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PART A—TESTIMONY TO BE RECEIVED WEDNESDAY, SEPTEMBER 17, 1969

PART B—ADDITIONAL STATEMENTS

(Topic: Charitable Contributions)

COMMITTEE ON FINANCE

UNITED STATES SENATE

RUSSELL B. LONG, *Chairman*

Printed for the use of the Committee on Finance

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SUMMARY OF STATEMENT OF
JOHN D. ROCKEFELLER 3rd
BEFORE THE COMMITTEE ON FINANCE
UNITED STATES SENATE
SEPTEMBER 17, 1969

I. Certain provisions of the bill are troublesome because they affect the important relationship of philanthropy to two broad areas of major concern in our society:

   A. The massive social problems faced today.

   B. The approaching crisis in our privately supported non-profit institutions.

II. Philanthropy is not keeping pace in financial terms with these areas of concern, yet it continues to have a unique and essential contribution to make:

   A. Our pluralistic system is almost unique in the world.

   B. Congress created conditions for such a system and has maintained them over the years.

   C. The bill would upset the delicate balance of our pluralistic system.

   D. The bill would have a revolutionary net effect in its impact on the historic role of philanthropy.

III. From the viewpoint of one who has made philanthropy his life's work, four overriding objectives should be considered in the Committee's deliberations:

A. Abuses in philanthropy must be eliminated.

B. Philanthropy must be maintained and strengthened, rather than cut back.

C. Philanthropy must be venturesome.

D. A more effective partnership between philanthropy and government should be forged.

IV. The bill raises certain questions that are fundamental to our society.

STATEMENT OF JOHN D. ROCKEFELLER 3rd AT PUBLIC HEARINGS ON THE SUBJECT OF TAX REFORM, COMMITTEE ON FINANCE, U.S. SENATE, SEPTEMBER 17, 1969

Mr. Chairman and members of the Committee. My name is John D. Rockefeller 3rd. I have a number of affiliations with philanthropic organizations, but I appear here today to testify as an individual, as a citizen concerned with the future of philanthropy in the United States.

My whole adult life has been spent in one way or another in the field of philanthropy. This experience has always been rewarding, and often exciting because of the opportunity for public service. In this respect, I think of the Rockefeller Foundation which has helped eliminate such diseases as yellow fever and hookworm, and has been instrumental in producing the so-called miracle strains of rice and wheat. I think of the Population Council which in 17 years has grown to be an important international force in the population field. I think of Colonial Williamsburg which has so effectively brought to life our colonial heritage. Particularly satisfying to me in serving important social needs are Lincoln Center in New York and the Rockefeller Public Service Awards program.

With this background I was happy to testify before the House Ways and Means Committee because I fully believed in the Committee's objectives, namely to make our tax structure more equitable and to stop any improper conduct in philanthropy.

I am appreciative of the opportunity now of testifying before this Committee because I am deeply troubled by the consequences of some of the provisions of the bill before you as they affect philanthropy.

I am troubled because I see philanthropy as so important in relation to two broad areas of major concern in our society. The first is the massive social problems we face today, problems which have reached a magnitude and difficulty such as we have never before had to deal with: poverty, racial conflict, the urban crisis, population growth, widespread unrest. Obviously, government has the major responsibility, but we need every resource we can find in every element of our society if we are to meet these problems.

The second area of concern relates to our privately supported, non-profit institutions -- hospitals, colleges, libraries, and museums -- which are approaching a crisis situation. The deficit gap is getting larger and larger with no visible prospect of new sources of funds other than government. The New York Public Library is a good example.

Like so many public institutions, it depends heavily on private support. Three years ago its deficit was $800,000; two years ago, $1.7 million; last year, $2.4 million with its income from contributions remaining at approximately the $1 million level in spite of strenuous efforts to increase it. By using its dwindling reserves, full service has been maintained, but the library's future is at stake, not to mention the needs of its many users, particularly the students.

In both these areas of concern I believe that private initiative has a tremendously important role to play. Today, as I see it, philanthropy in all its forms, whether individual or institutionalized, provides the channel through which private initiative can be most effectively expressed in regard to social problems. Obviously government is increasingly important in relation to such problems. Philanthropy in fact is not keeping pace in financial terms. However, it continues to have a unique and essential contribution to make.

As we look at our country's position of leadership in the world today, perhaps we do not fully appreciate and understand the extent to which private philanthropy has been a factor. Our pluralistic system, in which philanthropy is a major element, is almost unique in the world. Instead of all social problems falling to the government, our system makes it

possible for private citizens and private organizations to help solve them. With foresight and wisdom, the Congress historically created the conditions for such a system and has consistently maintained them over the years.

Now, at the very time that the challenges confronting our society are greater than ever before, when the role of philanthropy is potentially more important than ever before, the Congress is contemplating a reversal of fundamental policy. The bill now before you would upset the delicate balance of our pluralistic system which has encouraged private initiative to help in such a meaningful and constructive way in coping with society's problems. The net effect of the bill is nothing short of revolutionary in its impact on the role of philanthropy. The basic philosophy of the House bill appears to be that our traditional tax incentives for charitable contributions are in fact loopholes and therefore abuses. A number of the provisions would drastically curtail the availability of funds for philanthropic purposes. Others would force what is left of philanthropy into only the most tried and proven of program activities. This bill would start a trend away from pluralism and private initiative at the time of greatest need and opportunity.

Although I may disagree strongly with the bill

produced by the Ways and Means Committee as it affects philanthropy, I do understand and respect the concerns which motivated its members. The Committee was disturbed about reports that many wealthy people were paying no taxes. It was increasingly apprehensive about abuses by foundations brought to its attention. It was worried about apparent political overtones of some foundation programs. It saw foundations as being somewhat arrogant and uncooperative. And finally, the Committee was unhappy that foundations did not seem responsive in their testimony to the problems which were disturbing to the Committee.

The same sense of frustration and concern over these and other issues is shared by many of us in the field of philanthropy. We recognize that some foundations have been created primarily as tax dodges, that some are partly or wholly self-serving, that some are guilty of self-dealing. We realize that too few foundations produce adequate annual reports; that too many individual donors and foundations appear to have a relaxed attitude instead of a sense of urgency about helping to meet today's needs and opportunities. It often seems that many in the private sector expect to ride out the storm of the youth revolution, the civil rights conflict, the crisis of the inner cities, with only minor discomforts.

Philanthropy has been my life's work. Based on my

experience and assessment of the current situation, Mr. Chairman, I would like respectfully to put before you my views on what I believe should be the four overriding objectives in your deliberations. And under each I would like to comment briefly on relevant aspects of the bill.

First, abuses in philanthropy must be eliminated. In my opinion, the great majority of persons in philanthropy are honest and are committed to public service rather than personal gain. They are more eager than anyone else to have abuses stopped because the wrongdoings of the few tend to impugn all. We need wise measures that can be effectively and justly applied.

I applaud a number of measures in the bill relating to foundations which move forthrightly in this direction, such as the improved requirements for public disclosure, the principles of a minimum annual payout and of a stock ownership limitation, strictures against self-dealing. Another very useful step is the authorizing of the Internal Revenue Service to make information available to the attorneys general of the 50 states who have such an important role to play at the local level. I believe that even more can be done. The idea of an annual or user fee to pay for complete audits by the Internal Revenue Service is an excellent one. Could not the fee be shared with the states to further support the broad-ranging

powers of the attorneys general in assuring that philanthropy lives up to its obligations?

The second objective is that philanthropy must be maintained and strengthened, rather than cut back. We need more resources than ever before. Again, I would mention the financial crisis of thousands of non-profit public service institutions which depend heavily on private giving. Even with present inducements and incentives for charitable giving, the flow of funds is critically short. This situation would be seriously aggravated if steps are taken now to reduce the incentives. But this is precisely the impact of a number of provisions in the bill before you. These include:

-- Imposing a tax on foundations: This is a dangerous precedent. Its effect would be to tax the recipients of charitable giving -- churches, colleges, hospitals, libraries, and other charities.

-- Taxing the capital gain on gifts of appreciated stock to foundations: This provision would constitute a major deterrent to the creation of new foundations and the growth of existing ones.

-- Requiring the untaxed appreciation on all gifts of property to charity to be included in tax preference income: This would again be a disincentive to charitable giving, depending on the donor's other tax preference income.

-- Requiring a donor to allocate his deductions between taxable income and tax preference income: The incentive for charitable giving would be reduced through the elimination of a portion of the charitable deduction.

-- Eliminating the unlimited charitable deduction: This would primarily affect large givers whose contributions often are essential to major capital campaigns and to the development of venturesome, imaginative approaches to social problems.

Mr. Chairman, I strongly believe that every individual above the poverty level should pay taxes, but this need not be done in a way that forces such drastic cuts in charitable giving.

The third objective is that philanthropy must be venturesome. In my judgment, a foundation that never makes mistakes is not worth very much, for this is a sure sign that it never attempts to deal with the really tough problems. Philanthropy must provide the venture capital for attacking such problems. It must pioneer new fields, take calculated risks, identify new needs. These are the historic functions philanthropy has performed best in our pluralistic system. It must perform them more vigorously now than ever before.

However, the bill before you contains language restricting program activities that would almost guarantee that donors and foundations would be super-cautious in their giving, afraid to engage in anything but the safest and surest of activities. No one would question that tax privileges must be entirely dissociated from partisan activity. But the bill before you would preclude any "attempt to influence legislation through an attempt to affect the opinion of the general public or any segment thereof . . . other than through making available the results of non-partisan analysis or research." It will be very difficult to determine objectively what is non-partisan analysis and what is not. And virtually every important problem challenging the interest of philanthropy today eventually involves the government and the legislative process. Furthermore, inordinately harsh penalties are proposed.

I am advised that the language of the existing law is adequate in prohibiting political activity by philanthropy. The real need is to enforce the present law more vigorously, and for this purpose I would support measures to strengthen the machinery in the Internal Revenue Service and in the attorney general's office in the states.

The fourth objective is to forge a more effective

sense of partnership between philanthropy and government. I place a great premium on this because in a way it is the sum of all the objectives. Because of the complexity and magnitude of so many of our national problems, government and philanthropy have worked together more and more in recent years. The activities of one supplement the other, or there may be joint funding of a project. The result is a good deal of creative interaction between government and philanthropy, and a variety of approaches to problem-solving rather than one monolithic approach.

Any partnership must be built upon trust and confidence, but the present bill militates against this. It would prohibit "any attempt to influence legislation through private communication with any member or employee of a legislative body or any other person who may participate in the forming of legislation." Again, Mr. Chairman, with government activity and legislation so pervasive in respect to our social problems today, this measure would cut off much of the fruitful communication that now takes place between government and philanthropy. They would soon be in increasing isolation from one another rather than in partnership.

Philanthropy is a valuable resource to government because of its ability to do what government cannot do or is not ready to do, its ability to supplement government efforts,

its ability to move quickly and to take risks. To me, it would be tragic and self-defeating to cut back this resource.

In conclusion, may I say that I am concerned that you may feel that my testimony is unresponsive to the specific and immediate problems with which your committee is faced and the pressures that are upon you. I debated long and hard as to what form my testimony should take. I finally decided that, based on my own experience, I owed it to you as well as to myself to speak out frankly, taking the long look ahead.

To me, the bill before you raises certain questions that are fundamental to our society.

How are we going to meet the almost overwhelming problems that face us today? Does government really want to take them on single-handed?

What is to happen to our private institutions which play such an important role in our society? Does government really want to take them over with all that that implies, or to at least pay out vastly increased sums for their support?

What about the character of our society itself and the role of the individual in it? Have we reached the point where we feel that the initiative and decision-making should pass mainly to government?

If the bill before you should be passed substantially

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as it stands, we would be taking the first major step away from pluralism and toward a monolithic society. I do not believe this is what the Congress wants or any of us want. And I do not believe that this approach is necessary to meet the problems with which your Committee is faced.

Personally I have great confidence in the future of our country and our society. I believe we can accomplish almost anything that we set ourselves to. The pluralistic approach has brought us to where we are today, to our position of world leadership. I have no question that as a result of the lessons learned from these hearings and with the elimination of abuses there can be close and effective cooperation between government and the private sector to the advantage of all concerned. In this framework I believe our overriding social problems can be met and our private institutions saved.

SUMMARY OF STATEMENT OF DR. ERNEST L. WILKINSON,
PRESIDENT, BRIGHAM YOUNG UNIVERSITY,
ON BEHALF OF
AMERICAN ASSOCIATION OF INDEPENDENT
COLLEGE AND UNIVERSITY PRESIDENTS

I appear on behalf of the American Association of Independent College and University Presidents. I also appear on behalf of Brigham Young University. Although my university is a large one with 25,000 full time students, most of the member institutions of the Association are smaller independent colleges and universities.

Contribution of Private Institutions to the Nation Measured by Graduates

The contribution to our society of private institutions of higher learning is tremendous. Time only permits a very few examples:

1. In the decade from 1956 through 1965, 45% of all doctorate degrees awarded were conferred by private institutions.

2. In a recent ranking by the American Council on Education private institutions lead state institutions in quality of graduate faculties in engineering, humanities, social sciences, biological sciences and physical sciences.

3. Our faculty members have won 29 of the last 41 Nobel Prizes awarded to Americans for scientific research.

4. At the undergraduate level, students from private institutions won approximately half of all Rhodes Scholarships.

5. My own university has produced 50 college presidents.

6. Eight of the 16 members on this Committee attended private institutions for undergraduate or graduate education or both. Five of the 8 Senators on this Committee attended sectarian schools and 3 attended nonsectarian schools. Seventy-three of the 100 present members of the Senate attended private institutions of higher education. Thirty-five attended nonsectarian

schools; 35 attended sectarian universities; 3 attended private schools the religious affiliation or lack of affiliation of which could not be determined by us.

Contributions of Private Colleges and Universities to the Nation Measured by the Role They Have Played in Our Dual System of Higher Education.

As stated in the introductory article to the current edition of "Who's Who in America":

> Private liberal arts colleges have been the basis and the backbone of higher education in America. It is these institutions that have pioneered and made possible the vast and effective structure of tax-supported education. Private junior colleges showed the way to our burgeoning system of public junior colleges; private preparatory schools have pioneered much that is now incorporated in our comprehensive system of public secondary education. In the case of all three groups, from an enrollment standpoint, the offspring dwarfs the parent . . .

The Danforth Foundation Report of 1966, recognized by all educators as an authoritative study, lists these distinctive assets of private institutions·

1) freedom to experiment and serve special purposes, academic and social;

2) responsiveness to able leadership;

3) a good record of preparation for graduate and professional study;

4) concern for progress of individual students;

5) close student-faculty relationships;

6) the espousal of human values.

Congressional Purpose in Providing and Expanding the Deductions Available for Charitable Contributions

Since the first income tax law was passed in 1913 Congress has at succeeding sessions constantly expanded and liberalized the tax treatment for charitable contributions for higher education. Congressional history states that the reason for this

liberalization has been the fact that increases in costs and inflation have put private institutions in a financial squeeze. Congress has also recognized that it is cheaper to encourage direct assistance by charitable giving than it would be to provide tax dollars to higher education. Higher education has been favored over many other charities in the tax laws.

In summary, Congress during the 51 year history of the Internal Revenue Code has always enlarged, never restricted, the charitable deduction, although the same arguments now made have previously been made to Congress. The alternative method would be for government, through the imposition of taxes, to fund these institutions itself.

Present Critical Need for Special Tax Treatment for Charitable Gifts in View of the Current Financial Crisis of Private Colleges and Universities

Private institutions of higher education outnumber public institutions by 1,409 to 821. Although 63% of the institutions are privately controlled and in 1900 70% of college enrollment was in private institutions, today only approximately 30% of the students attend private institutions while 70% attend public institutions. This trend is due to the increase in higher cost of education and to the heavy tax structure, which has cut down on the amount of money available for charity. Private institutions however still educate more students than they did in the past and enrollment at them is increasing in number although the percentage of the total enrollment is smaller. To further discourage their growth these taxes would be disastrous.

The president of the Carnegie Foundation, with whom we disagree, has predicted the end of all but a few private colleges in the near future. But without more tax considerations and a more generous share of contributions many institutions will not survive. Fortune Magazine and U.S. News and World Report have both noted that private four-year institutions are piling up big deficits and that many private colleges will be either forced into mergers or will go under the public umbrella if they are to survive.

Already colleges of considerable size, such as Houston, Buffalo, Kansas City, Temple and Pittsburgh have gone from private to public control. This has happened to many smaller institutions. Allan Cartter, chancellor of New York University, states that each new institution taken over by the state raises the tax burden by a factor of 10 to 20 times the amount of contributions that might have been necessary to keep the college as a viable independent institution. The University of Buffalo now costs the State of New York $45,000,000. Cartter states that a contribution of $3,000,000 to $4,000,000 would have let it continue as an independent university.

Current expenditures of private institutions constitute 43% of current expenditures of all institutions of higher learning.

Capital receipts fell $300,000,000 short of capital expenditures for private institutions during the period 1965-66. Private gifts made up most of this deficit. In fact private gifts accounted for 58% of all capital funds received by private schools.

Private schools of higher education received approximately 80% of total private gifts to higher education, while public institutions received the rest. If gifts to the capital account of private institutions equaled the capital account gifts to public institutions as a percentage, private schools would have experienced an $800,000,000 capital account deficit. Private gifts also constitute 10% of the current revenues of private institutions. The conversion of a private institution to a public institution would place an even heavier burden on state government which now provides over 40% now received by public institutions of higher education. The present tax bill would add a considerable load to the states if the states ended up taking over the private institutions.

Private schools situated in states represented by the members of this Finance Committee received gifts of $200,000,000 in 1965-66.

The new massive programs of federal aid have been of little help to private institutions on the whole. In a recent year six universities received 57% and 20 universities received nearly 80% of all federal aid to higher education. Only 10% of research funds and 12% of fellowships were shared by 600 public and 1,400 private colleges and universities.

There are grave constitutional questions inherent in a program of direct federal aid to private parochial institutions managed or controlled by religious bodies. Several institutions, including my own, do not accept federal aid. The only source of their survival is the philanthropy of the American people.

Complexity of the Bill

The Bill is so complex our own attorneys told us it should be entitled "The Lawyers and Accountants Pension and Annuity Bill of 1969." I knew why as soon as I saw their fee statement. Even so, they are very unsure of many of their conclusions. This Committee should be in no hurry and should take ample time in drafting the Bill to make it less complex wherever possible. What this country needs is a simplified tax bill, rather than one more complicated and more difficult to understand.

Analysis of Bill Including the Recommended Changes That are Needed if Private Universities Are to be Encouraged and in Fact Survive

1. Limitation on Tax Preferences and Allocation of Deductions.

The Administration has recommended eliminating the appreciation portion of a charitable contribution of appreciated property from the limitation on tax preferences. It has also recommended eliminating the charitable contribution deduction as an allocable expense. If these two changes are not made the government will be forced into providing for the health, education and welfare of this nation, without significant help from the private sector. The bulk of all gifts received by universities are in appreciated property. The bulk of these gifts are made in large amounts by substantial contributors. The combined effect of the limitation on tax preferences and allocation of deductions will so critically penalize the giver that substantial gifts will no longer be made. These type of gifts constitute between 60% and 80% of all gifts made to private education.

2. Increase in Limit on Charitable Contributions.

The increase in the limit on charitable contribution deductions from 30% to 50% is virtually meaningless to higher education because gifts of appreciated property are still held to the 30% limitation. Since the bulk of gifts, in dollar amount, are in large substantial donations of appreciated property, the donors of such gifts will not additionally give cash to take advantage of the estra 20% limit. The limit should be increased to 50% for gifts of appreciated property.

3. Gifts of Appreciated Property.

Appreciated property is hit again under the Bill (Section 170(e) of the Code) because the donor must either take a deduction only equal to his tax basis or if he elects to take a contribution deduction equal to the value of the appreciated property he must recognize as income and pay tax upon the appreciation portion of the gift. The only instance in which this is not the case under the Bill is if he makes a present gift of the appreciated property and any portion of the property given is not "ordinary income" property. A donor is penalized by being forced to make this undesirable election if (a) the property given is in future interest form, e.g. he reserves the income for his life but gives the entire property at his death to charity; or (b) he makes a gift of tangible personal property (valuable books, art objects, etc.); or (c) the property or any part of it is ordinary income property. Many properties are mixed. Even stocks or bonds if sold can result in the realization of ordinary income if there are accrued but unpaid dividends or interest. About $19,000,000 has been given to my university in a form that would cause this election. We have established an excellent deferred giving program that would no longer be possible under the Bill.

4. Set Aside Trusts.

Section 642(c) of the Code as amended by the Bill would disallow an income tax deduction to nonexempt trusts or estates which set aside all or a portion of their income for charity. Thousands of such trusts for the benefit of universities exist today. The trust instruments were created under present law which allows these trusts and estates to avoid paying tax on the capital gains realized upon sale of trust assets. The instruments cannot now be changed. Prudent trustees must sell assets from time to time. If the assets in these trusts are sold under the proposed Bill capital gains taxes will have to be paid thereby reducing the ultimate amount going to charity. This is most unfair. At my own university we hold about $19,000,000 of property in such trusts. Present law should not be changed.

5. Present Gifts of Fractional Interests.

In a further effort to impose penalties upon the creation of future interest gifts the Bill goes too far and in fact prevents the present gift of a fractional undivided interest in a property. Sections 201(a)(3) of the Bill adding paragraph (a) to Section 170(b), Section 201(b)(1) of the Bill adding subparagraph (H) to Section 170(b)(1) of the Code and Section 201(c)(4) of the Bill all use the phrase "entire interest" which causes this problem, e.g. a man has not given his entire interest if he gives a fractional interest only. All three provisions should be repealed not only to allow present gifts of fractional interest but also to allow creation of future interest gifts without penalty.

6. Split Interest Trusts - Income Tax Deductions.

Section 201(e) adding subsection (H) to Section 170 coupled with the provisions of new Section 664(d) of the Code will deny deductions for gifts to trusts unless the trust either agrees to pay a sum certain or a fixed percentage of net fair market value of trust assets based on annual redetermination of the fair market value. Many universities, including my own, hold millions of dollars of property in trust. To meet the requirements of these sections could be disastrous to the universities. In order to meet the guaranteed payout, assets would have to be sold. A prolonged period of declining yield could eliminate the corpus altogether. Annual value determinations are very costly and would reduce the amount going to the universities. They are also very uncertain. These determinations could lead to extensive litigation. If property appreciates in value, the fixed percentage payout could force additional sales of property to meet the payout. The Bill goes too far. The alleged abuses it sought to cure were investment policies that would favor the donor and the fear that the universities would ultimately receive less than the value utilized in

determining the donor's deduction. The solution is to simply require the gifts to be made to an independent trustee or to the university itself as trustee or co-trustee. The independent trustee's fiduciary duty would require it to consider the interest of both donor and donee. If the university itself were trustee or co-trustee, its own self-interest would insure an investment policy that would not favor the donor. The above Bill provisions should be deleted.

7. Split Interest - Estate and Gift Tax Deductions.

Section 201(H) of the Bill amends subsection (e) of Section 2055 and subsection (c) of Section 2522 in a manner parallel to the amendments discussed under paragraph 6 above so that gift tax and estate tax deductions are disallowed on the same conditions that income tax deductions are disallowed. We make the same recommendations as we did in paragraph 6.

8. Pooled Split Interest Trusts.

The proposed charitable remainder annuity trust and the charitable remainder unitrust requirements coupled with the present "set-aside" provisions will effectively eliminate the pooling of trust funds. Hundreds of universities now have existing pooled reserved lifetime income charitable remainder trusts as receptacles for charitable contributions. The suggested changes made in paragraphs 4, 6 and 7 above must be made in order for these pooled fund trusts to continue as effective receptacles to receive charitable contributions.

9. Reserved Legal Life Estate to Donor.

Section 201(a)(3) adds a new subsection 8 to Section 170(b). This subsection 8 appears to treat only the subject of disallowance of a deduction for mere use of property. The first sentence, however, is susceptible of an interpretation that no deductions would be allowed for the gift of a remainder interest following the creation of a legal life estate unless the grantor is assured of payments in the same manner as if the conveyance were made to a charitable remainder annuity trust or a charitable remainder unitrust. If this is a correct interpretation, it will probably mean an end to the creation of legal life estates with gifts of the remainder interest to charity. Accordingly, we think the subsection 8 should be amended to clarify the fact that it only applies to the mere use of property by the donee.

10. Bargain Sales.

"Bargain sales" to universities would no longer be advantageous from a tax standpoint by reason of new proposed subsection (b) of Section 1011 of the Code, which is added by

Section 201(d) of the Bill. This subsection would require the donor-seller to allocate his cost basis in the property "sold" between what he receives on the sale and what the university receives from the gift. The Bill goes too far. The only possible abuse in the event of a bargain sale is when the tax savings resulting from the gift to the donor-seller plus the amount he receives exceed the fair market value of the gift. This will only occur if he gives ordinary income property. The simple solution is to merely disallow a portion of the charitable contribution deduction to the extent that the donor made a "profit" by giving "ordinary income" property.

11. Gifts of Income Interests.

Section 201(g) of the Bill repeals Section 673(b) of the Code. Section 201(a) amends Section 170 (b) (1) (H). These sections will prevent the possibility of any future gifts of income to universities. The Administration believes the Bill is unduly stringent in only permitting deductions for the value of a charitable income interest when such income is taxable to the grantor under other rules. We agree. We think the solution for all gifts of income should be the disallowance of a portion of the deduction to the extent that the donor "makes a profit" from the gift. We also think the trustee should be an independent trustee or else the university itself should be a trustee or co-trustee.

12. Information Returns - publicity.

We vigorously oppose the requirement of filing information returns which Section 101(d) requires. Subsection (e) also provides for publicity of the information. These provisions apply not only to colleges and universities but to the churches that support many of these institutions. This will prove extremely burdensome and costly to the universities and churches with no offseting revenue to the government because colleges and churches are tax exempt. The donors must file their own returns and so there are no aspects of evasion involved. The magnitude of information required will be extremely costly and should not be required.

13. Taxation of Passive Income from Controlled Corporations.

Section 121(b) of the Bill amending Section 512(b) of the Code by adding paragraph 15 thereto will tax the passive income received from corporations which are controlled by exempt organizations. The apparent abuse was the belief that proceeds of unrelated trades and businesses conducted by such corporations were being siphened off in the form of unreasonable rents, interest, etc. so that the corporation conducting the unrelated trade or business would pay no tax. Speaking solely for my own university and the church which largely supports it, we do not believe unrelated trades or businesses should be exempt. My own church has followed this policy on a voluntary basis for a long time. There is no good reason,

however, for the taxation of passive income such as rent and interest if the amounts paid are reasonable. The courts and the Internal Revenue Service have coped with reasonable rent problems very successfully. The solution should be based on fact determination and not absolute blind confiscatory fiat as is done under Section 121(b) of the Bill which should be repealed.

COMMITTEE ON GIFT ANNUITIES

1865 BROADWAY
NEW YORK, N.Y. 10023

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HOLLIS L. TURLEY
CHRISTIAN CHURCH (DISCIPLES OF CHRIST)

STATEMENT REGARDING PROPOSALS AFFECTING TAX TREATMENT OF CHARITABLE CONTRIBUTIONS TO TAX-EXEMPT INSTITUTIONS

Presented to: The Committee on Finance
United States Senate

The Honorable Russell B. Long, Chairman

Submitted by: COMMITTEE ON GIFT ANNUITIES, sponsored by over 600 educational, religious and other charitable organizations (names of organizations attached to this statement), in conjunction with the COMMITTEE ON CATHOLIC CHARITABLE GIVING, sponsored by over 100 educational, religious and other charitable organizations (that organization's testimony appended).

Summary of principal points appears first.

Oral testimony by: Dr. Roland C. Matthies, Co-Chairman, Committee on Gift Annuities

Dated: September 5, 1969

SUMMARY OF PRINCIPAL POINTS
Presented by Committee on Gift Annuities - sponsored by over 600 educational, religious, and other charitable organizations.

The charitable contribution deduction is not a loophole.
It differs from other deductions and tax preferences in that the donor is not motivated by profit but by helping better our nation. [See page 1]

Congress has since 1917 continually liberalized the tax incentives for those who support philanthropies.
H. R. 13270 reverses a 50-year trend of increased encouragement to charitable giving. With the grave problems facing our nation now is a time for increased, not decreased, incentives for those who contribute to benefit mankind. [See pages 1 & 2]

Gifts of Appreciated Property. Present law which allows a deduction for the fair market value with no capital gains tax on the appreciation should be retained. In 1938 the Senate rejected a House bill which would have changed this and we ask that it do so again. Appreciated property gifts often comprise over 50% of a charity's support from the private sector and this support would be greatly diminished if the law is changed. [See pages 2 & 3]

Allocation of Deductions.

1. The charitable deduction should not be one of the deductions subject to allocation. A donor would delay his gift until he knew the sources of his income and the amount of his capital gains. A postponed gift is often a lost gift. Even if the gift is made, it would likely be reduced. [See page 3]

2. Appreciation on contributed property gifts should not be considered a tax preference which would reduce a donor's other itemized deductions. Such a provision penalizes the generous individual - the larger his gift the smaller his itemized deductions for interest, taxes, medical expenses, contributions, etc. This provision is an indirect way of taxing the appreciation. [See page 3]

Limit on Tax Preferences. Appreciation on contributed property should be deleted from the Limit on Tax Preferences provision of H. R. 13270. It is an indirect tax on appreciation and will inhibit charitable gifts. [See page 4]

SUMMARY OF PRINCIPAL POINTS (CONT.)

Life Income (Deferred) Gifts. A donor who would like to make an outright gift but cannot afford to relinquish the income earned by his property, contributes the property to charity, retaining life income. On death the income payments terminate and the charity has the unrestricted use of the property. This is an important source of support for most charities. H. R. 13270 eliminates so many of the tax incentives and makes the law so complicated that if enacted this important source of charitable support would evaporate. These gifts in the main are made by older individuals who are comfortably situated but by no means wealthy.

1. Tax benefits for the long established and traditionally used charitable remainder trusts, life income contracts, and gift annuities should be retained. [See pages 4 & 5]

2. No capital gains should be incurred when charitable remainder trusts and life income contracts are funded with appreciated property and the deduction should be based on the fair market value, not the cost-basis. [See pages 5 - 8]

3. Capital gains incurred by charitable remainder trusts and life income contracts pooled funds should continue to be exempt from taxation since they are permanently set aside for charity. [See pages 5 - 8]

4. Gift annuities funded with appreciated property should be exempt from the bargain sale provisions of H. R. 13270. [See page 9]

5. The retroactive dates of H. R. 13270 are extremely harsh. They would apply to irrevocable gifts made many years ago as well as to gifts made this year before announcement of proposed change was made. [See pages 5 - 7]

Gifts of real property with retained life estate and gifts of undivided interest in property. H. R. 13270's broad language could unintentionally remove present benefits. The language should be clarified. [See page 10]

Increased ceiling on deductability. This is favored and shows Congressional intent to encourage charitable gifts. However, it is inconsistent to raise the ceiling and at the same time abolish many existing charitable deductions applicable against the ceiling. [See page 10]

Mr. Chairman and members of the Committee:

I am Roland C. Matthies, Vice President and Treasurer of Wittenberg University, Springfield, Ohio and appear before you as Co-Chairman of the Committee on Gift Annuities - sponsored by over 600 educational, religious and other charitable organizations. Their names are attached to our written statement. The Committee on Catholic Charitable Giving, chaired by James A. Cousins and sponsored by over 100 Catholic educational, church and social welfare organizations, joins in our testimony.

We thank you for this opportunity to present our views and support your efforts to make our tax laws more equitable and remove loopholes. The charitable deduction, however, is not a loophole. It differs from other deductions and tax preferences in that the donor gives up his money and property to help worthy causes and better our nation. He is motivated not by profit but by generosity. Thus charitable gifts should not be treated and lumped together with real estate depreciation, capital gains, tax-exempt interest, etc.

Congress has since 1917 continually liberalized the tax incentives for those who support philanthropies - each time stating the liberalization was designed to further aid charities to obtain additional funds to meet rising costs and the increased needs of our society. Congress has reiterated on many occasions that the Government is compensated for any loss of revenue by its relief from financial burdens which otherwise would have to be met by appropriations from public funds and by the benefits resulting from promotion of the general welfare.

The House-passed tax bill (H. R. 13270) reverses a 50-year trend of increased encouragement to charitable giving. With the grave problems facing our nation, now is the time for increased, not decreased, tax incentives for those who generously contribute to benefit mankind. The organizations sponsoring the Committee on Gift Annuities are dependent upon support from the private sector and they and the nation have benefited greatly from gifts encouraged by present law.

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In the past the Senate has declined to accept a House-passed bill detrimental to charitable organizations and the nation. In 1938, the House of Representatives passed a bill calling for the contribution deduction to be measured by donor's cost -- not the fair market value at the date of the gift. However, the 1938 Tax Act as finally passed did not contain the House provision on appreciated property gifts to charity. The Senate Finance Committee rejected the House provision, stating:

> "Representations were made to the Committee by officials of educational and charitable institutions that the effect of such a provision would be to discourage the making of charitable gifts in property. The Committee believes that charitable gifts generally are to be encouraged and so has eliminated the provision of the House Bill." (S. Rep. No. 1567, 75th Cong. 3rd. Sess. 1938).

The needs and problems of our nation are greater now than they were in 1938 and there is all the more reason for the Senate to reject the House bill's restrictive provisions on charitable gifts.

The Committee on Gift Annuities respectfully submits the following comments on those provisions of H. R. 13270 which are of greatest concern:

1. <u>GIFTS OF APPRECIATED PROPERTY.</u>

Present law allows a deduction for the fair market value with no capital gains tax on the appreciation. In many instances appreciated property gifts comprise more than 50% of a charitable organization's support from the private sector. To stifle this major source of support would be a death blow to many institutions. The Treasury estimates that increased Government revenue by changes in current law on gifts of appreciated property would be insignificant. We ask that the current law be retained.

Also, appreciation in the value of property donated to charity should not be considered a tax preference which under the Allocation of Deductions provision would reduce a donor's itemized deductions for interest, taxes, medical expenses, charitable contributions, etc. To enact such a provision would be an indirect way of taxing appreciation on property gifts and would greatly inhibit important support from the private sector.

2. ALLOCATION OF DEDUCTIONS - A TWO EDGED SWORD.

The allocation of deductions provision of H. R. 13270 as it applies to charitable gifts has two aspects:

Aspect I. By including the charitable contribution deduction in the itemized deductions to be allocated between taxable and non-taxable (tax preferred) income, it reduces the charitable deduction. A donor would have no way of ascertaining the tax consequences of his gift until the end of the year when he knows the items which comprise his income and the amount of his capital gains. Charitable gifts will thus be postponed. An axiom of fund-raising is that a postponed gift is often a lost gift. The charitable gift is a voluntary act and should not be lumped together with deductions for taxes, interest, casualty losses, etc. We ask that charitable contributions not be subject to the allocation rule.

Aspect 2. By considering the amount of appreciation on property contributed to charity as non-taxable (tax preferred) income, it reduces donor's charitable deduction as well as his other itemized deductions. We support Secretary of the Treasury, David M. Kennedy and ask that appreciation on contributed property not be considered a tax preference which under the Allocation of Deductions provision would reduce a donor's itemized deductions for interest, taxes, medical expenses, charitable contributions, etc. Such a provision penalizes the generous individual who contributes his property to better our nation. The larger the gift, the smaller his itemized deductions.

3. LIMIT ON TAX PREFERENCES.

We support Secretary of the Treasury, David M. Kennedy and ask that appreciation on contributed property be deleted from the Limit on Tax Preferences provision of H. R. 13270. This provision is an indirect way of taxing the appreciation on gifts of property and will inhibit such donations.

4. LIFE INCOME (DEFERRED) GIFTS.

Life income gifts (so-called deferred gifts) are an important and growing means of support for our nation's charitable organizations. Many donors would like to make outright gifts but cannot afford to relinquish the income earned by their property. So they give their securities and other property to a charitable organization retaining life income. On death, the income payments terminate and the securities and property are owned outright by the charity. Most life income gifts would be outright gifts if the donors could afford to give up income. The vast majority of these gifts are made by contributors in their late 60's and early 70's. These gifts are often made by women. The donors are comfortably circumstanced but by no means wealthy. They are dedicated and committed to the causes they support with their life income gifts.

Life income gifts have been an important source of support for many charitable institutions for more than half a century. At Wittenberg University, for example, we wrote our first charitable gift annuity in 1899 and from it came the building first housing our School of Theology. At present we have 134 life income gifts totalling 4 millions of dollars. This is 1/3 of our entire endowment. More than 60% of our life income gifts were in the form of securities and other property.

An increasing number of organizations now depend on the three types of life income gifts (charitable remainder trusts, life income contracts and gift annuities) to overcome the inadequasies of outright giving.

The life income gift is important to the institution because it assures funds for its work. Because most of these gifts are made by older donors, these gifts often mature within a few years after the gift is made. These plans stimulate greater interest in the charitable institution and donors often add to these gifts. Also, outright gifts are often made after a life income plan is created. H. R. 13270 removes the major tax incentives to these gifts and if enacted a most important source of support would evaporate.

CHARITABLE REMAINDER TRUSTS.

A donor creates a charitable remainder trust by irrevocably transferring money, securities, or other property to a trustee (often the charitable institution) who pays the income from the transferred properties (or reinvestments) to the donor for his life. Then the trust principal becomes the sole property of the charity. Present law provides there is no capital gain on the transfer of appreciated property to fund a charitable remainder trust; nor is there a capital gain if the property transferred is later sold by the trust and the gain permanently set aside for charity. We ask that these rules be retained. Abuses in the investment policies of these trusts are rare and means are now available to (and used by) Internal Revenue Service to curb any abuses which exist.

The very complicated provisions for charitable remainder annuity trusts and charitable remainder unitrusts should not be substituted for the widely used and understood traditional charitable remainder trusts. Many donors who create charitable remainder trusts are finanically unsophisticated. They are familiar with the trusts now approved by the Congress. We request no change in the law be made which would greatly inhibit these gifts.

Should the Senate decide to abolish the tax incentives for the traditional charitable remainder trust (substituting the annuity trust and unitrust), we ask that the law

for the income tax charitable deduction not be retroactive to April 22, 1969 (H. R. 13270 so provides) but be effective with the passage of the Tax Reform Act. Many donors have created trusts since April 22, 1969. The unitrust and annuity trust provisions of H. R. 13270 were not mentioned in the May 27, 1969 "tentative decisions" of the House Ways and Means Committee; nor were they mentioned in the proposals submitted by the Treasury Department under the Nixon Administration on April 22, 1969.

H. R. 13270 allows no estate tax charitable deduction for a charitable remainder interest in a trust unless it is a unitrust or annuity trust. This estate tax change would affect estates of donors dying after the bill is enacted. However, it would apply to charitable remainder trusts created before the bill's enactment - no matter how long ago. Thus, the estate of a donor who created an irrevocable charitable remainder trust 10 years ago, for example, but who dies after the bill's enactment, would lose the estate tax charitable deduction unless the charitable remainder trust is a unitrust or an annuity trust. Virtually no existing charitable remainder trust is a unitrust or annuity trust.

> Example: In 1959 donor transferred cash and securities to a trustee directing the trustee to pay the income to him for life and then to his wife for life if she survives him. On the death of the survivor, the principal goes to donor's college. On donor's death in 1969 the trust principal is worth $100,000 and his wife is 65 years old.

Estate tax consequences under current law: On donor's death the entire value of the trust principal ($100,000) is included in his gross estate. The estate then deducts $66,580 as a charitable deduction - the value of the charitable remainder (using Government tables) based upon the wife's age at the donor's death.

Estate tax consequences under House-passed bill: The entire $100,000 would be included in donor's gross estate

as under current law. However, there would be no charitable deduction for the value of the charitable remainder unless the trust is a unitrust or an annuity trust. This is so even though the donor created the trust long before the passage of the House bill. Enactment of this provision would result in great hardship. Substantial estate taxes will have to be paid because of this retroactive change. These taxes will usually not come out of the trust principal but out of the estate's other assets - reducing or even eliminating bequests to the donor's wife, children, and other family members. The retroactive date is so harsh and unfair that it must, in our opinion, be an oversight. The harsh effective date also applies to life income contracts and gifts of remainder interests in real property (donor contributes real property retaining a life estate).

We respectfully ask that if the Senate adopts the provision of H. R. 13270 on estate tax treatment of charitable remainder trusts, life income contracts, and gifts of remainder interests in real property, the law be effective after the passage of the Tax Reform Act and be applicable only to charitable remainder trusts, life income contracts, and remainder real estate gifts made after the passage of the Act.

Funding a charitable remainder trust with appreciated property — present law should be retained. Whether a new trust format is adopted or the traditional charitable remainder trust is retained, we ask that the charitable deduction for gifts of appreciated property be based upon the fair market value of the property transferred to the trust at the time of its creation - rather than requiring (as does H. R. 13270) the donor to base his deduction upon his cost-basis or pay a capital gain if he elects to compute his deduction based on the fair market value. However, if the Senate accepts the House provision, we ask that the language of the bill be clarified. If a donor elects to base his deduction on the fair market value of his gift, capital gain should be limited to the part of the gain allocable to the charitable remainder (the future interest). There should be no capital gain on the part allocable to donor's retained life interest.

<u>No capital gain under present law on sales by charitable remainder trust.</u> We also request that capital gains incurred by the trust and permanently set aside for charity not be taxed. Present law so provides. Many existing trusts were created on the assumption that the capital gains - which eventually go to the charity - would not be taxed. To tax the trust's capital gains is to tax the charity because the tax would come out of the trust principal which goes to the charity on the donor's death.

H. R. 13270 would tax capital gains permanently set aside for the charity except if the trust is a unitrust or annuity trust. If this Committee decides to tax capital gains permanently set aside for the charity under the traditional charitable remainder trust, we would then prefer the enactment of H. R. 13270's provisions on the unitrust and annuity trust because capital gains (under the House bill) for these trusts are only taxed to the extent they are paid to the life income beneficiary.

LIFE INCOME CONTRACTS

A life income contract is very much like a charitable remainder trust. The main difference is that donor's irrevocable gift is co-mingled in a pooled fund maintained by the charity with the life income contract gifts of other donors. In the trust a donor's gift is separately invested. Donor's income under a life income contract is determined by multiplying the percentage return earned by the pooled fund by the amount of money or value of property donor contributed. On donor's death, the payments terminate and the charity has the unrestricted use of the gift. This is an important source of support. It makes these types of gifts available to the donor of modest means who cannot afford to fund a separate charitable remainder trust. It also eases administration of the gift by the charitable organization. We ask that present law governing life income contracts (no capital gain on transfer of appreciated property nor capital gain when the property transferred is later sold by the life income pooled fund) be retained. As with the charitable remainder trust: (1) The deduction should be based upon the full fair market value without imposition of capital gains tax and (2) capital gains incurred by the life income pooled fund and permanently set aside for charity should not be taxed. To tax the capital gains incurred by existing life income contract pooled funds (which are permanently set aside for charity and not paid to the life income beneficiaries) would create havoc in administration and unfairness among the many thousands of participants. Keeping track of the capital gains attributable to each gift of appreciated property would be so extremely complicated and time consuming that enactment of a provision taxing the pooled fund's capital gains would be the death knell for this type of gift plan which allows donors of modest circumstances to be philanthropists during their lifetime.

CHARITABLE GIFT ANNUITIES

A donor irrevocably transfers money and often appreciated property to a charitable institution in exchange for the institution's promise to pay him a fixed income for life. Since the rate of return is substantially lower than that offered by a commercial insurance company, the donor makes a substantial charitable gift. We ask that present tax treatment when appreciated property is contributed for an annuity be retained. (Detailed in Rev. Rul 62-136, 1962-2 C.B.12).

Under H.R.13270, a transfer of appreciated property for a gift annuity could be construed as a bargain sale - the donor receiving an annuity rather than cash as consideration from the charitable institution. Thus, a donor who transfers property with a fair market value of $10,000 for an annuity having an actuarial value of $6,000 (what it would cost to obtain the same annuity from a commercial insurance company) could be treated in the same manner as a donor who transfers the same property for $6,000 in cash. Under H.R.13270 which allocates the cost-basis of the property between the portion of the property "sold" and the portion of the property "given" to the charity, appreciation now untaxed on a transfer for a gift annuity could be taxed. And in those instances where part of the gain is now taxed, a larger part of the gain could be taxed.

> Example: Donor transfers property with a $6,000 cost-basis and a present fair market value of $10,000 for an annuity with a $6,000 actuarial value. If the annuity is treated as a bargain sale (donor receives an annuity with an actuarial value of $6,000 instead of $6,000 in cash), donor has a capital gain. The basis allocated to the $6,000 sale (actuarial value of annuity) is $3,600. Thus, the capital gain is $2,400 ($6,000 actuarial value minus $3,600 allocated basis). Under present law, there is no capital gain since the cost-basis equals the actuarial value.

If H.R.13270's provision on bargain sales is enacted, we ask that the law specifically provide that the transfer of appreciated property for a gift annuity is not a bargain sale.

5. GIFTS OF REAL PROPERTY WITH RETAINED LIFE ESTATE; ALSO GIFTS OF UNDIVIDED INTERESTS IN PROPERTY

H.R.13270 [Section 201(a)(3), Page 121, Line 8] provides that "where a taxpayer makes a charitable contribution of less than his entire interest in property", no charitable deduction is allowed unless the transfer meets the unitrust or annuity trust rules. This language could be interpreted to deny a charitable deduction for a gift of real estate subject to the donor's retention of a life estate (e.g., farmer gives his land to church retaining only right to use it for his life). Presumably H.R.13270 intends to deny a charitable deduction for the fair rental value of property which a donor allows a charity to use rent free. However, the bill's broad language could easily be interpreted to deny a deduction for a remainder interest gift in real property as well as a gift of an undivided interest in real or personal property.

If the Committee on Finance decides to abolish the deduction for gifts of the use of property, we ask that H.R.13270 be clarified so that present tax treatment is retained for gifts of real property subject to donor's retained life estate and for gifts of undivided interests in property.

6. INCREASED CEILING ON DEDUCTIBILITY

We applaud H.R.13270's provision which increases the ceiling on deductibility from 30% to 50%. However, we call to this Committee's attention the inconsistency of the House bill in increasing the ceiling on deductibility and then abolishing many of the existing charitable deductions which are applicable against the ceiling.

7. CONCLUSION

Mr. Chairman and members of the Committee, we thank you again for this opportunity to present our views. H.R.13270 removes many long-established and important tax incentives to supporting the charitable institutions so vital to our nation. We have not commented on all of the provisions of H.R.13270 affecting charitable gifts -- only those which are of greatest concern. However, we also believe that there should be no change in the present tax treatment of bargain sales and short-term trusts for the benefit of charity.

We are aware of the time pressures and heavy workload of the Committee and have made our remarks as brief as possible. If the Committee wishes amplification on any point, we would appreciate the opportunity to submit a supplemental statement. We are available, if it is the Committee's pleasure, to meet with members of the Committee's staff.

