.

J. Paul Austin, President & Chief 'xecutive Officer, the Coca-Cola :ompany, Atlanta, Georgia

rof. Daniel Bell, Dept. of Sociology, :olumbia University, New York, N.Y. 'hairman, Commission on Year 2000 of American Academy of Arts & Sciences

aniel Bryant, Chairman & Chief 'xecutive Officer, Bekins Moving & storage Co., Los Angeles, Calif., Past President L.A. Chamber of Commerce, nd L.A. Merchants & Mfgrs. Assn.

James Chambers, President, Times .rald Printing Co., Publisher, Dallas imes Herald, Dallas, Texas

'heldon S. Cohen, Cohen & Uretz lashington, D. C., Commissioner of nternal Revenue, 1958-69

'homas B. Curtis, Vice President & 'eneral Counsel, Encyclopaedia ritannica, Chicago, Ill. Member J. S. House of Rep., 1950-69; Member ,s & Means Committee, Joint conomic Committee

aul Freund, The Carl M. Loeb niversity Professor, Harvard Univ. ambridge, Mass., President, merican Academy of Arts & Sciences 964-67

lartin Friedman, Director, Walker Art enter, Minneapolis, Minnesota ommissioner, Smithsonian Commission tional Collection of Fine Arts

Mrs. Patricia Roberts Harris, Professor of Law, Howard University, Washington, D.C. U.S. Ambassador to Luxembourg, 1965-67

Hon. A. Leon Higginbotham, Jr., Judge U.S. District Court for Eastern District of Pennsylvania Philadelphia, Pennsylvania

Lane Kirkland, Executive Assistant to the President, AFL-CIO, Washington, D. C. President of Institute of Collective Bargaining & Group Relations

Dr. Philip Lee, Chancellor, University of California, School of Medicine San Francisco, California Former Assistant Secretary, Department of Health, Education and Welfare

Edward Levi, President University of Chicago Chicago, Illinois

Dr. Franklin Long, Vice President for Research and Advanced Studies Cornell University Ithaca, New York

A. S. Mike Monroney, Consultant Washington, D. C. Member U.S. House of Representatives 1938-50; U. S. Senator, Oklahoma, 1950-69

EY STAFF MEMBERS INCLUDE:

irector, Everett L. Hollis, Partner, Chicago law firm of Mayer, Friedlich, Spiess, Tierney, Brown & Platt

Walter J. Blum, Professor of Law, University of Chicago and noted tax expert

Fritz Heimann, Associate Corporate Counsel, General Electric Company, New York

William A. Wineberg, Jr., Associate, Mayer, Friedlich, Spiess, Tierney, Brown & Platt

John Labovitz, Editor in Chief, University of Chicago Law Review, 1968-69