We agree with the Treasury that,

> "Private philanthropy plays a special and vital role in our society. Beyond providing for areas into which Government cannot or should not advance (such as religion), private philanthropic organizations can be uniquely qualified to initiate thought and action, experiment with new and untried ventures, dissent from prevailing attitudes and act quickly and flexibly."
>
> "***In doing so, they enrich the pluralism of our social order.***"
>
> (Treasury Dept. Report on Private Foundations: U.S.Government Printing Office, February 2, 1965, P.5.)

Accordingly, we ask that the new tax law continue the long established and essential tax incentives to charitable giving which undergird our nation's educational, religious, hospital, health, social welfare and other charitable organizations.

SPONSORING ORGANIZATIONS

of the

THIRTEENTH CONFERENCE ON GIFT ANNUITIES

1. Adrian College
Adrian, Michigan 49221

2. Albion College
Albion, Michigan 49224

3. Allegheny College
Meadville, Pa. 16335

4. Alma College
Alma, Michigan

5. Alta Bates Community Hospital
Webster at Regent
Berkeley, Calif. 94705

6. American Advent Mission Soc.
P. O. Box 23152-Mint Hill Sta.
Charlotte, North Carolina 28212

7. American Ass'n. for Jewish Evangelism, Inc.
320 West Ohio Street
Chicago, Illinois 60610

8. American Baptist Assembly
Green Lake
Wisconsin 54941

9. American Baptist Convention
Bd. of Education & Publication
Valley Forge, Penna. 19481

10. American Baptist Foreign Mission Society
Valley Forge, Penna. 19481

11. American Baptist Home Mission Society
Valley Forge, Penna. 19481

12. American Baptist Convention
The Ministers & Missionaries Benefit Board
Valley Forge, Penna. 19481

13. American Baptist Convention
World Mission Campaign
Valley Forge, Penna. 19481

14. American Bible Society
1865 Broadway
New York, New York 10023

15. American Board of Missions to the Jews
236 West 72nd Street
New York, New York 10023

16. American Cancer Society, Inc.
219 East 42nd Street
New York, New York 10017

17. American College Public Relations Association
1785 Massachusetts Ave. N. W.
Washington, D. C. 20036

18. American Friends Service Committee
160 North Fifteenth Street
Philadelphia, Pa. 19102

19. American Leprosy Missions, Inc.
297 Park Avenue South
New York, New York 10010

20. The American Lutheran Church Foundation
422 South Fifth Street
Minneapolis, Minnesota 55415

21. American Mission to Greeks
801 Broad Avenue
Ridgefield, New Jersey 07657

22. American Sunday School Union
1816 Chestnut Street
Philadelphia, Penna. 19103

23. American Tract Society, Inc.
660 Kinderkamack Road
Oradell, New Jersey 07649

24. Anderson College
Anderson, Indiana 46011

25. Andrews University
Berrien Springs
Michigan 49104

26. Annuity Fund for Congregational Ministers
287 Park Avenue South
New York, New York 10010

27. Arthur Andersen & Co.
400 Whitney Building
New Orleans, Louisiana 70130

28. Asbury Theological Seminary
Wilmore, Kentucky 40390

29. Ashland Theological Seminary
910 Center Street
Ashland, Ohio 44805

30. Association of Episcopal Colleges
815 Second Avenue
New York, New York 10017

31. Ausburg College and Theological Seminary
707 21st Avenue South
Minneapolis, Minnesota 55404

32. Augustana College
1626½ 38th Street
Rock Island, Illinois 61201

33. Augustana College
28th Street and Summit
Sioux Falls, South Dakota 57102

34. Aurora College
340 Gladstone Avenue
Aurora, Illinois 60507

35. Azusa Pacific College
Highway Sixty-six at Citrus Av.
Azusa, Calif. 91702

36. The Baby Fold
108 East Willow Street
Normal, Illinois 61761

37. Back to the Bible Broadcast
301 South 12th Street
Lincoln, Nebraska 68501

38. The Back to God Hour
10858 South Michigan Avenue
Chicago, Illinois 60628

39. Baker, Hostetler & Patterson
1956 Union Commerce Building
Cleveland, Ohio 44115

40. Baker University
Baldwin, Kansas 66006

41. Baldwin-Wallace College
66 Seminary Street
Berea, Ohio 44017

42. Baptist Bible Seminary
Johnson City, New York 13790

43. Baptist Foundation of Alabama
P. O. Box 870
Montgomery, Alabama, 36102

44. Baptist Foundation of Arizona
400 West Camelback Road
Phoenix, Arizona 85013

45. Baptist Foundation of Illinois
P. O. Box 271
Carbondale, Illinois 62902

46. Baptist Foundation of Oklahoma
1141 North Robinson
Oklahoma City, Oklahoma 73103

47. Baptist Foundation of Texas
P. O. Box 1409
Dallas, Texas 75221

48. Baptist Hospital Fund, Inc.
1700 University Avenue
St. Paul, Minnesota 55104

49. Baptist Medical Center
800 Montclair Road
Birmingham, Alabama 35213

50. Baptist Mid-Missions
4205 Chester Ave.
Cleveland, Ohio 44103

51. Barrington College
Middle Highway
Barrington, Rhode Island 02806

52. Barton-Gillet Company,
32 South Street
Baltimore, Maryland 21202

53. Frank J. Becker, Inc.
233 Broadway
New York, New York 10007

54. Beloit College
Beloit, Wisconsin 53511

55. Bensenville Home Society
Box 338
Bensenville, Illinois 60106

56. Berea College
Berea, Kentucky 40403

57. Berkeley Baptist Divinity School
2606 Dwight Way
Berkeley, California 94704

58. Berry College
Mount Berry, Georgia 30149

59. Bethany Brethren Hospital
3420 Van Buren Street
Chicago, Illinois 60624

60. Bethany Christian Home, Inc.
901 Eastern Avenue, N.E.
Grand Rapids, Michigan 49503

61. Bethany College
Bethany, West Virginia 26032

62. Bethany College
Box 111
Lindsborg, Kansas 67456

63. Bethany Theological Seminary
Butterfield & Meyers Roads
Oak Brook, Illinois 60521

64. Bethany Nazarene College
Bethany, Oklahoma 73008

65. Bethel College
North Newton, Kansas 67117

66. Bethel College & Seminary
1480 North Snelling Avenue
St. Paul, Minnesota 55101

67. Bethesda Hospital
4400 East Iliff Avenue
Denver, Colorado 80222

68. Bible Literature International
P. O. Box 477
Columbus, Ohio 43216

69. The Bible Meditation League, Inc.
957 East Broad Street
Columbus, Ohio 43216

70. Bibletown, U.S.A.
Post Office Box A
Boca Raton, Florida

71. Biblical Research Society
4005 Verdugo Road
Los Angeles, California 90065

72. The Biblical Seminary in New York
235 East 49th Street
New York, New York 10017

73. Biola College
13800 Biola Avenue
La Mirada, California 90638

74. Birmingham Baptist Hospitals
800 Montclair Road
Birmingham, Alabama 32513

75. Boston University
Alumni House
145 Bay State Road
Boston, Massachusetts 02115

76. Boy Scouts of America
Greater New York Councils
25 West 43rd Street
New York, New York 10036

77. Boy Scouts of America National Council
Finance Service
2606 Power & Light Building
Kansas City, Missouri 64105

78. Bradley University
Peoria, Illinois

79. Bristol Village
111 Wendy Lane
Waverly, Ohio

80. Brotherton, Ford & Assoc.
820 Third Avenue
Seattle, Washington 98104

81 John Brown University
P. O. Box 600
Siloam Springs, Arkansas 72761

82. Bryn Mawr College
Bryn Mawr, Penna. 19010

83. Butler University
Indianapolis, Indiana 46208

84. California Institute of Technology
1201 East California Street
Pasadena, California 91109

85. California Lutheran Bible School
1345 So. Burlington Ave.
Los Angeles, California 90006

86. California Lutheran College
Thousand Oaks, California 91360

87. California Lutheran Homes, Inc.
2400 S. Fremont Avenue
Alhambra, California 91803

88. Calvary Bible College
1111 W. 39th Street
Kansas City, Mo. 64111

89. Calvary Temple, Inc.
200 South University Blvd.
Denver, Colorado 80209

90. Calvin College & Seminary
1331 Franklin Street S.E.
Grand Rapids, Michigan 49506

91. Campus Crusade for Christ
International
Arrowhead Springs
San Bernardino, Calif. 92404

92. Cancirco
777 United Nations Plaza
New York, New York 10017

93. Capital University
2199 East Main Street
Columbus, Ohio 43209

94. Carleton College
Northfield, Minnesota 55057

95. Carnegie Institute of Technology
Baker Hall 239, Schenley Park
Pittsburgh, Penna. 15213

96. John Carroll University
North Park & Mirama Boulevards
Cleveland, Ohio 44118

97. Cathedral of Tomorrow
Box 3500
Akron, Ohio 44310

98. Catholic Charities
433 Jefferson Street
Oakland, California 94607

99. Catholic Charities of Fort Wayne
919 Fairfield Avenue
Fort Wayne, Indiana 46802

100. Cedar Lane Missionary Homes, Inc.
RFD 1, Box 40
Laurel Springs, N. J. 08021

101. Cedarville College
Cedarville, Ohio 45314

102. Central American Mission
P. O. Box 28005
Dallas, Texas 75228

103. Central Baptist Theological Seminary
Seminary Heights
Kansas City, Kansas 66102

104. Central College of the Free
Methodist Church of N.A.
McPherson, Kansas 67460

105. Chapman College
Orange, California 92666

106. Chicago Heart Association
22 West Madison Street
Chicago, Illinois 60602

107. Christ's Mission
275 State Street
Hackensack, New Jersey 07602

108. Christian Church Foundation
Box 19107
Indianapolis, Indiana 46219

109. Christian Churches, Pension Fund of
700 Test Building
Indianapolis, Indiana 46204

110. Christian College
8th & Rogers
Columbia, Missouri

111. Christian College of Georgia
220 South Hull Street
Athens , Georgia 30601

112. Christian Home Association
714 Avenue E
Council Bluffs, Iowa

113. Christian Herald Assoc. Inc.
27 East 39th Street
New York, New York 10016

114. Christian & Missionary Alliance
260 West 44th Street
New York, New York 10036

115. Christian Record Braille Foundation
4444 South 52nd Street
Lincoln, Nebraska 68506

116. Christian Reformed Bd. of Foreign Missions
2850 Kalamazoo Avenue, S.E.
Grand Rapids, Michigan 49508

117. Christian Reformed Board of Home Missions
2850 Kalamazoo Avenue, S.E.
Grand Rapids, Michigan 49508

118. Christian Sanatorium Ass'n.
301 Simomac Avenue
Wyckoff, New Jersey 07481

119. Christian School Educational Foundation
865 28th Street, Southeast
Grand Rapids, Michigan 49508

120. Christian Service Brigade
Box 150
Wheaton, Illinois 60187

121. Christian World Foundation
Post Office Box A
Boca Raton, Florida 33432

122. Christian Theological Seminary
Box 88267
Indianapolis, Indiana 46?08

123. Executive Council of the Church of God
Box 2420
Anderson, Indiana 46011

124. Bd. of Church Extension & Home Missions of the Church of God
P. O. Box 2069
Anderson, Indiana 46012

125. General Brotherhood Bd. of Church of the Brethren
1451 Dundee Avenue
Elgin, Illinois 60120

126. Church of the Holy Ghost
254 N. Wood Dale Road
Wood Dale, Illinois 60191

127. The Church Life Insurance Corp.
800 Second Avenue
New York, New York 10017

128. General Board of The Church of the Nazarene
6401 The Paseo
Kansas City, Missouri 64131

129. Churchmen's Foundation
3126 Los Feliz Boulevard
Los Angeles, Calf. 90039

130. The Cincinnati Bible Seminary
2700 Glenway Avenue
Cincinnati, Ohio 45204

131. Clear Creek Foundation
Box 492
Pineville, Kentucky

132. Coe College
Cedar Rapids, Iowa

133. The College of Idaho
Cleveland Boulevard
Caldwell, Idaho 83605

134. College of the Holy Cross
College Street
Worcester, Mass 01610

135. College of Saint Teresa
Winona, Minnesota 55987

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136. College of Steubenville
Franciscan Way
Steubenville, Ohio

137. The Colorado College
Colorado Springs
Colorado 80903

138. Columbia College
Columbia, South Carolina

139. Concordia College
Moorhead, Minnesota 56560

140. Concordia Seminary
801 De Mun
St. Louis, Mo. 63105

141. Conservative Baptist Assoc. of America
Wheaton, Illinois 60187

142. Conservative Baptist Theo. Sem.
1500 East Tenth Avenue
Denver, Colorado 80218

143. The Cooper Union for the Advancement of Science and Art
Cooper Square
New York, New York 10003

144. The Corporation of Haverford College
2010 Two Penn Center Plaza
Philadelphia, Penna. 19102

145. Culver-Stockton College
Canton, Missouri 63435

146. Cumberland College
Williamsburg, Kentucky 40769

147. Board of Finance of the Cumberland Presbyterian Church
1978 Union Avenue
Memphis, Tennessee 38104

148. Dakota Wesleyan University
Mitchell, South Dakota 57301

149. Dallas Baptist College
P. O. Box 21206
Dallas, Texas 75200

150. Dartmouth College
P. O. Box 31
Hanover, New Hampshire 03755

151. Davis & Cocke
Deposit Guaranty Bank Bldg.
Jackson, Mississippi 39201

152. Decatur Memorial Hospital
2300 North Edward Street
Decatur, Illinois 62526

153. The Defiance College
Defiance, Ohio 43512

154. Denison University
Box 652
Granville, Ohio 43023

155. DePauw University
Locust Street
Greencastle, Indiana 46135

156. Doane College
Crete, Nebraska 68333

157. Dordt College
Sioux Center, Iowa 51250

158. Drake University
Des Moinse, Iowa 50311

159. Drew University
36 Madison Avenue
Madison, New Jersey 07940

160. Duke University
3127 Campus Drive
Durham, North Carolina

161. Earlham College
National Road, West
Richmond, Indiana 47374

162. Eastern Baptist Theological Seminary
City Line & Lancaster Ave.
Philadelphia, Penna. 19151

163. Eastern Mennonite College
Park View
Harrisonburg, Virginia 22801

164. Eastern Michigan University
Ypsilanti, Michigan 48197

165. Eastern Nazarene College
23 East Elm Avenue
Wollaston, Massachusetts 02170

166. Eden Theological Seminary
475 E. Lockwood Avenue
Webster Groves, Missouri 63119

167. The Eleventh Hour Missionary Crusade
P. O. Box 30
Pharr, Texas 78677

168. Elizabethtown College
Elizabethtown, Penna. 17022

169. Elmhurst College
190 Prospect Avenue
Elmhurst, Illinois 60126

170. Emory University
Atlanta, Georgia 30322

171. The Episcopal Church Fdn.
815 Second Avenue
New York, New York 10017

172. Erskine College
Due West, South Carolina 29639

173. The Evangelical Alliance Mission
2500 North Main Street
Wheaton, Illinois

174. Evangelical Child Welfare Agency
127 North Dearborn Street
Chicago, Illinois 60602

175. Evangelical Free Church of America
1515 East 66th Street
Minneapolis, Minn. 55423

176. The Evangelical Foundation, Inc.
1716 Spruce Street
Philadelphia, Penna. 19103

177. Evangelical Theological Seminary
329 East School Avenue
Naperville, Illinois 60540

178. The Board of Missions of The Evangelical United Brethren Church
601 West Riverview Avenue
Dayton, Ohio 45406

179. The Board of Pensions of The Evangelical United Brethren Church
601 West Riverview Avenue
Dayton, Ohio 45406

180. Faith for Today
200 Stonehinge Lane
Carle Place, New York 11514

181. Faith Theological Seminary
920 Spring Avenue
Elkins Park, Penna. 19117

182. Far East Broadcasting Co.Inc.
Box 1
Whittier, California 90608

183. Far Eastern Gospel Crusade
14625 Greenfield Road
Detroit, Michigan 48227

184. Fathers of St. Edmund
Edmundite Mission House
Selma, Alabama 36701

185. Federation of Jewish Agencies of Philadelphia
1511 Walnut Street
Philadelphia, Penna 19102

186. The Charles & Myrtle Fillmore Foundation
Unity Village
Lee's Summit, Missouri 64063

187. Findlay College
1000 North Main Street
Findlay, Ohio 45840

188. The First Church of Christ, Scientist in Boston
107 Falmouth Street
Boston, Mass. 02115

189. First Church of North Miami, Congregational
1200 N. E. 135th Street
Miami, Florida 33161

190. First Church of the Nazarene
18751 Fenkell Avenue
Detroit, Michigan 48223

191. First Congregational Church
1511 Church Street
Wauwatosa, Wisconsin 53213

192. First Presbyterian Church
320 Sixth Avenue
Pittsburgh, Penna. 15222

193. Florida Baptist Foundation
Baptist Bldg.
Jacksonville, Florida 32207

194. Florida Institute of Technology
Melbourne, Florida 32901

195. Gene A. Ford & Associates
324 15th Avenue East
Seattle, Washington 98102

196. Ford Thein & Company, Inc.
White Henry Stuart Bldg.
Seattle, Washington 98101

197. Foundation for Christian Living
Pawling, New York 12564

198. Franklin College
Franklin, Indiana 46131

199. Franklin and Marshall College
College Avenue
Lancaster, Penna. 17604

200. Frantzreb and Pray Associates
60 East 42nd Street
New York, New York 10017

201. Free Methodist Church of North America
Winona Lake, Indiana 46590

202. Freeman Junior College
Freeman, South Dakota 57029

203. Frenkel & Co.Inc.
156 William Street
New York, New York 10038

204. Friends Boarding School
Barnesville, Ohio 43713

205. Friendship Haven
Fort Dodge, Iowa 50501

206. Fuller Theological Seminary
135 North Oakland Avenue
Pasadena, California 91101

207. J. Ross Gamble
17 Choate Road
Hanover, New Hampshire

208. Garrett Theological Seminary
2121 Sheridan Road
Evanston, Illinois 60201

209. Geneva College
Beaver Falls, Penna.

210. Georgetown University
Washington, D. C. 20007

211. Georgetown College
Georgetown, Kentucky 40324

212. The Glenmary Home Missioners
Princeton Pike
Glendale, Ohio 45246

213. The "Go Ye" Mission, Inc.
Box 338
Tahlequah, Oklahoma 74464

214. M. L. Gold & Company
39 South Fullerton Avenue
Montclair, New Jersey 07042

215. Golden Valley Lutheran College
6125 Olson Highway
Minneapolis, Minn. 55422

216. Gonzer, Gerber, Tinker & Stuhr
Suite 402
105 West Madison Street
Chicago, Illinois 60602

217. Good News Broadcasting Ass'n.
301 S. 12th Street
Lincoln, Nebraska 68501

218. Good Samaritan Hospital
1033 East McDowell Road
Phoenix, Arizona 85002

219. The Good Shephard Home
and Rehabilitation Center
Sixth and St. John Streets
Allentown, Penna. 18103

220. Goodell, Moss, & Rose
535 Fifth Avenue
New York, New York 10017

221. Gordon College
255 Grapevine Road
Wenham, Massachusetts 01984

222. Goshen College
400 College Avenue
Goshen, Indiana 46526

223. The Gospel Ass'n. for the Blind
15-16 122nd Street
College Point, New York

224. Gospel Missionary Union
Drawer "C"
Smithville, Mo. 64089

225. Grace Bible College
1011 Aldon Street, S. W.
Grand Rapids, Michigan 49509

226. Grace Bible Institute
Omaha, Nebraska 68108

227. Grace College
Winona Lake, Indiana 46590

228. Grand Rapids Baptist Bible
College & Seminary
1001 East Beltline, N. E.
Grand Rapids, Michigan 49505

229. Grand Rapids Christian High School
Grand Rapids, Michigan 49507

230. Griffin McCarthy, Inc.
Miami, Florida 33137

231. Grinnell College
Grinnell, Iowa 50112

232. Gustavus Adolphus College
St. Peter, Minnesota 56082

233. Hampden-Sydney College
Hampden-Sydney, Virginai 23943

234. Hanover College
Hanover, Indiana 47243

235. The Hartford Seminary Foundation
Hartford, Connecticut 06105

236. Hastings College
Hastings, Nebraska 68901

237. Haverford College
Haverford, Pennsylvania 19041

238. Heidelberg College
Tiffin, Ohio 44883

239. Henry County Hospital Foundation
New Castle, Indiana

240. The Hertzler Research Foundation
Halstead, Kansas 67056

241. Hewitt Associates
Libertyville, Illinois 60048

242. Hiram College
Hiram, Ohio 44234

243. Hope College
Holland, Michigan

244. Johns Hopkins Fund
Baltimore, Maryland 21218

245. The Hospital of the Good
Samaritan Medical Center
Los Angeles, California 90017

246. Houghton College
Houghton, New York 14744

247. Howell Advertising Associates
Elmira, New York 14902

248. Huggins & Company
Philadelphia, Penna. 19102

249. Humane Society of the U. S.
Elizabeth, New Jersey 07201

250. The Humane Society of the U.S.
Washington, D. C. 20006

251. Huntington College
Huntington, Indiana 46750

252. Illin... Baptist State Ass'n.
Carbo...e, Illinois 62901

253. Illin... Disciples of Christ
Bloomington, Illinois 61701

254. Illinois Wesleyan University
Bloomington, Illinois 61701

255. Independent Colleges of Southern California, Inc.
Los Angeles, California 90014

256. Indiana Institute of Technology
Fort Wayne, Indiana 46803

257. Institute for Philanthropic Planning, Inc.
New York, New York

258. International Group Plans
Washington, D. C. 20009

259. International Students, Inc.
Washington, D. C. 20037

260. Inter-Varsity Christian Fellowship
Chicago, Illinois 60606

261. Iowa Methodist Hospital
Des Moines, Iowa 50300

262. The Iversen Association
New York, New York 10010

263. Jamestown College
Jamestown, North Dakota 58401

264. Jesuit Deferred Funds, New York
New York, New York 10028

265. The Jesuit Deferred Funds
Portland, Oregon 92708

266. Jewish National Fund
New York, New York

267. Johnson & Higgins
Los Angeles, Calif. 90005

268. Judson College
Elgin, Illinois

269. Juniata College
Huntingdon, Penna. 16652

270. Kansas 4-H Foundation
Manhattan, Kansas 66502

271. Kendall College
Evanston, Illinois 60201

272. Kansas State University Endowment
Manhattan, Kansas 66504

273. Kansas Wesleyan University
Santa Fe at Claflin
Salina, Kansas 67401

274. Kennedy Sinclaire, Inc.
Wayne, New Jersey 07470

275. The Kenny Presbyterian Home for the Retired
Seattle, Washington 98116

276. Kenosha Memorial Hospital
Kenosha, Wisconsin 53140

277. Charles F. Kettering Memorial Hospita
Kettering, Ohio 45429

278. Keuka College
Keuka Park, New York 14478

279. The Kings College
Briarcliff Manor, New York 10510

280. King's Garden
Seattle, Washington 98133

281. Kirksville College of Osteopathy and Surgery
Kirksville, Missouri 63501

282. Knox College
Galesburg, Illinois 61401

283. Koinonia Foundation
Baltimore, Maryland 21208

284. LaGrange College
LaGrange, Georgia 30240

285. Lake Erie College
Painesville, Ohio 44077

286. Lake Forest College
Lake Forest, Illinois 60045

287. Lambrides & Lambrides
Montclair, New Jersey

288. Lambrides & Sampson
New York, New York 10036

289. Lambuth College
Jackson, Tennessee 38301

290. Lasell Junior College
Auburndale, Mass. 02166

291. La Sierra College
La Sierra, California

292. J. K. Lasser Tax Institute
Larchmont, New York 10538

293. La Verne College
La Verne, California 91750

294. Sarah Lawrence College
Bronxville, New York

295. LeTourneau College
Longview, Texas 75601

296. Lexington Theological Seminary
Lexington, Kentucky 40508

297. Life Insurance Company of Calif.
San Francisco, California 94120

298. Life Messengers, Inc.
Seattle, Washington 98103

299. Loma Linda University
Loma Linda, California 92354

300. Los Angeles Baptist College
Newhall, California 91321

301. Louisville Presbyterian Theo. Seminary
Louisville, Kentucky 40205

302. Loyola University of Los Angeles
Los Angeles, California 90045

303. Lubbock Christian College
Lubbock, Texas 79407

304. Edward F. Lloyd
Grants Pass, Oregon 97526

305. Lutheran Bible Institute
Seattle, Washington 98133

306. Lutheran Church in America Foundation
New York, New York 10016

307. Lutheran Church - Missouri Synod
Fort Wayne, Indiana

308. Lutheran Church-Missouri Synod Fdn.
St. Louis, Missouri 63102

309. Lutheran Homes, Inc.
Kendallville, Ft. Wayne, Indiana 4675

310. Lutheran Hospital Society of Southern California
Los Angeles, California 90015

311. Lutheran Layman's League
St. Louis, Missouri 63139

312. Lutheran Social Services of South Dakota
Sioux Falls, South Dakota 57104

313. Lutheran Welfare Society of North Dakota
Fargo, North Dakota 58112

314. Lynchburg College
Lynchburg, Virginia 24504

315. MacMurray College
Jacksonville, Illinois 60650

316. McCormick Theological Seminary
Chicago, Illinois 60614

317. McKendree College
Lebanon, Illinois 62254

318. McPherson College
McPherson, Kansas 67460

319. Macalester College
Saint Paul, Minnesota 55101

320. Malone College
Canton, Ohio 44709

321. Manchester College
North Manchester, Indiana 46962

322. Manhattan College
Bronx, New York 10471

323. Marianist Promotion Service
Dayton, Ohio 45409

324. Marion College
Marion, Indiana 46952

325. Marquette University
Milwaukee, Wisconsin 53233

326. Marymount College
Salina, Kansas 67401

327. Maryville College
Maryville, Tennessee 37801

328. Massachusetts Mutual Life Insurance Co.
New York, New York

329. Mass. Society for Prevention of Cruelty to Animals
Boston, Massachusetts 02115

330. Mayer, Friedlich, Spiess, Tierney, Brown & Platt
Chicago, Illinois 60604

331. Mr. Gerhard Mayer
Highland Park, Illinois 60035

332. The Memorial Hospital of Long Beach Foundation
Long Beach, California 90801

333. Mennonite Biblical Seminary
Elkhart, Indiana 46517

334. Mennonite Board of Education
Akron, Penna. 17501

335. Mennonite Board of Missions & Charities
Elkhart, Indiana 46515

336. The Mennonite Foundation Inc.
Goshen, Indiana 46526

337. General Conference Mennonite Church
Newton, Kansas 67114

338. Meredith College
Raleigh, North Carolina 27602

339. Messiah College
Grantham, Penna. 17027

340. The Methodist Church Board of Education
Nashville, Tennessee 37212

341. The Methodist Church Board of Missions of the Florida Conference
Lakeland, Florida 33802

342. Board of Missions of the Methodist Church
New York, New York

343. General Board of Lay Activities The Methodist Church
Evanston, Illinois 60201

344. National Division of the Board of Missions of The Methodist Church
New York, New York 10027

345. Women's Division of the Board of Missions of The United Methodist Church
New York, New York 10027

346. World Division of the Board of Missions of the United Methodist Church
New York, New York 10027

347. Northern New York Conference Methodist Church
Watertown, New York 13601

348. Preachers Aid Society of the Indiana Conference of The United Methodist Church
Bloomington, Indiana 47401

349. Preachers Aid Society - Board of Pensions-New England Annual Conference of the United Methodist Church
Boston, Massachusetts 02116

350. The Preacher's Aid Society of
the Northwest Indiana Conference
of the United Methodist Church
West Lafayette, Indiana 47906

351. Council on World Service & Finance
of The United Methodist Church
Evanston, Illinois 60201

352. The Methodist County House
Wilmington, Delaware 19807

353. Methodist Foundation of Rock
River Conf. Inc.
Chicago, Illinois 60602

354. Methodist Foundation - California/
Nevada
San Francisco, California

355. Methodist Foundation of the
Southern California/Arizona
Conference
Los Angeles, California 90029

356. Methodist Home for Children
Williamsville, New York 14221

357. Methodist Hospital
Indianapolis, Indiana 46202

358. Methodist Hospital of Brooklyn
Brooklyn, New York 11215

359. Michigan Christian Junior College
Rochester, Michigan 48063

360. Mid-America Nazarene College
Olathe, Kansas 66061

361. Midland College
Fremont, Nebraska 68025

362. Midway Junior College
Midway, Kentucky 40347

363. Millikin University
Decatur, Illinois 62522

364. Missionary Aviation Fellowship
Fullerton, California 92632

365. Missouri Baptist College
St. Louis, Missouri 63144

366. Missouri Baptist Foundation
Jefferson City, Missouri 65101

367. Missouri Valley College
Marshall, Missouri 05340

368. The Monmouth College
Monmouth, Illinois 61462

369. Moody Bible Insitute
Chicago, Illinois 60612

370. The Moody Church
Chicago, Illinois 60614

371. Moore College of Art
Philadelphia, Penna. 19103

372. Moral Re-Armament Life Income Fund
New York, New York 10016

373. Moravian College
Bethlehem, Penna.

374. Mount Holyoke College
South Hadley, Massachusetts 01075

375. Mount Mercy College
Cedar Rapids, Iowa 52402

376. Mount Vernon Nazarene College
Mt. Vernon, Ohio 43050

377. Muhlenberg College
Allentown, Penna. 18104

378. Muskingum College
New Concord, Ohio 43762

379. The Mutual Benefit Life Ins. Co.
Newark, New Jersey 07010

380. Narramore Christian Foundation
Rosemead, California 91770

381. Nasson College
Springvale, Maine 04083

382. National Association of Congrega-
tional Churches
Milwaukee, Wisconsin 53203

383. National Association of Evangelicals
Wheaton, Illinois 60188

384. The National Benevolent Ass'n.
of the Christian Church
St. Louis, Missouri 63103

385. National Church Residences.
111 Wendy Lane
Waverly, Ohio

386. National Church Retirement Residences
Columbus, Ohio 43212

387. National Committee for Labor Israel
New York, New York 10021

388. National Council of Churches of Christ in the U.S.A.
New York, New York 10027

389. National Council of Jewish Women
New York, New York

390. The National Shrine of Our Lady of Czestochowa
Doylestown, Penna. 18901

391. National Woman's Christian Temperance Union
Evanston, Illinois 60201

392. The Navigators
Colorado Springs, Colorado 80901

393. Near East Foundation
New York, New York 10021

394. Nebraska Wesleyan University
Lincoln, Nebraska 68504

395. New England Baptist Hospital
Boston, Mass. 02120

396. New Frontiers of Faith
Tulsa, Oklahoma 74103

397. New Mexico Baptist Foundation
Albuquerque, New Mexico 87103

398. New Tribes Mission
Woodworth, Wisconsin 53194

399. New York Bible Society
New York, New York 10017

400. New York Hospital
New York, New York

401. New York Messianic Witness, Inc.
New York, New York

402. New York Theological Seminary
New York, New York

403. Newark College of Engineering Alumni Association
Newark, New Jersey 07102

404. Clarence R. Newby, CPA
San Bernardino, California 92410

405. North American Baptist General Conference
Forest Park, Illinois 60130

406. North Central College
Naperville, Illinois 60540

407. North Park College & Theo. Seminary
Chicago, Illinois 60625

408. Northeastern Collegiate Bible Institute
Essex Fells, New Jersey 07021

409. Northern Baptist Theo. Seminary
Oak Brook, Illinois 60523

410. Northwest Nazarene College
Nampa, Idaho 83651

411. Northwestern College
Minneapolis, Minnesota 55403

412. Northwestern Hospital
Minneaspolis, Minn. 55407

413. Northwestern University
Evanston, Illinois 60201

414. David Nunn Revivals
Dallas, Texas 75208

415. Nyack Missionary College
Nyack, New York 10960

416. Oak Hills Fellowship, Inc.
Bemidji, Minnesota 56601

417. Oberlin College
Oberlin, Ohio 44074

418. Occidental College
Los Angeles, California 90041

419. Ohio Baptist Convention
Granville, Ohio 43023

420. Ohio College of Applied Science
Cincinnati, Ohio 45210

421. Ohio Council of Churches
Columbus, Ohio 43215

422. Ohio Northern University
Ada, Ohio 45810

423. Ohio University Fund, Inc.
Athens, Ohio 45701

424. Ohio Wesleyan University
Delaware, Ohio 43015

425. Oklahoma Christian College
Oklahoma City, Oklahoma 73111

426. Oklahoma Methodist Foundation Inc.
Oklahoma City, Oklahoma 73107

427. Olivet Nazarene College
Kankakee, Illinois 60901

428. Ontario Bible College
Toronto, Ontario

429. Open Bible Standard Churches, Inc.
Des Moines, Iowa 50306

430. The Ordey Company
Beverly Hills, California 90210

431. Oregon Jesuits
Portland, Oregon 97208

432. Oriental Missionary Society
Greenwood, Indiana 46142

433. The Orthodox Presbyterian Church
Philadelphia, Penna. 19126

434. T. L. Osborn Evangelistic Ass'n.
Tulsa, Oklahoma 74102

435. Ottawa University
Ottawa, Kansas 66067

436. Otterbein College
Westerville, Ohio 43081

437. The Otterbein Home, Inc.
Lebanon, Ohio 45036

438. Owosso College
Owosso, Michigan 48867

439. Pacific College
Fresno, California 93702

440. The Pacific Homes Corporation
Los Angeles, California 90029

441. Pacific University
Forest Grove, Oregon 97116

442. Park College
Parkville, Missouri 65275

443. Park Street Church
Boston, Mass. 02108

444. Pasadena College
Pasadena, California 91104

445. The Penn Mutual Life Ins. Co.
Philadelphia, Pennsylvania 19100

446. William Penn College
Oskaloosa, Iowa 52577

447. Pennsylvania Military College
Chester, Pennsylvania 19013

448. The Pentecostal Assemblies of Canada
Toronto, Ontario

449. Pepperdine College
Los Angeles, California 90014

450. John J. Pershing College
Beatrice, Nebraska 68310

451. Piedmont College
Demorest, Georgia 30535

452. Philadelphia College of Bible
Philadelphia, Penna. 19103

453. Phillips University
Enid, Oklahoma 73701

454. Pilgrim Holiness Church
Indianapolis, Indiana 46204

455. Pine Rest Christian Hospital
S. Grand Rapids, Michigan 49508

456. Pinecrest Manor - Home for Senior Citizens
Mount Morris, Illinois 61054

457. Pitzer College
Claremont, California 91711

458. Morton F. Plant Hospital
Clearwater, Florida

459. The Pocket Testament League, Inc.
Englewood, New Jersey

460. Poindexter & Banger
Los Angeles, California 90017

461. Pomona College
Claremont, California 91711

462. Charles A. Powers, Jr.
Jacksonville, Florida 32207

463. Prerau & Teitell
New York, New York 10017

464. Presbyterian Church in the U.S.
Board of Annuities and Relief
Atlanta, Georgia 30308

465. Presbyterian Church in the U.S.
Board of National Ministries of
Atlanta, Georgia 30308

466. Presbyterian Church in the U. S.
Board of World Missions of the
Nashville, Tennessee 37212

467. The Presbyterian Foundation, Inc.
Charlotte, North Carolina 28202

468. Presbyterian Hospital Center
Albuquerque, New Mexico 87106

469. Presbyterian-University of Pennsylvania
Medical Center
Philadelphia, Pennsylvania 19104

470. Princeton Theological Seminary
Princeton, New Jersey 08540

471. Protestant Episcopal Cathedral
Foundation
Washington, D. C. 20015

472. Provident National Bank
Philadelphia, Pa. 19101

473. Dale Purcell
Columbia, Missouri 65201

474. The Quarryville Presbyterian
Home
Quarryville, Penna. 17566

475. Queens College Fund
Flushing, New York 11367

476. Reformed Bible Institute
Grand Rapids, Michigan 49506

477. Reformed Church in America
Board of Pensions
New York, New York 10027

478. Research Hospital and Medical Center
Kansas City, Missouri 64132

479. Ripon College
Ripon, Wisconsin 54971

480. Oral Roberts Evangelistic Assoc.
Tulsa, Oklahoma 74102

481. Roberts Wesleyan College
North Chili, New York 14514

482. Rochester Methodist Hospital
Rochester, Minnesota 55901

483. Rockford College
Rockford, Illinois 61101

484. Rockhurst College
Kansas City, Missouri 64110

485. St. Gregory's Priory
Three Rivers, Michigan 49093

486. St. John's University
Collegeville, Minnesota 56321

487. St. Joseph's College
Rensselaer, Indiana 47978

488. St. Joseph Hospital
Burbank, California 91503

489. St. Lawrence Seminary Annuity Plan
Mt. Calvary, Wisconsin 53057

490. The St. Lawrence University
Canton, New York 13617

491. St. Leo College
St. Leo, Florida 33574

492. St. Louis College of Pharmacy
St. Louis, Missouri 63110

493. St. Mary's College
Winona, Minnesota 55987

494. St. Olaf College
Northfield, Minnesota 55057

495. The Salvation Army
Atlanta, Georgia 30307

496. The Salvation Army
New York, New York 10011

497. John C. Scanlon
Cincinnati, Ohio 45202

498. School of Theology at Claremont
Claremont, California 91711

499. Schools for Christian Education
Holland, Michigan 49423

500. Chas. Schreiner Bank
Kerrville, Texas 78028

501. Seattle Pacific College
Seattle, Washington 98119

[illegible]. Seventh-Day Adventists
Atlantic Union Conference
So. Lancaster, Mass. 01561

503. Central Union Conference
Seventh-day Adventists
Lincoln, Nebraska 68506

504. Seventh-day Adventist Church in
Canada
Oshawa, Ontario

505. Columbia Union Conference of
Seventh-day Adventists
Takoma Park, Washington, D.C.

506. General Conference of the
Seventh-day Adventists
Washington, D. C. 20012

507. Kansas Conference of
Seventh-day Adventists
Topeka, Kansas 66601

508. Lake Union Conference of
Seventh-day Adventists
Berrien Springs, Michigan 49103

509. North Pacific Union Conference
of Seventh-day Adventists
Portland, Oregon 97214

510. Northern New England Conference
of Seventh-day Adventists
Portland, Maine

511. Northern Union Conference of
Seventh-day Adventists
Minneapolis, Minn. 55422

512. Ohio Conference of Seventh-
day Adventists
Mt. Vernon, Ohio 43050

513. Pacific Union Association of
Seventh-day Adventists
Glendale, California 91209

514. South Eastern California Assoc.
of Seventh-day Adventists
Riverside, California 92503

515. Southern Union Conference Assoc.
of Seventh-day Adventists
Decatur, Georgia 30031

516. Southwestern Union Conference Corp.
of Seventh-day Adventist
Richardson, Texas 75080

517. Robert F. Sharpe & Co. Inc.
Memphis, Tenn. 38117

518. Sisters of Mercy-Province of
Cincinnati
Cincinnati, Ohio 45206

519. Smith College
Northampton, Mass. 01060

520. Society for the Propagation of the
Faith
New York, New York 10001

521. South Coast Community Hospital
South Laguna, California 92677

522. South Dakota Methodist Foundation
Mitchell, South Dakota 57301

523. South Miami Hospital
South Miami, Florida 33143

524. Southern Baptist Convention
Dallas, Texas 75201

525. Southern Seminary Foundation
Louisville, Kentucky 40206

526. Southwestern at Memphis
Memphis, Tennessee 38112

527. Spring Hill College
Mobile, Alabama 36608

528. Stanford University
Stanford, California 94305

529. Starr Commonwealth for Boys
Albion, Michigan 49224

530. Stein Roe & Farnham
Chicago, Illinois 60603

531. Sudan Interior Mission
New York, New York 10023

532. Tarkio College
Tarkio, Missouri 64491

533. Taylor University
Upland, Indiana 46989

534. Temple Buell College
Denver, Colorado 80220

535. The Temple Foundation, Inc.
Arlington, Virginia 22201

536. The Texas Presbyterian Foundation
Dallas, Texas 75201

537. Thiel College
Greenbille, Penna. 16125

538. Trevecca College
Nashville, Tenn. 37210

539. Trinity Christian College
Palos Heights, Illinois 60463

540. Trinity University
San Antonio, Texas 78212

541. Tulane University
New Orleans, Louisiana 70118

542. Twentieth Century Advertising Agency
Dallas, Texas 75218

543. Unevangelized Fields Mission
Bala-Cynwyd, Penna. 19004

544. Union University
Jackson, Tennessee

545. Unitarian Universalist Ass'n.
Boston, Massachusetts 02108

546. United Christian Missionary Soc.
Indianapolis, Indiana 46219

547. United Church Bd. for Homeland Ministries
New York, New York 10010

548. The United Church of Canada
Toronto, Ontario, Canada

549. United Church of Christ Ohio Conference Foundation
Columbus, Ohio 43214

550. United Presbyterian Church in the U.S.A.
Board of Christian Education
Philadelphia, Penna. 19107

551. The United Methodist Church Board of Evangelism
Nashville, Tennessee 37203

552. United Presbyterian Foundation
New York, New York 10027

553. United Theological Seminary
Dayton, Ohio 45406

554. Union University
Jackson, Tennessee 38301

555. United World Mission
St. Petersburg, Florida 33738

556. The University of Akron
Akron, Ohio 44304

557. University of Bridgeport
80 Cartwright Street
Bridgeport, Connecticut 06604

558. University of Chicago
Chicago, Illinois 60637

559. University of Cincinnati
Cincinnati, Ohio 45221

560. University of Dubuque
Dubuque, Iowa 52001

561. University of Kentucky
Lexington, Kentucky 40506

562. University of Miami
Coral Gables, Florida 33124

563. University of Oklahoma Foundation, Inc.
Norman, Oklahoma

564. University of the Pacific
Stockton, California 95204

565. University of Pennsylvania
Philadelphia, Penna. 19104

566. University of Redlands
Redlands, California 92373

567. Upper Iowa College
Fayette, Iowa 52142

568. Utah Boys Ranch
Salt Lake City, Utah 84118

569. Valparaiso University
Valparaiso, Indiana 46383

570. Vassar College
Poughkeepsie, New York 12601

571. Vennard College
University Park, Iowa 52595

572. Villa Madonna College
Fort Mitchell, Kentucky 41017

573. Voice of China and Asia Inc.
Pasadena, California 91102

574. The Voice of Prophecy
Glendale, California 91206

575. Wabash College Development Bd.
Indianapolis, Indiana 46204

576. Wagner College
Staten Island, New York; 10301

577. Wartburg College
Waverly, Iowa 50677

578. The Watchman Examiner Fdn.Inc.
Somerset, New Jersey 08873

579. Wesley Manor
Frankfort, Indiana 46041

580. Wesley Theological Seminary
Washington, D. C. 20016

581. West Virginia Wesleyan College
Buckhannon, West Virginia 26201

582. Western College for Women
Oxford, Ohio 45056

583. Westmar College
LeMans Iowa 51031

584. Westminster College
Fulton, Missouri 65251

585. Westminster Theological Seminary
Philadelphia, Penna. 19118

586. Westmont College
Santa Barbara, California 93013

587. Wheaton College
Wheaton, Illinois 60187

588. Wheaton College
Norton, Massachusetts 02766

589. Whitman College
Walla Walla, Washington 99362

590. Willamette University
Salem, Oregon 97301

591. Williams College
Williamstown, Massachusetts 01267

592. Wilmington College
Wilmington, Ohio 45177

593. Winebrenner Theological Seminary
Findlay, Ohio 45840

594. Winona Lake Christian Assembly, Inc.
Winona Lake, Indiana 46590

595. Wisconsin Baptist State Convention
Elm Grove, Wisconsin 53122

596. Wisconsin State University
Eau Claire, Wisconsin 54701

597. Wittenberg University
Springfield, Ohio 45501

598. Woodward, Ryan, Sharp & Davis
Montclair, New Jersey

599. Worcester Polytechnic Institute
Worcester, Massachusetts 01600

600. World Gospel Mission
Marion, Indiana 46952

601. World Literature Crusade
Studio City, California 91604

602. World Neighbors
Oklahoma City, Oklahoma 73112

603. Wycliffe Bible Translators, Inc.
Santa Ana, California 92702

604. Youth for Christ Internation,Inc.
Wheaton, Illinois 60187

605. Brigham Young University
Provo, Utah 84601

606. Y.M.C.A. Metropolitan Minneapolis
Minneapolis, Minnesota 55402

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Testimony of the

COMMITTEE ON CATHOLIC CHARITABLE GIVING

APPRECIATION

The Committee on Catholic Charitable Giving expresses its gratitude on behalf of its one hundred and nine sponsoring organizations and institutions for the privilege and the opportunity to make this presentation to the Senate Finance Committee.

The Committee on Catholic Charitable Giving is well aware of all of the problems which you must face. May we say that our presentation is not a negative one, as we do support parts of the Bill being considered.

THE COMMITTEE ON CATHOLIC CHARITABLE GIVING

The Committee on Catholic Charitable Giving is a voluntary association of fifteen persons chosen by a majority vote of the Committee from important religious, educational and charitable organizations engaged in obtaining funds through deferred giving.

The scope and function of the Committee on Catholic Charitable Giving is best described by the following excerpt from the Official Catholic Directory for 1969, page thirteen, under the general heading, United States Catholic Conference:

The Committee on Catholic Charitable Giving was approved by the Bishops' Committee of The Society for the Propagation of the Faith in April, 1968. The Committee is sponsored by the National Office of The Society for the Propagation of the Faith and it is responsible to the National Director for all activities.

The Committee studies and recommends the proper range of rates for gift annuities and the accepted methods of yield computation for life income agreements.

The Committee also ascertains and reports as to legislation in the United States and in the various States regarding gift annuities, life income agreements and trusts, their liability, etc.

The Committee has the right to undertake to study and educate sponsoring organizations on all the various ways of giving, including outright giving and deferred giving.

The Committee on Catholic Charitable Giving is the representative of over one hundred religious, educational and charitable organizations which solicit and receive gifts for their respective purposes that are subject to charitable remainder trusts, gift annuities or life income agreements. The organizations represented by the Committee on Catholic Charitable Giving are listed in the Official Catholic Directory for 1969. Conferences

are held by the Committee on Catholic Charitable Giving for the members of the institution that they represent every two years. At these Conferences, speakers, well-known in their respective fields, including representatives from the Insurance Department of the State of New York and the Internal Revenue Service, have lectured to the participants and conducted workshops aimed at assisting them in operating more efficiently, and also to aid them in complying with the laws of the Treasury Department, the various Insurance Departments and other State laws.

The Committee on Catholic Charitable Giving is aware of the fact that over-emphasis of the tax aspects of the gift rather than of the institution's worth and needs has resulted in Congressional legislation and Internal Revenue Service rulings which have decreased tax benefits for donors.

The Committee on Catholic Charitable Giving is also aware of the fact that gifts to educational, religious, social welfare and other philanthropic institutions are encouraged by the federal income, estate and gift tax laws. Except in most unusual circumstances, a donor sacrifices substantial economic worth when he makes a philanthropic gift. Thus, his prime giving motive is his belief in the philanthropy's work and goals. Tax savings become important only after he decides to make the gift. They reduce the cost of giving and enable a donor to contribute more than he initially thought possible. Therefore, charitable gifts should not be treated and lumped together with real estate, depreciation, capital gains, tax exempt interest, and so forth. The House Bill's provisions which deal directly with charitable contributions and those which deal with them indirectly (inclusion of appreciation on charitable gifts in the Limit on Tax Preference and in the Allocation of Deduction provisions) are extremely complex. Charitable organizations obtain support by being "easy to give to". The House Bill, by its very complexity, discourages charitable giving.

SPECIFIC RECOMMENDATIONS

CHARITABLE REMAINDER TRUSTS

Present law provides that there is no capital gain on the transfer of appreciated property to establish a charitable remainder (life income) trust; nor is there a capital gain if the property transferred is later sold by the trust and the gain permanently set aside for the charity. These rules should be retained. Abuses in the investment policies of these trusts are rare, and means are now available to (and used by) the Internal Revenue Service to curb any abuses which exist. The new Bill contains very complicated provisions for charitable remainder trusts, annuity trusts and charitable remainder unitrusts which should not be substituted for the widely used and understood, charitable remainder trust. The House Bill allows no estate tax charitable deduction for a charitable remainder trust unless it is a unitrust or annuity trust. This estate tax change would affect estates of donors dying after the Bill is enacted. However, it would apply to charitable remainder trusts created before the Bill's enactment, no matter how long ago. To our knowledge no existing charitable remainder trust is a unitrust or an annuity trust. The retroactive date is so harsh and unfair that the Committee on Catholic Charitable Giving urges (if the Senate Finance Committee Bill contains the House unitrust and annuity trust provisions) to make the change effective after the passage of the Bill and applicable only to charitable remainder trusts established after the passage of the Bill.

CHARITABLE GIFT ANNUITIES

Present tax treatment when appreciated property is contributed for the annuity should be retained. (This was established in Rev. Rul. 62-136 and has received national acceptance since 1962.) If the House Bill's provision on bargain sales is enacted, the law should specifically state that the transfer of appreciated property for a charitable gift annuity is not considered within the scope of the ruling for a bargain sale.

LIFE INCOME CONTRACTS

Present law governing these contracts (no capital gain on transfer of appreciated property nor capital gain when property transferred is later sold by the life income pooled fund) should be retained. As with the charitable remainder trust, (1) the deduction should be based upon the full fair market value without imposition of capital gains tax, (2) the capital gains incurred by the life income pooled fund and permanently set aside for the charity should not be taxed.

GIFTS OF APPRECIATED PROPERTY

Present law allows for a deduction of the fair market value of the property with no capital gains tax on the appreciation. This should be retained. However, under the Allocation of Deductions the appreciation would be indirectly and partially taxed. This is a very complicated provision which not only will confuse prospective donors but will discourage them from making a gift of appreciated property.

ALLOCATION OF DEDUCTIONS

This part of the Bill is equivalent to a two-edged sword.

1. It reduces the charitable contribution by having the charitable contribution deduction in the itemized deductions allocated between taxable and non-taxable income.
2. It reduces the charitable deduction,as well as the other itemized deductions because the amount of appreciation on property contributed to charity is considered as non-taxable (tax preferred) income.

ITEMS THAT WE SUPPORT

A. Extending the unrelated business income tax to cover all organizations now exempt.

B. Taxing organizations on income received from debt-financed investments.

C. The increasing of the ceiling on deduction allocations to 50%.

ITEMS THAT WE CONSIDER TO BE IMPORTANT WHICH WE WOULD BE WILLING TO SACRIFICE, IF NECESSARY

A. Rent-free use of property

B. Two-year trusts

C. Appreciated property gifts which could generate ordinary income if sold, for example, Section 306 Stock

D. The unlimited charitable deduction

GENERAL OBSERVATIONS

Deferred giving in recent years has become more and more important to our organizations in helping overcome the trend of steadily rising costs. "Current Giving" no longer adequately takes care of the needs of our institutions. It is important that our institutions be permitted to continue the use of deferred giving. Tax incentives to philanthropic giving are firmly woven into the tax laws. At the present time, there is a trend caused by the emphasis on the abuses of contribution deductions by a small minority of donors to religious, educational and other publicly supported institutions, to remove many of the tax incentives to giving, previously approved by Congress. May we respectfully request that your final Bill take into consideration the fact that the abuses are very small and the needs of the publicly supported organizations are very great.

Respectfully submitted

Committee on Catholic Charitable Giving

James A. Cousins

President

STATEMENT REGARDING PROPOSED TAX REFORM ACT OF 1969

H. R. 13270

September 17, 1969

Presented to:	The Committee on Finance United States Senate The Honorable Russell B. Long, Chairman
Submitted by:	The National Council of Churches of Christ in the U.S.A.
Oral Testimony by:	William P. Thompson Stated Clerk, The United Presbyterian Church in the U.S.A. Mr. Thompson is a lawyer and a member of the General Board of the National Council of Churches and of its Executive Committee.

SUMMARY

EXEMPTION OF CHURCHES

The reference to "churches and associations and conventions of churches" in various places in HR 13270 are satisfactory and appropriate.

In particular, we approve ending of the exemption of churches from the 1950 tax on "unrelated business income", subject to certain safeguards outlined in the bill. However, we urge certain minor changes:

1. Exception of churches from the mandatory and public disclosure requirements;

2. Limitation of cure for Clay Brown abuses -- at least for churches-- to taxing debt-financed rents rather than all passive or investment income;

3. Definition of "unrelated business income" in such a way that it does not include any activity related to tenets and traditional functions of the church;

4. Taxation as income of the cash housing allowance paid clergymen in lieu of a parsonage or rectory.

PRIVATE FOUNDATIONS

Certain restrictions placed on private foundations would inhibit or eliminate some of the most creative social pioneering in our nation, which has been done by private foundations. Three elements of HR 13270 seem particularly punitive toward activities from which the nation benefits:

1. We oppose the restriction on support by foundations for non-partisan voter-registration drives;

2. We oppose the restriction on foundation-financed studies, reports, or recommendations that might affect legislation.

3. We urge the elimination of the proposed tax of 7 1/2% on investment income of foundations, and in its place a "user fee" of no more than 2% to cover cost of federal regulations.

CHARITABLE CONTRIBUTIONS

In its commendable effort to eliminate tax shelters, HR 13270 over-corrects in the area of charitable contributions to the degree that it would seriously handicap the causes and institutions that depend on such contributions.

Large-scale capital funds campaigns on behalf of such causes and institutions depend for success upon "pace-setting" gifts which will make up 50% of the total raised. These large gifts will be seriously reduced or inhibited by the strictures in the bill, thus crippling the support of import- and humanitarian efforts in the private sector.

Therefore, it is urged in this testimony:

1. that the tax code be simplified, so that donors are not hindered by inability to understand the tax effect of their contributions;

2. that charitable contributions be excluded from both the "allocation of deductions" and the "limit on tax preference", since they are unlike the other items in those classes;

3. that charitable contributions be claimable by those using Standard Deduction beyond whatever allowance is made for charitable contributions within that deduction;

4. that charitable contributions of appreciated property or of an interest in, or portion of, property be encouraged by exclusion from taxable income or deduction as a charitable contribution (at the option of the taxpayer), but not both.

Mr. Chairman and Members of the Committee:

My name is William P. Thompson. I am a lawyer admitted to practice before the Supreme Court of Kansas and the Supreme Court of the United States. After practicing law for 20 years, I was elected and now serve as Stated Clerk of the General Assembly of the United Presbyterian Church in the U.S.A. In this office I am the permanent officer of the highest legislative, judicial and administrative body of my denomination. I am a member of the General Board of the National Council of Churches of Christ in the U.S.A. and of its Executive Committee. I also serve as Chairman of the Council's General Planning and Program Committee. By virtue of this latter position, I am thoroughly familiar with the programs and operations of the National Council of Churches.

I appear before you today on behalf of the National Council of Churches, which is an association composed of thirty-three Protestant and Eastern Orthodox denominations. I do not purport to speak for these denominations, but rather for the General Board of the N.C.C., which is its policy-making body, made up of delegates selected by the member denominations.

Among the policies adopted by the General Board are several which bear on certain provisions of the Tax Reform Act of 1969, as passed by the House of Representatives in H.R. 13270. Those policies form the basis of this statement, and their applicability is confirmed by a resolution on tax reform adopted by our General Board meeting in Indianapolis last week. Copies of these policies are appended to this statement, Mr. Chairman, and I ask that they be made a part of the record of this Hearing.

The General Board of the National Council of Churches favors tax reform which would distribute the burden of public expenditures more equitably, so that all are taxed in proportion to their ability to pay and none of the affluent is able to avoid paying income tax completely by use of tax shelters and loopholes. We commend the Congress and this Committee, Mr. Chairman, for their attention to the subject of tax reform and for their efforts to make the nation's tax laws more equitable for all. We would suggest that, in addition to seeking equity, the Congress also strive to simplify the Internal Revenue Code so that it is no longer a mystery known only to experts, but a plain formula understandable to the average citizen.

However, while we support the basic need for tax reform and simplification, there are certain features of the Tax Reform Act of 1969, as passed by the House of Representatives, which in our judgment do not conform to, or contribute to, the achievement of those goals, or which, if consistent with them, have unfortunate side effects and must be examined in terms of the impact they would have upon voluntary agencies which are meeting needs of our society and all citizens of our nation. We therefore welcome this opportunity to express to this Committee our views on the proposed legislation you are considering.

TAX EXEMPTION OF CHURCHES

It may be helpful at the outset, Mr. Chairman, to outline briefly our basic position on the exemption of churches from ad valorem and income taxation. In our view, the impact of tax policy on the churches is of three kinds:

(1) There are certain central elements -- the property essential to the free exercise of religion (such as the house of worship) and the contributions of the faithful -- which we feel should be exempt from taxation.

(2) There are other resources and facilities which we feel should not be exempted from taxation, such as unrelated business income of churches and the cash housing allowance paid to clergymen by most church agencies.

(3) There are many auxiliary agencies of churches, such as schools and hospitals, which we think the law should treat in whatever way it treats similar non-profit charitable institutions that are unrelated to churches.

UNRELATED BUSINESS INCOME

We do not approve, Mr. Chairman, of churches (or any other exempt organizations) selling their tax exemption to private businesses so that they enjoy a competitive advantage over tax-paying businesses. Thus, last Spring we joined with the United States Catholic Conference in a statement asking for revision of the Internal Revenue Code which would end the exemption of churches from taxation on income from commercial business activities which are unrelated to the exempt function of the churches. That statement, together with suggested revisions in the Internal Revenue Code which would accomplish that goal, is attached.

The House Ways and Means Committee took cognizance of our request and incorporated many of our proposals in the bill as passed by the House. We hope that this Committee and the Senate will also support these changes.

In their statement, the United States Catholic Conference and the National Council of Churches also supported the elimination of the so-called "Clay-Brown" loophole. While noting that we were unable to speak for other exempt organizations, we did suggest to the House Ways and Means Committee that with respect to churches, it was our opinion that the "Clay-Brown" problem can be cured by taxing debt-financed rents while preserving the present exemption of churches from taxation upon passive or investment income including interest, dividends, and royalties. The Ways and Means Committee did not accept this suggestion, nor some others which we made, such as amending the definition of Unrelated Business to insure that it does not include any activity related to the tenets and traditional functions of a church and providing for financial reporting by churches on a voluntary basis.

Therefore, we urge this Committee to review and consider the suggestions we have made in this area.

FUNCTIONAL LIMITATIONS AND TAXATION OF PRIVATE FOUNDATIONS

If we may turn from matters directly affecting the churches, we would like to speak in behalf of a class of institutions whose well-being is more significant to the nation than their treatment in the present bill suggests -- the private foundations. We realize that some foundations have been set up or utilized as tax shelters serving a taxpayer's own benefit rather than the public good, and we endorse the effort to correct such abuses.

However, the stringency of some proposed restrictions on private foundations strikes us as almost punitive in some respects. Much of the germinative experimentation and innovation which has taken place in our nation in recent decades has been made possible by private foundations, many of which seek to implement in our nation's life its highest ideals of quality and equality in education, health care, and political democracy. We would regret the Congress approving legislation which would hamper or prohibit such constructive experimentation -- experimentation which sometimes is not possible for public agencies but often serves to point the way for broad-scale public programs.

Specifically, we are troubled by, and opposed to, the restrictions placed upon the efforts of foundations to encourage voter registration and the prohibition on activities which might affect legislation or public policy. While we agree that tax exempt and deductible funds should not be used for partisan purposes, we know that much of the important work in voter registration in many parts of the country, particularly in the South, would not have been accomplished without the support of public-spirited foundations, whose concerns have been manifest for the health of the democratic process and civil rights of disenfranchised populations and not for partisan advantage.

While it is true that ostensibly non-partisan voter registration drives can be a cloak for partisan objectives, we feel that the present bill over-corrects for this abuse by requiring foundation contributions to be spread over at least a five-state area and to be mingled with funds from at least five other foundations. The greatest strides in the enfranchisment of powerless populations are made in rather concentrated drives, where the possibility of reaching non-voters is stimulated by the exigencies of an imminent election. To require that the foundation resources which might contribute to such a drive be employed over a five-state area might spread them so thin as to render the effort ineffective.

In fact, we feel that the actual and possible abuses of voter registration have been , and are, so slight when weighed against the advantages of increased voter participation, that we favor the elimination of these restrictions on non-partisan voter registration drives assisted by foundations.

Any restriction should and can be directed at barring partisanship in voter registration activities and prohibiting participation in political campaigns on behalf of any candidate for public office, rather than at voter registration itself.

The same thing may be said of foundation-financed efforts to affect public policy. When one thinks of the vast amounts spent by corporations to protect their interests against restrictive legislation and charged off as part of the cost of doing business, it is difficult to understand why foundations already subject to the "substantiality" test should be the object of such vigorous regulation. Even though "non-partisan analysis and research" would be permitted, the strictures against foundation activites bearing on public policy are so rigorous as to inhibit foundations from any activities which might be construed as influencing legislation.

The proposed restrictions will surely force foundations to back away from all but the most noncontroversial, status quo types of philanthropy. Since most recipients of foundation grants are engaged in one way or another with public concerns which sooner or later become the subject of some kind of legislation, it would also become difficult, if not impossible, for such recipients to develop funding for such projects.

Of course, it may be argued that freedom for imaginative and innovative foundations is likewise freedom for other foundations to advocate regressive and repressive policies. We feel this is a chance the republic can afford and must take. If foundation or recipient activities which may influence the development of legislation are open, public and identified as to source, we believe legislators and their constituents would be able to judge the positions set forth on their own merits.

The nation would indeed be poorer if foundations were not free to finance the important research and experimentation that provide needed data and example for legislation without worrying whether their efforts might be construed "partisan" by opponents. In short, we do not see the need to exclude private foundations from the "free marketplace of ideas," even when some of those ideas might affect legislation.

We would also propose, Mr. Chairman, the elimination of the proposed tax of 7 1/2% on foundation investment income, and its replacement by a minimal "user fee" sufficient to defray the actual cost of federal regulation of foundations. A tax on foundation income is, after all, simply a tax on the beneficiaries of foundations -- not on the foundations themselves.

CHARITABLE CONTRIBUTIONS

On the main subject of this Committee's hearings this week, we are deeply troubled by some aspects of the bill as it passed the House of Representatives, not only because they would seriously reduce the voluntary support of churches, colleges, hospitals and other charitable institutions, but because these aspects of the bill suggest an ominous shift in public policy.

Hitherto, private generosity for the public good has been encouraged by the tax code. U. S. Treasury publication 561(3-68), "Valuation of Donated Property", states this point well:

> "Our Federal government recognizes that gifts to religious, educational, charitable, scientific and literary organizations have contributed significantly to the welfare of our nation, and our tax laws are designed to encourage such giving."

The new policy embodied in portions of HR 13270 does not encourage such giving, but makes it more difficult.

We understand and approve the general direction of this effort at tax reform. We are aware that some well-to-do taxpayers have used certain provisions relating to charitable contributions to improve their own financial condition without greatly benefitting charity, and we approve the effort to limit such abuses.

But we are troubled by the tendency in the bill to over-correct and almost to penalize the taxpayer with higher-than-average income for contributing to charity. This is not apparent so much in any one section of the bill as it is in the cumulative effect of many sections, such as those on "allocation of deductions" and on "limitation on tax preference", which not only make it more difficult for the philanthropist to be generous, but almost impossible to explain to him what the effect of his contribution will be on his tax position. The result is postponement of his gift, while he consults his tax attorney, and in too many cases "a gift postponed is a gift lost."

It is vital that this Committee should understand the place of large gifts in modern charitable fund-raising. The day when effective institutions of religion, education, medicine, etc. could depend on the "impulse giving" of individuals is past. Well-planned and organized campaigns are necessary to make potential contributors aware of their role in supporting the charitable causes they tend to take for granted. The level of their support is determined by the initial "pace-setting" gifts with which the campaign is launched, since most of the subsequent contributions will follow in direct proportion to the "pace-setting" gifts, and the campaign as a whole cannot rise above its "source" in the initial contributions.

In capital funds programs, for instance, our denominational fund-raisers depend on just 10% of the donors to subscribe 50% of the goal (since, whatever they subscribe, the other 90% of the donors will no more than match). If the initial donors are inhibited in giving, the result is felf all down the line. That

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is, if the goal is a million dollars, the pace-setters are expected to produce half, or $500,000. If they give only $300,000 the best that can be expected is an overall total of $600,000 from everyone. In other words, the total loss is not just the $200,000 short fall of the pace-setters, but $400,000 for the whole campaign! Although it is the large givers who are most strongly affected by changes in the tax law, their example causes those changes to be felt throughout the donor population.

Today, private eleemosynary institutions are especially vulnerable to fluctuations in their voluntary support, since inflation has reduced their purchasing power without increasing the rate at which donors are giving, and many churches and related institutions have had to make extensive program and staff cutbacks for this reason. If their ability to raise funds is not augmented but reduced by the impact of changes in the tax law, their very survival is jeopardized. Certainly they will not be able to respond to human needs in the way that the nation has come to expect of them. If the nation depends upon efforts in the private voluntary sector to help keep it healthy, vigorous, educated, responsive, purposive, then the nation needs to safeguard the vitality of the nonprofit institutions by preserving in its tax laws a climate of encouragement for charitable giving.

Perhaps the difficulty stems from lumping "charitable contributions" with "tax preferences" and "personal deductions", when they are essentially different from the other members of those classes. Unlike excess depreciation, hobby farm losses, tax-free interest on municipal bonds, depletion allowances or untaxed capital gains, charitable contributions do not derive from undertakings entered into primarily for the benefit of the taxpayer, but for the benefit of others. If his charitable contributions are discouraged by tax law, the recipients are the losers.

Therefore, we urge that "charitable contributions" be excluded from both the "allocation of deductions" and the "limit on tax preference".

The same is true of the classification of charitable contributions among "personal deductions" for purposes of the Standard Deduction. Such contributions are not essentially like medical costs, taxes, interest, casualty losses, etc., which are involuntary or for the taxpayer's own benefit, or both. When they are all lumped together in the Standard Deduction, the taxpayer loses any incentive to claim above-average contributions to charity, or even to make the contributions he does not need to claim under the Standard Deduction.

We favor the separation of charitable contributions from the Standard Deduction, so that taxpayers who do not (otherwise) choose to itemize their deductions may claim the total of their charitable contributions, a total they must be able to substantiate upon request, as deductible apart from the Standard Deduction. If allowance is made under the enlarged Standard Deduction for average charitable contributions, perhaps only contributions above that level -- up to 2% of adjusted gross income has been suggested -- should be claimable above the Standard Deduction.

In respect to certain other changes proposed by the House bill -- the tax treatment of arrangements in which churches and charities are beneficiaries of the remainder of principal after payment of annuities or dividends to a donor, or his designee for life -- we appreciate the effort to prevent a double benefit for donors in the name of charity. As the House Ways and Means Committee said in its Report:

> ". . . a charitable contribution deduction is not to allowed for an income interest given to charity in trust, unless the grantor is taxable on the income of the trust, or unless all the interests in the trust are given to charity. The effect of this is to deny the double benefit of a deduction and exemption from taxation which is available under present law . . . . This double benefit is an unwarranted tax advantage which is not necessary to provide an inducement to charitable giving." (p. 61)

This abuse has been virtually eliminated by administrative ruling. But if you conclude that a change in the statute is required to assure this result, we would support such revision. However, we urge retention oin the law of the encouragement of charitable contributions by one or the other of these tax benefits -- either exclusion from taxable income or deduction as a charitable contribution (perhaps at the option of the taxpayer)-- but not both.

Other provisions of the Bill related to such arrangements are so restrictive and burdensome that they will almost certainly discourage donors from entering into these arrangements at all. This will greatly reduce, and may eliminate, charitable giving by a large group of prospective donors who are advanced in years and comfortably situated but not wealthy. The net effect would be to deny this source of funds to churches and charities.

Gifts of appreciated property, whether by such arrangements or by outright gift, should be encouraged. A charitable contribution is not comparable to the sale of property, and the taxpayer who gives property to a charitable cause should not be taxed as though he had received consideration in the transaction. He always has the option of keeping the property rather than giving or selling it, and if that is what the tax code encourages him to do, the loser will be the charitable causes which might otherwise have benefitted.

The National Council of Churches is not asking in this testimony for more consideration than present law allows, or even for preservation of the status quo. What we are asking is that the Congress not injure the whole array of charitable, religious and philanthropic institutions which have played such an important part in shaping and maintaining our nation's vitality and character.

In conclusion, I should like to quote a portion of the Resolution on Tax Reform adopted by our General Board last week (and ask that the full text be incorporated in the record):

"Philanthropy is not a 'loophole' and it should not be treated as such. It is a voluntary act designed to help others, and the philanthropist should not be penalized for undertaking it.

"Tax policy which reduces the incentives to charitable giving would do the most harm to those that benefit the most -- the young, the poor, the deserving -- rather than handicapping those who are the benefactors."

We therefore urge your Committee to help undergird rather than undermine the vitality of the private sector.

National Council of the Churches of Christ in the U.S.A.

RESOLUTION ON TAX REFORM

Adopted by the General Board September 12, 1969

The General Board of the National Council of the Churches of Christ in the U.S.A. favors tax reform which would distribute the burden of public expenditures more equitably across the nation, so that all are taxed in proportion to their ability to pay, and none of the affluent is able entirely to avoid paying income tax by use of tax shelters and loopholes.

In particular, the General Board recommends the following directions which it hopes tax reform will take:

1. Simplification of the Internal Revenue Code rather than increasing complication, so that it is no longer a mystery known only to experts, but a plain formula understandable to the average citizen.

2. Tempering the proposed regulation of private foundations so that, while it prevents abuses for personal or corporate advantage, it does not inhibit the constructive social experimentation made possible by such foundations. The General Board particularly urges:

a) Deletion of the proposed restrictions on expenditures by foundations to support nonpartisan voter registration drives;

b) Deletion of the proposed restrictions on expenditures by foundations to conduct studies and projects which could influence legislation.

c) Elimination of the proposed tax of 7 1/2% on foundation income, and its replacement by a minimal "user fee" sufficient to defray the actual cost of federal regulation of foundations.

3. Encouraging charitable contributions through deductibility provisions that are readily intelligible and that permit "pace-setting philanthropy."

The proposed legislation would have the effect of inhibiting contributions to the constructive nonprofit undertakings in the private sector - colleges, hospitals, churches, etc - which serve the nation's good as well as do public, tax-supported institutions.

Philanthropy is not a "loophole," and it should not be treated as such in tax policy. It is a voluntary act designed to help others, and the philanthropist should not be panalized for undertaking it.

Tax policy which reduces the incentives to charitable giving would do the most harm to those that benefit the most - the young, the poor, the deserving - rather than handicapping those who are the benefactors. Therefore, the General Board urges:

a) separate treatment of "charitable contributions" befitting their difference from "tax preferences" and "personal deductions", which are involuntary or mainly for the taxpayer's own benefit or both;

b) Retention, insofar as campatible with elimination of palpable abuses, of existing tax policy in regard to benefactions.

4. Allowing deductibility of charitable contributions that can be substantiated (possibly above 2% of gross income) for those who claim the standard deduction rather than itemizing deductions, so that some incentive is offered such taxpayers for above-average giving.

May 2, 1969

JOINT STATEMENT
BY
THE NATIONAL COUNCIL OF CHURCHES
AND
THE UNITED STATES CATHOLIC CONFERENCE
TO
THE WAYS AND MEANS COMMITTEE
OF
THE U.S. HOUSE OF REPRESENTATIVES

Under existing law many types of organizations are granted exemption from the income tax. Certain exempt organizations, including charitable, educational, and some religious organizations, labor unions, business leagues, etc., are nevertheless subjected to tax upon their incomes from any unrelated business; and rents derived from debt-financed property (under leases for periods in excess of five years) are included in unrelated business taxable income. The tax upon unrelated business taxable income does not apply to churches, or conventions or associations of churches.

Such exemption makes available to churches a potential advantage over tax-paying organizations engaged in commercial business activities. The National Council of Churches and the U.S. Catholic Conference favor elimination of the specific exemption of churches from taxation on income from regularly conducted commercial business activities which are unrelated to their exempt functions.

Ingenious tax planning on the part of some exempt organizations which are subject to the unrelated business tax has enabled them to purchase a business on credit, lease its assets to an operator for five years of less, receive the business profits as rent and use such rent to pay the purchase price. The operator pays little or no tax, the exempt organization pays no tax, and the seller reports his profit at capital gain rates. This is the so-called "Clay-Brown" loophole. Being exempt from the unrelated business tax, a church desiring to engage in commercial business activity has not needed to resort to this technique. The National Council of Churches and the U.S. Catholic Conference also favor elimination of the "Clay-Brown" loophole.

In order to close the "Clay-Brown" loophole, the Treasury recommends that ALL exempt organizations, including churches, be subjected to taxation upon dividends, interest, rents, royalties and capital gains to the extent that such income is derived from debt-fiananced property. That proposal goes far beyond a cure of the abuse involved. We cannot and do not speak for the other exempt organizations, but with respect to churches, the NCC and the USCC believe that the "Clay-Brown" problem can be cured by taxing debt-financed rents. In this connection, rentals from property acquired for expansion, within or without the church neighborhood, and held for a reasonable period (10 to 15 years) before conversion to church use should not be subject to taxation.

The changes to accomplish these policies should carry provisions to: (a) provide adequate procedural safeguards to prevent governmental involvement in the internal and financial affairs of churches; (b) preserve the present exemption of churches from taxation upon passive or investment income, including royalties, dividends, interest, gains from the disposition of property, and rents (not rents to be taxable to the extent necessary to eliminate the "Clay-Brown" loophole); (c) protect from taxation the traditional functions of churches, including, among others, the printing and distribution of religious publications, with or without advertising, and customary fund-raising actitities; and (d) provide a five-year grace period for the divestiture of existing unrelated business activities.

There have been suggestions for compulsory filing of financial data by all exempt organizations, including churches. Financial reporting by churches should be on a voluntary basis. We do not consider that it is desirable or wise for Government to compel disclosure of financial information by churches. Only those churches which conduct an unrelated trade or business should be obliged by law to file tax reports and then only with respect to such business activity.

Suggestions for technical revisions to accomplish these changes are appended.

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TECHNICAL REVISIONS

1. Amend Section 511 of the Code to permit imposition of the unrelated business tax on church entities by deleting from Section 511(a)(A): "(other than a church, a convention or association of churches...)."

2. Amend the definition of Unrelated Business (Section 513) to insure that it does not include any activity related directly or indirectly to the tenets and traditional functions of a "church, a convention or association of churches," including among others, cemeteries, institutions for the care and training of the unfortunate, the printing and distribution of religious publications with or without advertising, customary fund raising activities, and sale under church auspices of religious articles, pamphlets, etc. etc.

3. Amend the definition of a business lease [Section 514 (b) (1)] to eliminate the 5-year lease rule with respect to churches so that the unrelated debt-financed rental income of churches (Clay-Brown loophole) will be subject to tax. Redefine the definition of "business lease indebtedness" to insure that an indebtedness must be directly connected with rental property owned by a church.

4. Amend Section 514 to provide that the unrelated business tax would not apply to real property acquired for eventual exempt use by a church.

There would be no tax in any case if the real property were actually applied to an exempt use within 15 years. On the other hand, if the property were not so applied within 15 years or was sold or disposed of after 10 years but within 15 years, tax would be due for all years after the 10th year. A facility need not be demolished if converted to an exempt church purpose within the 15-year period. Any property acquired and operated primarily for the production of rental income shall not qualify for exemption under this provision.

5. Amend Section 512 (or 513) to provide that a church would not be subject to the unrelated business tax if its gross income from unrelated business activities, adjusted by Sec. 512 (b), does not exceed $5000 in the case of a single congregation or $50,000 in the case of a diocese or a convention or association of churches.

6. Amend Sub-title F (Sub-part B, Part III, Sub-chapter A, Chapter 61) to provide (for information returns from seller) that with appropriate enforcement penalties sellers be obliged to report all sales or rental income-producing property to any charity; (a) when the property was sold on credit of which the seller had knowledge; and (b) whenever the property sold had a value of more that $50,000.

7. Amend Sections 7602 and 7605 to provide that an examination of church books and records would be made only when the Secretary of his delegate (not lower than Regional Commissioner) has reasonable cause to believe that a church is liable for the tax imposed by Section 511.

8. The Code shall be amended to provide that churches shall be required to file only Form 990T and only with respect to unrelated business income.

9. Provide that the amended unrelated business tax provisions at least in relation to churches apply: (1) five years after date of enactment for existing business, and (2) as of date of enactment for newly-acquired unrelated business activities.

A POLICY STATEMENT
of the
NATIONAL COUNCIL OF THE CHURCHES OF CHRIST
IN THE UNITED STATES OF AMERICA

TAX EXEMPTION OF CHURCHES

Adopted by the General Board
May 2, 1969

"The following policy statement is an attempt to deal in non-technical terms with a limited area of tax policy which has a limited effect upon the well-being of society. It is not an attempt to assess the wider and more important ranges of general tax policy, where glaring inequities and gaping loopholes call for moral scrutiny by the churches at the earliest opportunity.

"No brief outline of general principles can do justice to the many unique situations in which the churches seek to minister to minority groups or special populations. If the principles set forth below should have an adverse effect upon any small, struggling churches in the inner city, the rural parish or the Indian reservation, or if the changing nature of the mission of the church should necessitate changes in the traditional concepts of tax-exemption, these policies, like the tax-codes themselves, are subject to revision by subsequent actions."

Christians are advised in Gospel and epistle to pay their proper taxes to the governing authorities (Matthew 17:24, 22:19, Romans 13:6). Their obedience to God normally includes the obligation to pay their just share of the cost of public order, justice and service which God has appointed the authority of government to provide. Since this advice applied to an imperial Roman regime, how much more apt it is in respect to a government in which the citizens have a voice in the imposition and disposition of their taxes. Although individual Christians for reasons of conscience sometimes refuse to pay a particular tax, in general we recognize and uphold the power of taxation as the necessary mechanism by which the resources of society are directed to the ordering of its life and the solution of its problems.

The New Testament does not deal directly with taxation of Christians in their corporate activities, but its recognition of government's right to tax has implications for the church as a corporate structure in the modern world.

1. Churches should ask of government (for themselves) no more than freedom and equality. For all members of society, Christians expect government to establish and maintain justice, order, defense, welfare and liberty, recognizing that in a democracy they and all others share in the

responsibility which government discharges. They can also ask that the tax laws be administered and enforced fairly, equitable and expeditiously for all. For themseleves and their churches, however, Christians ask no more from government than freedom to proclaim and bear witness to the Gospel: to preach, to teach, to publish, to worship and to serve in obedience to the will of God as it is made known to them. They ask of government protection of this freedom rather than direct support of their activities. Churches can ask exemption from taxation only if it is essential to protect their freedom or to afford equal treatment among them.

2. Tax exemption can be a safeguard of the free exercise of religion. In the United States, it has been a basic public policy since the founding of the nation to accord to freedom of religion, speech, press and assembly a "preferred position" at the head of the Bill of Rights. Christians support and affirm this healthful arrangement of the civil order, not solely or primarily for themselves and their churches, but for everyone. Citizens, whatever their beliefs, should likewise appreciate the policy of our society that the free exercise of religion cannot be licensed or taxed by government. Property or income of religious bodies that is genuinely necessary (rather than merely advantageous) to the free exercise of religion should likewise not be taxed. Except for cases where exemption is required to afford equality with other eleemosynary institutions, such exemption should be confined to the essential facilities of the church and to the voluntary contributions of the faithful for the operation of the religious organization.

Such exemption has usually been regareded as a benefit but not a subsidy (in the sense of a cash outlay). There is no doubt that an organization is financially stronger with a tax exemption than without it, but the exemption does not convey to the organization funds it has not already attracted from voluntary contributors on its own merits. That is, a church cannot be built with a tax exemption alone. It is built by the donations of its adherents because they believe in its purposes. Exemption from taxation merely permits full use of their gifts for these purposes without drawing off a portion for the purposes of the whole society, which the members already support directly through the taxes they pay as individual citizens.

3. Government may encourage voluntary organizations through tax exemption. Society is stronger and richer for the voluntary associations in which citizens voluntarily band together for constructive purposes independent of government support and therefore of government control. Exemption from taxation is one way in which government can and does foster such voluntary groups.

Christians may agree with other citizens in the civic judgment that it is good public policy not to tax nonprofit voluntary organizations. Though they may view religious organizations (especially their own) as something more than "nonprofit voluntary organizations," they may concede

that it is an appropriate category in which government may classify them. If religious organizations are so classified and so exempted, they do not thereby enjoy any "special privilege" that is not shared with a broad range of generally meritorious secular groups.

4. Tax Exemption may entail conditions which Christians cannot accept. Society may extend exemption from taxation to religious organizations on the condition that they meet certain tests, such as subscribing to loyalty oaths or refraining from political activity. Whatever may be the civil merits of this policy, Christians must determine independently whether the acceptance of such conditions will hinder their obedience to the will of God, and, if so, dispute the conditions. If tax exemption will tend to curtail or inhibit their efforts to affect public policy, churches may want to set up non-exempt agencies for political activity, using contributions that are not deductible.

5. Taxation on real property of religious organizations. Depending upon the exigencies of the total tax base, states and municipalities may be more or less generous in exempting the property of religious and other nonprofit voluntary organizations from taxation. Parsonages and parking-lots are taxed in some localities but not in others, at the discretion of the legislature. Religious organizations have accommodated themselves to a wide range of such provisions over the centuries, and will continue to do so. They should not begrudge paying taxes on auxiliary properties to help defray the costs of civil government. Certainly no exemption from property taxes should be sought for property owned by religious organizations which is not used primarily for religious (or other properly exempt) purposes.*

Churches should be willing to pay their just share of the cost of municipal services which they receive, such as fire, police, and sanitation services. Some do this through voluntary payments "in lieu of taxes;" others might offer to pay service-charges for the particular services they use.

6. Deductibility of contributions to religious organizations. At present, citizens may deduct from their taxable income certain gifts and contributions to a wide variety of "charitable" organizations -- religious, scientific, literary, humane, educational, etc. Where it is public policy to encourage contributions to voluntary nonprofit organizations in this way, religious organizations need not be arbitrarily excluded from that classification, nor given preferential treatment. If it becomes public policy not to allow deductibility for contributions, religious organizations should not claim a special privilege of deductibility.**

7. Taxation of employees of religious organizations. Employees or other functionaries of religious organizations -- lay or clergy -- should not enjoy any special privilege in regard to any type of taxation. A clergyman properly pays his income tax just as other citizens do. If he receives a cash allowance for housing, that amount should be taxed as part of his income, as it is for laymen. Likewise, if he owns his own home, he should not enjoy any reduction of property taxes which is not equally available to his unordained neighbor. In case of cash allowance, only the non-recoverable costs, which do not include payments on principal,

should be included; if property taxes and interest are included in the allowance, they should not also be claimed as deductions.

Whether the value of housing provided a clergyman by his church should be taxed is a question that should be resolved as part of the broader category of all employees who occupy residences furnished for their employer's conveniences. Equity might be better served if the dollar equivalent of all such housing was taxed as income. In localities where parsonages are exempt from school taxes, provision should be made by local churches for payment of tuition or the equivalent. Whatever the solution, churches should compensate their employees for any losses incurred through the elimination of special privileges from the tax laws. We favor legislation requiring payment by churches and church agencies of the employer's contribution to social security tax for both lay and clerical personnel (except those bound by a vow of poverty).

8. Unrelated business income. Churches constitute one of the few categories of otherwise tax-exempt organizations which do not pay taxes on the income from business enterprises they own which are unrelated to their exempt purpose. Churches should not be in a position where they are tempted to "sell" their exemptions to businesses seeking a tax advantage over taxpaying competitors. Therefore we urge that federal tax law be revised so that any "church or convention or association of churches" which regulary conducts a trade or business that is not substantially related to its exempt function shall pay tax on the income from such unrelated trade or business.***

9. Disclosures. If they engage in unrelated business enterprises, churches should be required to file full financial reports with respect thereto. Even if not so engaged or required, it is good policy for churches voluntarily to make available to the public a complete, audited annual report of income and expenditures, assets and liabilities so that there is no mystery about the nature and extent of their operations.

* Property obtained for expansion or relocation of churches (and the income derived therefrom, if any) may be exempted for a reasonable period of time until the church can expand or relocate on it.

** An existing statement by the General Board of Feb. 27, 1963, supports the deductibility of charitable contributions and opposes a "threshold" on such deductions.

*** This revision could best be made by deleting from Section 511 of the 1954 Internal Revenue Code the parenthetical expression: "(other than a church, a convention or association of churches)," and making suitable provision as to "business lease" rental income which is debt-financed.

Those changes would not affect dividends, interest, annuities, royalties, capital gains, or rents from real property (except as already indicated).

We would not object to a delay of up to five years in applying such taxes to businesses now held by churches, nor to a "floor" deduction large enough to permit trivial or transitory activities by churches which do not rise to the level of serious competition with taxpaying trade or business.

The definitions and descriptions of "trade or business" "regularly" "conducts," and "substantially related" in Treasury Regulations, Paragraph 3256, seem generally reasonable and equitable, and do not appear to threaten the legitmate exercise of religious freedom if applied to churches.

SUMMARY OF STATEMENT BY
UNITED STATES CATHOLIC CONFERENCE

My name is W. R. Consedine. I am the General Counsel of the United States Catholic Conference. The USCC is an agency of the Catholic Bishops of the United States. Its purpose is to unify and coordinate activities of the Catholic people of the United States in works of education, social welfare, immigrant aid, civic education, communications and public affairs. I am accompanied by Robert F. Hannon and John W. Ahern, both attorneys who have been technical assistants in the preparation of our positions and testimony.

General Principles -- With respect of exempt organizations in general and of churches in particular, the positions that USCC takes in this testimony rest on three general principles:

1) Tax reform must respect and reflect the principle of separation of Church and State as it has been developed in this country.

2) The objective of tax reform legislation should be the elimination of inequities and abuses, not the reduction of the income of exempt organizations, much less the reduction of the income of churches, or the imposition of unnecessary burdens.

3) The vitality of voluntarism in the social welfare field should be preserved.

Separation of Church and State -- Churches and other religious organizations do not stand on exactly the same constitutional and

public policy footing as other exempt organizations. Religion has been given special treatment by the Federal Constitution and by the legislative policies of Congress. The fundamental reason justifying and necessitating this special treatment is the separation of Church and State. USCC is opposed to any weakening of this separation.

The history of our country shows that fiscal separation has always been considered one of the most fundamental aspects of Church-State separation. Government does not finance the churches, and churches do not finance the Government. It is fundamental in our system that Government cannot finance or tax religious activities, nor may Government become intimately involved in the internal affairs of churches.

Certain functions of churches may not be taxed to support Government. Other activities not themselves religious in nature, may be taxed. The Government's position must be one of neutrality in respect of religion.

<u>Religious organizations should not be required to file annual information returns.</u> -- Financial reporting by churches should be on a voluntary basis. We do not consider that it is desirable or wise for Government to compel disclosure of financial information by churches. Only those churches which conduct an unrelated trade of business should be obliged by law to file tax reports and then only with respect to such business activity.

This policy is emphasized in the Joint Statement on tax policy approved by USCC and the National Council of Churches of Christ in the U.S.A., a copy of which is appended to our formal statement.

The House provision requiring an information return strikes at the very freedom of churches and religious organizations from intimate, governmental, financial scrutiny. Churches and religious organizations do not make general appeals to the public for contributions. Their appeal primarily is limited to their congregations. The reports that churches make voluntarily to their members are one thing; compulsory reports to the Government are quite a a different thing.

In the past, respect for the privacy of church affairs has been an essential part of Government policy. There appears to be no sufficient reason why this policy embedded in sound principle should be changed. (See pages 8 - 11).

Ordinary investment income of churches should not be taxed merely because it happens to be debt-financed. We agree that the Clay-Brown loophole and the variations of it should be closed and hopefully they will be as a result of this legislation, but the closing of these loopholes does not necessarily require a tax on the endowment income of churches. (See pages 12 and 13).

The definition of unrelated business income of churches should be clarified. -- Churches should pay taxes on unrelated business income -- and we have agreed to this change in the law. However,

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it should be clear that the tax does not include any activity related directly or indirectly to the tenets and traditional functions of a church, including operation of cemeteries, institutions for the care and training of the unfortunate, printing and distribution of religious publications with or without advertising, fund raising activities and the sale under church auspices of religious articles and pamphlets. (See pages 13, 14, and 15).

Churches should have a period of time for adjustments. -- The Senate should retain the provisions of H.R. 13270 which give churches until January, 1976, to dispose of an unrelated business or place it in a tax status. (See page 16).

Churches should be protected from unnecessary audits of their books. -- The Senate should retain the provision of H.R. 13270 that a church would be subject to audit only upon determination by the Secretary or his delegate (not below the level of the Regional IRS Commissioner) of reason to believe that the church owes a tax (See page 17).

The present de minimis rule should be increased for churches. -- To avoid unproductive administrative problems for both the Treasury and the churches, we suggest that no tax be assessed in the event the unrelated business gross income does not exceed $5,000 in the case of a single congregation or $50,000 in the case of a diocese, religious order or convention or association of churches. (See page 18).

Acquisition indebtedness should be clarified. -- H.R. 13270 defines this term in such a way as to make it difficult to determine whether a church is actually engaged in a transaction which involves acquisition indebtedness. The indebtedness should be directly connected with unrelated income producing property owned by a church. (See page 18).

Real estate acquisitions present a special problem for churches. -- The Senate should retain provisions in H.R. 13270 that rentals from property on debt-financed land acquired by a church for expansion within or without the church neighborhood will not be subject to taxation if the land is converted to an exempt use within 15 years. (See page 19).

Private foundations should not be taxed on investment income. -- We view this provision of H.R. 13270 as an unfortunate precedent. It not only would reduce the income available for charitable purposes; the imposition of an income tax on funds derived from a charitable trust has a potential which could change the whole philosophy of the Government with respect to charitable organizations. Viewing H.R. 13270 as a whole there is some cause for alarm that a shift in policy may be taking place with regard to this Nation's traditional policy of encouraging private philanthropy. (See pages 20 and 21).

Limit on Tax Preferences. -- It does not seem to USCC that a charitable contribution deduction is truly an item of "income" to

the donor. He has given away a portion of his wealth to charity; society has gained, and his wealth has been diminished. Accordingly, USCC urges that appreciation on contributed property should be deleted from the items of tax preference income that would be subject to the Limit on Tax Preferences provisions in H.R. 13270. (See page 23).

Allocation of Deductions. -- For the same reasons stated above, the appreciation on contributed property also should be deleted from the list of preferences which would reduce a donor's other itemized deductions. Additionally, if charitable contributions are to be subject to allocation, this should be done only to the extent such deductions exceed $10,000. This would help assure that low and middle income families would not be discouraged from continuing their gifts to charity. (See pages 24 and 25).

Treatment of gifts of partial interest in property should be clarified. -- If the Senate decides to abolish the deduction for gifts of the use of property (fair rental value), we ask that H.R. 13270 be clarified so present tax treatment is continued for gifts subject to a retained life estate and for gifts of undivided interest in property. (See pages 25 and 26).

Life Income Gifts should retain their present tax treatment. -- A great many taxpayers, particularly elderly persons, are anxious to make charitable gifts during their lifetime, but cannot afford to give up the income earned by their property. Such gifts

would be unduly restricted by H.R. 13270 by failure to make provision for gift annuity, life income contract and charitable remainder trust plans currently in use. The tax benefits for these traditional forms of deferred giving should be retained (See pages 27, 28 and 29).

The increased Standard Deductions permitted by H.R. 13270 should include an incentive for charitable giving. -- We think the substantial limitation placed on tax incentives for giving by families of wealth requires some added incentives for giving by low and moderate income families if our charitable institutions are not to suffer great damage. There should be a provision for Charitable Contributions Outside the Standard Deduction. Families using the increased standard deduction should be allowed a deduction for gifts in excess of 1 1/2 or 2% of adjusted gross income. (See pages 30 through 34).

The Minimum Standard Deduction should be increased as provided in H.R. 13270. -- USCC heartily supports this provision, particularly the decision to end the "low income phase-out" after 1960. The Senate should provide for continued sharing of the poor in tax relief contemplated for 1972 and beyond. The $100 minimum standard deduction for each dependent should be retained and added to the basic allowance of $1,100 provided in 1971 and thereafter. The ceiling should be raised to $2,000 so large families get full benefit from the increased minimum standard deduction. (See pages 35 and 36).

COMMITTEE ON FINANCE

SENATE OF THE UNITED STATES

Testimony of:

UNITED STATES CATHOLIC CONFERENCE

on

H.R. 13270 and Tax Reform Proposals

W. R. Consedine,
General Counsel, USCC

Accompanied by:

Robert F. Hannon, Esquire
John W. Ahern, Esquire

September 17, 1969

My name is W. R. Consedine. I am the General Counsel of the United States Catholic Conference. The USCC is an agency of the Catholic Bishops of the United States. Its purpose is to unify and coordinate activities of the Catholic people of the United States in works of education, social welfare, immigrant aid, civic education, communications and public affairs. I am accompanied by Robert F. Hannon and John W. Ahern, both attorneys who have been technical assistants in the preparation of our positions and testimony.

The history of our income tax laws demonstrates the necessity for periodic revision and reform. Economic and social conditions change, creating the need for equitable adjustments in such matters as the standard deduction and the tax treatment of the poor and elderly. Other experience under existing law has demonstrated unforeseen and unintended results which make it necessary for Congress to take remedial action.

HR 13270 and other proposals for tax reform are currently pending before this Committee. Some of the proposed revisions of the tax law are of great interest to the USCC because they promise more equitable tax treatment for low and middle income families and for the elderly. Others are of interest to USCC because they would affect the income of exempt organizations in general and of churches in particular, and would impose unnecessary burdens.

The concern of the American Bishops for the poor and the elderly is the obvious basis for the support of more equitable treatment of these categories of taxpayers.

With respect of exempt organizations in general and of churches in particular, the positions that USCC takes in this testimony rest on three general principles:

1) Tax reform must respect and reflect the principle of separation of Church and State as it has been developed in this country.

2) The objective of tax reform legislation should be the elimination of inequities and abuses, not the reduction of the income of exempt organizations, much less the reduction of the income of churches, or the imposition of unnecessary burdens.

3) The vitality of voluntarism in the social welfare field should be preserved.

In order to illustrate the magnitude of the interest of the American Bishops in these areas effected by the bill and other proposals and importance of the contributions by American churches to the general welfare, I would like to give a brief survey of the work of the Catholic Church in the United States.

At the present time the Catholic Church is operating 834 hospitals in the United States which contain 156,838 beds (approximately 30% of the bed capacity for general hospitals in the country). In 1967 these hospitals had 5,446,675 admissions. The school system is of comparable size. In 1967 there were 10,603 parochial

schools enrolling 4,143,150 students and 2,356 secondary schools enrolling 1,098,756 students. Additionally, there are 308 colleges sponsored by the Catholic Church with an enrollment of 433,960 students.

The institutional system in the welfare field is likewise substantial. For example, in 1968 there were 103 protective institutions with 8,110 students; 142 special hospitals and sanitoria with a bed capacity of 11,578; 239 orphanages with 21,237 resident children. Additionally, there were 25,188 foster homes operated in connection with Catholic Charities. The Catholic Church maintains 420 homes for the aged with 37,966 residents.

Today, this institutional system is confronted with challenges in the fields of health, welfare, education, urban housing and civil rights -- challenges which must be met. It will take a substantial amount of money in addition to contributed services of many volunteers and religious personnel adequately to respond to the increasing tempo of the social challenge.

The money to support the activities of this institutional system must come from a cross-section of the people. Certain types of institutions rely on gifts from taxpayers in relatively high brackets. On the whole, however, the Catholic Church in this country and its institutional system relies primarily on contributions of people with relatively small incomes. This has been the principal financial support of the Catholic Church in this country and

will continue to be unless it is dried up at its source by an adverse tax policy. In this connection we wish to emphasize the importance of patterns of giving. Long-range financing of church projects for the institutional system of the Catholic Church takes into consideration established patterns of contributions. The experience of the Catholic Church indicates that the small giver follows a pattern which gradually results in substantial contributions after a period of time.

Separation of Church and State

Churches and other religious organizations do not stand on exactly the same constitutional and public policy footing as other exempt organizations. Religion has been given special treatment by the Federal Constitution and by the legislative policies of Congress. The fundamental reason justifying and necessitating this special treatment is the separation of Church and State. USCC is opposed to any weakening of this separation.

This history of our country shows that fiscal separation has always been considered one of the most fundamental aspects of Church-State separation. Government does not finance the churches, and churches do not finance the Government. The separation of Church and State does not, of course, preclude the Government from cooperating with the secular services of church-related institutions in such fields as education, health and housing on the same basis as the Government cooperates with other exempt organizations. Nevertheless, it is fundamental in our system that Government

cannot finance or tax religious activities, nor may Government become intimately involved in the internal affairs of churches.[1]

USCC does not contend that all existing church tax exemptions are matters of constitutional right. Where the tax is imposed on property and not directly on religious activities, Government has wide discretion under our Constitution to impose or not to impose the tax. As a matter of sound public policy, this discretion should be exercised in such a way as to preserve the historic fiscal separation of Church and State.

Neutrality is one of the cardinal values enshrined in the First Amendment. In the field of taxation, it might be argued that neutrality is impossible. Taxation hurts; exemption helps. This argument, however, confuses abstention with aid. In itself, the exemption is worthless. You cannot buy a chalice or build a church with an exemption. You cannot maintain a synagogue or support a minister with an exemption. The exemption becomes valuable only after voluntary contributions by church members have made possible the acquisition of property and services necessary for religious purposes. Without periodic voluntary contributions from their members, and without prudent management of those contributions, the churches would be penniless.

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1. Murdock v. Pennsylvania (1943), 319 U.S. 105; Everson v. Board of Education (1942), 330 U.S. 1, 15, 16; People ex rel McCollum v. Board of Education (1947), 333 U.S. 203, 210, 211; Zorach v. Clauson (1952) 343 U.S. 306, 312, 314; School District of Abington v. Schempp (1961), 374 U.S. 203, 222, 229; Board of Education v. Allen (1968), 392 U.S. 236.

USCC firmly believes that continuation of most of the existing exemptions for churches and religious organizations is one of the best possible expressions of governmental neutrality towards religion. The aid that results to churches from such exemptions is a by-product of a policy of abstention, not the fruit of Federal favoritism. As the Supreme Court has indicated in its most recent Church-State decisions, indirect and collateral help or hurt to religion does not destroy the constitutionality of otherwise valid secular governmental programs.[2] It may seem paradoxical, but tax exemptions of churches have served the highest secular purpose: to keep the Government itself secular, neutral, and uninvolved with the internal affairs of churches.

Objectives of Tax Reform Legislation

The objective of tax reform legislation should be the elimination of inequities and abuses, not the reduction of the income of exempt organizations, much less the reduction of the income of churches, or the imposition of onerous and unproductive burdens.

Exempt organizations, including churches, have not been paying taxes, but they have been saving the American people hundreds of millions of tax dollars every year. In the educational, medical, welfare, housing and social services they perform, churches and other exempt organizations make contributions to the general welfare that would cost billions of tax dollars to replace. Since

2. McGowan v. Maryland (1961)
366 U.S. 420, 442

many exempt organizations, and especially churches, have dedicated personnel working at well below the market value of their services, a dollar in the hands of these organizations can and does produce much more benefit to the public than a dollar in the hands of a Government compelled to purchase everything in the market place. It follows that any substantial diversion of exempt income used for governmental purposes represents a loss to the general welfare, not a gain. USCC is opposed to all tax reform proposals that have as their objective the substantial reduction of the income of exempt organizations.

Maintenance of Voluntary Effort

One of the invaluable and laudatory characteristics of Federal tax legislation is the underlying philosophy designed to encourage charitable contributions to voluntary agencies. In the various amendments to our tax law, Government has never deviated from this salutory principle. As a result of this philosophy, private agencies have played a significant role in the social welfare field. It has not been left to the sole province of Government. This dualism must be maintained for the benefit of welfare and for the benefit of our country. Accordingly, the USCC strongly urges that the Congress refrain from taking any action which would deviate from or minimize the philosophy of voluntarism.

Separation of Church and State; Applied to H.R. 13270

Several provisions of H.R. 13270 as passed by the House are inconsistent with the principle of separation of Church and State.

1. Information Returns

Section 101(d) of the House measure (p. 57) would amend Section 6033 of the Internal Revenue Code which presently exempts religious organizations as well as certain other nonprofit institutions from the duty of filing information returns. The amendment would require that churches and all nonprofit institutions file an annual information return which would be made public. The returns would include such information as the organization's gross income, expenses, disbursements for exempt purposes, accumulations, balance sheet and the total amount of contributions and gifts during the year. In addition, the return would have to show the names and addresses of all substantial contributors, directors, trustees and the salaries of managers and highly compensated employees. The Secretary of the Treasury could exempt certain classes of organizations but such action would be within his discretion. Also, the Secretary would have discretion to require that such additional information be incorporated in the information return as the Secretary or his delegate may require. A penalty of $10 a day would be imposed for late returns. Additional penalties would be assessed for failure to file.

This proposed change in the law is contrary to our testimony in the House and to the Joint Statement of National Council of

Churches and the United States Catholic Conference which was filed with the Ways and Means Committee of the House. A copy of this statement is attached hereto.

-- It should be emphasized that this provision has not been suggested by either the present or the past Administration.

-- There was no notice by the House Ways and Means Committee that it was under consideration during its deliberations on the bill.

-- There is no basis on which Congress can judge its desirability or feasibility as a matter of Government policy nor its impact on churches as a practical matter.

-- There is no knowledge of the extent it would intrude government into the internal affairs of churches.

-- There is no evidence of the extent the requirement will interfere in the internal voluntary relationship of church entities such as those between dioceses and religious orders.

-- The reports may be of doubtful legality under the taxing power.

-- There is no assessment of the expense to the churches in order to comply and no relationship to any valid recognizable governmental purpose.

We have already noted that churches and other religious organizations do not stand on exactly the same constitutional and public policy footing as other exempt organizations. Religion has been given a special treatment by the Federal Constitution and by the

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legislative policies of Congress. The reason is the constitutional separation of Church and State.

Financial reporting by churches should be on a voluntary basis. We do not consider that it is desirable or wise for Government to compel disclosure of financial information by churches. Only those churches which conduct an unrelated trade or business should be obliged by law to file tax reports and then only with respect to such business activity.

The House provision requiring an information return strikes at the very freedom of churches and religious organisations from intimate, governmental financial scrutiny. Churches and religious organizations do not make general appeals to the public for contributions. Their appeal primarily is limited to their congregations. The reports that churches make voluntarily to their members are one thing; compulsory reports to the Government are quite a different thing. Inherent in this requirement is the principle of Government supervision which has always been inconsistent with a harmonius relationship between Church and State. In the past, respect for the privacy of church affairs has been an essential part of Government policy. Consequently, churches have not had to make reports to Government concerning their financial status. There appears to be no sufficient reason why this policy embedded in sound principle should be changed

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The Catholic Church, for example, with its varying modes of tenure of property, its complex corporate structure, its familial financial arrangements between dioceses and parishes, its complex arrangements between religious orders and diocesan properties, its unique solutions of a commingling of autonomous entities under internal canonical concepts of control and discipline, poses monumental tasks both for the Government and the Church.

Government regulation in this respect would affect more than reporting -- it must, in many instances, affect the interrelationship of various entities within the Church. A highly complex and workable structure would have to be altered to conform to a regulatory mold imposed by the Federal Government.

Additionally, the reporting requirements impose a direct financial burden on churches. A substantially sophisticated system of accounting would have to be developed in order to comply with the minimal demands of the law. Such a system would involve considerable expense, an expense which would have the same financial burden as a tax. Both the sanction and the burden would be present.

Of course, if a church engages in unrelated business activities it should make the appropriate report with respect to these activities. In such a case it implicitly waives the immunity. Where this element is not present the exemption of religious organizations presently contained in Section 6033 of the Internal Revenue Code must be retained. Sound constitutional and practical considerations dictate such a position.

2. Unrelated Business Income
a. Tax on Debt Financed Passive Income

Another aspect of HR 13270 which deeply involved the Church-State relationship is the imposition of an unrelated business tax on such debt financed income as interest, dividends and royalties.

The National Council of Churches and the United States Catholic Conference specifically requested that the exemption of churches from the unrelated business tax be eliminated but at the same time we also contended that the unrelated business tax should not be imposed on ordinary investment income of churches merely because it happened to be debt financed. (See attached copy of the NCC-USCC statement).

We agree that the Clay-Brown loophole and the variations of it should be closed and hopefully they will be as a result of this legislation, but the closing of these loopholes does not necessarily require a tax on endowment income of churches.

Originally, this proposal contained in the 1965 Treasury Report was based on the concept that exempt organizations should be kept dependent for income on annual contributions and the management of debt free resources that they already possess. (Note: Page 26, Tax Reform Studies).

USCC rejects the premise on which this proposal is based. Government should favor the growth of exempt organizations generally and certainly should not interfere unnecessarily with the growth of churches. Credit is an essential part of American

economic life, and the House Bill would severely restrict churches in their proper use of credit. The abuses inherent in the Clay-Brown[3] type of situation can be cured. USCC is heartily in accord that they should be cured. The pending proposal, however, goes beyond a solution of those abuses and unnecessarily intrudes on internal affairs of churches. Accordingly, we urge that ordinary investment income of churches be exempted from this portion of the bill whether or not debt financed.

c. Definition of Unrelated Business Income

The Joint Statement of the National Council of Churches and the United States Catholic Conference contained a request that unrelated business income be defined in such a way that it does not include any activity related directly or indirectly to the tenets and traditional functions of a church including especially cemeteries, institutions for the care and training of the unfortunate, printing and distribution of religious publications with or without advertising, fund raising activities and the sale under church auspices of religious articles and pamphlets. The definition of the term "unrelated business" has been developed in a context which would not include churches and their traditional functions since they have been exempt from the unrelated business tax under the terms of Section 511. Nevertheless, it is our position that Congress should provide definite guidelines or standards so that

3. Commissioner of Internal Revenue v. Clay-Brown (1965), 380 U.S.563, 85 S. Ct. 1162, 14 L. Ed. 2d 75.

there will not be an uncritical application of the term "unrelated business" as it applies to functions that are and have been intimately associated with churches. Such guidelines would eliminate an area of uncertainty and would also foreclose an administrative definition of religion and its legitimate functions. This is a real danger in the field of unrelated business activities, a situation which has certain critical First Amendment implications.

For example, in justifying the need for extending the tax on unrelated business income to include churches, the House Committee report, on page 47, cites as an example of a business activity of a church, the operation of a chain of "religious bookstores." We submit that the printing, distribution and sale of religious publications is a related function of a church. The mere fact that a profit making, non-religious corporation may be engaged in the same activity in competition with a church does not alter the fundamental fact that a church which seeks to spread religion and the Word of God through the printing and sale of religious books is truly engaged in a related, religious function. Accordingly, we urge this Committee to include in its report on H.R. 13270 appropriate guidance and restrictions for the Treasury Department.

c. Advertising Income

Another area which should be given more attention if the church exemption is deleted is the section in this Bill on advertising. (Section 513(c) as added by Section 121(c), see page 93).

This section is designed presumably to support the Treasury regulation issued two years ago which defines as unrelated business income the income of an exempt organization from the sale of advertising space or services even though the advertising is related to the exempt purpose of the organization and whether or not the publication itself is related. The Treasury regulation was adopted at a time when churches were exempt from unrelated business activities. But under the terms of the House bill, religious publications, as indicated above, would be included even if all the advertising relates to such subjects as church vestments and other items used only in churches. Admittedly, under present Treasury regulations, the publication must show an overall profit before the tax applies. This would mitigate the impact, but it still would leave a possible situation where the Federal Government might be levying a tax on, and collecting money from a church which through the printing press is engaged in a religious purpose Even though there may be no tax impact, the accounting cost to demonstrate that fact would be burdensome. Accordingly, it is urged that all church publications which carry out a religious purpose exempted under Section 501(c)(3), should continue to be exempted from the provisions of the tax on advertising.

Finally, the new Section 513(c) would provide that "for the purpose of this section the term 'trade or business' includes any activities which are carried on for the production of income from the sale of goods or the performance of services." Moreover, it

is stated that an activity does not lose its identity as a trade or business merely "because it is carried on in a larger aggregate of similar activities or within a larger complex or other endeavors which may or may not be related to the exempt purposes of the organization."

This language is so broad that it is impossible to determine what would be the limits of the Treasury's power. There is no doubt about the application of the language to advertising but certainly it could apply to many other areas of activity. We strongly urge that this language be revised with a view towards clarifying the precise meaning of this section. Otherwise churches and other church related organizations could be subjected to a tax merely on the basis that their activity involves a "performance of services or sales of goods" which may or may not involve a trade or business.

Other Unrelated Business Provisions

1. Moratorium for Churches

In the case of a church the unrelated business tax will not apply for taxable years beginning before January 1976 (Sec. 121 (B)(2)(C) amending Sec. 512(b) for a trade or business if such trade or business was carried on by such organization prior to May 27, 1969. Unrelated business acquired after May 27. 1969 will be taxable on acquisition. We urge that this provision be retained for a period of adjustment is necessary in order to enable churches to make an appropriate accommodation to the law.

2. Limit on Audits of Churches

The House Bill also contains a special provision to protect churches from unnecessary audits (Sec. 7605, as amended by Sec. 121(f), p. 108). The books of a church would be subject to audit only upon the determination by the Secretary or his delegate (not below the level of the Regional IRS Commissioner) of reason to believe that the church owes a tax. The church would have to be notified in advance. This provision recognizes the status of a church and its proper relationship to Government.

3. Certain Passive Income Taxed

A new section (Section 121(b)(2)(c), p. 90) modifies Section 512(b) of the Internal Revenue Code to close an existing loophole by taxing interest, annuities, rents and royalties (but not dividends) derived by an exempt organization from a controlled corporation (80% or more of stock owned by the exempt organization). If this provision is interpreted strictly in accordance with Section 368(c) of the Code to which it makes reference for the purpose of defining control, it will not adversely affect many churches or charitable organizations.

4. De Minimus Rule

The imposition of the unrelated business tax on churches may affect them in ways which they currently do not anticipate. Moreover, churches undoubtedly have at various intervals income from activities which might be designated as unrelated business. It

is suggested no tax be assessed in the event the unrelated business gross income does not exceed $5,000 in the case of a single congregation or $50,000 in the case of a diocese, religious order or convention or association of churches. At the present time, the law provides an exclusion for all exempt organizations up to $1,000 of unrelated business gross income. That figure was adopted in 1950. It is no longer realistic. In view of the extension of the unrelated business tax to new organizations and of the limitation on exclusions in Section 512, the above mentioned figures of $5,000 and $50,000 would seem to be more realistic both from the standpoint of Treasury and the individual church.

5. Acquisition Indebtedness

Though the USCC and NCC have supported in substance the proposed legislation to close the Clay-Brown loophole, there is an area of concern with respect to the definition of the term "acquisition indebtedness." This term was defined (p.100 of the bill) in such a way as to make it difficult to determine whether a church is actually engaged in a transaction which involves acquisition indebtedness. We are of the opinion that the definition should be clarified to insure that an indebtedness must be directly connected with income producing property owned by a church and to insure that related indebtedness would not be attributed to acquisitions of unrelated property. The House bill provides that there is acquisition indebtedness if the "indebtedness !

incurred after the acquistion or improvement of such property if such indebtedness would not have been incurred <u>but for</u> such action or improvement and the incurrence of such indebtedness was reasonable at the time of such action or improvement." The concept of <u>reasonably foreseeable</u> is not a satisfactory test and could involve an investigation into the motives of church officials with respect to the incurrence of an indebtedness. For example. if a church should purchase an apartment for cash and two years later borrows money, Treasury officials might contend that there is a relationship between the incurring of the indebtedness and the purchase of the apartment. This may or may not be true. It is therefore suggested that a more precise test be adopted

<u>6. 15-year Rule Relating to Real Estate Acquisitions</u>

The House bill includes a provision that rentals from property on debt financed land acquired by a church for expansion within or without the church neighborhood will not be subject to taxation if the land is converted to an exempt use within 15 years. It is further provided that if buildings are on the said property. there must be an intention to demolish them for the purpose of the church use. We urge that it be retained as churches frequently must purchase property substantially in advance of actual use. The mobility of people, industrial development, real estate values and many other factors influence these decisions.

PRIVATE FOUNDATIONS

The House Bill establishes a new category of 501(c)(3) organizations (religious, charitable and educational) to be known as "private foundations." Among other things a tax of 7 1/2% on annual investment income would be imposed. The net gain to the Treasury from this tax is estimated at 65 to 75 million dollars. It is not clear whether this tax is designed to raise revenue primarily or is intended as a regulatory measure. Nevertheless, it is a tax on income and, as such, it is the first time that the Federal Government has imposed a direct tax on the income of a tax exempt organization. We view this as an unfortunate precedent.

The imposition of an income tax on funds derived from a charitable trust has a potential which could change the whole philosophy of the Government with respect to charitable organizations. Viewing H.R. 13270 as a whole, there is some cause for alarm that a shift in policy may be taking place with regard to this Nation's traditional policy of encouraging private philanthropy. When the Congress shifts its emphasis from corrective legislation to the imposition of a tax on charitable income,then it is time to take a second look at the legislation to determine whether we are undergoing a major shift in the Government attitude toward philanthropy. As we stated at the outset, the underlying philosophy of Federal tax laws to encourage voluntary effort in the solution of social problems is not only in the

national interest but one of the essential strengths of democracy.

We trust that the whole question of the proposed tax on foundations will be resolved in light of this philosophy, and that the Senate will reject the tax imposed by H.R. 13270.

In his testimony of September 4, the Secretary of the Treasury proposed that the 7 1/2% tax in H.R. 13270 should be reduced to 2% and considered in the nature of a service, or regulatory assessment. We do not agree. A 2% tax on investment income of a private foundation is just as surely a tax on funds and income permanently set aside for a tax exempt charitable purpose as would be a 7 1/2% levy or a 10%, or a 50% levy. Regardless of the rate, the result is the same. The Federal Government would be placing a direct tax on charitable income.

CHARITABLE CONTRIBUTIONS

The provisions in the income tax law for the deductibility of charitable contributions have proven of great assistance to the fund appeals of all exempt organizations, including the churches. Tax deductibility has become an important part of the psychology of giving. As a result, USCC is greatly concerned with the Treasury proposals and the provisions of H.R. 13270 that would alter existing deductibility provisions.

It is recognized that a tax reform program which seeks to eliminate opportunities for personal gain from the use of present

personal income tax deductions for charitable gifts may result, as a by product, in a reduction of income for tax-exempt charitable organizations. USCC does not object to this so long as care is taken to insure that it is the opportunity for personal gain that is being eliminated and not the opportunity for charitable giving. In this context, and for the purpose of emphasis, it is well to repeat what we have said earlier -- USCC is opposed to all tax reform proposals that have as their objective the substantial reduction of the income of exempt religious, educational and charitable organizations

We do not consider such a reduction to be the objective of H.R. 13270 in the repeal, over a period of years, of the provisions for unlimited charitable deductions. We agree that repeal of this provision should be accompanied by an increase in the maximum deduction for charitable contributions from the present 30% to 50% of adjusted gross income (or contribution base). This should encourage increased charitable giving by a significant portion of the population and perhaps offset the loss to charity from repeal of the unlimited deduction provision.

In 1966 approximately 41,000 taxpayers made contributions in excess of 30% of adjusted gross income. The Treasury estimates that the higher ceiling would affect 48,000 taxpayers in 1969, Thus, H.R. 13270 contains a positive incentive to increased charitable giving; but it also contains certain provisions which suggest that

certain forms of giving are to be discouraged in the future. We shall discuss some of the provisions in more detail.

LIMIT ON TAX PREFERENCES

The concept that all individuals who enjoy substantial total income should pay a tax on at least one-half of that income, even though derived entirely or in part from otherwise tax exempt sources is one that has met with great popular approval. USCC has no desire to oppose such a policy, whether it takes the form of a "minimum income tax" or a "limit on tax preferences." We do, however, seriously question the items of "tax preference income" included in H.R. 13270. It does not seem to USCC that a charitable contribution deduction, allowed by the tax code, is truly an item of "income" to the donor. He has given away a portion of his wealth to charity; society has gained, and his wealth has been diminished. Thus, USCC joins Secretary Kennedy in urging that charitable contribution deductions for gifts of appreciated property be deleted from the items of "tax preference income" that would be subject to the limit on Tax Preferences in H.R. 13270. Any tax shelters which presently may result from gifts of appreciated property would be adequately curbed by other provisions of H.R. 13270 which, (1) abolish unlimited charitable deductions; (2) place a limitation of 30% of adjusted gross income on the deductibility of gifts of appreciated property; (3) other limitations on deductions for gifts

of appreciated property; and (4) require that personal deductions be allocated between taxable and non-taxable income.

ALLOCATIONS OF DEDUCTIONS

The Treasury has reported that some wealthy individuals with large amounts of tax-free income have been able to avoid all, or nearly all, tax liability by charging all of their personal deductions, including charitable contributions, against taxable income. Surely, this was not the intent of Congress in making provisions for charitable contribution deductions. USCC would agree that tax justice requires some remedial action. Care must be exercised that remedial action does not have an unintended result of destroying recognized, socially desirable tax incentives for charitable giving. We fear that may occur in the provisions of H.R 13270 for Allocation of Deductions.

H.R. 13270 seeks to correct the situation of high-income individuals who pay little or no tax by disallowing a portion of certain personal deductions when an individual has "tax preference income" in excess of $10,000. As with the limit of Tax Preferences, the list of tax preference items includes charitable contribution deductions attributed to appreciation in value of property given to charity. Again, USCC would contend that such gifts do not represent tax-free income to the donor. They should not be included in "tax preference income" for either limit on Tax Preferences or

Allocation of Deductions. Additionally. USCC is concerned that the inclusion of all charitable contributions in the list of allocable deductions may have a severe adverse effect upon charitable giving in cases where charitable deductions are not the reason why an individual is able to avoid tax liability. Therefore, it is suggested that if charitable contributions are to be made subject to allocation, this should only be done to the extent such deductions exceed $10,000. Such a provision would help assure that low and middle income individuals would not be discouraged from continuing their contributions to charity.

GIFTS OF PARTIAL INTEREST

H.R. 13270 (Sec. 201 (a)-(3). Page 121) provides that where a taxpayer makes a contribution of less than his entire interest in property to, and not in trust for, a charitable organization a deduction is not to be allowed under Sec. 170 (b) for the said contribution. The Committee report makes special reference to the contribution of the use of property for a period of time.

This language could be interpreted to deny a charitable deduction for a gift of real estate subject to the donor's retention of a life estate. Also the language could be interpreted to deny a deduction for a remainder interest gift in real property, as well as a gift of a divided interest in real or personal property.

Presumably, the intent is to deny a charitable deduction for the fair rental value of property which a donor allows a charity

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to use rent free. If the Senate decides to abolish the deduction for gifts of the use of property (fair rental value), we ask that H.R. 13270 be clarified so that present tax treatment is continued for gifts of real property subject to donor's retained life estate and for gifts of undivided interest in property.

LIFE INCOME (DEFERRED) GIFTS

A great many taxpayers, particularly elderly persons, are anxious to make charitable gifts during their lifetime to institions and causes to which they have a special attachment. Many of these individuals cannot afford to relinquish the income earned by their property, so that they have followed a practice of giving their securities and other property to charity while retaining a life interest. On their death, the securities and property are owned outright by the charity. This is the area of giving known as life income gifts (so-called deferred giving) which a growing number of organizations have solicited and have come to depend upon.

The experience of one national Catholic agency which has been active in this field discloses that its program is definitely used by the middle income group in our society. For example, during the year 1969, gift annuities to this agency, funded by appreciated securities, had an average fair market value of only $15,000. We cite this example merely to impress upon the Congress

that restrictions contained in H R. 13270 in regards to life income gifts will have an adverse effect upon people of relatively modest means and there is more involved in this area than persons of extreme wealth.

There are three types of life income gifts which we fear will be restricted unduly and will be unnecessarily discouraged by the provisions of H R. 13270. These are: charitable remainder trusts, life income contracts and charitable gift annuities.

1.) Charitable Remainder Trusts -- Present law provides there is no capital gain on the transfer of appreciated property to fund a charitable remainder trust; nor is there a capital gain if the property transfered is later sold by the trust and the gain permanently set aside for charity. We ask that these rules be retained.

Abuses in the investment policies of these trusts are rare and means are now available to curb any such abuses. Certainly, the ordinary responsibility imposed by law upon trustees should serve as sufficient assurance that the corpus of a charitable remainder trust would be adequately conserved for the charitable beneficiary.

H.R. 13270 allows no estate tax charitable deduction for a charitable remainder interest in a trust, unless it is a "unitrust" or "annuity trust". This change in the estate tax would

apply to trusts created before the Bill's enactment. Thus, the estate of a donor who created an irrevocable trust years ago, but who dies after the Bill's enactment, would lose the estate tax charitable deduction under the types of trust currently in common usage.

We believe this provision of H.R. 13270 would result in great hardship. The retroactive effect is so harsh that we believe that any such change in the law should only apply to charitable remainder trusts, life income contracts, and remainder real estate gifts made after passage of the Bill.

Where a new trust format is adopted, as contemplated by H.R. 13270, or the traditional charitable remainder trust is retained, we propose that the charitable deduction for gifts of appreciated property be based on the fair market value at the time the trust is created, rather than requiring the donor to base his deduction upon his cost or to pay a capital gain if he elects to use the fair market value. We also propose that capital gains incurred by the trust and permanently set aside for charity not be taxed, as present law provides. To tax the capital gains of such a trust amounts to taxing the charity because the tax would come out of the trust principal.

2.) Life Income Contracts -- H.R. 13270 makes no provision for life income contracts. Additionally, no charitable deduction is to be allowed for life income contracts created after

April 22, 1969, even though there was no adequate warning that H.R. 13270 would impose such a deadline.

The life income contract makes charitable remainder gifts available to a donor of modest means who cannot afford to fund a separate trust. This is accomplished by placing a donor's irrevocable gift in a pooled fund maintained by the charity. The donor receives as life income his appropriate share of the earnings of the pooled fund. We ask that present law covering life income contracts be retained. To tax the capital gains incurred by existing life income contract pooled funds would create great difficulties in administration and be unfair to the many thousands of charitable individuals of modest means who have chosen this method of making their gifts.

3.) Charitable Gift Annuities -- When a donor transfers money or appreciated property to a charity in exchange for a promise to pay him a fixed income for life, the donor makes a substantial gift since the rate of return is lower than that offered by a commercial insurance company. Therefore, we ask that present tax treatment be continued when money or property is contributed for a charitable gift annuity.

Under H.R. 13270, we fear that a transfer of appreciated property for a gift annuity could be treated as a "bargain sale." That may not be the intent of H.R. 13270 in the provisions regarding "bargain sales." To avoid any doubt, we ask that any

provisions in the area of "bargain sales" specifically provide that the transfer of appreciated property in return for a gift annuity is not to be treated as a "bargain sale".

INCREASED STANDARD DEDUCTION

As a measure of tax relief for low and middle income families, and as an effort to simplify tax reporting and administration, the increased standard deduction contained in H.R 13270 is to be commended.

When an increase in the standard deduction was first proposed by the Treasury, recognition was given that the resulting shift of a large number of low and middle income families from itemization of deduction to the standard deduction would have an adverse effect on charitable contributions since some of the tax benefit which accrues to those who itemized their deductions is not available to those who use the standard deduction. To offset this effect, the Treasury proposed to permit those who use the standard deduction to claim deductions for charitable contribution in excess of 3% of adjusted gross income. USCC is disappointed that this feature of a charitable deduction outside the standard deduction is not included in H.R 13270. We think there is an even greater need for it as a result of the substantial limitation placed on tax incentives for charitable giving by families of wealth and high incomes. If our charitable institutions are not

to receive as much support from the wealthy, then we must increase the incentives for giving by low and middle income families.

In its Tax Reform Studies and Proposals of February 5, 1969, the Treasury indicated that 53% of the taxpayers use the regular standard deduction and that if the standard deduction is increased to 14% of adjusted gross income, 80% of the taxpayers will use this method. The House Committee report estimated that the proposed increase to 15%, with a ceiling of $2,000, will result in 70% of taxpayers using this method. Both reports agree that the shift of itemizers to users of the standard deduction will be concentrated in the under-$15,000 income group which includes the great bulk of American families.

It is precisely this group of families upon whom the churches rely for contributions. Certainly, the group of taxpayers who are the main sources of financial support for the Catholic Church and its institutions, particularly the parochial schools, are to be found among those who will be shifting from itemized deductions to standard deductions. Such a development obviously would interfere with the established psychology of giving.

Admittedly, it is difficult to estimate with any degree of precision the loss of income to charity which will result from an increase in the standard deduction. Tax deductibility is not the only motive of charitable contributors. In its report of February

the Treasury estimated that its program could, on balance, reduce charitable contribution by an amount of $100 million to $300 million. We believe this estimate to be extremely conservative, much too low. In any event, H.R. 13270 does not incorporate all of the proposals of the Treasury in its February 5 report. H.R. 13270 does incorporate several such recommendations which would, by Treasury's own statement, reduce charitable contribution, and only one (increase of allowable deductions from 30% of A.G.I. to 50% of A.G.I.) which is designed to increase the incentive for giving.

The major omission on the side of deterrents to giving is the 3% threshhold on deductibility of itemized charitable contributions. USCC applauds this decision by the House.

The major omission on the side of incentive to charitable givin giving is the contribution outside the standard deduction (COSD). USCC deplores this omission and warns that H.R. 13270 as it passed the House is heavily weighted toward reduction of incentives for charitable giving.

Accordingly, USCC renews the request made in our testimony before the House Committee -- the proposed increase in standard deduction whould be accompanied by an allowance for deductions outside the standard.

The Treasury report of February 5 suggested allowing deductions outside the standard deduction for contributions in excess

of 3% of adjusted gross income. At the same time the Treasury admitted that users of the standard deduction currently allocate to contributions an average of 3% of after-tax income. Thus, the Treasury proposal could be virtually meaningless at the 3% figure.

USCC has suggested, and now repeats, that the restrictions on charitable giving by the wealthy incorporated in H.R. 13270 should be accompanied by a meaningful, positive incentive for the less-well-to-do. These families using the increased standard deduction should be allowed a contribution deduction for gifts in excess of 1 1/2% or 2% of adjusted gross income. Without such an incentive, H.R. 13270 could result in disaster for the American concept of voluntary, private charity.

In the case of the Catholic Church, the already severe financial burden of maintaining its parochial school system would be increased. It is a well-documented fact that one out of every seventeen elementary school children is in a non-public school and that 90% of the children in these schools are in Catholic parochial schools.

It is also a well-known fact that due to the increased costs, teachers' salaries and other related items, it is becoming more difficult to maintain these schools, for they are supported primarily by contributions. The level of the contributions must be increased in order to provide the best possible education for

those attending the parochial schools, otherwise a large number will be enrolling in the public schools and will therefore substantially increase the local tax burden. For example, from the school year 1967-68 to the school year 1968-69 there was a decrease of 4.6% enrollment in Catholic high schools and a decrease of 2.% in elementary schools. Most of the children transferring from the parochial schools are enrolled in the public schools with a consequent increase in the tax burden. This situation will continue because of the increasing cost of operating a parochial school. During the current school year 44.4% of the total teaching staff in parochial and elementary schools consisted of lay teachers. In high schools 40.9% of the teaching staff were laymen. Additionally, the lay teachers in our school systems are now getting substantially the same amount of money which their counterparts receive in the public school system. Accordingly, any change in the tax structure which discourages contributions certainly will make it extremely difficult to support the parochial school system at its current level.

Finally, your attention is called to the fact that throughout the Nation there have been various fund drives to support projects sponsored by the Catholic Church. Many people have pledged to give certain amounts. The fulfillment of these pledges is conditioned on the assumption that the tax laws with respect to contributions will remain relatively stable.

MINIMUM STANDARD DEDUCTION

USCC is particularly pleased with the increase in the minimum standard deduction which promises to halt the reprehensible practice of levying a tax on individuals and families with income below the poverty level.

H.R. 13270 would change the present minimum standard deduction to a low-income allowance amounting to $1,100. The purpose is to remove from the tax roles those families and individuals with incomes below the "poverty level" and to reduce the tax liability of those individuals and families in the under-$7,000 annual income level who are fighting a losing battle against the rising cost of living.

USCC heartily supports this provision of HR 13270, particularly the decision to end the "low income phase-out" after 1970. We were not satisfied with the Treasury proposals of February 5, nor with the revision made by the new Administration. H.R.13270 is a decided improvement over both Treasury suggestions, and its provisions should be retained by the Senate.

In addition, the Senate should make provision for a continued sharing of the poor in the tax relief contemplated for 1972 and beyond by H.R. 13270. This can be done by continuing the present provision of a $100 extra minimum standard deduction for each dependent of a low-income taxpayer. This can be done by providing that in 1972

and thereafter the minimum standard deduction will be $1,100 for each taxpayer, plus $100 for each dependent up to the maximum $2.000 which will be allowed by the increased standard deduction. Most of this additional tax relief would be given to families with income of $7,000 a year or less. Surely, no group is more in need or more deserving, of tax relief than the "working poor." Failure to make this change in H.R. 13270, or adoption of the Treasury's revised "low-income phase-out" along with President Nixon's welfare reform could result in the strange situation of the Federal Government supplementing the income of a povery-stricken family, while at the same time taxing the family on its earned income.

Head of the Household Treatment for Single Persons

There is a significant number of single persons (aside from widows and widowers) who have children under their care and custody but who may not under the terms of the current law claim head-of-the household treatment since the children have not been adopted or do not have a close blood relationship. Nevertheless, they perform an important social function which should be recognized. An appropriate recognition would be the extension of the head-of-the-household treatment to them so that they would receive the same benefits as other taxpayers in comparable situations.

Conclusion

In conclusion, the USCC urges the Congress in its delibera- of tax policy to be ever mindful of the special constitutional dispensation accorded to churches and religious organizations. It is important to emphasize this constitutional separation of Church and State which includes as an essential ingredient a fiscal separation. Certain functions of churches may not be taxed to support Government. Other activities, not themselves religious in nature, may be taxed. The Government's position must be one of neutrality in respect of religion.

We view with deep concern the proposals that churches be required as a matter of law to file detailed financial information returns. Government, for considerations of constitutional law and sound public policy reflected by an historical consensus, ought to avoid involvement in the internal affairs of churches or detailed attempts to define religion or religious activity. The reports that churches make voluntarily to their members and to the general public are one thing; compulsory reports to the Government are quite a different matter. Financial information reporting should be limited to activities subject to tax. But Government should avoid tampering with the traditional functions of churches.

The Church recognizes that the tax structure as it currently exists contains certain areas in which absolute tax equality among the various taxpayers is not achieved. Moreover, it is obvious

that the law currently authorizes certain deductions and exclusions of income from taxation which deprive the Government of revenue. Admittedly some of these provisions are difficult to administer, but this should not be the determining factor. From the very beginning of this country our law has formulated a tax policy which has recognized the significant role which religion together with related charitable institutions plays in society.

A political and social consensus has developed, reaffirmed by law and judicial decision throughout the last two hunred years in which Government has specifically recognized the place of religious institutions not only in the lives of the individuals but in the service of the community.

One of the most important recognitions of this consensus is our tax policy. This policy should not be so substantially altered that it would dry up the basic sources of income which churches currently enjoy.

JOINT STATEMENT OF THE NATIONAL COUNCIL OF CHURCHES OF CHRIST IN THE U.S.A. AND THE UNITED STATES CATHOLIC CONFERENCE REGARDING TAX REFORMS

Under existing law many types of organizations are granted exemption from the income tax. Certain exempt organizations, including charitable, educational, and some religious organizations, labor unions, business leagues, etc., are nevertheless subjected to tax upon their incomes from any unrelated business; and rents derived from debt-financed property (under leases for periods in excess of five years) are included in unrelated business taxable income. The tax upon unrelated business taxable income does not apply to churches, or conventions or associati s of churches.

Such exemption makes available to churches a potential advantage over tax-paying organizations engaged in commercial business activities. The National Council of Churches and the United States Catholic Conference favor elimination of the specific exemption of churches from taxation on income from regularly conducted commercial business activities, which are unrelated to their exempt functions.

Ingenious tax planning on the part of some exempt organizations which are subject to the unrelated business tax has enabled them to purchase a business on credit, lease its assets to an operator for five years or less, receive the business profits as rent and use such rent to pay the purchase price. The operator pays little or no tax, the exempt organization pays no tax, and the seller reports his profit at capital gain rates. This is the so-called "Clay Brown" loophole. Being exempt from the unrelated business tax, a church desiring to engage in commercial business activity has not needed to resort to this technique.

The National Council of Churches and the United States Catholic Conference we represent also favor elimination of the "Clay Brown" loophole.

In order to close the "Clay Brown" loophole the Treasury recommends that ALL exempt organizations, including churches, be subjected to taxation upon dividends, interest, rents, royalties and capital gains to the extent that such income is derived from debt-financed property. That proposal goes far beyond a cure of

the abuse involved. We cannot and do not speak for the other exempt organizations, but with respect to churches, the National Council of Churches and the United States Catholic Conference believe that the "Clay Brown" problem can be cured by taxing debt-financed rents. In this connection, rentals from property acquired for expansion, within or without the church neighborhood, and held for a reasonable period (10 to 15 years) before conversion to church use should not be subject to taxation.

The changes to accomplish these policies should carry provisions to: (a) provide adequate procedural safeguards to prevent governmental involvement in the internal and financial affairs of churches; (b) preserve the present exemption of churches from taxation upon passive or investment income, including roylaties, dividends, interest, gains from the disposition of property, and rents (but rents to be taxable to the extent necessary to eliminate the "Clay Brown" loophole); (c) protect from taxation the traditional functions of churches, including, among others, the printing and distribution of religious publications with or without advertising, and customary fund-raising activities; and (d) provide a five-year grace period for the divestiture of existing unrelated business activities.

There have been suggestions for compulsory filing of financial data by all exempt organizations, including churches. Financial reporting by churches should be on a voluntary basis. We do not consider that it is desirable or wise for Government to compel disclosure of financial information by churches. Only those churches which conduct an unrelated trade or business should be obliged by law to file tax reports and then only with respect to such business activity.

Summary
of
Testimony of the National Assembly for Social Policy & Development
Leonard S. Silk, President - Sept. 17, 1969
before the
Committee on Finance, United States Senate
on
H.R. 13270

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T E S T I M O N Y

on

Tax Reform Act of 1969
H.R. 13270

Presented by
Leonard S. Silk, President
THE NATIONAL ASSEMBLY
for Social Policy and Development, Inc.

before

United States Senate
Committee on Finance

September 17, 1969

My name is Leonard S. Silk and I am President of The National Assembly for Social Policy and Development, Inc. I am accompanied by William G. Reidy, Director of its Washington Office, and Stanley S. Weithorn, Esq., an attorney practicing in the field of Federal taxation in New York City, and our counsel. I speak for The National Assembly and for the more than thirty-five organizations associated with The National Assembly whose names are listed on Schedule A, attached to and made a part of the written record of my testimony.

The National Assembly for Social Policy and Development is an independent organization of individuals representing a broad spectrum of citizen and organizational interest and concern. Its primary purpose is to contribute to the development of sound national social planning, policies, and programs; to develop strategies for action and implementation in both governmental and voluntary sectors; and to strengthen citizen participation in such activities. The scope of its concern is broadly defined to encompass the major social problems and issues.

The National Assembly, which has 300 individual corporate members, has associated with it some 77 national organizations and 400 state, regional and local health and welfare planning and fund raising organizations. It is a non-profit organization supported by contributions from affiliated organizations, some 425 local communities through united funds, community chests or welfare councils, grants from foundations and gifts from business, industry and individuals.

We wholeheartedly endorse the efforts of the Congress and in particular those of the Committee on Ways and Means in the House and the Committee on Finance in the Senate to reform and, we hope, simplify our tax laws.

We are altogether in favor of your efforts to produce equity and to close any loopholes in the tax structure through which some members of the community escape the obligation to pay their fair share of the costs of government and thereby force others of us to pay more than a fair share.

We particularly approve of those provisions in the bill which would relieve millions in woefully low income families of the necessity to pay direct federal taxes. We would point out that even with this proposed relief such families -- and they are the ones with whom our associated agencies have closest contact -- will still be paying taxes; they do it every time they buy food or clothing or pay the rent.

THE TAX BILL AND PHILANTHROPY

Before getting to those specific items in H.R. 13270 which are of concern to us and which we believe you will want to change, we would like to make the following brief background comments.

We believe that there has never been a time in our history when there has been a greater need for the government to do all that it can to stimulate the sort of philanthropic giving which enables voluntary associations of citizens to help cope with the social problems that beset us. Never has there been a greater need to strengthen voluntary organizations as a complement to the role of government. Never has it been so obvious that to resolve our problems we have to devise such multi-faceted approaches, combining governmental and voluntary efforts, as can adapt to the conditions in our local communities and result in locally planned, locally run and locally effective programs.

Recognizing this, we must also be aware of the fact that should our churches, private colleges, and voluntary organizations be deprived of adequate financing, either we will leave these festering problems unsolved or government will have to assume full responsibility and incidentally raise taxes to do so. It is obvious that our objective should be to strengthen rather than to weaken incentives to voluntary philanthropic giving. The paradox that confronts us today lies in the fact that while the Administration and all the individual members of the Congress to whom we talk assure us that they agree with all that I have just said, nonetheless, certain provisions of the bill now before us could have disastrous

effects on the voluntary sector. Those provisions, if enacted into law, would mark a reversal of our government's past attitude toward philanthropy. Since this would represent a radical shift in public policy, it most certainly should not come about inadvertently. If it is to be done, the Congress should know what it is doing. Therefore,let me briefly sketch the historical background of the charitable contribution deduction in American law before focusing on those specific provisions of the bill which would impair tax incentives for charitable giving.

BASIS OF THE CHARITABLE CONTRIBUTION DEDUCTION

Proposals to place further limitations on contribution deductibility are steps away from the historic position which government has hitherto taken in relation to voluntary educational, religious, and cultural organizations. From the earliest days of the Nation, our federal and state governments have adhered consistently to the principle of tax exemption for charitable organizations. Contribution deductibility is an inherent aspect of tax exemption since without it most of our tax exempt institutions would cease to exist.

The concept of governmental assistance to charitable organizations through tax exemption originated in the Middle Ages and the famous Statute of Charitable Uses in England. The American colonists brought this tradition with them and incorporated it in the laws of the various states.

Even where no specific exempting legislation was passed, custom and common understanding dictated the practice of tax exemption for charitable organizations.

By the mid-nineties almost all of the American states were granting tax exemptions in favor of religious, educational and charitable institutions. Often the exemption appeared in the charters granted institutions and these charter exemptions were held by the Supreme Court of the United States to be contractual in nature and thus within the constitutional prohibition against the impairment of contracts by states.

The first federal corporate income tax was imposed during the Civil War, but only on certain types of corporations. In 1894 Congress enacted the first law which taxed the income of corporations generally, and in doing so it specifically exempted charitable organizations. A similar exemption has appeared in every federal income tax law since, including the Revenue Act of 1913 which was adopted after the Sixteenth Amendment to the Constitution.

The charitable contributions deduction was first enacted in 1917, almost simultaneously with the imposition of the income tax. (Prior to that time, government at all levels was financed primarily by custom duties, excise and property taxes, so that it was unnecessary to provide for contribution deductibility.) It applied to individuals only, and was limited to 15% of income. In 1935, however, deductibility was extended to corporate contributions. The evidence is overwhelming in the records of the congressional hearings that the underlying policy which impelled the adoption of contribution deductibility was identical with that which had historically inspired tax exemption. Further, when the House passed a bill, in 1938, to tax gifts of appreciated property, it was rejected by the Senate Finance Committee because "The Committee believes that charitable gifts generally are to be encouraged."

It is clear that charitable organizations have been measurably assisted by these provisions either by being directly relieved of the burdens of taxation or through the stimulus to generosity that they provided potential contributors. Thus, it is not surprising that legislators and courts have been consistent in their position that the concept of tax exemption is justified not only by the saving of expenses to the government resulting from the operations of charitable organizations but also because of our belief that voluntary action is often more desirable, more effective, and less expensive than governmental action in meeting social needs.

SPECIFIC RECOMMENDATIONS

I. Distinction Between Charitable Contribution Deduction and Others

The point that I would most like to emphasize is the wholly erroneous thrust of any legislative proposals that group the tax benefits of charitable giving with the multiplicity of other special tax provisions or "loopholes" (as some have been called) available to individual taxpayers. The vast majority of those other provisions which permit the exclusion of particular items from income and all of the other provisions which authorize itemized deductions have their place in the Internal Revenue Code essentially for one reason. That reason is the Congressional realization that specific economic burdens falling on certain taxpayers should be given recognition in the allocation of tax burdens.

Obviously if all of the provisions of the Internal Revenue Code relating to deductions for long-term capital gain, interest payments, State and local taxes, extraordinary medical expenses, casualty losses, and the like were repealed, individuals still would invest their capital in the hope of seeing it appreciate, and still would pay their doctor bills and the interest on money that they borrow, the only difference being that personal financial pressures would be heightened by an increase in tax liability.

In all of these cases involving transactions which give rise to particular tax benefits, the concern is for the taxpayer and not for any other party to the transaction. The distinction between those tax benefits and the charitable contribution deduction is all-important. The underlying motive for the charitable contribution deduction is not to soften (for individual income taxpayers) the post-tax economic consequences of certain events. Charitable giving is a voluntary act on the part of an individual, the consequences of which can be mostly avoided by the simple expedient of not giving to charity; this effect makes it clearly distinguishable from all of the outlays previously discussed. The most significant

effect of the taxation of charitable contributions will be to hurt the non-profit organizations and local community undertakings and, far more importantly, the intended banificiaries of their programs.

Contribution deductibility is the means by which the Federal government supports the American pluralistic approach to meeting social needs.

II. Inclusion of Charitable Contributions Within "Allocation of Deductions" Provision

Section 302 of H.R. 13270 entitled "Allocation of Deductions" creates a new I.R.C. Section 277 entitled "Limitation on Deductions for Individuals." This provision, which requires that an individual allocate his personal deductions between his taxable income and his tax preference items (to the extent that the latter exceed $10,000) is most meritorious because it endeavors to infuse equity into our tax laws. However, in listing those deductions subject to allocation, that provision includes charitable contributions in the same category as interest, taxes, casualty losses, and the like. As I have stated before, and for the same reasons, the discretionary charitable contribution is not comparable to the expenditures comprising the balance of the itemized category. Thus, while the concept of allocation of deductions is endorsed, it is imperative, in the view of The National Assembly, that the charitable contribution deduction be deleted from those items subject to allocation. This could be accomplished by deleting the phrase reading "section 170 relating to charitable contribution", which is designated as I.R.C. Section 277 (c) (1) (A) (iv).

An example of the prospective impact of this provision should serve to illustrate the problem. Assume that an individual has $100,000 of ordinary taxable income and $100,000 of tax preference income (after adjustment for the $10,000 allowance provided for in H.R. 13270) and that, in 1970, such individual contributes $60,000 in <u>cash</u> (rather than appreciated property) to charitable organizations. Despite the fact that his contributions were entirely in the form

of cash, that individual would be subject to a charitable contribution disallowance of $30,000 simply because of his tax preference income.

Faced with the prospect of such a result, it is improbable that individuals now counted on by publicly supported organizations for "leadership gifts" would be in a position to continue to make substantial commitments on a timely basis. That is so because our hypothetical contributor, if approached during the early or middle portion of the year, is unlikely to know how large his tax preference income will be as compared with his ordinary taxable income. Based upon that lack of knowledge, he surely will be disinclined to commit himself for $60,000 in cash contributions at a time when he cannot determine whether he will be able to deduct the entire $60,000, or $30,000, or some lesser amount.

As indicated in this example, it is important to recognize that this far-reaching consequence exists when only cash is being contributed. The result can become even more distressing when contribution is made in the form of appreciated property.

III. <u>Limitation of Gifts of Future Interests in Appreciated Property</u>

Section 201 (c) (1) of H.R. 13270, entitled "Charitable Contributions of Appreciated Property", amends I.R.C. Section 170 (e) to provide that, in certain cases of contributions of appreciated property to publicly supported organizations, the taxpayer either must treat the appreciation of such property as taxable gain or must limit his contribution deduction to the tax basis of the property. One area to which this rule would apply is the contribution of future interests in appreciated property.

In essence, the enactment of such a provision would significantly hamper or, possibly, totally eliminate the deferred giving programs which have become so important to a considerable number of religious, educational, and charitable organizations. As it is, those programs would be subject to substantial alteration, in any event, because of the provision in H.R. 13270 relating to "Charitable

Remainder Annuity Trusts", so that a further limitation requiring (as a practical matter) that all future contributions made under such programs be in the form of cash would be disastrous.

Interestingly, this provision was not among any of the proposals dealt with in the Hearings held by the House Ways and Means Committee, nor is it in an area which has been related, in any way, to tax abuse.

There does not appear to be any reasonable basis for this limitation, and it is respectfully suggested that it be deleted from the basic provision relating to contributions of appreciated property. This can be accomplished by the elimination of what is the now newly proposed I.R.C. Section 170 (e) (2) (C), reading "a future interest in property."

IV. Inclusion of Appreciated Property Contributions Within Limit on Tax Preference and Allocation of Deductions

Two of the provisions designed to bring the tax liability of high income individuals in line, on a relative basis, with the tax liability of low and middle-income individuals relate to a "limit on tax preference" and an "allocation of deductions." Both of these provisions and the ends which they are designed to achieve, are meritorious and must be supported in principle.

However, the limit on tax preference and, similarly, the tax preference items included in the allocation of deductions provision, in addition to "recapturing" significant items of excluded income also include the appreciation in value of property contributed to charity. To include such appreciation in this computation will substantially depress the level of many charitable contributions which now are relied on as "leadership gifts" in major fund-raising drives by publicly supported organizations.

The National Assembly was pleased to note that the Administration is in agreement with us on this point. Members of the committee will recall that the statement presented you by the Honorable Edwin S. Cohen included the following

proposal:

> "It appears that the inclusion of gifts of appreciated property to charity as a tax preference item will reduce the benefit of the contribution and, thus, unduly restrict public charitable institutions. For this reason the Administration proposes that this item be deleted from the Limit on Tax Preferences and Allocation of Deductions provisions."

V. Limitation on Contributions of Appreciated Tangible Personal Property

H.R. 13270 sharply limits the prospective contributions of appreciated tangible personal property to publicly supported charities by requiring that the donor either realize taxable gain to the extent of the appreciation or that he limit the amount of his contribution deduction to the tax basis of the property. With respect to this area, The National Assembly strongly recommends that the limitation imposed on the deduction of appreciated tangible personal property be deleted from Section 201 of H.R. 13270 by striking what is intended to be the new I.R.C. Section 170 (e) (2) (B). We agree that in past years gifts of tangible property gave rise, in limited instances, to serious problems regarding the valuations placed on such gifts and that some individuals may well have taken undue advantage of the law. It would appear that those problems have now been resolved quite satisfactorily and that there is no reason now to treat gifts of tangible property any differently than gifts of appreciated securities.

Again, we are happy to learn that the Administration agrees with our position on this matter and we subscribe fully to the rationale therefor as set forth on page 25 of Assistant Secretary Cohen's statement to this committee.

VI Limitation of Deduction on Charitable Trust Income

Of major interest to many of our voluntary organisations are those provisions in present law which permit the division of property interests between charitable and noncharitable beneficiaries through the use of a trust. H.R. 13270 would seriously restrict the use of such a mechanism for assuring the income

beneficiary a certain return on such trust assets. We urge the committee to accept the Administration's suggestion which was set forth by Assistant Secretary Cohen as follows:

> "The bill restricts the availability of the charitable contribution deduction where, by the use of a trust, property interests are split between charitable and non-charitable beneficiaries. On reconsideration, we believe the bill is unduly stringent in permitting a deduction for the value of a charitable income interest only where the income is taxable to the grantor under other rules. The donor should be allowed a deduction for the value of any longterm income interest to charity which is in the form of a guaranteed annuity or a unitrust. Under the bill a unitrust is a trust in which the income beneficiary is entitled to a return equal to a fixed percentage of the value of the assets of the trust each year, thus assuring the income beneficiary a certain return irrespective of the investment policies of the trust."

VII. Tax on Investment Income of Foundations

The National Assembly would like to make it crystal clear that we do not oppose those provisions of the bill addressed to real and specific problems involving self-dealing, accumulation, unrelated business, and other such abuses which were reported as involving a small number of foundations. In fact we regard those provisions as sound and decidedly in the public interest.

However, we do take strong exception to the proposal to tax foundation income whether that tax be 5 percent, as originally proposed, 7 1/2 percent, as the bill now calls for, or one tenth of one percent.

We object primarily as a matter of principle. This Congress should preserve the historical principle that churches, educational institutions, foundations and other charitable institutions are tax-exempt. If the Congress imposes a tax of 7 1/2 percent or of two percent on one such institution, why not on all? If 7 1/2 percent this year, why not 10, 20, or 50% in later years? And if the Federal government levies such taxes, why should not the states, counties and municipalities? We object, too, because such a tax would be, in reality, a tax on just those institutions and organizations which the House of Representatives,

and, presumably, this body specifically intends to exempt from taxation. A tax of 7 1/2 percent on foundation income means, in fact, that churches, schools, hospitals, and voluntary organizations which receive foundation grants would receive 7 1/2 percent less. The tax would be the same as a 7 1/2 percent sales tax on gifts to such organizations. And, since foundation grants are often the basis of matching grants, the adverse effect on foundation beneficiaries would be compounded.

We understand that the foundations are willing to accept the imposition of an annual filing or audit fee sufficient to defray the cost of federal supervision. If so, of course, we could have no objection. But, if this is done, we would assume it should apply not just to foundations but to all organizations which require federal oversight to insure the proper discharge of the obligations they assume in seeking preferential tax treatment. In any case, such a charge should not be called and should not be a "tax."

In this connection, we should like to express our concern and register our objections to those added limitations on foundation activities which are in this bill but were not in the original proposals of the Department of the Treasury. We understand that the foundations will be testifying on these matters in detail on their own behalf and therefore will reserve our comment.

In closing, Mr. Chairman, we would like to express our appreciation to you and the other members of the committee for this opportunity to present our views on this most important legislation. Our comments have been carefully considered and reflect the serious concerns of the many organizations, well and favorably known to all of you, which have authorized us to append their names to this statement. We urge you to remove from the bill those provisions which will adversely affect philanthropy and to champion our cause before the Senate and in

conference with the House. We believe that members of this committee share the view that people should receive every encouragement to resolve their problems through voluntary action and to turn to government only when they must. When that principle was threatened in 1938, this committee successfully defended it. We ask you to do so again. Thank you.

Leonard S. Silk

SCHEDULE A

The organizations listed below have specifically authorized The National Assembly to advise the Senate Committee on Finance that they concur in the views expressed above and join in requesting the Committee to amend H.R. 13270 as suggested.

American Council for Nationalities Service
American Foundation for the Blind
American Jewish Committee
American Social Health Association
Big Brothers of America
Camp Fire Girls
Child Study Association of America
Child Welfare League of America
Council on Social Work Education
Family Service Association of America
Florence Crittenton Association of America
Girl Scouts of the U.S.A.
International Social Service, American Branch
National Association for Mental Health
National Association of Hearing and Speech Agencies
National Association for Retarded Children
National Association for Social Workers
National Committee on Employment of Youth of the National Child Labor Committee
National Conference of Social Welfare
National Council of Jewish Women
National Council of the Young Men's Christian Association of the U.S.A.
National Council on Alcoholism
National Council on Crime and Delinquency
National Council on the Aging
National Federation of Settlements and Neighborhood Centers
National Public Relations Council of Health and Welfare Services
National Recreation and Park Association
National Society for the Prevention of Blindness
The Salvation Army
Social Work Vocational Bureau
The Volunteers of America
Travelers Aid Association of America
United Community Funds and Councils of America, Inc.
United Hias Service
United Health Foundations
United Seamen's Service
United Service Organization
Young Women's Christian Association of the U.S.A.

The Boy Scouts of America join in the representations made with respect to provisions affecting life income and gifts of appreciated property.

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United Community Funds and Councils of America

INCORPORATED

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STATEMENT BY WALTER H. WHEELER, JR., PRESIDENT,
UNITED COMMUNITY FUNDS AND COUNCILS OF AMERICA
BEFORE THE SENATE FINANCE COMMITTEE SEPTEMBER 17, 1969

SUMMARY

1. We are in favor of tax reform which will:
   a) remove the poor from the tax rolls;
   b) give relief to the middle-income tax payer; and
   c) require that everyone pay his fair share in taxes.

2. We are opposed to tax revision proposals which would curtail, lessen or discourage charitable contributions.

3. We do not believe it right or necessary to realize tax reform at the expense of the poor and needy.

4. We believe that government encouragement of voluntary action in meeting health and welfare needs should be increased and strengthened by retaining the present and adding more incentives for charitable contributions.

5. We believe that H.R. 13270 contains provisions which would result in reduced charitable contributions, and therefore recommend:
   a) that no tax be levied on foundation income.
   b) that no tax be imposed, either directly or indirectly, on appreciated property contributed to charity.
   c) that no charitable contributions be included in "Allocation of Deductions".

6. We believe that the definition of a private foundation as contained in H.R. 13270 is ambiguous and should therefore be clarified.

7. We favor the increase in the allowable deduction from 30% to 50% for the individual contributor, but believe that its income producing potential for charitable organizations is minimal, and would in no way make up for the harmful effects of other provisions in H.R. 13270.

8. We recommend that those provisions of H.R. 13270 which relate to philanthropy, because of their complexities and in view of their injurious, though perhaps unintended, effects on charitable contributions, be removed from the Bill and referred for further study.

One gift works many wonders... the United Way

Walter H. Wheeler, Jr., President; Harry T. Sealy, Chairman Executive Committee; Donald S. Frost, Barney Hopkins, Daniel W. Kops, John G. Neukom, Hon. Walter E. Washington, Emory Williams, Vice Presidents; Leonardo J. List, Treasurer; Helen Alvord, Secretary; Lyman S. Ford, Executive Director.

United Community Funds and Councils of America
INCORPORATED
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**STATEMENT BY WALTER H. WHEELER, JR.
PRESIDENT,
UNITED COMMUNITY FUNDS AND COUNCILS OF AMERICA
BEFORE THE
SENATE FINANCE COMMITTEE
ON
THE TAX REFORM ACT OF 1969
WEDNESDAY, SEPTEMBER 17, 1969**

Mr. Chairman and Members of the Committee:

I am appearing before you as volunteer president of the national association of United Funds, Community Chests, United Crusades, etc., and the Community Health and Welfare Councils.

These United Community Campaigns are now in progress throughout the country. They provide support for 31,500 local, state and national health and welfare agencies. These voluntary organizations provided assistance to 28 million American families in 1968.

Last year $755 million was raised. This year, because of our critical community needs, and in view of the President's request for increased voluntary action in health and welfare, United Funds are seeking much more money. Our near-term objective is to raise the level of annual United Way voluntary giving to the billion dollar level.

I have come here today because we are deeply concerned by the undesirable direction in which some of the proposals for new tax legislation seem to be taking us.

In behalf of the 18 million United Way volunteers who freely give of their time and talents and the 32 million individuals, groups and corporations who voluntarily contribute their money, we wish to register our concern that no harm shall be done to the traditional policy of encouragement by the government of the United States for voluntary humanitarian service, as carried on by these United Way Funds and agencies.

One gift works many wonders... the United Way

Walter H. Wheeler, Jr., President; Harry T. Sealy, Chairman Executive Committee; Donald S. Frost, Barney Hopkins, Daniel W. Kops, John G. Neukom, Hon. Walter E. Washington, Emory Williams, Vice Presidents; Leonardo J. List, Treasurer; Helen Alvord, Secretary; Lyman S. Ford, Executive Director.

It has always been the policy of our government to encourage charitable giving by providing incentives to donors. For the first time in the history of our country, it seems that government is turning its back on private philanthropy and is considering the establishment of impediments to charitable giving.

I wish to make it completely clear that we applaud the desire of the Congress to remove millions of the poor from the tax rolls, to lighten the burden of the hard pressed middle-income tax payer, and to make sure that no one escapes paying his fair share for the support of his government.

We are for all these benefits. But we do not think it should be necessary to realize such benefits at the expense of health and welfare services which benefit the poor and all our citizens. We wish to make sure that the voluntary financial support for meeting the community's social needs is not undercut.

Certain provisions of the Tax Reform Act of 1969, H.R. 13270 as passed by the House, would have the immediate effect of reducing gifts to United Funds. The ultimate result would be a cutback in rehabilitation work with the handicapped, fewer children of working mothers cared for by day nurseries, less recreational centers for the aging and reduced opportunities for disadvantaged people of all ages, in the central city, and in the entire community. Eventually, this would lead to demands by the needy upon government as the last resort for their assistance.

There are other aspects of H.R. 13270 which appear to nibble away at reducing the vitality of the voluntary sector. Because of the complexity of some of these items, and because of the great many issues contained in the House Bill which do not relate to philanthropy, we recommend that those provisions which do affect philanthropy be set aside from the present House Bill and referred for further study as to their implications upon charitable giving and their effect upon the voluntary heritage of the American people.

We are especially concerned with the following items contained in H.R. 13270:

1. One of the provisions which would result in direct loss in United Fund contributions is the 7½% tax on foundation income. There are instances where United Funds have been receiving some or all of the income realized annually by foundations as a regular contribution to their yearly campaign. Any tax on foundation income would be a direct cut for the United Fund and the dependent human care services.

We strongly feel that no tax be made on the income of foundations. Not only would such a tax be taken out of charitable contributions, but it would set a precedent violating the traditional attitude of our government toward the encouragement of philanthropic effort.

2. We believe that no tax should be levied on charitable contributions of appreciated property. The donor of such property voluntarily forgoes receipt of such gain for his personal benefit and the value of the property to the charitable organization is its current value, not some lesser value. To give the donor credit for the full value of his donation is an important means of encouraging greater support for charitable activities.

   In regard to H. R. 13270, we recommend that the provision which would include appreciation of such property in the Limit on Tax Preferences and the Allocation of Deductions be deleted. It is inconsistent with the fact that the H. R. 13270 exempts direct tax on gifts of appreciated property to United Funds and member agencies.

3. Another provision in H. R. 13270 which would tend to hinder rather than to encourage donations to charity is one which requires the inclusion of charitable contribution deductions as items subject to allocation under the "Allocation of Deductions" procedure. The charitable contribution, is not comparable to the mandatory expenditures comprising the other itemizations and we urge its deletion. This could be accomplished by deleting the phrase reading, "Section 170 relating to charitable contributions" which is designated as I. R. C. Section 277 (c)(1)(A)(iv).

4. The definition of a private foundation in H. R. 13270 is so broad and of such ambiguity as to raise questions whether or not some publicly supported, operating charitable organization such as United Funds and their member agencies would be classified as private foundations. We recommend that this definition be clarified or revised so that United Funds and their member agencies are clearly excluded from the definition of private foundations.

5. We commend the intent to encourage donations to charity indicated by that provision of H.R. 13270 which increases the limit on the deductibility of individual charitable contributions (subject to certain limitations) from the present 30 percent to 50 percent of a taxpayer's contribution base.

   In the Report of the House of Representatives Ways and Means Committee on H.R. 13270, it is stated that, "It is believed that the increase in the limitation will benefit taxpayers who donate substantial portions of their income to charity and for whom the incentive effect of the deduction is strong."

   However, the Internal Revenue Service statistical reports on individual income tax returns indicate that the total of all contributions to charity for which deductions were claimed represented an average of 3.1 percent of adjusted gross income. Individuals with incomes from $20,000 to $50,000 averaged 2.8 percent in donations. In the $50,000 to $100,000 income group, the percentage of itemized charitable contributions averaged 3.3 percent. Even for individuals with incomes exceeding $500,000, the average of charitable contributions amounted to only 10.7 percent. This is far short of the 30 percent presently allowed. Therefore, we do not believe that an increase to 50 percent in the ceiling of allowable deduction credit would result in any immediate substantial increase in United Fund income. Since this provision has been cited by some as a balancing factor to compensate for the losses in contribution income to charities, we wish to state our belief that in no way would this provision make up for the harmful effects of the provisions to which we object.

In conclusion, I wish to thank the Chairman and Members of the Committee for giving us this opportunity to express our views on this important matter.

AMERICAN ASSOCIATION OF MUSEUMS

Headquarters at 2306 Massachusetts Ave., N.W., Washington, D.C. 20008 HUdson 3-3381

STATEMENT OF KYRAN M. MCGRATH, DIRECTOR,
AMERICAN ASSOCIATION OF MUSEUMS
CONCERNING THE TAX REFORM ACT OF 1969
BEFORE THE SENATE FINANCE COMMITTEE
WEDNESDAY, SEPTEMBER 17, 1969.

Mr. Chairman, I am happy to appear today and provide information regarding the effects the Tax Reform Act of 1969 would have on museums, as you requested in your letter of August 26, 1969, in three principal areas:
1. The appreciated value of donated, tangible, personal property.
2. The 7-1/2% tax on private foundations as they relate to privately supported museums.
3. The charitable contribution limits for privately supported museums as compared to public supported museums.

As a brief introduction, the American Association of Museums was formed in 1906 as a national organization to represent museums and promote them as cultural and educational centers in the United States. Over 1,065 museums belong to the Association. They represent the three major disciplines within the museum profession: art, history, and science, as well as children's museums, university and college museums, planetariums, and general museums which combine operations among these disciplines.

Appreciated Value of Donated, Tangible, Personal Property.

H. R. 13270 applies a tax consequence on the appreciated value of donated, tangible, personal property. According to the August 2, 1969 accompanying report issued by the House Committee on Ways and Means, donations of paintings and other objects were cited as some of the items frequently given to charities and that some of these items had appreciated in value. True, and usually the appreciation was due to the public acceptance of the item as something of artistic, historic, or scientific value. The more valuable, the more the public interest in it and the more reason it

should be brought into the public forum such as in a museum where it will be properly cared for and adequately exhibited. As I indicate below, 90% of museums are barely able to meet operating costs and have no funds left over for acquisitions. These museums depend on donations and gifts for acquisition of the objects exhibited to the public.

Two weeks ago, I attended the annual meeting of the Mountain Plains Museums Conference in Canyon, Texas. Professional museum personnel from Montana to Texas met in the Panhandle Plains Historical Museum. That museum has excellent, valuable exhibits on American history as it unfolded on the Plains states. The director, C. Boone McClure, told me every item in that museum had been donated and that no funds existed in his budget, past or present, for acquisition. The value of exhibits like that are not in the dollar amount they may bring in the open market. The value in that case is in the object itself, as an object of historic importance. H. R. 13270 appears to treat such objects as of commercial value only, requiring the donor to choose between deducting the cost to him or the fair market value provided he include the appreciation in his income.

Last year museums received over 560 million visits from the public. These visits were made to view the exhibits on display and learn from them. Exhibits consist of 1)objects of art, such as paintings and sculpture, 2) objects of historical significance ranging from tools and equipment used by our forefathers, to the restoration of buildings notable in our national heritage, and 3) objects of scientific value such as systematic collections involving biological specimens, anthropology, zoology, botany, to more singular scientific exhibits such as those depicting heart transplants, space technology, and basic principles of physics. The objects exhibited in American museums have become extremely popular to Americans, as evidenced by the skyrocketing attendance figures in recent years. The demand of museum visitors for more and more cultural and educational value in exhibits has placed a tremendous burden on museums to improve upon the quality of exhibits. This means that museums are constantly seeking new acquisitions to meet these demands and further extend the educational value of the displays and the quality of exhibits.

<u>The 7-1/2% Tax on Private Foundations Would Apply to Many Privately Supported Museums.</u>

The bill, in its present form, would apply a tax of 7-1/2% to private foundations. The definition of a private foundation, contained in section 509 (page 15 of the bill) would include many museums. The museums which would be included are those which do not qualify under section 170(b) as publicly supported charities and which receive most of their income from private endowment income. I cannot speak with knowledge on the

private foundations, but I can state that many of the museums in America were established by wealthy individuals who wanted to benefit the public in their communities by building a museum to serve the cultural and educational needs of the people living there. These museums are non-profit, open to the public on a regular schedule, professionally operated, and exist to serve the public. The fact that the generosity which created them outstrips the formula expressed on pages 15 and 16 of the bill should not deny their value to the public.

A tax of 7-1/2%, or even 2% as proposed two weeks ago by the Administration, on the investment or endowment income of these museums would work a very severe hardship. This is a critical matter. Up to 90% of museums are barely able to meet their increasing costs and do not have money left over for acquisitions. This bill, as it now stands, would apply a 7-1/2% tax on their already inadequate endowment incomes. The result will have to be an equal reduction in operations and services to the public at a time when the public demands on museums are skyrocketing.

Those museums which are publicly supported or which can otherwise meet the formula in section 509 of the bill would not be affected by this new tax. But those museums which receive more than one third of their income from endowments would be affected. We are concerned that the test applied by the House looks to the source of funds for museums rather than to the educational and cultural services they offer the public.

Congressman Brademas said August 7, 1969: "Mr. Chairman, the test for equitable tax treatment of America's museums by the Federal Government should not rest on the source of funds so much as on the museum's service to the public. By treating museums for tax purposes like private foundations, this bill will add further to the burdens of museums located in cities which are not able to afford financial assistance for museum operations. So I ask the questions, Mr. Chairman: Is the museum a qualified, non-profit institution, professionally staffed, making its exhibits available to the public on a regular schedule? If so, then it should be treated as a public charitable institution and specifically included in the appropriate provisions of H. R. 13270."

The Charitable Contribution Limits for Privately Supported Museums as Compared to Publicly Supported Museums.

The bill as it passed the House of Representatives provides different treatment regarding charitable contributions between publicly supported museums which qualify under section 170(b)(1)(B) and privately supported museums which do not qualify. At present, 170(b) museums (publicly supported charities) are able to offer individual contributors a charitable deduction up to 30% of adjusted gross income. H.R. 13270 would increase this to a total of 50%. Also, at present, those museums which do not qualify under section 170(b), usually by reason of their private support, are only able to offer up to 20% to a prospective donor on a charitable contribution.

This distinction in limitations discriminates against privately supported museums. If anything, it places them in a handicapped position in the competition for private donations. These museums must compete with universities, colleges, hospitals, as well as publicly supported museums. Privately supported museums can only offer a donor a 20% charitable contribution, whereas, the other categories can offer up to 50%. If there is concern that some individuals might use such a museum to shelter personal income, and until a professional and proven system of museum accreditation is in effect, perhaps the fact that a privately supported museum might be able to meet the qualifications for an operating foundation under section 4942(j)(3) of the bill (p. 33) would suffice to assure that the organization is otherwise functioning for the public good and thereby entitled to the full 50% standing regarding charitable contributions. However, it is not at all clear as the definition of operating foundation now stands, that many privately supported museums would be able to qualify. This confusion centers on what definition is given the term "assets", under 4942(j)(3)(B)(i) and whether more than half of a total endowment or the endowment income must be devoted to the specified activities.

The service to the public may be and in many cases is identical: The museum is open to the public; it is answerable to a board of trustees responsible for seeing that it is operated for the cultural and educational advantages of the public; and it provides a genuine public servie. One other item is usually identical with publicly supported museums: both types of museums are invariably desperate for money, and in 90% of the time, are totally dependent upon private donations for acquisition.

The concern that taxpayers will escape any taxation by way of such donations would be met by the House action to remove the unlimited feature of the charitable contribution provision to assure that at least 50% of a person's income would be included in his taxable income.

This is a very serious question to the entire museum profession, and especially to those privately supported museums. There are many of them in practically every state, and they are dependent, totally dependent upon private donations for their continued existence.

Rising Costs of Operation Have Eroded Financial Stability Of Museums.

For years, the public was complacent that museums were operating quite well on their endowment incomes. But this complacency was shattered with the report submitted to the Federal Council on the Arts and the Humanities last November: America's Museums: The Belmont Report. The Belmont Report described the effects of inflation and increasing public attendance and demands for more service. Operating costs had climbed much higher than endowment incomes were able to meet. Additional revenues had to be found from both public and private sources. This would be a weak argument if only a small segment of the public was concerned. But the United States Office of Education figures confirm 560,000,000 museum visits last year in the United States, indicating a large percentage of our public is involved. This study also showed that of 2,889 museums surveyed, 1,419 were wholly financed by private contributions. If there is doubt that the privately supported museums were not substantially involved in these 560,000,000 visits, more than 264,000,000 visits were made to privately supported museums.

Museums will drown in their own success, the public will suffocate them unless the public is willing to assist them directly through public appropriations or indirectly through tax encouragement of private support.

Statement of Perry T. Rathbone on behalf of the Association of Art Museum Directors, the College Art Association of America and the National Trust for Historic Preservation before the Senate Finance Committee Hearing on HR 13270, September 17, 1969.

Mr. Chairman:

I appear on behalf of the Association of Art Museum Directors. This is a non-profit educational corporation representing sixty-six major art museums situated all over the United States. I am President of that organization and Director of the Museum of Fine Arts at Boston. I also have the pleasure of representing the College Art Association of America, a non-profit educational organization representing the Departments of Art and Art History in over a thousand colleges and universities and their museums situated across the United States. Finally, I also represent the National Trust for Historic Preservation, a non-profit educational corporation supported by public contributions dedicated to the saving of great historic shrines. I have with me Dr. Sherman E. Lee, Director of the Cleveland Museum of Art, former President of the Association of Art Museum Directors and a member of the Internal Revenue Service Art Advisory Panel, and Thomas P.F. Hoving, Director of The Metropolitan Museum of Art in New York City and Chairman of the Finance Committee of the Association of Art Museum Directors. We appreciate this opportunity to appear before the Committee because it gives us the proper and responsible forum to underscore our firm belief that the continuing beneficial growth of the collections of thousands of the art museums in this country will be severely damaged by proposed Section 201 (c) of

HR 13270 insofar as it would add Section 170 (e)(2)(B), which proposes a tax on gifts of tangible personal property to non-profit institutions, to the Internal Revenue Code.

You have heard from other organizations, and in particular the American Association of Museums, regarding the proposed tax legislation. I would like to say that all three of us are members of the American Association of Museums and totally and vigorously support their stated position.

I. BACKGROUND

The visual arts have played a long and honorable part in the history of the United States. From Copley's portraits of the pre-revolutionary New England great, through Trumbull and Stuart with their record of battle and of the faces of the patriots, especially of Washington, through the record of the American Wilderness by the "Hudson River School", through Winslow Homer and his record of the Civil War, to the rise of American art to levels of international recognition and respect, the visual arts have been an integral part of American life. Historic shrines such as Mount Vernon, Monticello and The Alamo have shared in producing this cultural heritage.

It is a singular fact among nations that this artistic heritage has been preserved by private patronage and private enterprise. The Federal Government has consciously and historically encouraged private patronage of arts and letters rather than directly subsidizing these activities. The first museums in this country in Philadelphia, Baltimore, Hartford, Boston and New York were the result of private responsibility and individual generosity. In great part, this was possible because of the

large incomes and fortunes that were gained before the introduction of the income tax in 1913. One needs only to cite the name of J.P. Morgan and the size and quality of his great collection, amassed in the early twentieth century and then given to museums and a library in New York and Hartford for the education and enjoyment of the American people, to understand the enormous scope for the collector-philanthropist before the coming of the income tax.

With this tax, one might have expected the flow of works of art into collections and then into the public domain to decline, even to cease altogether. Such was not the case, for the wisdom of the government has provided, since 1917, that incentives for private giving to the public domain be a part of the tax structure, as it has also since 1909 provided for the free entry of works of art imported into this country. The basic concept was to encourage the taxpayer to give to institutions serving the general public by being able to deduct the value of his gift, whether of cash, intangibles or tangible works of art, from his income for purposes of tax calculation. This enlightened policy proved to be a much needed boon to the museums and other educational institutions of the United States. The tremendous achievements in education and the growth of the collections of American Museums have been a direct result of this policy.

II. THE MUSEUM WORLD TODAY - THE UNITED STATES VERSUS EUROPE

These results are well known and much envied by the state-controlled and state-supported museums of Europe, which do not enjoy comparable private philanthropic support. To many of the world-renowned museums of Europe the prospect of tax incentives for art donations would

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be greeted with jubilation. Indeed, several years ago the French Ministry of Culture initiated the first steps to provide such a structure of giving, citing at length the example of America. Look at the record of history. The great museums of Europe -- the Louvre in Paris, the Prado in Madrid, the Uffizi in Florence, the Hermitage in Leningrad -- performed the vast majority of their collecting much more than a century ago by nationalizing private, princely, royal or imperial collections. Since that initial gathering together, their collecting has been far, far less than that of museums in the United States. There is indeed no comparison in the growths of the collections of Europe and those of America in the last fifty years. One of the incontrovertible and readily self-evident reasons for this extraordinary flourishing in America as opposed to the dormancy of Europe is the beneficial government support of our museums by tax incentive concerning works of art. This system -- rooted in democratic principles and in the system of free enterprise -- must not be jeopardized.

There is no denying that the growth of the collections of our museums and historic shrines from the time of the First World War to the present has been the admiration of the world. The majority of works in the museums of Washington, New York, Chicago, Forth Worth, Tulsa, Los Angeles and the vast majority of other such institutions throughout the country are seen by the public because of private giving encouraged by the past income tax laws. Purely disinterested giving is admirable but must be supplemented by other incentives. Just as other giving involving the public good, such as the donation of securities, needs fiscal incentives, so does the giving of cultural property. It makes little sense to permit the full deduction of a gift of an historic house

and securities for its maintenance when no provision for such deduction is made for its equally important contents. But this is just what the bill prescribes.

The very institutions that legitimately receive these gifts are largely privately supported through long-standing endowments or continued giving during the life of the donor. Such notable art museums as those in Boston, the Frick Collection and the Morgan Library in New York, the Cleveland Museum of Art, the Toledo Art Museum, the Nelson Art Gallery in Kansas City and the Huntington Library and Art Gallery in Southern California -- as well as the more than one thousand historical societies throughout the country, all members of the National Trust for Historic Preservation -- are completely dependent on gifts and private support without direct government subsidy. But these institutions are all open to the public and present extensive exhibitions and educational programs, all without direct expense to the municipality, state or nation.

Museums such as The Metropolitan Museum of Art, the Art Institute of Chicago, the Philadelphia Museum of Art, the Dallas Art Museum, the Los Angeles County Museum and the Seattle Art Museum, while they receive local government support to some degree, rely primarily on private funds and gifts for their continued services and development, and entirely on private sources for their acquisitions.

Indeed, there is no more fitting example of public and private cooperation than our own great National Gallery. This is maintained by the Federal Government, but even this great institution would exist as an empty shell were it not for the private gifts of works of art adorning its walls, which were given by a relatively small number of public-spirited citizens. Though only thirty-five years of age, the National Gallery has already taken its place as an institution in which every citizen can take justifiable pride, largely because of private giving of tangible property, works of art, high in quality and large in number.

III. THE PROPOSED BILL AND THE DAMAGE THREATENED

It is now proposed in the current bill, HR 13270, to cancel the existing tax incentives to giving works of art. At the same time, tax incentives to gifts of intangible property -- stocks, bonds, securities -- would be preserved and reaffirmed. Thus, while quite properly preserving the life blood of universities and colleges, the life blood of equally deserving educational institutions, museums, is summarily cut off. In the world of art and culture, the damage will be prolonged and catastrophic, out of all proportion to the relatively small fiscal return to the Federal Government.

The official figures, cited by Mr. Edwin Cohen, Assistant Secretary of the Treasury,* tell the story. In 1966, nine billion dollars, including tangible and intangible property, was given to all tax-exempt institutions. Of this amount, appreciated tangible property accounted for about seven hundred and sixty million dollars, or approximately eight percent. Of this

* Remarks delivered before The American Bar Association, Section on Taxation, August 9, 1969.

eight percent, the I.R.S. estimates that not more than fifty million dollars involved the giving of works of art, or about seven percent of the eight percent of the whole; in other words, about one half of one percent of charitable giving.

While one cannot accurately estimate the actual tax realized by the Government, it would surely be small in Federal terms. The importance of the cultural value to the American people represented by this giving, on the other hand, is immense. Indeed in most cases this giving represents nothing less than the continued life and growth of the museums' permanent collections open to the general public. In 1968, for example, over 60 percent of the acquisitions of The Metropolitan Museum of Art were by private gifts given during the lifetime of the donor; at the Museum of Fine Arts in Boston, the figure was 42 percent. One of the most dramatic instances of this preponderance of private giving is that of the two museums in Phoenix, Arizona, the Art Museum and the Heard Museum of Anthropology and Indian Art: over 98 percent of the value of their collections is accounted for by private gifts.

It requires no extraordinary imagination to envisage what will happen, if this tradition is destroyed, to the collections of existing museums. They will stagnate and, once dormant, will become less and less capable of betterment. If this should occur, future generations will pass harsh judgment upon us. The situation will be even worse for the younger museums, many of them being built by public funds, such as the new art museums of the State University of New York at Purchase, the

Museum of the University of Nebraska, or those just finished in Oakland, California, and the University of Wisconsin in Madison. Some will not even have the opportunity to stagnate, since their collections will not be given the chance to begin to grow.

Even graver consequences may follow. Works that might have entered the public domain by gift will inevitably appear on the world market, some to be sold abroad without hindrance since, unlike most European countries, the United States does not regulate the exportation of cultural property. Increased state subsidies for museums in England and France, for example, pose an immediate and concrete threat to America's position among those nations participating in the art world.

We, as museum directors, feel it our responsibility to point out that nations have later only looked back with regret on those periods in their histories when short-sighted policies have alienated their cultural life; on the contrary, nations cite with pride those moments when commerce and a vital cultural life have flourished together. The Florence of the Medicis and France of the 18th Century are two well-known examples.

IV. WHY CHANGE THE LAW?

The pragmatic orientation of the American character has often been noted, and often with approval. From De Tocqueville on, foreign and domestic commentators have noted our practicality and our genius in engineering, technology and manufacture. Nevertheless, we find it very difficult to account for the peculiar discrimination built into the present bill. Stocks and bonds _may_ be given and their full value deducted;

but tangible personal property, including works of art, may not be given at full market value. IBM risen to 340 is acceptable; but the fortunate man who inherits or buys Rembrandt or Homer or Wyeth becomes an unfortunate giver since he can deduct fully only his cost! Where is the logic and consistency of principle in this unfair and particular discrimination?

It is objected that stock values are readily verifiable and that the values of paintings or antiques are not. In the words of the House Committee's Report, works of art are "very difficult to value." We beg to differ. Works of art are just as susceptible to valuation, by those who have spent a professional lifetime in their study, as are stocks. We point with pride to the endorsement by the Treasury Department and the Internal Revenue Service of the Advisory Panel on the Evaluation of Works of Art to the I.R.S. We helped develop the panel and have continued to assist in manning it with professionally distinguished personnel. The panel has been in operation for two years, so successfully that its life has been extended for another two years by the Secretary of the Treasury. In its still brief history, the panel has aided the I.R.S. in identifying and controlling the minority of abuses that have given the donation of works of art an occasional bad press, an ill-deserved reputation which deeply concerns the profession and one which has already received corrective attention.

Indeed it should be noted that all of the abuses cited in support of the present discriminatory tax measures occurred before the operation of the panel. The I.R.S. has informed us that the abuses have decreased

notably in the last two years and, further, the opinions and findings of the panel have yet to be questioned by the complainant taxpayer. This is a fine example of the government working in close cooperation with the private sector in a self-policing operation. Thus, continued existence of this panel is proper and sufficient means of minimizing the kind of abuses that led to the framing of this section of the bill -- without incurring the incalculable loss to the American people should the present vital flow of works of art into American museums and historic places be cut off.

V. RECOMMENDATIONS

In brief, we submit that there should be no difference between tangible and intangible property so far as the tax law is concerned. The abuses giving rise to illusory differences are the appropriate subject of regulation, not legislation.

If the words "(B) tangible personal property" are removed from proposed Section 170 (e)(2), the result will be to continue the vital encouragement essential to the growth of the museums of the United States. It should be particularly noted that if this is done, gifts of tangible personal property with full deduction of the current market value will be possible only to "operating foundations" or "publicly-supported institutions", and not to private non-operating foundations. Thus the encouragement implicit in the change accompanies the elimination of the device of giving such property to a private non-operating foundation to hold for the future outside the public domain.

It should also be noted that nothing in this recommendation affects other provisions of the bill involving tangible property which would normally be treated as ordinary income under proposed Section 170 (e)(2)(A). It is gratifying to know that the statement of the Secretary of the Treasury supported our position in this matter.

VI. <u>OTHER ASPECTS OF THE BILL</u>

The tax reform bill also contains other proposals which can adversely affect the world of art, education and culture in this country. One particularly has to do with the tax treatment of private foundations. The foundations themselves are presenting their own arguments. These, insofar as they affect foundation-supported museums operated for the public benefit, have our support. The taxes that foundations will have to pay under the new legislation will, in many cases, reduce the amount of funds that otherwise would be available to cultural institutions. The Administration's recommendations in this matter offer a clear and reasonable solution to these vexing problems.

We are also concerned with some technical problems in that the proposed definition of private foundations for purposes of the new tax provision may inadvertently cover many organizations which should not be treated as private foundations. Many deserving organisations may fail to meet the second exception provided for determining what organizations are not private foundations because of the requirements: (1) that gifts from ~~subsequent~~ substantial contributors (i.e. those who contribute more than $5,000 in any year) cannot count toward the required 1/3 public support test; (2) that related income receipts from any person in excess of 1% of total support likewise do not count towards 1/3 public support; and (3) that

1/3 of total support cannot come from gross investment income. This last test should be dropped, since investment income already is included in the denominator but not in the numerator of the fraction used to measure whether more than 1/3 of total support is derived from gifts, contributions, membership fees, or related income. Moreover, the third exception has a number of technical defects. It certainly could not have been intended to penalize a trust which now must be operated entirely for charitable purposes simply because as originally constituted part of the income was required to be distributed to private annuitants for a term of years or for their lives. It also should be made clear that organizations with defective charters may amend them to satisfy the "organized" test. Finally, there is no reason why a separate organization which is operated "in connection with" two or more qualified institutions, rather than one such institution, should not be protected under the third exception to the definition of a private foundation.

It is clear that those sections of the bill having to do with the "limit on tax preferences" and the "allocation of deductions" will inevitably result in reduced, not increased, private financial support of cultural and educational institutions. For this reason, we support the Administration's recommendation to delete the appreciation element from the limit on tax preferences and the allocations of deductions sections.

VII. CONCLUSION

Three hundred million people visited American museums and historic sites last year — these are the men and women who will be directly affected by the provisions of this bill. We are confident that the Senators now considering this tax reform bill will study our arguments with a care and

sympathy equal to the magnitude of the effect this part of the bill would have on the public, national and regional cultural heritage.

SUMMARY

Ten-point summary of statement of Mr. Perry T. Rathbone, President of the Association of Art Museum Directors, speaking on behalf of the College Art Association of America and the National Trust for Historic Preservation, for presentation to the Senate Finance Committee hearings on tax reform legislation, HR 13270, September 17, 1969.

I. The visual arts, museums and the preservation of historic sites are an integral part of the history of the Unites States.

II. Credit for the preservation of this country's cultural heritage can be given in large measure to the traditional encouragement by the government of private giving for the public good through tax incentives.

III. This enlightened policy has fostered a phenomenal growth of American museums; the envy of similar institutions throughout the world.

IV. With the exception of the Smithsonian Institution the Federal Government in this country does not assume responsibility for the operating support of public museums. Occasionally museums are assisted by City or local governments; in all cases acquisitions of works of art and the contents of historic houses are procured through private means.

V. The proposed bill discriminates, without justification, between the tax treatment of securities and that of gifts of works of art and historical objects -- to the detriment of museums and institutions engaged in the preservation of historic sites.

VI. Museums and the public will be damaged heavily by the removal of traditional tax incentives for giving works of art. It will be extremely difficult for new and smaller museums to build collections; the primary source of the development of more mature organizations will be cut off — all this to produce a minimal addition to the Federal income.

VII. Under the proposed bill major works of art which might otherwise be given to museums could be sold and, since the United States has no law to the contrary, national treasures could begin to flow out of the country.

VIII. The I.R.S. panel on the evaluation of works of art, with the cooperation of distinguished members of the museum world, has operated successfully, identified and reduced abuses, and earned the endorsement of the Secretary of the Treasury. It is pointed out as an excellent example of how self-regulation can operate to control a few abuses without the need for heavy-handed legislation which would result in great cultural loss to the public.

IX. The Association of Art Museum Directors, the College Art Association of America and the National Trust for Historic Preservation recommend the elimination of the discriminatory provisions of the proposed tax reform bill related to gifts of works of art which have appreciated in value. It is gratifying to know that the Statement of the Secretary of the Treasury supported our position in this matter.

X. Other aspects of the bill, including the technical definition of a private foundation, will have a restrictive effect on giving to non-profit institutions and can serve only to harm rather than help the museums and other institutions engaged in the preservation of the nation's heritage.

SUMMARY AND DETAILED STATEMENT

OF

H. STEWART DUNN, JR.

ON BEHALF OF

LONGWOOD FOUNDATION, INC.

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ON

H. R. 13270

(The Tax Reform Act of 1969)

September 15, 1969

I. SUMMARY STATEMENT OF LONGWOOD FOUNDATION, INC.

(1) Longwood Foundation, Inc. (Longwood) is deeply concerned about several provisions of Section 101 of H.R. 13270, believing that the tax, penalties and restrictions placed on foundations are well in excess of what is needed to correct any abuses that presently exist. Since many foundations and other organizations will be testifying on the adverse effect that Section 101 of H.R. 13270 will have on foundations generally, Longwood will limit its testimony to the peculiar application which two specific provisions of Section 101 have on Longwood.

(2) Longwood owns and operates Longwood Gardens which is a 1,000-acre park and horticultural garden open to the public throughout the year without charge. Longwood Gardens will be visited by approximately one million persons during its current fiscal year. It has more than two hundred full-time employees. Longwood's expenditures for Longwood Gardens exceeded three million dollars during its last fiscal year. Nevertheless, Longwood would apparently not be an operating foundation under the House-passed Bill. Operating private foundations are not subject to the penalty tax on the failure to distribute income or five percent of principal, whichever is higher; whereas other private foundations are subject to this tax.

The main shortcoming in this portion of the House Bill is that it apparently does not include as an operating asset the

investments held by the foundation to produce the income needed to maintain a foundation's public operations. As a consequence, it is practically impossible for any self-sustaining private operating foundation to meet the definition of a private operating foundation in the House Bill. Therefore, this definition should be clarified to include in operating assets the portion of the endowment fund of a foundation which is required to provide the income expended in the active operations of the foundation.

Also, your Committee Report should make it clear that an existing foundation may be divided into two separate foundations so that the operating portion may meet the dual test for an operating foundation.

(3) The provision in the House Bill contains an ambiguity regarding the tax on excess business holdings when the stock held by the foundation is in a passive holding company. The House Bill imposes a tax on private foundations which continue to hold more than certain stated percentages of the stock in a business enterprise. It seems clear from the Report of the Ways and Means Committee and the Treasury's Tax Reform Proposals of April 22, 1969, that this proposal was addressed to the problems that may arise where a foundation, its managers and its major contributors hold a significant interest in an operating business. There is no reason why these restrictions should be applied to a holding company provided the stock held

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by the holding company is proportionately attributed to the foundation, its managers and its major contributors in determining whether the foundation has an excessive holding in any underlying business. The House Bill uses the term "business enterprise" which should not include a corporation which conducts no business, but only holds a minority stock interest in operating companies. Nevertheless, this portion of the Bill is unclear. Again, the ambiguity could probably be corrected by a statement in your Report that a "business enterprise" does not include a holding company.

DETAILED STATEMENT OF LONGWOOD FOUNDATION, INC.

My name is H. Stewart Dunn, Jr. and I am a member of the Washington law firm of Ivins, Phillips & Barker. I am appearing on behalf of Longwood Foundation, Inc.

DESCRIPTION OF LONGWOOD GARDENS

Longwood owns and operates Longwood Gardens in Kennett Square, Pennsylvania. Longwood Gardens is a 1,000 acre-park and horticultural garden which is open to the public throughout the year without charge. It was established in 1937 by the late Pierre S. du Pont. With insignificant exceptions, Longwood has received all of its contributions from Mr. du Pont during his life or under his will. Mr. du Pont died in 1954.

Longwood Gardens is located at the center of the northeastern megalopolis. It is thirty miles from Philadelphia and only twelve miles from Wilmington. It is within approximately a 100-mile range of New York, Washington and Baltimore. The Gardens are not only of interest to those who are particularly interested in horticulture, but are of great interest to the general public. In the current year, it is estimated that approximately one million persons will visit Longwood Gardens. At the rate at which attendance has been increasing, this number should increase to three million within ten years. In

addition to its indoor and outdoor floral displays, its gardens and its fountains, Longwood Gardens presents a regular series of concerts, lectures and other performances which are also open to the public. Attached as Exhibit A to my statement is a brochure, describing Longwood Gardens in words and pictures. This is one of the regular brochures which is available to visitors at Longwood Gardens.

Longwood employs over two hundred full-time salaried employees at Longwood Gardens who are solely engaged in maintaining and operating this facility for the public. For the most recently completed fiscal year of Longwood, its expenditures in operations and improvements at Longwood Gardens were in excess of three million dollars. In addition, Longwood finances various horticultural studies and assists educational institutions and other public charities in this and related fields.

Based on a recent study, it appears that Longwood is the eleventh largest foundation in the United States. Very few of the twenty-five largest foundations in the United States are engaged in any direct or active charitable, educational, religious or other direct charitable activity. To the best of my knowledge, Longwood is one of the only two of the twenty-five largest foundations which are primarily engaged in operating facilities open to the public.

DEFINITION OF AN OPERATING FOUNDATION - SECTION 4942(j)(3)
(Section 101(b))

The House Bill proposes a tax on private foundations which do not make qualifying distributions that are equal to the greater of the foundation's adjusted net income or five percent[1/] of the aggregate fair market value of the non-operating assets of the foundation. This tax on the failure to distribute income is not imposed upon an operating foundation. Under proposed Section 4942(j)(3), an operating foundation is defined as one which spends substantially all of its income on the active conduct of the activities constituting the purpose or function for which it is organized and operating, and substantially more than half of the assets of which are devoted directly to such activities or to such functionally related activities. While the Bill does not define what will constitute substantially all of the income or substantially more than half of the assets, for purposes of the definition of an operating foundation, the Committee Report states that the income tests will be satisfied if at least eighty-five percent of the income is spent for the active conduct of the organization's exempt purpose. The assets test is met if at least sixty-five percent of the organization's assets are devoted to such activities. H.Rep. No. 91-413 (Pt.1), 91st Cong., 1st

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1/ For taxable years beginning after 1970, the percentage may be adjusted upward or downward by the Secretary's Delegate to reflect changes in interest rates and investment yields.

Sess. 42 (1969). The Committee Report further states that the assets test is intended to apply to organizations which provide facilities to the public. The assets test is intended to apply particularly to organizations "such as museums, Callaway Gardens (a horticultural and recreational area for the use of the public at Pine Mountain, Georgia), Colonial Williamsburg . . . and Jackson Hole (which operates functionally related businesses in connection with public parks and its exempt purposes)". H.Rep. No. 91-413 (Pt.1), 91st Cong. 1st Sess. 42 (1969). It would seem clear, therefore, that the House intended to include under the definition of "operating foundation" an organization such as Longwood Gardens. Since the principal function of Longwood is to operate and maintain Longwood Gardens for the benefit of the general public and in view of the size and scope of this operation, Longwood would certainly be considered to be an operating foundation under any normal standards. However, under the House Bill, Longwood could not qualify as an operating foundation. The principal difficulty is that the House Bill would apparently not include securities maintained to provide income for operations as part of the assets which are devoted to operations.

As stated above, Longwood received practically all of its endowment from Pierre S. du Pont during his life or under the will of Mr. du Pont and has received no significant contributions since 1954. It is, therefore, entirely dependent upon

its own endowment to sustain the operations of the Gardens. Over its history, Longwood has expended all of its income from its endowment in maintaining and improving Longwood Gardens and in the other charitable operations of the Foundation. However, if Longwood does not come within the definition of an operating foundation, it will become necessary for Longwood to distribute annually part of its principal in order to meet the requirements of section 4942. For example, if the Bill had been fully applicable for the last fiscal year of Longwood, the Foundation would have been required to distribute more than three million dollars of its endowment even though the Foundation's expenditures and contributions were in excess of one hundred percent of the income of the Foundation in that year. Thus, the Bill as applied to Longwood would annually erode its endowment and would ultimately make it impossible for the Foundation to continue to operate Longwood Gardens.

It is clear that this was not the intention of the House or of the Ways and Means Committee. As noted above, the Ways and Means Committee expressly stated that the assets test in the definition of an operating foundation was to protect organizations such as museums, Callaway Gardens, Colonial Williamsburg and Jackson Hole. Certainly, Longwood Gardens is engaged in the same type of activity as the organizations referred to in that report. In order to correct this unfair and apparently unintended consequence, the assets test in

4942(j)(3)(B)(1) should be modified to include securities and other assets maintained by the foundation to the extent that the income from such investments is expended in the active operations of the foundation. There should also be a comparable modification of the language of section 4942(e)(1)(A) making the same change in the definition of assets used in carrying out the foundation's exempt purpose.

Furthermore, your Committee Report should make it clear that an existing foundation may, if it so desires, be divided into two separate foundations in order that the operating assets, together with the endowment to support such operations, may be transferred to one foundation, with the balance of the assets being transferred to a second foundation; with the result that the first foundation would be an operating foundation provided it meets the requirements of section 4942(j)(3), as modified, and the second foundation would not be an operating foundation.

EXCESS HOLDINGS REQUIREMENT

Longwood's endowment is invested in a widely diversified portfolio of stock and bonds. Its holdings include common stock in more than fifty publicly-held companies. In none of these companies are its holdings in excess of the two percent de minimus rule provided by section 4943(c)(2)(C). However, it does own between four percent and five percent of the outstanding

common stock of Christiana Securities Company. Because of the very broad sweep of the attribution rules under section 4946(a), it appears that Longwood and persons who would be disqualified persons own in the aggregate more than twenty percent of the stock of Christiana Securities. Christiana Securities is not engaged in any active business and is simply a holding company. Its principal asset is stock in the du Pont Company. However, if the du Pont Company stock held by Christiana Securities Corporation were attributed pro rata to Longwood and disqualified persons, their total aggregate holdings of du Pont from all direct and indirect sources and attribution would certainly not exceed twenty percent of the outstanding stock of the du Pont Company. The test of excess holdings of stock under the House Bill applies only to holdings in a business enterprise. Certain items are excluded from the definition of a business enterprise under section 4943(d)(4). However, the definition of stock in a holding company is left ambiguous. The Treasury's Tax Reform Proposals state that the purpose of this provision is to require a foundation "to sell or contribute to a publicly-supported charity a controlling interest in a corporation conducting an unrelated trade or business". Technical explanation of Treasury Tax Reform Proposals of April 22, 1969, Tax Reform Proposals Contained in the Message of the President of April 21, 1969, page 120. The Ways and Means Committee Report states that the purpose of its

proposal is to prevent a foundation from controlling a business. H. Rep. No. 91-413 (Pt.1), 91st Cong., 1st Sess. 27 (1969). Thus, it appears that neither the Treasury nor the House intended the Bill to apply to a holding company which was not engaged in any business activities. Of course, in order to avoid any improper use of holding companies as a device to avoid the impact of section 4943, any stock of operating companies held by the holding company should be proportionately attributed to the shareholders of the holding company. If by such attribution plus other ownership, the foundation then has excess holdings for purposes of section 4943, it would be required to dispose of such excess holdings in the holding company. Christiana Securities Company and Longwood are prepared to comply with such a modified definition of excess holdings. As a consequence, none of the purposes of the Bill would necessarily require Longwood to dispose of its holdings in Christiana Securities. In the absence of any substantive purpose for applying section 4943 in a situation such as this, the provision imposes unnecessary hardship. The Christiana stock held by Longwood may be regarded by the Securities and Exchange Commission as controlled stock for purposes of the Securities Act of 1933. This would place substantial limitations on the market for Longwood's Christiana stock unless Christiana were willing to undergo registration and Longwood were willing to bear the expense in having the stock registered. Furthermore, the tax

imposed by section 506 would be applicable on this sale to the extent that the sales price exceeded the Foundation's basis in the stock on December 31, 1969. The net result of these various proposals is that the assets of Longwood would be dissipated by this sale; whereas, the sale is not required in order to carry out any of the legislative policies which lie behind section 4943. Therefore, it is requested that the definition of "business enterprise" in section 4943 be clarified to exclude a holding company unless the foundation and disqualified persons own the required percentage of stock in the underlying operating company after application of all the attribution rules in the Bill, plus the attribution of a proportionate amount of the stock of the operating company held by the holding company.

CONCLUSION

As noted in my summary, my presentation is limited to the two technical provisions in the Bill which have a particularly adverse effect on Longwood. It appears that neither of these results were intended. It would be indeed unfortunate if the work of a major operating foundation which is directly engaged in providing facilities to the public should be curtailed as a consequence of technical provisions which have an impact not intended by their sponsors.

I wish to thank the Committee for its kind consideration of these points.

Testimony on H.R. 13270, Tax Reform Act of 1969
presented by:
John J. Schwarts, Executive Vice President
American Association of Fund-Raising Counsel, Inc.

September 17, 1969

SUMMARY

INTRODUCTION

Mr. Schwarts represents the American Association of Fund-Raising Counsel, Inc., an organization of 23 fund-raising counseling firms. Members serve 1,000 organizations annually, on programs which raise $1 billion in contributions.

The Association believes several provisions of the bill are detrimental to philanthropy.

The Voluntary Sector

Philanthropy and its institutions have grown with the nation. They constitute a free enterprise social system. Tax incentives have encouraged a dual system of social programs.

The Partnership

Partnership with government is mutually advantageous to public and private sector. This is readily apparent in health and education. Private giving is a major factor in hospital and educational construction. Tax incentives have encouraged private support, which has maintained an upward trend for 30 years, now stands at $15.8 billion annually. Incentives are necessary to continued advance.

A Reversal of Philosophy

Proposed bill is a complete reversal of legislative philosophy on philanthropy. Several sections will have drastic effect on contributions:

1. Allocation of deductions.
2. Limitation on tax preferences.
3. 7.5 percent tax on foundations.
4. Treatment of capital gains in gifts of property to private foundations.

Importance of Gifts of Property

Gifts of appreciated property comprise 48% of total giving to educational construction, 27% of annual gifts to colleges, 38% of gifts to hospital construction and

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35% of annual gifts to hospitals. These gifts are equally important in other fund-raising programs. When identified as leadership gifts, they have strong psychological impact.

Allocation and tax preference provisions will discourage gifts of this type.

Incentives Not Loopholes

Incentives deliberately provided by previous congresses to strengthen social system. Removal will force abandonment of programs or dependence on added tax funds.

Foundation Proposals

Proposed foundation tax would come from funds available for grants, which often have effect of "challenge" to stimulate individual and corporate giving.

Proposal to tax appreciation in gifts to private foundations would impair their worthwhile activities.

The Future Needs

Social needs are increasing. Funds necessary for higher education will more than double by 1976. Ten billion dollars is needed for hospital modernisation. Costs and demands are rising in all areas. Private giving must be encouraged if the private sector is to fulfill its role.

Changes Requested

At least:

1. Exclude charitable deductions from allocation.
2. Exclude appreciation in charitable gifts from tax preference income computation.
3. Delete foundation tax.
4. Continue present treatment of appreciated property gifts to all foundations.

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Testimony on H.R. 13270, Tax Reform Act of 1969
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John J. Schwarts, Executive Vice President
American Association of Fund-Raising Counsel, Inc.

September 17, 1969

INTRODUCTION

Mr. Chairman, and distinguished members of the committee, it is a privilege to appear before you today, and one which is greatly appreciated.

I am (John J. Schwarts) Executive Vice President of the American Association of Fund-Raising Counsel, Inc., a professional organization, extablished 34 years ago, of fund-raising counseling firms. Our 23 member firms, located across the nation, engage in management of fund-raising programs for the nation's nonprofit philanthropic agencies. I estimate that our firms are currently serving more than 1000 philanthropic institutions or agencies, assisting them in raising more than a billion dollars annually in voluntary contributions from the general public, corporations and foundations.

The objectives of the Association are to encourage continued high standards of ethics and procedures in philanthropic fund raising, to serve as a channel of information to the public about philanthropy and its benefits to society, and to provide a center for information and assistance for all philanthropic organizations.

Our member firms serve philanthropic organizations on a fixed fee basis, in a management capacity, so that the passage of this bill does not affect us economically. In fact, passage in its current form may actually increase the need for our services. We are appearing because our acquaintance with the fund-raising problems of thousands of organizations, and with the giving motivation of philanthropic-minded persons, places us in a unique position to observe the philanthropic scene.

From that vantage point, we must conclude that the tax reform bill, as passed by the House of Representatives, would have a very detrimental effect on the development - and possibly the continued existence - of many of our social institutions which rely on voluntary private contributions for a share of their support.

The Voluntary Sector

Practically all of these institutions were initiated by small groups of citizens acting voluntarily to meet a social need. As their worth was demonstrated, other citizens joined in support, and these institutions grew along with the nation and its economy, giving us a free enterprise social system unmatched anywhere in the world. Many of them eventually came under government control as tax-supported institutions.

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Others remain as viable private institutions often working in partnership with government. This partnership has long been encouraged by government, which has granted tax exemptions to the institutions and provided for deductions from taxable income by their supporters.

The Partnership

This partnership has worked to the advantage of both public and private sectors. This is most readily apparent in health and education. Federal grants in these areas have helped to stimulate private giving, and private giving has helped to build classrooms and health facilities without excessive debt financing or heightened demands for tax funds.

Giving to hospitals is a major factor in hospital construction. In the twenty-one years since the inception of the Hill-Burton program for medical facilities construction, total construction under the program cost more than $10 billion, of which $3.1 billion came from Federal grants, while an estimated $3.5 billion came from private contributions, most of which would not have been contributed without the stimulus from the Federal government. The other $3.4 billion came from borrowing or local government sources.

During the past six years, private expenditures for hospital construction totaled $7.6 billion, of which about 50 percent came from private contributions.

Since the Higher Education Facilities Act became operational in 1964, 1500 institutions have received Federal grants for construction totaling a little more than $2 billion, which generated a total of nearly $7 billion worth of construction, a substantial part of which was financed by private philanthropy. In the same period, private gifts to higher education totaled more than $7 billion, a majority of which went into construction and other development projects.

Since deductions for contributions were written into the income tax law in 1917, succeeding generations of legislators have liberalized these provisions in recognition of the efficacy and worth of a dualistic social system - part free enterprise and part government supported.

Encouraged by government support of this system, the American public has demonstrated a willingness to share its growing affluence in support of its private institutions by direct contributions. Such support has continued an upward trend for 30 years. In 1968, it reached a new high of $15.8 billion dollars, and should go beyond $17 billion this year. Seventy-seven percent of the 1968 total, or $12.1 billion, came from individuals.

In 1968, these funds were distributed to the major philanthropic areas approximately as follows:

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Religion	46.8%	($7.4 billion)
Health and Hospitals	17.3%	($2.7 billion)
Education	16.7%	($2.6 billion)
Human Resources	7.0%	($1.1 billion)
Civic and Cultural	4.5%	($710 million)
Other	7.7%	($1.2 billion)

As the needs in these areas increase, the giving response from the public keeps pace. Approbation of government through tax incentives has been a major factor in maintaining this pace. In the foreseeable future, the needs will continue to increase at an even greater pace. We are confident that, if tax incentives are continued, the private sector will continue to shoulder its share of the burden.

A Reversal of Philosophy

With regard to philanthropic organizations, the proposed tax bill is not a reform, it is a complete reversal of that legislative philosophy of encouragement of private contributions.

There are several provisions in the House bill which will have a drastic effect on voluntary giving.

The most serious of these is allocation of deductions between taxable income and preference income, with the gain in value of appreciated property which is donated included in preference income. By making such a gift, a donor would not only receive a limited charitable deduction, but would reduce his other deductions by the ratio of preferenced income to taxable income.

Almost equally serious is the provision for limitation of tax preference income, with the gain in value of appreciated property given to a philanthropic institution included as an item of preference income. In cases where an individual's tax preference income exceeded his taxable income, he would be taxed indirectly on appreciation in gifts to charitable institutions.

These two provisions combined would serve to greatly reduce tax incentives for gifts of appreciated property. Such gifts are extremely important to the success of fund-raising programs of the nation's colleges, hospitals and other philanthropic institutions, both for annual operating expenses and capital expansion.

Importance of Gifts of Property

To document their importance we recently conducted a survey among a sample of institutions, both large and small, in the areas of higher education and health. Fifty institutions of higher education of all types reported that in recent capital fund-raising campaigns, which raised an aggregate total of nearly $467.8 million, more than $224.8 million, or 48 percent, of the total was given in gifts of appreciated property. The percentages for individual schools ranged from 10 percent to 82 percent, with half of them getting more than 46 percent of the value of gifts in this form.

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In annual fund-raising programs, twenty-four of the colleges and universities raised a total of nearly $64 million, with 37 percent, more than $23 million, coming in gifts of securities which had appreciated in value.

Analysis of a survey of hospital fund-raising programs revealed similar results. In 349 capital fund-raising campaigns for hospitals, which raised nearly $217 million, mostly for building purposes, nearly $83 million, or 38 percent, was contributed in gifts of property. Percentages for individual hospitals ranged from 76 percent to zero percent, with half of them getting more than 44 percent of the total value of gifts in this form. Thirty-five of these hospitals reported raising nearly $8 million in annual giving programs, with $2.7 million, or 35 percent, coming in property gifts.

Specific examples of the importance of these gifts to individual institutions are attached to my written testimony.

Although we have not conducted recent surveys in other areas, our experience has proven that these gifts are equally important to fund-raising programs for youth and welfare agencies, churches, and civic and cultural projects -- particularly those for capital expansion. For instance, the Council of Jewish Federations and Welfare Agencies estimates that, of total contributions of $235 million to its agencies last year, 25 percent was in the form of appreciated property.

It is obvious that these gifts, in a monetary sense, are important to the success of programs to maintain, expand or improve the nation's social resources. Less obvious is the tremendous psychological value they have. When identified as leadership gifts, they serve to motivate donors of smaller sums, and elicit a greater response to the fund-raising appeal.

The drafters of the House bill avoided placing a direct tax on the capital gains contained in gifts of property, but these two provisions -- for allocation of deductions and limitation of tax preferences -- will tax them indirectly, and reduce the tax benefits to the donor. Although studies have shown that these benefits are not the primary motive for giving, they are an important factor in motivating large gifts.

These provisions are aimed at the high income group, who are generally also the big givers. Publicity attendant to tax reform has created the erroneous impression that deduction of charitable gifts by these donors is a loophole - an abuse of the law. This is not so. Tax benefits merely enable a donor to give more. The benefit accrues to the charitable institution, not to the donor. Much has been made of the statements in the tax reform proposals presented to the House Ways and Means Committee on April 22nd by the Treasury Department (U.S. Govt. Printing Office-Publication No. 28-2000, page 28) concerning the 154 individuals with incomes of $200,000 or more in 1966 who paid no income tax. The statement reveals that these persons had a combined adjusted gross income of $112 million. Their deductions for contributions totaled $78.6 million, or 70 percent, of which $55 million was in non-cash gifts. Since the normal limit on charitable contributions is 30 percent, it is probable that a substantial number of these qualified for the unlimited charitable deduction permitted by

....

law. The bill would repeal the unlimited deduction and eventually establish a limit of 50 percent of income. This will reduce these gifts by 50 percent. Since two-thirds of these gifts are made in property, they could be further reduced by the limited tax preference and allocation proposals.

The tax money saved by these people does not go back into their own pockets. It goes to support a variety of programs which are essential to the well-being of our society.

Incentives not Loopholes

So-called "loopholes" arise from oversights in drafting of legislation. The tax incentives for charitable contributions are not "loopholes." They were deliberately written into the law by previous Congresses to strengthen our free enterprise social system - and they have achieved the desired effect. If this system is to meet the ever-increasing demands of today's society, their continuation is essential.

If the provisions of the House bill stand, many of the programs funded by philanthropy will either have to be abandoned or the funds for them will have to be provided through appropriations from general tax revenue.

Foundation Proposals

Some of the proposals in the House bill affecting private foundations would also weaken support of our philanthropic institutions. Foundations last year distributed about $1.5 billion in grants. About 41 percent of it went to education; another 34 percent to health, welfare and science, and about 10 percent to the humanities. Imposition of the 7-1/2 percent tax the bill proposes would reduce funds available for distribution by just about the same percentage.

Foundation grants assume far more importance than their monetary value when they are used as challenge grants - a device which helps to raise the sights of prospective donors. This importance was pointed up by a recent survey, conducted by one of our firms, of the effect of Ford Foundation challenge grants on sixteen college and university capital fund-raising campaigns. Each of the schools had conducted prior campaigns, in the recent past, which raised an aggregate total of $35 million. With the stimulus of the Ford grants, the same schools raised a total of $118 million - more than three times as much - in their challenge campaigns.

Another harmful provision is that gifts of appreciated property to a private foundation must be distributed by the foundation within one year if the donor is to deduct the appreciated portion of the gift. Such a provision would discourage channeling of new capital into foundations, which constitute a growing source of funds for social betterment and play an important role in seeking solutions to society's problems - both existing problems and those which emerge with changing social conditions. If this provision had been in effect in the past, many of the large foundations which now exist might never have been formed.

....

We favor the foundation provisions in the bill which would eliminate self-dealing and other abuses, but feel strongly that those cited would seriously impair the worthwhile activities of those foundations which have not been guilty of abuse. We believe that congressional actions should strengthen the ability of foundations to carry out their objectives - not weaken them, as the proposed provisions would do.

There are other provisions which will affect charitable giving to a lesser degree. Other witnesses will present expert testimony on these points, but I would like to touch on those provisions which would eliminate or sharply curtail tax incentives for deferred gifts, such as charitable remainder trusts, life income contracts and gift annuities. Such forms of giving are becoming increasingly important, particularly to colleges, universities, hospitals, and religious projects. This importance is pointed up by an example:

> Of 18 Southwestern colleges responding to our survey, eleven of them had income totaling $2.1 million last year from such gifts, and ten of them had on their books a total of $20 million in deferred gifts which will accrue to them when trusts or contracts mature.

The Future Needs

The need for funds in social programs increases at an alarming rate. Rising costs and increased demand have escalated expenditures in all areas, and the outlook for the future is that they will rise even more rapidly.

The Carnegie Commission on Higher Education estimates that college and universitiy expenditures will rise from $17.2 billion in 1968 to $41 billion in 1976. About ten percent of this must come from private gifts.

The former Secretary of Health, Education and Welfare estimated that $10 billion was needed to modernize the nations health facilities. If the past patterns are followed, about $4 billion of this must come from private gifts.

In all other areas -- religion, welfare, the arts, youth agencies, and civic programs -- increased costs and demands are creating crises in financing.

In the past, a fair share of this burden has been carried by philanthropy. Now, more than ever, increased giving must be encouraged, so that the private sector may continue to carry its share. The tax incentives to giving should be left unchanged, or liberalized, if the philanthropic institutions are to continue to fulfill their vital role.

Changes Requested

We respectfully request that you consider at least the following changes to sections of the House Bill:

....

1. Section 302 - exclude charitable deductions from those which must be allocated between taxable income and tax preference income;

2. Section 301 - exclude appreciation in the value of property contributed to charitable institutions in computing tax preference income;

3. Section 101 - delete provisions for imposition of a 7-1/2 percent tax on net investment income of private foundations;

4. Section 201 - delete that portion of the section, page 124, lines 4 through 21, which provides that a donor who contributes appreciated property to a private foundation must elect between:

   (a) Deducting only the cost of other basis of the property; or,

   (b) Deducting the fair market value of the property and including the appreciation in his tax base, unless the foundation makes a distribution out corpus, in an amount equal to 100 percent of all such contributions, within one year after the close of the taxable year in which the contribution was received.

Attachments

- end -

Educational Institutions

Capital Campaigns

Institution	Total Contribution	Total in Appreciated Property	Percent in Property
Mercersburg Academy	$ 1,784,804	$ 519,727	29%
Wash. & Jeff.College	1,079,337	417,148	38%
Dartmouth College	30,000,000	24,600,000	82%
University of Rochester	26,400,000	19,500,000	75%
Emory University	23,000,000	6,700,000 (30 Donors)	29%
Univ. of Pennsylvania	31,320,700 (3 yrs.)	16,600,000	53%
18 Pennsylvania Colleges	105,900,000 (3 yrs.)	43,415,000	41%
Harvard University	84,500,000 (all contr. last 7 yrs.)	45,500,000	54%
Rose Polytechnic Inst. (Ind.)	1,792,000	443,000	24%
Grinnel College (Iowa)	3,304,000	1,225,200	37%
Earlham College (Ind.)	4,594,000	3,600,000	78%
Ripon College (Wisc.)	2,569,000	1,226,610	48%
Worchester Polytechnic Inst. (Mass.)	15,400,000	9,446,360	61%
Converse College (S.C.)	4,350,000	2,011,680	46%
Trinity College	8,191,000 (1966-1969)	2,866,850	35%
15 Southwest Colleges & Universities	37,276,982	6,037,187	16%
Carnegie-Mellon University	57,000,000	28,800,000	40%
Saginaw Valley College (Mich.)	4,300,000	433,000	10%
Lehigh University (Penna.)	25,000,000	11,500,000	46%
Univ. of Cincinnati	30,000,000	14,000,000	47%
Beloit College	1,706,000	955,000	56%
The Masters School	623,500	152,500	24%

EDUCATIONAL INSTITUTIONS

ANNUAL FUND

Institution	Total Contributed	Amount in Securities	Percent in Securities
Mercersburg Academy	$ 176,418	$ 43,208	25%
Dartmouth College	2,000,000	620,000	31%
University of Penna.	2,000,000	1,000,000 (annually)	50%
16 Southwestern Colleges & Universities	26,860,539	10,233,292	38%
Carnegie-Mellon Univ.	30,499,490 (3 yrs.)	10,939,106	36%
Saginaw Valley College (Mich.)	414,000	175,000	42%
Creighton University (Nebr.)	800,000 (2 yrs.)	160,000	20%
Hastings College (Nebr.)	200,000	20,000	10%
Lehigh University	1,015,230	294,408	29%
Collegiate School (N.Y.)	2,000,000	600,000	30%
Beloit College	13,600,000 (10 yrs.)	2,500,000	18%
The Masters School	195,000	35,000	18%

Medical Institutions

Capital Campaigns

Institution	Total Contributions	Amount in Property	Percent in Property
320 Hospitals (25 years)	$ 148,000,000	$ 66,600,000	45%
Newton-Wellesley Hospital (Mass.)	3,500,000	724,000	21%
Shadyside Hospital (Pittsburgh, Pa.	3,300,000	1,110,000	34%
3 Affiliated Hospitals (Boston, Mass.)	7,500,000	2,652,446	35%
Children's Hospital (Boston, Mass.)	15,800,000	6,952,000	44%
2 Hospitals (Erie, Pa.)	6,870,000	755,700	11%
Montefiore Hospital (Pittsburgh, Pa.)	3,000,000	290,000	10%
Beverly Hospital (Mass.)	3,300,000	2,500,000	76%
19 Southwestern & Mid-western Hospitals (Kans., Colo., Tex., Ark., Mo., Ariz.)	25,395,535	1,300,693	5%

Medical Institutions

Annual Campaigns

Institution	Total Contributions	Amount in Property	Percent in Property
Community Hospital (Glen Cove, N.Y.)	$ 225,000	$ 85,500	38%
Newton-Wellesley Hospital (Mass.)	232,000	108,817	47%
Shadyside Hospital (Pittsburgh, Pa.)	80,000	20,000	25%
3 Affiliated Hospitals (Boston, Mass.)	708,061	434,261	61%
Children's Hospital (Boston, Mass.)	1,703,000	749,000	44%
York Hospital (Pennsylvania)	282,680 (2 yrs.)	267,125	95%
Montefiore Hospital (Pittsburgh, Pa.)	200,000		48%
Riverview Hospital (New Jersey)	239,500	35,000	12%
Beverly Hospital (Mass.)	404,553 (2 yrs.)	78,727	19%
Southwestern & Midwestern Hospitals(Tex., Mo., Col., Ariz., Kans., Okla., Ark.)	3,672,554	938,977	26%

SUMMARY OF SIERRA CLUB STATEMENT
ON H.R. 13270, TAX REFORM ACT OF 1969
BEFORE THE SENATE FINANCE COMMITTEE
SEPT. 17, 1969
PRESENTED BY W. LLOYD TUPLING
WASHINGTON REPRESENTATIVE

The Sierra Club's loss of its status as a 501(C)(3) under the Internal Revenue Code illustrates the short-comings of existing law as it affects broadly supported public charitable and educational groups. The Internal Revenue Service denied the Club 501(C)(3) status on grounds that it had engaged in propaganda and influenced legislation. The Club denied this and held that only an insubstantial part of its total activity was directed toward legislative matters. Vagueness of language in the present law acts as a deterrent to traditional, publicly based organizations interested in legislation.

The Sierra Club urges that the present unworkable and grossly discriminatory limitations on activities of broadly based, public charitable organizations be removed. Two limitations should remain:

1. Permissable legislative activities must be related to legislation affecting the continued existence of the organization or to legislation involving the objectives that this organization was formed to pursue;

2. There must be no intervention in elections.

These changes would overcome the adverse effects of the Code as it is now being interpreted. At present, the Code gives an advantage to the profit-seeking sector of public opinion; puts non-profit corporations as a competitive disadvantage when they are opposing business corporations on an issue before Congress; puts many publicly supported membership organizations in the same category with privately endowed foundations; and puts public-service membership organizations under a mandate to comply with language, designed to limit their activities, which is so vague as to be undefinable.

STATEMENT OF THE SIERRA CLUB IN SUPPORT OF THE REFORM IN THE TAX LAWS AFFECTING NON-PROFIT MEMBERSHIP ORGANIZATIONS - H.R. 13270

Before the

SENATE FINANCE COMMITTEE

September 15, 1969

* * * * *

Mr. Chairman, my name is Lloyd W. Tupling. I am the Washington Representative for the Sierra Club and for Trustees for Conservation. I am appearing and filing a copy of this statement on behalf of the Sierra Club, an organization having more than 72,000 members who are devoted to the preservation of outstanding scenic and natural areas and the integrity of our physical environment.

Since its inception, the club has communicated its convictions about the value of keeping enough areas natural to both the public at large, and when appropriate, to Congress. At times it has done this inconspicuously, but at other times the imminence of threats to superlative natural areas, which are irreplaceable, has forced the club to be more conspicuous in publishing its message. This has been necessary if the club was to be effective, in a competitive sense, in thwarting the designs of those who were actively promoting projects which would materially damage those areas.

As you know, it was as a result of such action that the Sierra Club lost its status as a group to whom donors might make deductible contributions under section 501(C)(3) of the Internal Revenue Code, a status the club had enjoyed since the 1930's. As a result of the club's successful opposition to dams in Grand Canyon, the Internal Revenue Service ruled finally in August of 1968 that the Sierra Club had engaged in propaganda and influenced legislation in a manner which IRS charged violated the limitations of that section of the Revenue Code. The club denies this, asserting that only an insubstantial part of its total activity was involved with opposition to these dams or to other legislative matters. We believe that the Internal Revenue Service misunderstood the facts and that its decision cannot be squared with the Internal Revenue Code, with First Amendment freedoms or with sound public policy.

The core problem is that the amount of legislative activity which the statute allows to 501(C)(3) organizations is so vague as to deter any such activity by many such organizations. The IRS action in the case of the Sierra Club reveals the grave risk to most publicly supported charities and educational organizations if - like the business enterprises with which they may disagree - they attempt to convey their position to the Congress. The Sierra Club's case demonstrates the need for modification of the limitations under which broadly supported charitable and educational groups must

operate if the historic policy of Congress to sponsor and encourage such institutions is not to be seriously eroded.

H.R. 13270 would create a new category of section 501(C)(3) organization denoted as "private foundations". (Section 101(b)) These "private foundations", unlike 501(C)(3) organizations that are broadly based, would be brought under stricter surveillance by the Internal Revenue Service in order to assure that their activities further the public charitable, religious, scientific, and literary objectives for which they are formed. Traditional, broadly based public-type charitable and related organizations, however, are unaffected.

Section 101(b) of HR 13270 prohibits "private foundations" from engaging in <u>any</u> activities affecting legislation. The restriction upon such activities is absolute.

The distinction proposed between "private foundations" and traditional, publicly based charitable organizations now makes feasible reconsideration of present limitations imposed by present section 501(C)(3) on broadly based charities falling outside the "private foundation" category. As Mortimer M. Caplin, former Commissioner of the IRS, phrased it in an article adopted from a 1968 address at American University:

> "No sound policy reason exists for denying charitable and educational organizations latitude in the political field equal to that allowed to business organizations. Without jeopardizing their tax exemptions, these entities should be

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permitted to engage in legislative activities similar to those described by Code section 162(e) as permissible tax deductions for businesses. . . .

"Charitable and educational organizations are playing a larger role in achieving the social and economic goals of our nation. In the fields of their special experience and expertise, their voices should be heard and they should be free to give legislative bodies the benefit of their views. . . ."

We urge that the present unworkable, unnecessary and grossly discriminatory limitation on activities of broadly based, public charitable organizations which affect legislation be removed. Two limitations should remain, however: (1) Permissible legislative activities must be related to legislation affecting the continued existence of the organization or to legislation involving the objectives that this organization was formed to pursue; (2) there must be no intervention in elections. Surely, if organizations like the Sierra Club are to fulfill their public trust, they should not be precluded from resisting destruction of irreplaceable redwood forests or from arousing public interest in the preservation of the Grand Canyon, notwithstanding that such activities involve the passage or defeat of legislation.

We specifically propose to this end an amendment to section 501(C)(3) which is closely related to that proposed by the American Bar Association Committee on Exempt Organizations and reported in Tax Lawyer, Vol. XXI, No. 4, pp. 967-68, as follows:

Sec. 1. Section 501 is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection:

(e) APPEARANCES, ETC., WITH RESPECT TO LEGISLATION.

(1) None of the following activities by an organization described in subsection (c)(3) shall be deemed "carrying on propaganda, or otherwise attempting, to influence legislation":

(A) Appearances before, submission of statements to, or sending communications to, the committees, or individual members, of Congress or of any legislative body of a State, a possession of the United States, or a political subdivision of any of the foregoing with respect to legislation or proposed legislation of direct interest to the organization.

(B) Communication of information between the organization and its members or contributors with respect to legislation or proposed legislation of direct interest to the organization.

(C) Communicating information to the general public for the purpose of influencing legislation or proposed legislation of direct interest to the organization.

(D) For purposes of this paragraph, matters of direct interest to the organization include --

(i) those directly affecting its exemption under this section;

(ii) those directly affecting the deduction of contributions to such organization under sections 170, 642, 2055, 2106 or 2522;

(iii) those directly affecting any exempt purpose or function for which the organization was organized and is operating, in the case of an organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption

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under this section) from the United States or any State or possession or political subdivision thereof or from direct or indirect contributions from the general public.

(2) Activities described in paragraph (1) shall not include any attempt to influence elections or referendums.

Sec. 2. Section 170(c) is amended by adding the following new sentence at the end thereof:

For purposes of this subsection, the phrase "carrying on propaganda, or otherwise attempting, to influence legislation" in paragraph 2(D) shall be subject to the qualifications set forth in section 501(e).

Sec. 3. Section 2055(a) is amended by adding the following new sentence at the end thereof:

For purposes of this subsection, the phrase "carrying on propaganda, or otherwise attempting, to influence legislation" in paragraphs (2) and (3) shall be subject to the qualifications set forth in section 501(e).

Sec. 4. Section 2106(a)(2)(A) is amended by adding the following new sentence at the end thereof:

For purposes of this subparagraph, the phrase "carrying on propaganda, or otherwise attempting, to influence legislation" in clauses (ii) and (iii) shall be subject to the qualifications set forth in section 501(e).

Sec. 5. Section 2522 is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and by inserting safter subsection (b) the following new subsection:

(c) CARRYING ON PROPAGANDA, OR OTHERWISE ATTEMPTING, TO INFLUENCE LEGISLATION.--For purposes of this section the phrase "carrying on propaganda, or otherwise attempting, to influence legislation" in paragraph (2) of subsection (a) and in paragraphs (2) and (3) of subsection (b) shall be subject to the qualifications set forth in section 501(e).

Sec. 6. These amendments shall be applicable to taxable years beginning after the date of enactment thereof and to estates of decedents dying after the date of enactment thereof.

As it now is being interpreted, the Code:

(1) gives an advantage to the profit-seeking sector of public opinion in that a 1962 amendment to the Code facilitates their lobbying by allowing businesses to deduct direct lobbying expenses;

(2) it puts non-profit corporations that lack clear rights of deductibility for lobbying at a competitive disadvantage when they are opposing business corporations on an issue before Congress, as we were in trying to overcome lumber company opposition to the Redwood National Park that Congress recently established;

(3) it puts many publicly supported membership organizations in the same category (501)(C)(3) with privately endowed foundations, when their nature, purposes, and problems are far different;

(4) it puts such public-service membership organizations under a mandate to comply with language, designed to limit their activities, which is so vague as to be undefinable. As a practical matter, this limitation has grown into a virtual prohibition in that compliance can only be safely assured by totally eschewing legislative activity.

As Mr. Caplin also pointed out in his article:

"Today, the policy justification of the present limitations on exempt organizations' legislative activities is questionable. Since 1962, profit-making businesses have been permitted to claim

income tax deductions -- as 'ordinary and necessary' business expenses -- for financing legislative appearances and related activities which are closely connected with their business operations. The 1962 amendment to the Internal Revenue Code overruled the well-established case of Cammarano v. United States (358 U.S. 498), which had previously denied income tax deductions for this type of lobbying. As the Senate Finance Committee pointed out, it was felt to be desirable 'that taxpayers who have information bearing on the impact of present laws, or proposed legislation, ... not be discouraged in making this information available to the Member of Congress or legislators at other levels of Government.'

"Congress thus recognized in 1962 that it was legitimate for business entities and the trade organizations they support to participate in lobbying for legislation of direct interest to them. Yet, if this is true for business entities, why isn't it equally valid for educational and charitable organizations? This 1962 income tax relief for businesses suggests that Congress should reexamine the entire area of legislative activities of exempt organizations with a view to granting them a broader measure of freedom in the legislative sphere."

While deductibility is not a sine qua non of survival for membership organizations, it is a practical requirement in most cases for effective operation, inasmuch as adequate funding can only be secured in this way. The present state of the law, therefore, inhibits effectiveness. To become effective, an organization needs deductible money; when it gets it, however, it cannot effectively use it to promote its cause with the public and Congress. Those that do use their money in this way loose their deductibility. A premium, thus, is placed by the law on ineffectualness.

Our proposal differs in one respect from the American Bar Association proposal in that our proposal recognizes that

appeals to the general public respecting legislation is part of the same process as is a direct representation to the legislature.

It is important, in liberalizing the tax treatment afforded non-profit membership organizations, that allowance be made for both indirect, and direct, lobbying by such charitable organizations. While there is a distinction between communication directly with Congress and communicating to the public at large for the purpose of urging them to contact Congress, these two approaches are not easily separated in practice. Almost all organizations interested in legislation engage in both operations simultaneously. The two are interacting parts of the same process. Any limitation on indirect lobbying will have the effect of hobbling the effectiveness of direct lobbying, in that information will be conveyed directly to legislators in the absence of any indication of the intensity of public interest. The importance of allowing both is acute for non-profit membership organizations.

But in any event simple equity -- indeed constitutional mandates in the view of the Club's attorneys -- requires that publicly based charities be placed in a comparable position to that in which the 1962 amendments to the Revenue Code placed private business enterprises and their associations. These 1962 amendments in effect allow as a business deduction all expenditures involved in making direct representations to Congress and other legislative bodies. The 1962 amendments deny deductibility with respect to expenditures for advertising campaigns designed

to stir public interest in pending legislation. The _same result_ may be obtained with respect to charities by denying deductibility of gifts to a charity if the charity engages in such activity _and_ cannot demonstrate that the funds used by it for such public campaigns had never qualified as a charitable deduction. There is no reason why charities, unlike private business and their associations, should be precluded from receiving any tax deductible gifts merely because a small part of the charity's funds were used for influencing legislation. We urge the Congress to adopt the language proposed herein, but, failing that, at least to give broadly based charitable organizations equal treatment under the law as compared with private business enterprises.

SUMMARY OF

STATEMENT BY THE AMERICAN FRIENDS SERVICE COMMITTEE

to the

COMMITTEE ON FINANCE OF THE UNITED STATES SENATE

REGARDING H.R. 13270

The American Friends Service Committee (AFSC) has for more than 50 years engaged in programs of relief, service and education as an expression of Quaker faith and practice.

The work of the AFSC is supported almost entirely by contributions, bequests, and foundation grants. Of the total amount given or granted to us each year, about 20% is in the form of property on which there is capital appreciation, and about 10% comes in as "deferred gifts" -- life income contracts, charitable remainder trusts, and annuities. Foundation grants provide about one-quarter of our budget.

We have no interest in preserving AFSC for its own sake. We have a deep interest in preserving the ability of AFSC to be of service to great numbers of people in this country and abroad. H.R. 13270, by cutting deeply into every major element in our financial base, will deprive these people of much of the help we have been able to provide.

H.R. 13270 represents an abrupt and ill-considered reversal of consistent Congressional policy to encourage the private support of philanthropy by tax incentives to charitable giving. This is not the time, when the burdens of government have clearly outstripped its resources, to abandon that policy in the name of "tax

reform". The provisions of H.R. 13270 with which we are particularly concerned do not serve the objectives of greater fairness or greater simplicity in our tax laws, nor would they yield significant revenue.

Specifically, we object most strenuously to five of the major features of H.R. 13270. These are:

(1) The inclusion of appreciation on gift property as a "tax preference" and gifts to charity in the "allocation of deductions" formula. Gifts to charity can and should be excluded from the operation of these provisions.

(2) Limitations on "deferred giving arrangements". Designed presumably with the wealthy donor in mind, these limitations would have their greatest impact on small donors, with whom we have a great many life income contracts.

(3) Lifting of the standard deduction. This simply increases the unfairness of present law, which already discriminates against the donor to charity.

(4) Tax on foundation income. This is really a tax on us. And it may well reduce our resources by more than the amount of the foundation tax because foundation grants often stimulate other support.

(5) Limitations on foundation activities related to legislation. Those would also reduce grants to us, and would cripple the effectiveness of foundations and their grantees in areas where both have made important contributions to widespread understanding of public policy issues.

American Friends Service Committee
160 North 15th Street
Philadelphia, Pennsylvania 19102

Bronson P. Clark
Executive Secretary
Testimony prepared for delivery on September 17, 1969

STATEMENT BY THE AMERICAN FRIENDS SERVICE COMMITTEE

to the

COMMITTEE ON FINANCE OF THE UNITED STATES SENATE

REGARDING H.R. 13270

The American Friends Service Committee (hereinafter AFSC) has, since 1917, engaged in religious, charitable, social, philanthropic, and relief work in the United States and in foreign countries on behalf of the several branches and divisions of the Religious Society of Friends in America. While the AFSC is a corporate expression of Quaker faith and practice, it does not undertake to speak for all members of the Society of Friends; the Society is not organized so that any group or individual can do this. The AFSC has been ruled by the Internal Revenue Service to be an "association of churches" within the meaning of I.R.C. section 170(b)(1)(A)(i), and exempt from tax under section 501(c)(3).

In carrying out its purpose, the AFSC undertakes programs of relief, service, and education, ministering both to the physical and to the spiritual needs of men, on a non-sectarian, non-political basis. It is our conviction that each human life is sacred, each man a child of God, and that love expressed through creative action can overcome hatred, prejudice, and fear.

The work of the AFSC is made possible by the efforts of some 4,500 workers -- mostly volunteers -- attached to ten regional offices across the country and by the financial support of about 100,000 concerned persons of all faiths. Since as a matter of policy we have never sought endowment funds, we are almost wholly dependent upon current contributions and bequests.

1.

During its most recent fiscal year the AFSC spent approximately 7.4 Million Dollars. This sum supported activities in more than 20 countries, but around one-half was expended for work in the United States.

The AFSC has deep commitments in many of those areas -- equality of opportunity in education, jobs, housing and the problems of urban and rural poor -- with which the federal government is also deeply concerned, and shares with many of our political leaders the view that the solution of the problems of race and poverty is critical to our survival as a nation, and that government alone cannot solve these problems.

The continued ability of private agencies to attract large sums of money is vital to the solution of these problems, we believe, not only because the private agency can experiment and innovate, on a modest scale, but also because the private agency is the prime medium through which millions of Americans can and do make direct, voluntary, personal commitments of time and money. In this way, and probably only in this way, can a great many Americans become an active part of the solution rather than a part of the problem.

These are of course precisely the considerations which have consistently moved the Congress over the years to encourage the private support of philanthropy by tax incentives to charitable giving. And yet, at a time when the arguments for such incentives have acquired ever-increasing force as domestic problems mount in scope and urgency, the House of Representatives, moved by proper zeal to end some abuses, proposes abruptly to change the tax climate for charities and has aimed at 501 (c)(3) organizations such as AFSC a series of blows which would cripple our efforts to

be part of the solution.

The AFSC does not, of course, object to the proposed lifting of the ceiling on deductible gifts to organizations such as AFSC from 30% to 50%, nor to a number of the other provisions of H.R. 13270 which would affect the operations of charities, but we must and do object most strenuously to five of the major features of H.R. 13270. The adoption into law of any of these would seriously hurt us financially, and the adoption of all of them would require the drastic curtailment of our present programs and in practical effect rule out any expansion of our activities for years to come. All of this sacrifice, we note, would be unredeemed by any notable increase either in tax revenues or in the fairness of our tax laws.

The most objectionable changes wrought by H.R. 13270 are in our view the following:

(1) The inclusion of appreciation on gift property as a "tax preference" and gifts to charity in "allocation of deductions" formula.

Many of our donors, including a number to whom we look for regular and substantial gifts of securities, will be inhibited or deterred completely from making such gifts if the appreciation thereon must be included as a "tax preference" and if gifts to charity of any kind are made part of the "allocation of deductions" formula.

Moreover, while H.R. 13270 would undoubtedly permit some of our donors to give appreciated property without the loss of the tax benefits now available to them, the complications of these provisions are such that we would lose many gifts in the process of

persuading potential donors that the tax benefits are still there. We cannot afford the loss of these gifts. Donations of appreciated property currently make up about 20% of our income.

We believe the intent of the "minimum tax" and "allocation of deductions" provisions is praiseworthy, but we believe as well that the objective of tax equity can be achieved without making charitable gifts a part of the formula either on the income or on the deductions side. The charitable gift, as a voluntary act, is a very different thing from the payment of such legal obligations as interest on a mortgage or a medical bill. Despite all existing tax incentives to charitable giving, we know and are constantly encouraged by the fact that the primary motive of our donors is to forward our work. Yet we freely concede that tax benefits motivate many of our large givers to contribute more than they would otherwise. We urge this Committee to adopt the approach of the Administration's Bill and to exclude gifts of appreciated property from the limitation on tax preferences and allocation of deductions provisions, because:

(a) An act in which the human impulse to help others plays so important a part is worthy of encouragement for its own sake;

(b) Charitable gifts are highly susceptible to legislative encouragement; and

(c) Government thus has at hand the means, in addition to an ample rationale, for enabling private agencies to do more of what government would otherwise be obliged to do.

(2) Limitations on "deferred giving" arrangements.

The severe limitations placed by H.R. 13270 upon "deferred gifts" -- the life income contract, the charitable remainder trust, and the gift annuity -- would all but destroy the usefulness of these arrangements to our donors and to us. Here we want to emphasize two things. First, this type of giving has great attractions for the small donor. We write a great many life income and annuity contracts for under $10,000. -- in some cases for as little as $1,000. These donors are people to whom the reservation of an income for life on a few thousand dollars is important. If the option of retaining life income is made either impossible or unduly complicated to achieve, these gifts will not be made. Second, these gifts are of great importance to AFSC. During the last three years they have amounted to about ten per cent of our income. And this figure does not begin to show the importance we attach to deferred giving. We have developed a deferred giving program carefully and cautiously over the years, at a large investment in staff time, training, and legal assistance. Now as gifts made earlier mature, and as we have put our program -- through fulltime fundraisers working out of our Philadelphia headquarters and out of all ten of our regional offices -- on a solid footing, we look to deferred giving to produce a sharply-increased percentage of our contributor dollar, year after year.

Moreover, as a matter of tax equity we do not believe a life income donor should lose his deduction because he wishes in effect to make a "bequest" during his lifetime. In many cases his chief motivation is to see his assets put into the hands of an organization where they will be used as he wants them used at his death,

with costs and complications at his death kept to a minimum. He should and does rightly expect to be taxed on whatever life income he receives. When he foregoes a claim to capital appreciation we see no equitable reason for taxing him on it. To tax such appreciation is to tax the charity itself, not the income beneficiary.

(3) Lifting of the standard deduction.

This change would simply increase an inequity which exists in the present tax law whereby a taxpayer using the standard deduction and giving to charity is treated the same way as the standard-deduction taxpayer who gives nothing. We believe charitable contributions should be deductible without regard to the standard deduction, and unless that is done we are strongly opposed to any increase in the standard deduction.

(4) Tax on foundation income.

This is in reality a tax on us. Approximately twenty-five per cent of our support comes from foundation grants. There is no reason to suppose that a reduction, through taxation, in the income available to foundations will not over the course of time work out simply to a corresponding reduction in the foundation funds available for our programs. In fact, because foundation grants often stimulate other support, the reduction to us is likely to be even greater.

Foundations support some of our most challenging and constructive domestic programs. For example, we pioneered the technique of self-help housing (a means by which low-income families have acquired adequate shelter) and have, with foundation support, assessed and consolidated that experience so that it may be used widely. Some of our work with American Indians on their complex of social and

economic problems is also foundation-supported. More generally, much of our current foundation-supported domestic work creates the citizen-awareness and involvement which is essential if legislation in the areas of education, housing and economic opportunity is to be made real for those it is intended to benefit. What we do here can fairly be considered as simply a logical and necessary extension of government action -- and as a contribution to making that action work.

To increase the burdens of government in exchange for the relatively modest revenue to be realized from the proposed foundation tax is, we submit, false economy as well as unsound social policy in levying what amounts to a tax on operating charities.

(5) Limitations on foundation activities related to legislation.

The limitations contained in sections 4945 (c)(1) and (2) would bring about a reduction in foundation grants to organizations such as AFSC just as surely as would the proposed foundation tax. In fact, the likely effect on us of these limitations would be threefold:

(a) Some grants would not be made at all;

(b) Some grants would be diverted from problem areas in which our work might suggest solutions;

(c) Our relationship with granting foundations would change from one of accountability based upon mutual respect and confidence to one of accountability based upon constant fear and uncertainty as to whether Internal Revenue requirements were being met. From our point of view, the granting foundation would cease to be a partner and become a watchdog -- watched in turn by a sharply

augmented governmental bureaucracy of supervision.

Apart from the serious impact these limitations would have on much of our own domestic program, we oppose the limitations for the following further reasons:

(1) The language of the Bill, even as amplified in the Committee Report, leaves unanswered a number of critical questions as to the reach of these provisions;

(2) The extreme severity of the penalties strongly suggests prohibition rather than regulation -- to the point where constitutional issues will surely have sufficient merit to be strongly pressed;

(3) The limitations would cripple foundations, and their grantees, in precisely those areas where important contributions have been made by both to widespread understanding of public issues. Such contributions will become sterile indeed if the whole area of public policy is to be foreclosed to all but the most coldly academic reporting. We are not contending for a foundation's right to lobby, in a narrow sense, nor do we seek greater latitude in this regard for ourselves. But, we emphasize again our belief that government will find itself increasingly alone in facing problems which are beyond both its resources and its wisdom if it undermines the financial base of charitable organizations by limiting, as contemplated by H.R. 13270, both the ability and the freedom of foundations to make grants to these organizations.

PART B—ADDITIONAL STATEMENTS

33-758 O-69—No. 6——17

SENATE FINANCE COMMITTEE

UNITED STATES SENATE

Written Testimony of:

THE SISTERS OF MERCY OF THE UNION IN
THE UNITED STATES OF AMERICA

on

H. R. 13270

THE TAX REFORM ACT OF 1969

Submitted by:

Sister Mary Regina Cunningham, R.S.M.
Superior General
Sisters of Mercy of the Union
10,000 Kentsdale Road
Bethesda, Maryland 20034

Mr. John H. Rhude
Vice President
Sisters of Mercy

Mr. Ronald E. Heinlen
Frost and Jacobs
Attorneys at Law

September 12, 1969

This statement is submitted to express the views of the Sisters of Mercy of the Union in the United States who render service to the sick, uneducated and the poor in 84 hospitals, 433 elementary schools, 98 high schools, 17 child-caring homes, 14 homes for the aged, and 43 schools of nursing throughout the United States. These institutions are non-profit, tax-exempt institutions under 501 (c) 3 of the Internal Revenue Code.

The Sisters of Mercy have been active in the United States since 1843 and while a Catholic Community of Religious Sisters, neither they individually nor their numerous institutions receive any financial support from the Catholic Church. They are solely dependent upon revenues generated by their works in health, education and welfare and upon charitable donations from friends and benefactors.

The Sisters of Mercy of the Union are not opposed to equitable tax reform. However, owing to the expanding nature of our services to a burgeoning public in the areas of helath, education and welfare, with the concomitant spiraling costs and other mounting needs to upgrade the quantity and quality of hospital care and education, we are opposed to any measures that will thwart the incentive to make charitable gifts to our institutions and ultimately limit our capability to serve those in need. Presently our institutions are facing a serious financial crisis in terms of escalating costs. To remove these traditional incentives for charitable giving which our hospitals, colleges, schools and homes depend upon heavily for operational needs and capital expansion could jeopardize our institutions to the point where many much-needed works we perform will be severely cut back and/or abandoned. In our past experience private philanthropy has shown concern and imagination in helping us render service to the public. A lessening of this assistance and stimulus from the private sector, to our way of thinking,

will result ultimately in the necessity of increased government funding to maintain our works. The cost of education and hospital care will soar to greater heights without traditional forms of tax-incentive gifts.

For instance, in our hospitals, income from endowment funds or gifts restricted by donors to provide services for designated patients in effect reduces the payment for those services. Thus such gifts can lessen the total valid needs of the hospital to provide services. This lowers the third party reimbursement formula to hospitals (such as Blue Cross), resulting in lower hospital costs to the patient. [1] Curtailing charitable giving to hospitals, homes for aged, schools and colleges would do more than close the doors of a number of our institutions; it could also close the door on a long-standing virtue of this country: charity.

Donors to the Sisters of Mercy have made gifts primarily out of charity . . . the desire to assist and perpetuate our services. However tax incentives have served as a catalyst to such giving, often enabling the donor to contribute in excess of what he originally anticipated. Thus such tax incentives are a "compel to action" and a means whereby funds can be given by not just an affluent few, but by many who are often in middle income groups, thus enlarging the charitable support base. This is especially true of charitable gift annuity and life income agreements. (See page 5)

The complexity of H. R. 13270 as it relates to charitable giving is of great concern to us. We feel such complexity of itself will lessen the incentive to give to charity. Definitions differ considerably, making it increasingly difficult for the average donor who cannot retain sophisticated gift and estate tax counsel to assess his charitable gift potential.

H. R. 13270 contains several provisions which are designed to correct

[1] Statement on Financial Requirements of Health Care Institutions and Services, American Hospital Association, 1969.

certain alleged "abuses" in the area of charitable deductions. The net effect of these provisions, if enacted, could be to reduce the total number of dollars given to support worthwhile charitable activities. Because the Sisters of Mercy are so heavily dependent on the financial support of private donors, we are vitally concerned about this legislation and believe that certain of its provisions would pose a serious threat to the Sisters in carrying out their charitable activities.

We are particularly concerned about the proposed treatment of gifts of appreciated property and of charitable remainder trusts.

APPRECIATED PROPERTY

H. R. 13270 would introduce a set of complex and arbitrary rules governing the contribution of appreciated property. These rules could very materially reduce the private support given to charitable organizations such as the Sisters of Mercy. While H. R. 13270 continues present law with respect to contributions of securities so that there is a deduction for the full fair market value of the securities without a capital gain on the appreciation, other provisions of the Bill go far toward emasculation of this important provision.

Under section 302 of the Bill, individuals would be required to allocate certain personal deductions (including charitable contributions) proportionately between their taxable income and their so-called tax preference amounts to the extent they exceed $10,000. Included among tax preference amounts is the appreciation in the value of property donated to charity to the extent the appreciation was deducted and not included in income. Thus, while the Bill purports to continue the incentive under present law for making gifts of appreciated securities, it at the same time in part removes that incentive by its complicated provisions governing the allocation of deductions.

For example, if a taxpayer with $100,000 income makes a gift of securities worth $30,000, with a zero basis, he would have 1/6th of his charitable deduction disallowed. And the more tax preferences the taxpayer has the greater the disallowance would be. Thus, if a taxpayer has $100,000 taxable income, plus $50,000 in untaxed capital gains (a tax reference amount) and he makes a gift of securities worth $30,000, with a zero basis, he would have 7/17ths, or almost one-half, of his contribution disallowed.

Under these circumstances a donor may understandably be more reluctant to make a charitable contribution, or may defer a contribution which he otherwise would have made because of a substantial capital gain or other tax preference amount in the current year.

Accordingly, we urge that the untaxed gain on gifts of appreciated property be eliminated as a tax preference amount and that charitable contributions be eliminated as one of the deductions which must be allocated between taxable income and tax preference amounts.

Secondly, we strongly urge that H. R. 13270 be amended so as to eliminate the provisions which would either impose a tax on or deny a deduction for the appreciation in value of gifts of so-called "ordinary income property", tangible personal property, and future interests. These provisions, if enacted, could effectively curtail the making of many gifts (such as inventory) now received by The Sisters of Mercy. If it is valid to provide an incentive for making gifts of appreciated securities, there is no reason to deny similar treatment to gifts of other types of property. The exceptions of H. R. 13270 would introduce a needless complexity into the Code and could deprive charitable organizations of desirable private support.

Thirdly, we wish to express our concern over the provisions of H. R. 13270 governing bargain sales of appreciated property. Under present law, bargain sales are encouraged, and the possibility of obtaining a gift by

bargain sale where an outright gift cannot be obtained, is a valuable alternative. H. R. 13270 would reduce the attractiveness of the bargain sale alternative and would hamper fund raisers in their efforts to raise money.

In addition, the bargain sale provisions of H. R. 13270 could undermine a method of fund raising which some of the institutions of The Sisters of Mercy have embarked upon and which has become increasingly popular among charitable organizations in recent years, namely, the use of gift annuities. A gift annuity provides a means by which a donor can make a contribution to a charity in return for the charity's agreement to pay the donor a fixed annual sum each year for the rest of his life. Under present law part of the amount contributed is considered as the cost of acquiring the annuity, and the remainder is deductible as a charitable contribution.

Under H. R. 13270 a transfer of appreciated property for a gift annuity could be construed as a bargain sale on which the donor would be required to pay an immediate capital gains tax, even though he has received no cash payment, but only the promise of the charity to pay him a fixed sum each year. To treat the "purchase" of a gift annuity as a bargain sale could hinder charitable organizations, such as The Sisters of Mercy, that are utilizing a gift annuity program as a fund raising tool.

We, therefore, urge that if the bargain sale provisions of H. R. 13270 are to be retained, it be made clear that they do not apply to gift annuity programs.

CHARITABLE REMAINDER TRUSTS

Under present law a donor who sets up a trust providing that the income is to be paid to a named beneficiary and the remainder is to pass to a charity is entitled to a deduction for the commuted value of the remainder interest. H. R. 13270 would deny a deduction for this common form of charitable giving by providing that a deduction would be allowable only if the trust was a

"unitrust" or an "annuity trust" (i.e., a trust which pays either a fixed amount or percentage of income to the life beneficiary).

The alleged "abuses" of the charitable remainder trust under present law hardly seem to justify the elimination of this important means of charitable giving.

We are particularly concerned about the effect of these provisions because they could eliminate a very substantial source of financial support under a program of deferred giving which some of the institutions of The Sisters of Mercy have adopted, namely, the use of so-called life income plans. Under these plans a donor makes a contribution to a charity, and, in return, the charity agrees to hold the amount contributed and to pay the donor for his life the equivalent of the income earned on this amount. With respect to this type of program, the "abuses" at which the provisions of H. R. 13270 are directed are virtually non-existent. The "trustees" of the life income fund typically are persons friendly to the charity and not to the donor; thus there would be no tendency to favor the life income beneficiary over the charitable remainderman.

We, therefore, urge that the provisions of H. R. 13270 limiting the benefits of charitable remainder trusts be stricken. If this is not considered appropriate, then these provisions should exempt transfers made pursuant to life income programs sponsored by the charity itself.

SUMMARY SHEET

WORKS OF THE SISTERS OF MERCY OF THE UNION IN THE UNITED STATES OF AMERICA

84 Hospitals

17,000 Beds
360,000 In-patients
2,500,000 Out-patients

43 Schools of Nursing

3,100 Students

10 Colleges

7,500 Students

433 Elementary Schools

165,000 Students

98 High Schools

50,000 Students

14 Homes for Aged

3,000 Residents

17 Child Caring Homes

2,500 Children

9/12/69

COMMUNITY-OWNED INSTITUTIONS OF THE SISTERS OF MERCY OF THE UNION

BALTIMORE PROVINCE:

Villa Mercy
101 Villa Drive
Daphne, Alabama 36526

Convent of Mercy
753 Saint Francis Street
Mobile, Alabama 36602

Martin de Porres Hospital
P. O. Box 2205
Mobile, Alabama 36601

St. Joseph's Infirmary, Inc.
265 Ivy Street, N. E.
Atlanta, Georgia 30303

Mount de Sales Academy
851 Orange Street
Macon, Georgia 31201

St. Joseph's Hospital
322 East Taylor Street
Savannah, Georgia 31401

St. Vincent's Academy
207 E. Liberty Street
Savannah, Georgia 31401

Mercy High School
1300 East Northern Parkway
Baltimore, Maryland 21212

Mercy Hospital
301 St. Paul Place
Baltimore, Maryland 21202

Mercy Villa
6400 Bellona Avenue
Baltimore, Maryland 21212

Mt. Saint Agnes College
5801 Smith Avenue
Baltimore, Maryland 21209

Mount Washington Country School for Boys
(Mount Mercy Convent)
6300 Smith Avenue
Baltimore Maryland 21209

Sisters of Merc y Provincialate
5707 Smith Avenue
Baltimore, Maryland 21209

CHICAGO PROVINCE:

St. Joseph Mercy Hospital
421 North Lake Street
Aurora, Illinois 60506

Mercyville Institute of Mental Health
1330 North Lake Street
Aurora, Illinois 60506

Mercy High School
8100 South Praire Avenue
Chicago, Illinois 60619

Mercy Hospital and Medical Center
2510 S. Parkway
Chicago, Illinois 60616

Mother McAuley High School
3737 West 99th Street
Chicago, Illinois 60642

Our Lady of Mercy Convent
620 Belmont Avenue
Chicago, Illinois 60657

St. Patrick Academy
2300 Washington Boulevard
Chicago, Illinois 60612

Sisters of Mercy Provincialate
10024 South Central Park Avenue
Chicago, Illinois 60642

Siena High School
5600 Washington Boulevard
Chicago, Illinois 60644

St. Xavier College
103rd and Central Park Avenue
Chicago, Illinois 60655

McAuley Residence
145 Fisk Avenue
DeKalb, Illinois 60115

Marquette High School
1024 Paul Street
Ottawa, Illinois 61350

Mercy Hospital of Davenport
1326 West Lombard Street
Davenport, Iowa 52804

CHICAGO PROVINCE (Continued)

Mercy Hospital
214 North Van Buren Street
Iowa City, Iowa 52240

Mercy Hospital
1209 West State Street
Marshalltown, Iowa 50158

Mercy Hospital
566 N. Washington Street
Janesville, Wisconsin 53545

St. Catherine Residence for Young Women
1032 East Knapp Street
Milwaukee, Wisconsin 53202

Mercy High School
(Our Lady of Mercy Convent)
1740 South 29th Street
Milwaukee, Wisconsin 53215

Convent of the Divine Will
1409 Western Avenue
Cincinnati, Ohio 45214

McAuley High School
1768 Cedar Avenue
Cincinnati, Ohio 45224

Mother of Mercy High School & Academy
3036 Werk Road - Westwood
Cincinnati, Ohio 45211

Edgecliff College
Walnut Hills
Cincinnati, Ohio 45206

Our Lady of Mercy Hospital
Rowan Hill Drive
Cincinnati, Ohio 45227

Our Lady of Mercy Hospital
800 West Main Street
Coldwater, Ohio 45828

CINCINNATI PROVINCE:

Sisters of Mercy Provincialate
2301 Grandview Avenue
Cincinnati, Ohio 45206

Lake St. Joseph
Route 2, Box 220
Crestwood, Kentucky 40014

Academy of Our Lady of Mercy
1176 E. Broadway
Louisville, Kentucky 40204

Assumption High School
2170 Tyler Lane
Louisville, Kentucky 40205

The McAuley
957 South Fourth Street
Louisville, Kentucky 40203

Mount Mercy Convent
116 Mount Mercy Drive
Pewee Valley, Kentucky 40056

Our Lady of Mercy Hospital
204 East Main Street
Morganfield, Kentucky 42437

Our Lady of Mercy Hospital
1006 Ford Avenue
Owensboro, Kentucky 42301

The Siena Home
235 West Orchard Springs Drive
Dayton, Ohio 45415

Our Lady of the Pines
1200 Tiffin Street
Fremont, Ohio 43420

Mercy Hospital
116 Dayton Street
Hamilton, Ohio 45011

St. Rita's Hospital
730 West Market Street
Lima, Ohio 45801

Mercycrest
100 W. McCreight Avenue
Springfield, Ohio 45504

Mercy Hospital
1343 N. Fountain Boulevard
Springfield, Ohio 45501

Mercy Hospital
485 West Market Street
Tiffin, Ohio 44883

McAuley High School
2303 Brookford Drive
Toledo, Ohio 43614

Mercy Hospital
2221 Madison Avenue
Toledo, Ohio 43624

St. Charles Hospital
2600 Navarre Avenue
Toledo, Ohio 43616

Mercy Memorial Hospital
904 Scioto Street
Urbana, Ohio 43078

St. Bernard Convent and Academy
2021 Twenty-first Avenue South
Nashville, Tennessee 37212

St. Mary's Memorial Hospital
Oak Hill Avenue
Knoxville, Tennessee 37917

Mother of Mercy Novitiate
Widcombe.
Kingston, Jamaica

Mount Claver Convent
Hatfield P. O.
Manchester, Jamaica

Convent of Mercy, Alpha
Kingston
Jamaica, West Indies

Mount St. Joseph Convent and Academy
Mandeville
Jamaica, West Indies

DETROIT PROVINCE:

Mercy Hospital
100 Fifteenth Street
Bay City, Michigan 48708

Mercy Hospital
815 Oak Street
Cadillac, Michigan 49601

Mount Mercy Academy
1425 Bridge Street, N. W.
Grand Rapids, Michigan 49504

St. Gertrude Convent
1423 Bridge, N. W.
Grand Rapids, Michigan 49504

St. Mary's Hospital
201 Lafayette, S.E.
Grand Rapids, Michigan 49503

Mercy Hospital
1100 Michigan Avenue
Grayling, Michigan 49738

Mercy Hospital
1520 Fifth Street
Muskegon, Michigan 49443

Mercy College of Detroit
8200 West Outer Drive
Detroit, Michigan 48219

Our Lady of Mercy Hospital
U. S. Highway 30
Dyer, Indiana 46311

Sisters of Mercy Provincialate
29000 Eleven Mile Road
Farmington, Michigan 48024

Our Lady of Mercy High School
29300 Eleven Mile Road
Farmington, Michigan 48024

Mercywood Hospital
4038 Jackson Road
Ann Arbor, Michigan 48106

St. Joseph Mercy Hospital
326 North Ingalls Street
Ann Arbor, Michigan 48104

Leila Y. Post Montgomery Hospital
9 Emmett Street
Battle Creek, Michigan 49016

Mount Carmel Mercy Hospital
6071 W. Outer Drive
Detroit, Michigan 48235

St. Joseph Mercy Hospital
2200 East Grand Boulevard
Detroit, Michigan 48211

St. Joseph Mercy Hospital
900 Woodward Avenue
Pontiac, Michigan 48053

Mercy Hospital
2601 Electric Avenue
Port Huron, Michigan 48060

St. Joseph Mercy Hospital
1410 North Fourth Street
Clinton, Iowa 52732

St. Joseph Mercy Hospital
235 Eighth Avenue West
Cresco, Iowa 52136

Mercy Medical Center
James and Peabody Streets
Dubuque, Iowa 52001

St. Joseph Mercy Hospital
720 South Seventh Street
Fort Dodge, Iowa 50501

St. Joseph Mercy Hospital
84 Beaumont Drive
Mason City, Iowa 50401

St. Joseph Mercy Hospital
2101 Court Street
Sioux City, Iowa 51104

St. Joseph Mercy Hospital
312 Ninth Street, N. W.
Waverly, Iowa 50677

Mercy Hospital
524 Lansing Avenue
Jackson, Michigan 49201

St. Lawrence Hospital
1210 West Saginaw Street
Lansing, Michigan 48914

Saint Ethnea
Gaspar Campos 881
Bella Vista
Argentina, South America

Mater Misericordiae
24 de Noviembre 865
Buenos Aires
Argentina, South America

Saint Mary's
Segunde Sombra 432
San Antonio de Areco
Buenos Aires
Argentina, South America

NEW YORK PROVINCE:

Mercy College
555 North Broadway
Mt. Mercy-on-Hudson
Dobbs Ferry, New York 10522

Sisters of Mercy Provincialate
Mount Mercy
Dobbs Ferry, New York 10522

Madonna Home of Mercy Hospital of Watertown
218 Stone Street
Watertown, New York 13601

Mercy Hospital of Watertown
218 Stone Street
Watertown, New York 13601

Mercy General Hospital
Wawbeek Avenue
Tupper Lake, New York 12986

St. Francis Hospital of Port Jervis
160 E. Main Street
Port Jervis, New York 12771

The Uihlein Mercy Center, Inc.
Old Military Road
Lake Placid, New York 12946

Our Lady of Victory Academy
565 Broadway
Mount Mercy-on-the Hudson
Dobbs Ferry, New York 10522

St. Catherine Academy
2250 Williamsbridge Road
Bronx, New York 10469

Susan Devin Residentc
2916 Grand Concourse
Bronx, New York 10418

OMAHA PROVINCE:

Mount St. Mary Academy
Church and Chapel Streets
Grass Valley, California 95945

St. Elizabeth Hospital
(Convent of Mercy)
415 Rio Street
Red Bluff, California

Mercy Hospital
1619 Milwaukee Street
Denver, Colorado 80206

Mercy Hospital
1905 East Third Avenue
Durango, Colorado 81301

Mercy Hospital
1512 Twelfth Avenue
Nampa, Idaho 83651

Saint Anthony Community Hospital
650 North Seventh Avenue
Pocatello, Idaho 83201

St. Joseph's Mercy Hospital
708 South Main Street
Centerville, Iowa 52544

Mercy Hospital
420 East Washington
Council Bluffs, Iowa 51501

Bishop Drumm Home
1409 Clark Street
Des Moines, Iowa 50314

Mercy Hospital
Sixth and University Streets
Des Moines, Iowa 50314

St. John's Medical Center
2727 McClelland Boulevard
Joplin, Missouri 64803

St. Peter's Convent of Mercy
902 Pearl Street
Joplin, Missouri 64801

Sisters of Mercy Faculty Residence
134 North Hardesty Avenue
Kansas City, Missouri 64123

Archbishop Bergan Mercy Hospital
7500 Mercy Road
Omaha, Nebraska 68124

College of Saint Mary
72nd and Mercy Road
Omaha, Nebraska 68124

Maryview Convent
72nd and Mercy Road
Omaha, Nebraska 68124

Mercy High School
1501 South 48th Street
Omaha, Nebraska 68106

St. Catherine's Hospital
Ninth and Forest Street
Omaha, Nebraska 68108

St. Vincent's Home
4500 Ames Avenue
Omaha, Nebraska 68104

Sisters of Mercy Provincialate
1801 South 72nd Street
Omaha, Nebraska 68124

Mercy Hospital
Seventh Street East
Devils Lake, North Dakota 58301

Mercy Hospital
570 Chautauqua
Valley City, North Dakota 58072

Mercy Hospital
309 Washington Avenue
Williston, North Dakota 58801

St. Catherine's Residence and
Nursing Center
3959 Sheridan Avenue
North Bend, Oregon 97459

Mount St. Joseph's Residence and
Extended Care Center
3060 S. E. Stark Street
Portland, Oregon 97214

Mercy Hospital
621 W. Madrone Avenue
Roseburg, Oregon 97470

PROVINCE OF PROVIDENCE:

Salve Regina College
Ochre Point Avenue
Newport, Rhode Island 02840

St. Mary Convent and Academy -
Bay View
3070 Pawtucket Avenue
Riverside, Rhode Island 02915

St. Joseph Convent and School
Pine Harbor
Singleton Road-Wallum Lake
Pascoag, Rhode Island 02859

St. Francis Xavier Convent & Academy
60 Broad Street
Providence, Rhode Island 02903

Mt. Saint Mary Convent and Academy
755 Second Street
Fall River, Massachusetts 02721

Sisters of Mercy Provincialate
R. D. # 3
Sumner Brown Road
Cumberland, Rhode Island 02864

Mt. St. Rita Convent
R. D. # 3
Cumberland, Rhode Island 02864

Convento San Vincente de Paul
Colonia Trejor
San Pedro Sula
Honduras, Central America

Convento Maria Regina
Boulevard 15 de Septiembre
La Ceiba
Honduras, Central America

Convent of Our Lady of Orange Walk
Orange Walk Town
British Honduras, Central America

St. Catherine Convent and Academy
Gabourel Lane
Belize City
British Honduras, Central America

ST. LOUIS PROVINCE:

Sisters of Mercy Provincialate
2039 North Geyer Road
St. Louis, Missouri 63131

Mercy Junior College
2039 North Geyer Road
St. Louis, Missouri 63131

Warner Brown Hospital
460 West Oak Street
El Dorado, Arkansas 71730

St. Anne's Academy
1315 Rogers Avenue
Fort Smith, Arkansas 72901

St. Edward Mercy Hospital
1411 Rogers Avenue
Fort Smith, Arkansas 72901

Mount St. Mary Academy
3224 Kavanaugh Boulevard
Little Rock, Arkansas 72205

Mercy Hospital
821 South Burke Street
Fort Scott, Kansas 66701

St. Margaret's Mercy Hospital
1527 Madison Street
Box 478
Fredonia, Kansas 66736

St. Elizabeth's Mercy Hospital
500 West 20th Street
Hutchinson, Kansas 67501

Mercy Hospital
800 West Myrtle
Independence, Kansas 67301

Holy Name of Jesus Convent and Academy
6220 La Salle Place
New Orleans, Louisiana 70118

Mercy Hospital
301 North Jefferson Davis Parkway
New Orleans, Louisiana 70119

St. Martin Convent of Mercy
217 St. Martin Street
St. Martinville, Louisiana 70582

Mercy Hospital-Street Memorial
100 McAuley Drive
Vicksburg, Mississippi 39180

St. Francis Xavier Academy
1021 Crawford Street
Box 1169
Vicksburg, Mississippi 39180

McAuley Hall
325 North Newstead
St. Louis, Missouri 63108

St. John's Mercy Hospital
615 South New Ballas Road
St. Louis, Missouri 63141

Mercy Villa
1015 N. Main Street
Springfield, Missouri 65802

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St. John's Hospital
1235 E. Cherokee Street
Springfield, Missouri 65801

St. Joseph Convent of Mercy
723 S. Laclede Station Road
Webster Groves, Missouri 63119

Mercy Hospital
(Oklahoma City General)
501 N. W. Twelfth Street
Oklahoma City, Oklahoma 73103

Mt. St. Mary
2801 South Shartel Avenue
Oklahoma City, Oklahoma 73109

Convent of Mercy
213 North Park Street
Shawnee, Oklahoma 74801

Mercy Hospital
P. O. Box 2139
1040 W. Jefferson Street
Brownsville, Texas 78520

Lucariam Manor
844 Central Boulevard
Brownsville, Texas 78520

Mercy Hospital of Laredo
1515 Logan Street
Box 698
Laredo, Texas

Mercy Hospital
625 South 19th Street
Slaton, Texas 79634

St. Joseph's Hospital
100 Whittington Avenue
Hot Springs, Arkansas 71901

SCRANTON PROVINCE:

College Misercordia
Dallas, Pennsylvania 18612

Mount Aloysius Junior College
William Penn Highway
Cresson, Pennsylvania 16630

Sisters of Mercy Provincialate
Dallas, Pennsylvania 18612

Mercycrest Convent
3251 Boas Street
Harrisburg, Pennsylvania 17103

The Mercy Hospital of Johnstown
1020 Franklin Street
Johnstown, Pennsylvania 15905

Mercy Hospital
746 Jefferson Avenue
Scranton, Pennsylvania 18501

Mercy Heights Hospital
930 Hickory Street
Scranton, Pennsylvania 18505

The Mercy Hospital of Wilkes-Barre
196 Hanover Street
Wilkes-Barre, Pennsylvania 18703

St. Mary's Convent
161 S. Washington Street
Wilkes-Barre, Pennsylvania 18701

Sacred Heart Convent
61-62 High Street
Georgetown
Guyana, South America

Clark University

WORCESTER, MASSACHUSETTS 01610

OFFICE OF THE PRESIDENT

September 5, 1969

ATTENTION: Mr. Tom Vail
Chief Counsel
Senate Finance Committee

STATEMENT REGARDING H.R. 13270 TO THE SENATE FINANCE COMMITTEE FROM DR. FREDERICK H. JACKSON, PRESIDENT OF CLARK UNIVERSITY, WORCESTER, MASSACHUSETTS

As a private higher educational institution, Clark University must depend on substantial philanthropic support if it is to continue to offer high quality educational programs for both undergraduate and graduate students. Some of the proposals included in H.R. 13270 would substantially decrease Clark University's financial support from the private sector. I refer specifically to the proposals regarding 1) Gifts of Appreciated Property, 2) Allocation of Deductions and 3) Life Income (Deferred) Gifts.

Gifts of Appreciated Property

During the fiscal year July 1, 1968 through June 30, 1969, Clark University received from individual donors directly, and through their personal foundations, gifts of approximately $1,200,000 of which we estimate at least $540,000 or 45% were gifts of appreciated securities (including some cases in which the securities were given to a private foundation and the foundation made the gift to Clark). We believe that the long standing provision which allows a deduction for the fair market value with no capital gains tax on the appreciation should be retained. If it is not, philanthropic support for Clark University from private donors will be substantially reduced, perhaps by as much as 50%. In addition, appreciation in the value of property donated to charity should not be considered a tax preference which, under the Allocation of Deductions provision, would reduce a donor's itemized deductions for interest, taxes, medical expenses, charitable contributions, etc. Enactment of this provision would indirectly tax appreciation on property gifts and would certainly inhibit financial support from the private sector.

Allocation of Deductions

The charitable deduction should not be subject to the allocation rule and thus should not be reduced because a donor has capital gain income, tax exempt income etc. This provision would inhibit support from the private sector in that it not only reduces the charitable deduction but also it would make it more difficult for an individual to anticipate the amount he could afford to contribute. The charitable deduction is different from other deductions and the so called tax preferences because the donor gives up his money and property to help worthy causes and better our nation.

Life Income (Deferred) Gifts

In the six years since Clark University began to encourage gifts through charitable remainder trusts, life income contracts and charitable gift annuities, we have received contributions of more than $917,000 in these forms. Few, if any, of these gifts would have been made without the incentives offered under these plans. Furthermore, these plans offer many individuals the opportunity to make a more substantial gift than they would otherwise find possible.

Charitable Remainder Trusts: The rules should be retained which provide that there is no capital gain on the transfer of appreciated property to fund a charitable remainder trust and that there is no capital gain if the property transferred is later sold by the trust and the gain permanently set aside for the charity. Abuses in investment policies of these trusts are rare and means are now available to (and used by) the Internal Revenue Service to curb any abuses which exist. The very complicated provisions for charitable remainder annuity trusts and the charitable remainder unitrust should not be substituted for the widely used and understood charitable remainder trust. Should Congress decide to abolish existing charitable remainder trusts and substitute the annuity trusts and the unitrusts, the law should not be retroactive to April 22, 1969 but should be effective with the passage of the tax reform act. Whether a new trust form is enacted or the present type of trust is retained, provisions should not be included which will make it unreasonably difficult to use. Accordingly, the charitable deduction for gifts of appreciated property should be based upon the fair market value of the trust at the time of its creation and capital gains incurred by the trust and permanently set aside for charity should not be taxed.

Life Income Contracts: The present law should be retained which provides that there is no capital gain on the transfer of appreciated property nor a capital gain when property transferred is later sold by the life income pooled fund. Also, as in the case of the Charitable Remainder Trust, the deduction should be based upon the full fair market value without imposition of a capital gains tax, and capital gains incurred by the life income pooled fund and permanently set aside for charity should not be taxed.

Charitable Gift Annuities: The present tax treatment when appreciated property is contributed for the annuity should be retained. If the provision in H.R. 13270 on bargain sales is enacted the law should specifically state that the transfer of appreciated property for a charitable gift annuity is not a bargain sale.

We at Clark University certainly support you in your efforts to improve the equity and effectiveness of the Internal Revenue Code. We believe that it is appropriate and desirable to make many of the changes proposed in H.R. 13270 such as extending the unrelated business tax to cover all organizations now exempt and taxing organizations on income received from debt-financed investments. We also favor increasing the ceiling on deductibility to 50%. However, with the problems facing our nation, now is the time to increase not decrease tax incentives for those who generously contribute to our educational institutions and other charities. The points made in this statement relating to three areas of the tax reform bill would have a disastrous effect on philanthropic support for colleges and universities and would substantially offset the positive effects of this bill.

UNITED STATES SENATE

COMMITTEE ON FINANCE

STATEMENT SUBMITTED BY THOMAS A. MELFE
and WILLIAM D. DOINO, VICE PRESIDENTS,
ON BEHALF OF
UNITED STATES TRUST COMPANY OF NEW YORK

H. R. 13270: PROVISIONS RELATING
TO INCOME, ESTATE and GIFT DEDUCTIONS
for CHARITABLE TRUSTS AND
RETROACTIVE APPLICATION OF NEW RATE
APPLICABLE TO CAPITAL GAINS
(SUBTITLE A OF TITLE II
and
SUBTITLE B OF TITLE V)

September 11, 1969

SUMMARY

I. CHARITABLE INCOME TRUSTS WITH NON-CHARITABLE REMAINDER

Sec. 201 (a) and (h) of the bill

The United States Trust Company of New York proposes that the present value of a charitable income trust continue, as under present law, to be permitted as an income tax deduction to the donor taxpayer.

If it is deemed absolutely necessary to amend the law to avoid a "double tax benefit" as stated in the Committee Report, the present rules should be modified only to the extent necessary to accomplish that purpose. A suggested formula is included in this statement.

If it is deemed appropriate to amend the income tax rules because of a "double tax benefit" we urge that the present estate and gift tax deduction be preserved since there is no "double tax benefit" on the estate and gift tax side.

II. CHARITABLE REMAINDER TRUSTS

Sec. 201 (e), (h) and (i) of the bill

The United States Trust Company of New York proposes that the income, gift and estate tax charitable remainder deduction provisions under present law are sound, are not the subject of abuses as alleged by the Committee Report, and ought to be preserved. Adequate controls exist outside the tax laws to avoid abuses.

The proposed annuity trust and unitrust requirements of H.R. 13270 are unnecessary to achieve the Committee's objectives. Incorporating them into the tax law complicates it further without serving any useful purposes.

The bill's provisions which would disallow an income tax deduction for a charitable remainder contribution should not be made applicable to the estate and gift tax deduction rules affecting such transfers.

The effective date provisions of the bill will cause undue hardship and should be changed to curtail its retroactive application and to afford a reasonable period of grace with respect to its prospective application.

Also, we note that the Administration has proposed that the effective date apply only to persons dying after December 31, 1970. We think this is only a partial solution and urge that a presumption be incorporated in the law which would automatically provide that in any charitable remainder trust which does not specifically provide for an annuity trust or unitrust it shall be deemed to be a unitrust as defined under the bill. This will protect

the charitable deduction where a person cannot change his will because of incompetency or other reasons beyond his control.

III. CHARITABLE CONTRIBUTIONS BY ESTATES AND TRUSTS

Sec. 201 (f) of the bill

The United States Trust Company of New York proposes that the "set aside" deduction doctrine under present law applying to estates and trusts be retained.

Funds permanently set aside for charity should not be subjected to tax. Donors should not be restricted to a choice of only two trust forms (annuity trust or unitrust) in order to keep a charitable beneficiary's interest tax exempt.

If the "set aside" doctrine is eliminated, the change should be made applicable only to trusts created, and estates of persons dying, after the date of enactment of the new bill.

IV. REPEAL OF ALTERNATIVE CAPITAL GAINS TAX FOR INDIVIDUALS

Sec. 511 (a), (b) and (c) of the bill

The United States Trust Company of New York proposes that the provision of the bill increasing the rate of tax on long term capital gains be deleted.

If such provision of the bill is enacted, it is proposed that it's application be made effective to long term capital gains sustained in taxable years beginning after December 31, 1969.

I. CHARITABLE INCOME TRUSTS WITH NON-CHARITABLE REMAINDER.

A. Double Income Tax Benefit

Sec. 201 (a) and (h) of the bill
Secs. 170 (b) and 2522 (c) of the code

It is proposed to deny a taxpayer a charitable contribution deduction for the present value of an income interest in trust given to charity unless the trust income is taxable to the grantor.

It is argued, that a "taxpayer receives a double tax benefit where he is allowed a charitable contribution deduction for the present value of an income interest in trust given to a charity and also is not taxed on the income earned by the trust. In fact, this double benefit allows a taxpayer to increase his after tax cash position by postponing a planned non-charitable gift." (1)

The Committee report adduces the example of a taxpayer in the 70% bracket who transfers property worth $100,000. currently earning interest at the rate of 5% to a trust for 2 years specifying that $5000. be paid to charity each year, remainder to A. And, the example seems to demonstrate that the taxpayer's after-tax cash position is improved by $6,648.95, in that his taxes on other income are reduced by that amount, i.e. by 70% of $9,498.50 - - the latter being the present value of a 2 year $5,000. annuity.

The figure of $6,648.95 needs further analysis in that it can be variously interpreted. Let this be done at the hand of three successive tax years: (1) donation made December 31, 1969; and (2) the two succeeding years (1970 and 1971) of payment to the charity. Let it further be assumed that the taxpayer has pre-donation income of $20,000. in the 70% tax-bracket.

1. If no donation is made		1969	1970	1971
Income		$20,000.	$20,000.	$20,000.
Deductions		0.	0.	0.
Taxable		20,000.	20,000.	20,000.
Taxes (at 70%)		14,000.	14,000.	14,000.
Net Spendable Income	(1969)	6,000.	$ 6,000.	$ 6,000.
" " "	(1970)	6,000.		
" " "	(1971)	6,000.		
3-Year Net		$18,000.		

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(1) House Report on H.R. 13270 (p 61); underscoring supplied

2. **If a donation is made with "benefits" available under present law.**

		1969	1970	1971
Income		$20,000.	$15,000.	$15,000.
Deduction		9,498.50	0.	0.
Taxable		10,501.50	15,000.	15,000.
Taxes (at 70%)		7,351.05	10,500.	10,50ʋ.
Net		3,150.45	$ 4,500.	$ 4,500.
Add back:		9,498.50		
Net Spendable Income	(1969)	12,648.95		
" " "	(1970)	4,500.00		
" " "	(1971)	4,500.00		
3-Year Net		$21,648.95		

3. **If a donation is made, with lump sum deduction taken under proposed law.**

		1969	1970	1971
Income		$20,000.	$20,000.	$20,000.
Deduction		9,498.50	0.	0.
Taxable		10,501.50	20,000.	20,000.
Taxes (at 70%)		7,351.05	14,000.	14,000.
Net		3,150.45	6,000.	6,000.
Add back:		9,498.50		
Deduct: paid to charity			5,000.	5,000.
Net Spendable Income	(1969)	12,648.95	$ 1,000.	$ 1,000.
" " "	(1970)	1,000.00		
" " "	(1971)	1,000.00		
3-Year Net		$14,648.95		

4. **If a donation is made, no lump sum deduction taken** (2)

		1969	1970	1971
Income		$20,000.	$20,000.	$20,000.
Deduction (paid to charity)		0.	5,000.	5,000.
Taxable		20,000.	15,000.	15,000.
Taxes (at 70%)		14,000.	10,500.	10,500.
Net Spendable Income	(1969)	6,000.	$ 4,500.	$ 4,500.
" " "	(1970)	4,500.		
" " "	(1971)	4,500.		
3-Year Net		$15,000.		

The figure of $6,648.95 is clearly the difference between $21,648.95 (Example 2) and $15,000. (Example 4). On the other hand, it may perhaps be reasonably maintained that the true measure of the taxpayer's "advantage" in this case is the difference between $21,648.95 (Example 2) and $18,000. (Example 1), or $3,648.95 (rather than $6,648.95).

(2) trust term must exceed ten years

So viewed, it is not difficult to establish a limit on the amount of the income tax deduction which can be taken in the year of donation: the purpose of the limit being that the taxpayer will be no better off than if he had not granted Charity the income interest for a term of years.

<u>If</u>

N = the number years of Charity's term,
A = the amount annually paid to Charity,
R = the taxpayer's top rate of taxation,
L = the maximum amount which can be taken as a deduction in the year of donation;

<u>then</u>

$$L = \frac{N \times A\ (1 - R)}{R}$$; <u>not to exceed, however, the present value of annuity.</u>

Taking the above example, the limit would be established at:

$$L = \frac{2 \times \$5000.\ (1 - .70)}{.70}$$

$$= \frac{\$10,000. \times .30}{.70}$$

$$= \$10,000. \times .428571 = \underline{\$4,285.71}$$

<u>Application of Limit</u>		<u>1969</u>	<u>1970</u>	<u>1971</u>
Income		$20,000.	$15,000.	$15,000.
Deduction		4,285.71	0.	0.
Taxable		15,714.29	15,000.	15,000.
Taxes (at 70%)		11,000.00	10,500.	10,500.
Net		4,714.29	$ 4,500.	$ 4,500.
Add back: Deduction		4,285.71		
Net spendable income	(1969)	9,000.00		
" " "	(1970)	4,500.00		
" " "	(1971)	4,500.00		
<u>3-Year Net:</u>		$18,000.00	(See Example 1. above)	

It is clear that the expression $\frac{N \times A\ (1-R)}{R}$ will have a value greater than N x A when rate of taxation (R) is less than 50%. At 48%, for example $\frac{1-R}{R}$ would be $\frac{.52}{.48}$, a factor greater than 1. For that reason the limit on the deductible amount would be the present value of the annuity whenever that value is less than $\frac{N \times A\ (1-R)}{R}$.

Further, to introduce an element of additional realism into the computation of the deduction limit, it might be provided that, if $\frac{N \times A\ (1-R)}{R}$ is applicable, then N, and, if the tabulated present value is applicable, then the number of years to be considered, is to be limited to the number of years of the donor's life expectancy; the excess years being considered as testamentary in nature.

Also, the example of the 2-Year Annuity, which leaves a taxpayer in the 70% tax bracket better off, gives the impression that this is always the case. This is decidedly not so.

For example, in a 40% "composite" top bracket this is the picture:

Approach "B"	1969	1970	1971
Income	$20,000.	$15,000.	$15,000.
Deduct	9,498.50	0.	0.
Taxable	$10,501.50	$15,000.	$15,000.
Taxes (at 40%)	4,200.60	6,000.	6,000.
Net	$ 6,300.90	$ 9,000.	$ 9,000.
Add back	9,498.50		
Net Spendable Income	$15,799.40		
" " "	9,000.00		
" " "	9,000.00		
3-Year Net	$33,799.40		

Had the taxpayer not made the gift, then he would have kept $12,000. out of each of the 3 years' top income of $20,000. --- for a total of $36,000., a fact which involves no "betterment" but rather a "sacrifice" of $2,200.60. The phenomenon complained of is, therefore, directly related to the magnitude of the tax rates rather than to the principle of deductions *per se*. The point of "equilibrium" is reached, in the case of a 2-Year Annuity, when a taxpayer is in the 51.285996% "composite" top bracket.

The point of "equilibrium" -- no advantage or disadvantage to the taxpayer -- is a function of the number of years income (N) and the present value (P) of the annuity for N years: $\frac{N}{N + P}$.

For a ten-year annuity that would be $\frac{10}{10 + 8.3166} = \frac{10}{18.3166} = 54.595285\%$

In other words, a taxpayer in a 54.595285% "composite" top bracket who grants a 10-Year income interest to charity will gain no advantage (or disadvantage) from using a lump sum deduction in the year of donation and excluding the income paid to charity from his returned income in the years of payment. If he is in a lower bracket, he is worse off; if he is in a higher bracket, then he would be better off: except that on applying the limitation principle contained in $\frac{N \times A \times (1-R)}{R}$ he would be brought back to the point of equilibrium.

It is submitted that the proposal that the grant of an income interest to charity be denied the status of a deduction be reviewed in the light of these comments. A mathematical accident traceable directly to the rates of taxation should not be used as a basis for building into our tax laws a thesis repugnant to all concepts of property ownership and enjoyment -- that donating the income from property for a term of years is less of a sacrifice than donating the fee.

It is herewith proposed, then, that the present value of a charitable term (granted inter vivos) continue to be permitted as an income tax deduction to the donor subject, however, to the limitation that the taxpayer gain no advantage therefrom; that range to be determined in each case on the basis of the formulae and other tests submitted above.

B. The Gift Tax Deduction of the Present Value of the Charitable Term

Sec. 201 (h) (3) of the bill
Sec. 2522 (c) of the code

It is proposed to amend Sec. 2522 (c) of the code to limit the amount of the gift tax deduction for an income interest to charity to that of the income tax deduction (without regard to the "ceiling" limitation applicable in the case of the income tax).

We submit that this interrelationship between income and gift taxes is completely unwarranted. The income is based on what a taxpayer receives whereas the gift tax is based on what he transfers to others.

When a person irrevocably transfers property to a charity, retaining no interest in it to himself, it follows that he should be allowed a gift tax deduction for the full value of the interest passing to charity. Limiting the gift tax deduction, in these cases, to the value of the allowed income tax deduction forces a taxpayer to pay a gift tax on a transfer of property to an exempt organization. We submit that the gift tax code provisions with respect to charitable transfers should remain intact and should not be "amended".

C. The Estate Tax Deduction of the Present Value of the Charitable Term

Sec. 201 (h) (1) of the bill
Sec. 2055 (e) of the code

It is proposed to amend Sec. 2055 (e) of the code to allow an estate tax deduction only for a remainder interest and then only if the trust is either an annuity trust or a unitrust.

If not specifically, then certainly by implication, this change would disallow an estate tax deduction for a bequest of an income interest to charity where the remainder goes to natural persons.

Under present law, an estate tax deduction is allowed whether charity's interest is an income interest or one in remainder.

We see no reason for the indicated change. An income interest to charity for years certain is as valuable an interest in property as is a deferred interest in fee. This is particularly so since the interest by its very nature, is a present one.

We therefore urge that the estate tax treatment now given under the code to an income interest to charity be retained. The double benefit of an income tax deduction as well as an estate deduction has never been present in a testamentary transfer.

Accordingly, Sec. 201 (h) of the proposed bill should be amended to expressly permit an estate tax deduction for a charitable income interest in a trust, and to do so at its full actuarial value.

II. Charitable Remainder Trusts

Sec. 2016 (h) (i) of the bill
Sec. 170 (h); 644;
2055 (e);
2106 (a);
2522 (c); of the code

A. The Bill's Provisions

Under present law an individual may make an indirect charitable contribution by transferring property in trust with income being paid to private persons for a period of years or life, and the remainder passing to a charity. A charitable deduction is allowed based upon the present value of the remainder interest determined upon certain prescribed actuarial and interest tables.

HR 13270 proposes to disallow an income, gift or estate tax deduction for a charitable gift of a remainder interest in trust unless the trust is either a "charitable remainder annuity trust" or a "charitable remainder unitrust" as defined in the bill.

The Committee Report cites, as reasons for the bill's provisions, that a charitable contribution deduction for a remainder gift does not necessarily have any relation to what the charity actually receives because the trust assets may be invested in such a manner so as to enhance the income beneficiary's interest to the detriment of the charity's remainder interest. It states further that the bill's requirements will remove the present incentive to favor the income beneficiary over the remainder beneficiary by means of manipulating the trust's investments (Pages 58 and 59, Committee Report).

B. Reasons for opposition to the bill's provisions which affect charitable remainder deductions

We believe the Committee's stated purposes for changing the present law on charitable remainder deductions are unfounded. Adequate controls exist outside the tax laws to prevent the undesirable results cited by the Committee, i.e., favoring the income beneficiary to the detriment of the charitable beneficiary by trustee manipulation. Examples of these controls are:

- Court supervision of trusts
- Elementary fiduciary principles of impartiality as between income and principal beneficiaries of a trust
- State attorney general or similar regulatory agencies supervising

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trusts in which charities have
an interest (e.g., New York Estates,
Powers and Trusts Law, Sec. 8-1.4)

In addition, our experience as a major corporate fiduciary and trustee of several hundred charitable remainder trusts would, contrary to the alleged abuses stated in the Committee Report, indicate that both income and principal beneficiaries share equitably in the productivity of such trusts. We have no reason to believe that our experience is any different from that of other corporate fiduciaries.

The Committee Report (page 58) specifically charges that "the trust corpus can be invested in high-income, high risk assets. This enhances the value of the income interest but decreases the value of the charity's remainder interest". The aforementioned court and regulatory controls make this possibility quite improbable. Furthermore, a review of our records for charitable remainder trusts reveals, contrary to the Committee's allegations, that the average income yield is comparable to that received by beneficiaries of non-charitable remainder trusts. Again, we believe our experience would be representative of other corporate fiduciaries.

For these reasons, we do not believe any change in existing law on charitable remainder deductions is necessary or desirable.

C. Annuity trust and unitrust provisions of the bill

Secs. 201 (a), (e), (h) and (i) of the bill

The bill would disallow a charitable deduction unless the charitable interest is a remainder interest in a "charitable remainder annuity trust" or a "charitable remainder unitrust".

This requirement for an annuity trust or unitrust (presumably designed to protect a charity's remainder interest), as opposed to the usual trust form or arrangement, is arbitrary and unsound. It unduly restricts the taxpayer who wishes to pass on a future interest in property to charity. If he fails to use one of the two prescribed trusts, he foregoes a contribution deduction to which he is in fact entitled because part of his property will ultimately pass to an exempt organization.

The traditional form of trust, with its flexible investment features and resulting advantages to both income and remainder beneficiaries, ought to be preserved. As stated above, the charitable remainder interest is adequately protected outside our tax laws. Accordingly, the present contribution deduction rules should be retained.

The annuity and unitrust requirements are also included in the bill's provisions relating to contribution deductions for charitable income trusts (see discussion under paragraph I of this statement). The Committee's purpose is to insure that the amount received by the charity corresponds

to the contribution deduction allowed the donor. Again, protection afforded by basic trust principles of impartiality, together with court and regulatory agency supervision, makes this requirement of the bill unnecessary.

D. Estate and gift tax provisions of the bill relating to charitable remainders

The bill proposes to disallow a charitable contribution deduction for estate and gift tax purposes unless the trust is either an annuity trust or unitrust.

We fail to see why the restrictive requirements of an annuity or unitrust for income tax purposes should automatically be applied to the estate and gift tax laws. The latter are transfer taxes and are not related to the income tax. Present estate and gift tax deduction rules and regulations, developed over a period of years, are sufficient to achieve the purposes of the Committee.

We see no useful purpose in changing present estate and gift tax charitable contribution deduction rules and therefore recommend that they be preserved.

E. Effective dates of the bill concerning charitable remainders

The provisions of the bill with respect to charitable remainders will apply as follows:

Income tax - transfers in trust after After 22, 1969
Gift tax - gifts made after April 22, 1969
Estate tax - decedents dying after date of enactment of the bill

These effective date provisions will cause undue hardship to taxpayers and should be changed. Irrevocable transfers, made in good faith under present law, cannot be changed. Anyone who has included a traditional charitable remainder trust under his will must rewrite it or suffer the loss of an estate tax deduction. This is time consuming and costly. Some persons may not be able to change their wills.

We recommend that existing irrevocable charitable remainder trusts be exempted from the provisions of the bill, and with respect to other transfers, inter-vivos or testamentary, less stringent effective date provisions be used.

Alternatively, we recommend that the bill incorporate a presumption provision which would apply to charitable remainder trusts which are not in the form of an annuity trust or unitrust. The presumption would state that in such cases it will be presumed that a unitrust was intended by the transferor and the provisions of the bill applied accordingly.

III. Charitable Contributions by Estates and Trusts

Sec. 201 (f) of the bill

The bill would eliminate the so-called "set aside" deduction presently allowed estates and trusts for amounts permanently set aside for charity, unless a charitable remainder annuity trust or a charitable remainder unitrust is used.

Consistent with our belief that an annuity or unitrust should not be required to entitle a taxpayer to a charitable remainder contribution deduction (for the reasons stated under II C. above) we do not believe either trust technique should be required for a charitable deduction to be allowed trusts and estates for amounts set aside for charity.

If the "set aside" doctrine under present law is eliminated, it is especially important to make any such change applicable only to trusts created, and estates of persons dying after, the date of the enactment of the change. To do otherwise would be eminently unfair to those previously existing trusts and estates to which property was transferred in contemplation that the entire principal fund and its appreciation would enure to the benefit of the charitable remainder beneficiary.

IV. Repeal of Alternative Capital Gains Tax for Individuals

Sec. 511 (a), (b) and (c) of the bill

A. Current law and bill's provision

Under current law, the tax applicable to long term capital gains for individuals is 25%, plus the temporary surcharge. The underlying reasoning for the preferred tax rate on this type of income is to provide sufficient motivation for long term investment commitments. Under the provision contained in the House bill, the effective rate of tax on long term capital gains would be 35% before application of the temporary surcharge. If the tax rates, as proposed in the bill, are enacted, the effective tax rate on long term capital gains will be 32.5%. The effective date as proposed in the bill for application of the new rate is July 25, 1969. Accordingly, for sales and dispositions made after that date during the balance of 1969 and thereafter the new rates will be applicable.

B. Points of opposition

With respect to the House proposal outlined above, we agree with the Nixon Administration conclusion that the increase of the effective rate of tax imposed on capital gains in all instances places too heavy a burden on the incentives for capital investment.

If, however, the proposal is enacted, we strongly urge the effective date be changed from July 25, 1969 to taxable years commencing after December 31, 1969. It is our experience that the majority of taxpayers affected by this proposal are on a calendar year basis. Accordingly, in our view, the increase in tax on the sale of capital assets, in many cases substantial capital assets accumulated for lengthy period of time, represents such an extreme change in the law that the majority of taxpayers should have ample opportunity to review its impact before making investment and business decisions. The effective date as proposed will cause undue hardship to taxpayers engaged in lengthy negotiations for the sale of large blocks of stock commenced in the beginning of the year and based on a stable rate of tax applicable to the gain sustained on the sale. Specifically, this could unfairly upset such negotiations and unduly interfere with business decisions. The identical hardship would be applicable to stockholders involved in a corporate liquidation in which payment is received after the effective date. It also should be noted that the proposed effective date is casting a great degree of uncertainty into current capital transactions as there is no degree of certitude that it will be enacted.

In the interests of orderly tax reform, we submit the effective date interferes with effective record keeping and makes compliance difficult. Specifically, it does not provide sufficient time for system changes required to adjust record keeping procedures. This is particularly important in an era in which both taxpayers as well as the Internal Revenue Service is heavily dependent on computer equipment for processing of returns which require substantive

programming changes to accommodate changes in the law. The problem will be severely aggravated by the fact that the enactment of a final bill will most probably be near the end of the year.

From: Independent Colleges of Southern California*
611 West 6th Street, Suite 1066
Los Angeles, California 90017

September 1969

Statement to
the U.S. Senate Committee on Finance
from Independent Colleges of Southern California

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The following resolution has been adopted by the ICSC Board of Directors, a group of business leaders and college presidents joined together to strengthen this independent sector of higher education: (ICSC is an association of 14 independent colleges, educating 20,000 students, which make their case unitedly to industry.)

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Twelve years ago, in 1957, President Eisenhower's Commission on Education Beyond the High School, included this significant recommendation in its report to the nation:

> "That the Federal revenue laws be revised in ways which will even more strongly encourage large contributions from more individuals to private and public non-profit higher educational institutions."

In the 56 years since the first Federal income tax was enacted, the Congress has an almost unbroken record of liberalizing the tax laws to encourage philanthropy. If this policy is now to be reversed, it should be so labeled and not backed into under the guise of "tax reform."

The Congress is to be congratulated on its skilled determination to effect true tax reform. We certainly want to ensure that all people pay their fair share of taxes. But we also do not want to make paying taxes, an involuntary act, more important than making contributions, a voluntary act. Indeed, contributions might well be termed a "voluntary tax," by which a taxpayer undertakes to discharge his obligations to the public by non-government means. We need also to face squarely whether we wish to

*Submitted by T. Willard Hunter, Executive Vice President

shift more completely the burden of all health, education, and welfare from the private to the public sector.

Philanthrophy is not a "loophole." Deductions for philanthropy are an encouragement to voluntary responsibility, not a device for avoiding responsibility.

Too much stress is being laid on how people reduce their taxes by making gifts. We need more emphasis on the good accomplished through voluntary philanthropy, at a lower cost to government, and with resulting enrichment of pluralism. Since the Government is calling for more initiative by the private sector in taking responsibility for identifying and solving public problems, it is particularly important that legislation not be enacted which would severely limit the private sector's capacity to take such responsibility.

The following recommendations are respectfully submitted:

1. Contributions of appreciated property should be removed from the Limited Tax Preference group and from the Allocation of Deductions process. Such contributions should be deductible at fair market value with no capital gains tax on the appreciation.

2. In case of charitable remainder trusts and life income contracts, where appreciated property is contributed, the deduction should be based on the fair market value and no capital gains tax levied, and any capital gains enjoyed by the trust or the life income pooled fund and permanently set aside for the exempt organization should not be taxed.

3. In case of charitable gift annuities, where appreciated property is contributed for the annuity, present tax treatment should be retained.

4. While the general foundations themselves are in a better position to discuss most of the sections of the House Bill that will help or hinder them in the performance of their services in the public interest, we wish to oppose the levying of a 7.5% tax on their in-

vestment income, especially on the foundations through which corporations make their contributions to independent colleges. We oppose this for two reasons: (a) it will divert many millions away from the colleges; and (b) it is a dangerous precedent which later might mean the imposition of an income tax on other types of exempt organizations such as colleges.

5. We favor the House Bill's proposal which would end the so-called Clay-Brown practice of debt-financed purchases of businesses by exempt organizations.

6. We favor also the Bill's move to tax the income of unrelated businesses owned and operated by exempt organizations.

7. We favor also increasing the limit on deductibility from 30 percent to 50 percent of an individual's income.

8. We believe that donors of tangible personal property, such as art objects, rare manuscripts, and the like, should be allowed a deduction of the fair market value. We understand a special commission for determining proper values in such cases is working well with the Internal Revenue Service.

9. We ask that "private foundations" be so defined as to exclude the state associations of colleges organized to secure financial support from corporations.

Adopted, Los Angeles, September 10, 1969

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STATE COMMUNITIES AID ASSOCIATION
Testimony on the Tax Reform Bill
before the Senate Finance Committee

My name is A. Van W. Hancock and I am President of the State Communities Aid Association of New York. The Association is a statewide voluntary organization founded in 1872, and aids communities in the development of health and welfare resources. Our service programs include community counseling, research, experimental projects and inter-agency coordination. We work closely and productively with voluntary and governmental agencies.

We have a governing Board of 30 community-minded lay citizens from all parts of New York State, all of them recognized as leaders in the fields of finance, law, business, and in the case of the women, social welfare activities. We have a membership of some 300 persons and a highly qualified full-time staff.

Our Association is vitally concerned with those provisions of H. R. 13270 which categorize it as a private operating foundation. We are not a foundation, nor are we private. On the contrary, we are a public service organization with a long history of service to the people of New York State. We believe many other public service agencies, both local and national, also find themselves mistakenly labelled foundations under the tax reform bill.

We are confident the House of Representatives intended no such result. In distinguishing among 501 (c) (3) agencies, the House bill draws a line based upon the nature of financing, without due regard for an organization's purpose and program. In seeking to curb questionable activities by some grant-making foundations, the House bill cast a wide net -- and snared many organizations, including our Association, that were not intended to be affected.

On behalf of State Communities Aid Association I would like to suggest a simple way that we and similar organizations could continue to enjoy the rights and benefits of 501 (c) (3) agencies dedicated to community betterment in such fields as health and welfare, without detracting in any way from the objectives of the bill.

First, however, I believe I should sketch briefly the justification for describing State Communities Aid Association as a public service organization. We were founded 97 years ago by a number of distinguished and public-spirited citizens who were dismayed at the squalid conditions in hospitals and almshouses.

In our early days, a time when nurses were recruited from outcasts and derelicts, our Association set up the nation's first training school for nurses, at Bellevue Hospital in 1873.

When the mentally ill were banished to attics and almshouses, the Association in 1890 worked closely with state officials to create the state mental hospital system.

At a time when homeless children roamed the streets, our Association in 1898 formed a committee to place them in private homes through foster care or adoption. Eventually, adoptions for more than 8,000 children were arranged.

In 1906 another committee was formed on after-care of the mentally ill, and this eventually became the New York State Association for Mental Health.

In 1907 our Association created a committee to combat TB, then the leading cause of death. This evolved into the New York State Tuberculosis and Respiratory Disease Association.

More recently, in 1949, the TB Association and the SCAA joined in organizing the New York State Heart Assembly.

In recent years our Association has had great interest in home care and homemaker services, and in 1966 helped organize the New York State Council for Homemaker-Home Health Aide Services. We provide staffing and office space for the Council.

For 75 years we have maintained county committees in rural areas to foster services for indigent children. We are linked with planning

councils in urban areas by giving secretariat services to the New York State Association of Councils and Chests.

Currently we are offering consultation to communities that are interested in developing coordinated health services, especially in home care. Recently we sponsored social research on community organization and the consultative process. We are developing procedures to evaluate community programs for the aging. We give graduate social work students field training. We conducted a 31-month social research program on casework with multi-problem families. We are supporting public agency efforts on Comprehensive Health Planning. And we have many other program interests in various stages of development.

In addition, Board members and staff serve on at least nine advisory commissions to state agencies or the state legislature, thus serving as a resource to government. Also, Board members and staff are actively involved in a score or more voluntary groups -- including the American Public Welfare Association, American Public Health Association, National Conference on Social Welfare, Family Service Association of America and the United Community Funds and Councils of America.

This, I submit, is not the kind of activity that characterizes foundations.

It is true we derive a large proportion of our operating income from dividends and interest. But this is the yield of principal funds built up over many years by numerous contributors, most of whom had been active as volunteers within the Association. It is <u>not</u> an investment fund

provided by a single individual, a family, or a commercial corporation.

In fact, our Association has always considered it a valuable asset that by prudent management we could finance most of our service programs in this fashion, rather than divert the time and talents of staff from program to annual fund-raising campaigns, or frequent appeals for governmental grants.

In addition to our investment income, we receive annual contributions from a number of donors, and we frequently receive project grants from foundations and government agencies.

As I mentioned earlier, we have a suggestion that would correct the inadvertent designation of our Association and other organizations as private operating foundations -- and do so quite simply.

We urge you to consider adding a fifth subsection to Section 509 (a) of the bill approved by the House of Representatives. This would add a new category, public service organizations, to the several types of organizations already excluded in the bill -- churches, schools, hospitals and public charities, among others.

We suggest it be recognized that public service organizations are formed by concerned individuals to meet specific public needs -- and these individuals then seek the funds required to do the job -- whereas a foundation comes into being with the establishment of a fund, usually made available by a single individual, family or corporation. I do not suggest that foundations are not in fact valuable instruments for the common good -- quite the contrary. I do suggest they have a different genesis and different method of operation.

Contributors to public service organizations like mine do not exercise control of operations or influence the election of officers, directors or members. In the case of unrestricted contributions, the governing board of the organization has the choice of using contributions to finance current activities, or investing the money to provide continued income.

The investment of contributions can yield a steady, generally reliable income in dividends and/or interest, enabling the organization to maintain a capable staff, an uninterrupted program, consistency of service and stability of operation. By continuing to invest contributions and bequests over the years, an organization may accumulate a relatively large principal fund, producing as much as 50 to 60 per cent of its total support in dividend and interest income -- but it is an important distinction that the funds were given by a variety of contributors, and not by donor-creators.

We do not presume to propose statutory language, but we suggest several criteria to define a public service organization.

First, it must have been formed to engage in public service, as distinguished from making gifts to other organizations.

Second, it raises funds from a variety of contributors, who do not exercise control over the organization's program, use of funds, election of members, or election of the governing board. In some instances, of course, the contributor may restrict his gift to some specific phase of the organization's work.

Third, it is governed by a Board whose members serve without compensation, and has a general membership significantly larger than the governing Board.

In short, we believe that such public service organizations should not suffer inappropriate restrictions based solely on a financing formula, and that consideration should be given their origin, purpose, organization, manner of operation, and contribution to the public good.

Should the Committee so desire, we at State Communities Aid Association would of course be happy to cooperate with Committee staff to facilitate the addition of an appropriate exclusion clause to Section 509 (a) of H.R. 13270.

We thank you for this opportunity to testify, and would be glad to answer any questions.

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September, 1969

33-758 O-69—No. 6——19

Consolidated Testimony

of the Organizations and Institutions of

THE SEVENTH-DAY ADVENTIST CHURCH

before the

COMMITTEE ON FINANCE, UNITED STATES SENATE

Regarding

The Tax Reform Act of 1969, H.R. 13270

September 11, 1969

* * * * * *

The purpose of this statement is to register support for certain proposals contained in H.R. 13270, the Tax Reform Act of 1969; to register opposition to other proposals and to acquaint the Congress with their adverse effects on specific programs of urgent social importance conducted by the Seventh-day Adventist church and its medical and educational institutions.

The church believes that the Congress should forthrightly adopt tax rules that prevent individuals from exploiting to their personal advantage the long established tax incentives to philanthropic support. However, it believes just as firmly that some of the rules proposed to accomplish this in H.R. 13270 would grievously injure the philanthropic causes themselves -- greatly out of proportion to the tax revenues they might preserve for the federal government.

The result would be incompatible with the historic principles of the Congress and of the pluralistic society it represents -- that is, an unacceptable weakening of our free institutions, among which are those participating in this statement.

THE ADVENTIST CHURCH AND ITS PUBLIC SERVICE PROGRAMS

The Seventh-day Adventist church is a religious denomination whose 400,000 members in the United States support medical, educational, and social welfare programs in this country and throughout the world. Their well-known hospitals serve both national and overseas personnel in many lands. Their programs of both general and medical education, particularly since the turn of the century, are a well established national resource.

The Seventh-day Adventist educational and medical system in the United States includes two universities, eight colleges, seventy-nine secondary schools, 895 elementary schools, twelve schools of nursing, and thirty-one hospitals. The schools annually enroll 89,200 students; the hospitals annually treat 659,000 patients.

One small measure of the social usefulness of these institutions is the fact that among the ten undergraduate colleges in the United States with the highest proportion of male graduates later earning M.D. degrees, during the past decade (1950-1959), four were Seventh-day Adventist colleges. (Public Health Monograph No. 66 -- U. S. Department of Health, Education and Welfare, p. 18.)

LOMA LINDA UNIVERSITY -- A MAJOR ILLUSTRATION

The principal center of Adventist medical education and the institution illustrating most clearly the adverse social effects of some sections of H.R. 13270, is Loma Linda University, with campuses at Loma Linda and Riverside, California, about sixty miles east of Los Angeles. This institution, in terms of its assets of $65,000,000, ranks fourth among the independent universities of California. Its annual budget is approximately $35,000,000.

Programs of Medical Education and Research. In addition to graduate and undergraduate programs in the arts and sciences and education, Loma Linda University offers professional programs in medicine, dentistry, nursing and other health related professions, and public health, (incidentally the only privately supported school of public health west of the Mississippi).

Among the 13,000 graduates of Loma Linda University are 4,035 physicians, making this university first among all those in the State of California, public or private, in terms of graduates who are medical doctors.

Significant medical and public health research is conducted and the School of Medicine serves as the focal point of Regional Medical Program, Area VI, encompassing Riverside, San Bernardino, Mono, and Inyo Counties.

33-758 O-69—No. 6——20

The only university medical center in inland Southern California, Loma Linda serves also as a patient referral and diagnostic center for an even wider area, extending into portions of Nevada and Arizona. Because of the assurance of medical school cooperation, a proposal to locate a new veterans hospital at Loma Linda is presently receiving serious consideration by the Congress and the Veterans Administration.

Graduates Serve Nationwide. Of even greater importance nationally is the fact that because of the university's national constituency and support, Loma Linda students come from throughout the United States as well as many foreign countries. Consequently, medical, dental, and public health graduates of Loma Linda return to serve in virtually all states, and to staff many of the overseas hospitals operated by the church. Approximately 50 percent of Loma Linda's medical school graduates serve outside California, compared with approximately 15 percent of those who graduate from the University of California.

Gifts of Future Interest Make Medical Center Possible. This comprehensive university medical center has been concentrated in inland Southern California for only four years. Previously, its clinical programs were conducted in Los Angeles. Its service to this more needy area has been made possible by the erection of a new medical center at a cost of some $24,000,000.

It is safe to say that this complex as it now exists with all its values to society would almost certainly never have been built without the backing of assets contributed irrevocably to the university in various charitable trusts, life income agreements, and annuities by alumni and other persons interested in medical education. These deferred gifts provided the security necessary for the long-term financing required for construction of the medical center.

Similar gifts are essential for the future development of the university that will enable many more young people even than at present to prepare for professional service to the nation.

Loss of Tax Incentives Will Imperil Private Support. The large gifts necessary in major enterprises of this kind frequently if not usually consist of properties substantially appreciated over the donor's cost. The fact that under long established rules such gifts may be made on a deferred basis at their fair market value without tax burdens imposed on the appreciated portion is a crucial factor in the decision to give.

Donors to Loma Linda University, for the most part, could not possibly afford to make these major gifts under the rule changes now proposed. The practical effect of these rule changes, therefore, will inevitably be a drastic curtailment of the private support of this institution and its programs of medical education, as well as the programs of similar charitable organizations.

A study published last year (Fall, 1968, pp. 35-45) in College and University Journal well documents this warning. If the capital gains tax had been imposed on the appreciated values included in major gifts analyzed in this study, donors would have reduced the amount of those gifts by 34 percent -- even if the full fair market value had been deductible. Had deductibility been limited to the cost basis, donors would have reduced the amount of their gifts by 46 percent.

Proposed Rules Penalize Once-in-Lifetime Donor. Loma Linda's experience fully supports this study with respect to the deferred gift of a future interest in appreciated properties. In fact, this university would in all probability suffer an even more drastic reduction in giving than the study indicates because its gifts of this kind often represent all or a major portion of the donor's estate.

Such gifts are not the gifts of "operators" more interested in personal gain than in philanthropy. They are once-in-a-lifetime gifts in which a husband and wife, providing only for their retirement years, commit substantially all they have to the education of youth.

Obviously these persons could not afford such acts of philanthropy were they to be penalized by the proposed tax rule changes. The losers would be young people deprived of the opportunity for professional education or receiving less quality in education than they might otherwise have.

When it is realized that during the past seven years, 1962-68, irrevocable gifts in trust constituted 47 percent of the private support of

Loma Linda University, it is clear that any substantial reduction because of the proposed rule changes would be a serious blow to this educational program.

Proposed Changes Presently Damaging. In fact, this committee will wish to know that certain of the proposed changes are already presently seriously diminishing the support of Loma Linda University because of their retroactive character. In process and ready for signature at the time this legislation was introduced were major deferred gift agreements that would have brought approximately $9,500,000 to the university. The possibility that the proposed taxes may be imposed retroactively has made it impossible to complete these agreements. One can only imagine the present effect on the support programs of much larger institutions of higher learning.

The only hope of realizing these gifts is for the adverse tax proposals to be eliminated so that the long established rules with their incentives for the support of education, medicine, and other socially valuable programs may continue to function.

Moreover, Loma Linda's corps of highly trained field representatives, like that of other units of the church, has been marking time during this period of uncertainty, unable to advise or assist prospective donors concerning the future tax consequences of a gift in trust made now. The time and expense of these men is a loss to the university, in addition to the deferred gifts they normally would receive.

These are present losses, merely under the shadow of the proposed changes. Extend this indefinitely into the future if the proposed changes are actually made, and the long-term damage is evident.

Proposed Changes Would Inhibit Future Growth. Loma Linda University is now initiating a new ten-year development plan in which it is hoped that, in keeping with the national need and interest, enrollment in the medical curriculums can be significantly increased. In medicine, for example, the university hopes to increase enrollment by as much as 45 percent.

The proposed tax changes, however, with their radically reduced incentives to giving, cast substantial doubt on our ability to accomplish this. The same damaging effect will be felt in other university, college, and hospital programs of the church if tax rule changes that curtail deferred giving are adopted.

PRIMARY AREAS OF CONCERN

The Seventh-day Adventist church, with its organizations and institutions, has special concern for those sections of the proposed legislation dealing with charitable remainder trusts, life income contracts, and the allocation of deductions, as well as the retroactive character of some of the suggested changes.

Charitable Remainder Trusts. In charitable remainder trusts [Bill Section 201 (c) (d) (i)] there should be no capital gains tax upon

transfer of appreciated property to a trust or upon any subsequent sale, because such gains are permanently set aside for charity, not for the donor.

The current fair market value should be recognized as the basis for computing the charitable remainder according to existing tables.

If abuses in investment policies exist which result in the wasting of trust corpus to produce unusually high current income, such abuses should be curbed by means other than those proposed in the bill, Section 201 (e).

Life Income Contracts. In life income contracts, the same tax incentives which we believe should be maintained for charitable remainder trusts should also be maintained for life income agreements. That is, the charitable contribution deduction should be based on the fair market value at inception, without capital gains tax; and no capital gains tax should be imposed on any future gain realized by the life income fund, as these gains are irrevocably set aside for charity.

Allocation of Deductions. The proposed allocation of deductions between taxable and non-taxable income introduces burdensome complications in computation and results in penalties imposed on charitable contributions, both deferred and present.

Charitable contributions should not be included with the deductions to be allocated between taxable and non-taxable income, thereby reducing the charitable deduction.

Appreciation on assets contributed to charity should not be included in non-taxable income because this reduces not only the charitable deduction but also all other deductions which are subject to allocation.

The extremely complex nature of the allocation formula itself will tend to discourage charitable gifts.

Retroactive Provisions. The retroactive character of some of the proposed changes (variously April 22, 1969, May 26, 1969, and December 31, 1969) is detrimental to present support programs and unfair to donors now making substantial gifts. Any changes should be effective only as of December 31, 1969.

SECONDARY AREAS OF CONCERN

Secondary areas of concern relate to rule changes that will detract from private support, but which are not quite so damaging as those discussed above. These include:

The proposed elimination of the two year charitable short term trust which provides income to the charity without tax to the donors;

Disallowance of the use of property as a charitable deduction;

Change of rules regarding bargain sales, taxing a portion of the appreciation.

AREAS OF CONCURRENCE

The Seventh-day Adventist church as a whole concurs in other provisions of the Bill, notably those that will enhance the support of private education:

Increase of the ceiling on charitable deductions from 30 percent to 50 percent;

Stimulation of increased disbursement of foundation assets for their intended purposes.

However, the church also supports the principle of taxation on income generated by debt-financed investments (Clay Brown legislation); and the extension of tax to unrelated business activities conducted by charitable organizations.

In addition, it would fully support legislation aimed at correcting any situation in which a donor has more after-tax income because he makes a gift than he would have without the gift; provided, of course, that such legislation is carefully drafted so as to cure only the abuse and not discourage or penalize legitimate charitable gifts. The major objection to some of the proposed changes is that the attack on the problem of abuse is so broad that it would gravely injure the charitable beneficiaries out of all proportion to the abuses that would be corrected.

The church would also support any legislation aimed at the elimination of charitable deductions where the chances are remote that the

charity will ever benefit from a deferred gift (i.e.: contingent remainder gifts, deferred gifts of art objects, etc.) with the proviso, once again, that the legislation is not so broadly drafted as to discourage legitimate deferred giving.

If, as the report of the Committee on Ways and Means of the House indicates, there are instances where safety of trust principal is disregarded in order to maximize current income for the lifetime beneficiary, thus eliminating or substantially reducing the charitable remainder, the church would support legislation designed to cure this evil on an individual basis, but not by a blanket denial of the present tax advantages of the charitable remainder trust which is conservatively administered in harmony with well established trust laws and procedures.

Actually, it is more likely that the charitable remainder will be increased under prudent administration in times of economic expansion such as this nation has experienced in recent years, than that the trust estate will be dissipated by endeavors to secure an unreasonably high return for the donor.

SUMMARY

Tax rule changes proposed in H.R. 13270 with respect to charitable contributions and especially to deferred gifts of future interest would seriously curtail private support of the medical, educational, and social welfare programs of the Seventh-day Adventist Church.

Most critically injured would be the Adventist medical training program at Loma Linda University in southern California.

With more physician graduates than any other university in California, Loma Linda receives 47 percent of its private support in gifts of future interest in irrevocable trust, usually consisting of appreciated assets.

Attributable to this source of support is the existence of its new University Medical Center, an important regional and national asset, with a large proportion of its medical graduates serving throughout the nation.

Plans for an increase in medical enrollment would be jeopardised by any diminishing of private support.

Donors of large amounts in trust with Loma Linda are not the stereotyped "loophole" seekers. They represent a wide range of people, and more often than not are likely to be a husband and wife conveying all or most of their entire estate in a once-in-a-lifetime gift to a socially useful cause in which they believe. Tax penalties on appreciated values contributed would make it impossible for them to make these sacrificial gifts so vital to the institution.

The retroactivity of some of the proposed rule changes has already caused the probable loss of approximately $9,500,000 to the University. Any changes made should be effective only as of December 31, 1969, to avoid great unfairness to persons who have made gifts during this calendar year.

Placing a justifiable reliance in the historic Congressional position in support of charitable institutions through tax incentives, most Seventh-day Adventist organizations and institutions have developed a staff of field representatives and office specialists to encourage and process deferred gifts. This costly apparatus is now largely unproductive as the result of the tax changes proposed.

The primary concern is that appreciated properties given in a charitable remainder trust should incur no capital gains tax on transfer or on subsequent sale -- these gains are for the benefit of charity, not the donor. The fair market value should be the basis for computing the charitable remainder.

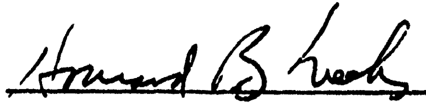
The same provisions should apply to life income contracts.

The allocation of deductions concept is so burdensome as to discourage even present giving. Charitable contributions, benefiting a charity, are not like accelerated depreciation, etc., whose primary benefit is to the individual. Charitable contributions should not be included with other allocable deductions, nor should appreciation of assets contributed be included in non-taxable income.

The Seventh-day Adventist church, with all its organizations and institutions, wishes to continue and enlarge its services to the nation in medical education and social welare. It appeals to the Congress to preserve the long-established tax incentives to charitable giving that make

such services possible. It will support measures to prevent individual exploitation of such incentives where measures avoid substantial damage to charitable causes themselves.

Respectfully submitted for
The Seventh-day Adventist Church



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The Committee of Friends of The Museum of Modern Art

21 West 53 Street, New York, N.Y. 10019 Tel. (212) 956-6100

Alfred H. Barr
Chairman
Monroe Wheeler
Vice Chairman

September 11, 1969

Statement On The Proposed Tax Treatment Of Charitable Contributions By Artists Of Their Own Works*

The Committee on Finance of the U.S. Senate currently is considering two proposals to alter the tax treatment accorded the donor who makes gifts of works of art to museums. The first of these is contained in the Tax Reform Bill of 1969 (H.R. 13270) recently passed by the House of Representatives. The second was submitted to the Committee by the Treasury on September 4, 1969.

The House bill would alter drastically the tax treatment of any donor who makes a gift of a work of art to a museum. In our judgment it would greatly hamper the further growth and development of museums in the United States and thereby would damage greatly the quality of cultural life available to Americans generally.

The Treasury proposal would have a more limited effect. It would recognize the great dependence of American museums on contributions by collectors and, in the case of such gifts, would continue the practice of allowing the donor an income tax deduction equal to the fair market value of the item given even if that value exceeded his original cost.

However, both the House bill and the Treasury proposal would change the long-standing rules concerning contributions by artists (and by others who would have ordinary income if the work were sold). Since 1917 artists have been subject to the same

*Submitted by Monroe Wheeler, Vice Chairman

rule of deductibility as have been collectors -- that is, they have been entitled to income tax deductions equal to the fair market value of their works contributed to museums.* Under the House bill and the Treasury proposal an artist making such a contribution in the future would be required either to include the appreciation in value in income, as ordinary income, or to claim a deduction only in the amount of his out-of-pocket cost of the item given. Effectively, he would be deprived of any meaningful deduction on a contribution of one of his own works to a museum.

Our Committee supports the Treasury proposal concerning the tax treatment to be afforded contributions by collectors. We think that the Treasury officials stated extremely well the case for continuing a rule of full deductibility for such contributions and we do not propose to restate that case here. However, in the case of contributions by artists we think that both the Treasury proposal and the House bill propose rules that are too drastic. Many museums -- such as the Museum of Modern Art in New York and a number of regional museums and university museums -- depend heavily on such contributions.

We suggest that a middle ground exists -- a tax rule that would encourage a continued flow of contributions by artists to public museums but would recognize the fact that the appreciation in value of self-created works arises from the donor's own efforts and would not accord a greater after-tax increment to an artist contributing a work than to an artist selling a work. In part II of this memorandum we suggest a specific change to the House bill that we think would accomplish these objectives.

I
Dependence Of Museums On Donations In Kind

Most American museums do not have significant endowed purchase funds for works of art. Unlike their European counterparts, they do not receive government subsidies for their acquisition

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* See Law Opinion 1118, II-2 Cumulative Bulletin 148 (1923).

programs. While the lack of funds for acquisitions is a general problem among museums, the problem is most acute among smaller and newer museums and among museums that wish to acquire contemporary works of art.

In these circumstances both the establishment of new museums and the growth of the collections of existing museums are dependent principally on private philanthropy in the form of donation of works of art by individuals. In effect the rules permitting charitable deductions to such individuals equal to the fair market value of the donated art objects have comprised the sole significant governmental support for the establishment and growth of museum collections during the last fifty years. That the growth of these collections during this period has been spectacular must be attributed largely to this subsidy. Should it now be removed without provision being made for a substitute source of acquisition funds -- such as the direct governmental subsidies enjoyed by European museums -- the effect must be to reverse the trend to the detriment of the American public.

During the calendar years 1966 - 1968, almost 65% of the dollar value of the works of art acquired by the Museum of Modern Art was received as gifts. While the dependence of the Modern Museum on such gifts is very great, it screens carefully works offered before accepting them as donations. The Modern refuses more gifts than it accepts, its primary purpose being to maintain standards of quality consistent with its duty to the public. For the Modern, as for most museums, collectors are the most important source of donations. However, as one of the museums exhibiting important works of contemporary American culture, the Modern also is greatly dependent upon donations by artists. Since its founding, it has consistently encouraged artists to donate selected works to its collection of twentieth-century art.

Today's museum is not merely a storehouse for the treasures of the past. It has become a vital force in the development and dissemination of the flourishing arts of our

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time, providing the public, scholars and artists with the opportunity to see, enjoy and study current work and work of the recent past. To such a museum it is essential that living artists be encouraged to contribute works of their own creation.

II
Legislative Proposal

(A) General Statement

As has been shown in part I of this memorandum, the rules proposed by the House of Representatives restricting charitable contribution deductions for all contributions of paintings or other tangible personal property will in effect deprive public museums of the only meaningful governmental support generally available for their acquisition programs. The rules proposed by the Treasury would have a more limited effect, but still would be damaging to museums exhibiting works of contemporary culture.

Our Committee would propose a new approach to the problem of contributions by artists (or by others who would be taxed at ordinary income rates upon a sale of the work). We recognize the anomaly -- stressed by both the Ways and Means Committee and the Treasury -- of the present rules under which an artist may enjoy a greater after-tax increment by contributing a work he has created than by selling it. However, we do not think that the extreme approach of H.R. 13270 and the Treasury proposal -- which would deny virtually any deduction to an artist making a contribution of one of his works -- represents the optimum solution to the problem.

We recommend the application of the tax-neutrality approach, stressed by the House, to contributions by artists. Specifically, contributions by artists to public museums would be deductible -- without recognition of income -- but only as to a percentage of the value of the work

contributed, that percentage to be fixed so that a top-bracket artist may achieve approximately the same after-tax return by contributing his work or by selling it. We think that such an approach will encourage artists to make decisions as to whether a work should be sold or donated to a museum on the basis of non-tax considerations. On the other hand, we regard the provisions of the House bill and the Treasury proposals as affirmatively discouraging contributions by artists and, thereby, as violating the concept of tax neutrality.

As an example of our proposal, if the top tax bracket applicable to income from a sale of a work of art by its creator were 65% (as is proposed by H.R. 13270 for 1972 and thereafter), the percentage of value deductible when an artist contributed his work to a public museum would be approximately 55%, since the value of the resulting deduction to the top-bracket artists then should approximately equal the after-tax residue had he sold the work. Similarly, if such top-bracket were 50% (as would be the case if the earned income rates of H.R. 13270 were made applicable to the income from such sales), the entire value would be deductible since with a 50% top rate and a 100% deduction, an artist could expect to retain about one-half the value of his work whether he sold it or donated it to a public museum.*

We think that by limiting our proposal to institutions that genuinely qualify as "public" in that they are open to the public on a substantially full-time basis -- whether or not operated by a governmental unit -- we would effectively prevent abuses. Truly public institutions can be relied upon not to sacrifice the public interest to the tax advantage of particular individuals.

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* Our Committee understands that an extension of the 50% earned income rate to artists will be proposed to the Senate Finance Committee. We would strongly favor adoption of such a proposal.

(B) <u>Proposed Amendment</u>

Specifically, our Committee proposes that H.R. 13270 be amended in the following respects:

(a) Section 201(c) of the bill would be amended by including in proposed Section 170(e) of the Code a new definition of a "public institution" -- an institution:

   (i) whose facilities are open to the public on substantially a full-time basis <u>and</u>

   (ii) that exhibits items of the type donated or makes such items available for use or study by the public.

(b) Proposed Section 170(e) and proposed Section 83 would be amended to provide that donations of tangible personal property that would produce ordinary income on sale (other than letters or memoranda prepared for the taxpayer and described in Section 513(a) of the bill) made to institutions qualifying as "public institutions" under the foregoing two tests would not be subject to the rule of income recognition and would be subject to the rule of reduction of the contribution, but only to the extent necessary approximately to equalize the tax effects to a top-bracket donor of a gift of the work and a sale of the work.

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Our proposals are designed to benefit the huge segment of the public that does not have access to important works of art except through public museums. While we have not had adequate

time to compile statistics it appears that the revenue loss should be very small. The Report of the House Committee on Ways and Means (Part 1 at page 62) estimates the revenue increases from all charitable contributions portions of H.R. 13270 to be $5 million in 1970 and $20 million in 1974. By way of contrast, The New York Times of July 19, 1969 reported that the City of West Berlin spends $25 million per year on subsidizing the arts.

THE COMMITTEE OF FRIENDS OF
THE MUSEUM OF MODERN ART

WRITTEN STATEMENT PREPARED FOR THE SENATE COMMITTEE ON FINANCE*
Concerning H.R. 13270

In view of the brief time available for oral presentation the following statement is presented for Committee consideration. This statement is made in behalf of the forty American voluntary agencies (list appended) with overseas programs, representing major American voluntary sectarian, non-sectarian and nationality overseas social and welfare agencies, the combined constituencies of which include tens of millions of U.S. citizens who through these agencies express their concrn for fellow-beings in need abroad. Over 5 billion dollars has been contributed since 1939 by Americans through their voluntary agencies for a wide variety of assistance and services to meet a multitude of needs. This voluntary, tangible expression of concern reflects the spirit of voluntaryism which is traditional to the American people, and an integral part of American life and our democratic heritage.

The forty listed voluntary agencies wholeheartedly support tax reform in principle as being wise and good for our country and therefore good for the organizations who so often work in partnership with our national government through the Departments of Treasury, Agriculture, Labor, Justice, Health, Education and Welfare, and the State Department, particularly in foreign aid, in promoting the welfare and development of needy people overseas. However, we are concerned that preoccupied as we are with tax reform we do not make the mistake of confusing tax deductions for charity as evasion of taxes. Charity in the American tradition is not a loophole.

Reversal of the long history of the concept of government recognition of charitable organizations through tax exemption would appear to place the government in contradiction to its repeated expressions of particular interest and confidence in the value of voluntary agency programs as implicit in other laws having to do with foreign aid in which specific reference to American voluntary foreign service organizations is made. On the basis of these laws

*American Council of Voluntary Agencies for Foreign Service, Inc., submitted by Eugene Shenefield, Executive Director

and with the warm understanding and cooperation of Congress and the Committees a partnership between government and voluntary agencies has grown up that enhances the image of America in the minds of the tens of millions of people aided overseas, with resultant benefits to the people and government of the United States. It would be unfortunate indeed if this image were to be in any way blurred because of proposals now under consideration. In relation to the bill under consideration we feel that:

1. The minimum tax provision should be exclusive of contributions to voluntary charitable agencies.
2. Contributors of appreciated gifts of securities and real estate should be permitted full deduction of the value of the gift without tax on the appreciated value.
3. Bargain sale contributions to voluntary charitable agencies should be deductible at market price.
4. Contributors of gifts in kind, which are used by the voluntary charitable agencies in their programs, should be permitted deduction on the basis of fair market value.
5. We heartily concur in efforts to provide tax relief to the wage-earner and lower income brackets. Greater tax equity could possibly be achieved by changing the rates that apply to those income levels, or by increasing personal exemptions.

We are concerned with the effect of this bill on living trusts, life annuities or other similar sources of income to voluntary charitable agencies.

Custom, state constitutional provisions, charter provisions, decisions of the Supreme Court, statutes, all have supported assistance to charitable agencies in various ways including exemption from taxation. In the past charitable giving has been consistently encouraged by the Congress. Now for the first time that policy would be reversed by this bill at the very moment that the Administration is emphasizing a larger role for voluntary citizen responsibility in welfare and health services.

The forty listed American voluntary agencies, working overseas in people-to-people programs in over 100 countries building bridges to peace and better understanding, are completely dependent upon the generosity of the American people. If tax legislation is going to discourage or down-grade the importance of voluntary contributions then who is going to pick up the slack?

We believe tax equity can be achieved without injury to the voluntary charitable agencies.

September 12, 1969

AGENCY LIST

AMDOC,Inc.
American Council for Judaism Philanthropic Fund,Inc.
American Council for Nationalities Service
American Friends Service Committee,Inc.
American Fund for Czechoslovak Refugees,Inc.
American Jewish Joint Distribution Committee,Inc.
American Middle East Rehabilitation,Inc.
American National Committee to Aid Homeless Armenians
American ORT Federation,Inc.
American Relief for Poland,Inc.
Assemblies of God,Foreign Service Committee
General Council of the
Baptist World Alliance
CARE,Inc.
Catholic Relief Services
Church of the Brethren World Ministries Commission
Community Development Foundation,Inc.
Co-ordinated Hungarian Relief,Inc.
Hadassah
Heifer Project
International Rescue Committee,Inc.
Iran Foundation,Inc.
Mennonite Central Committee,Inc.
Migration and Refugee Services
U.S.Catholic Conference
Mizrachi Women's Organization of America,Inc.
Near East Foundation
Polish American Immigration & Relief Committee,Inc.
Salvation Army
Save the Children Federation,Inc.
Seventh Day-Adventist Welfare Service,Inc.
Tolstoy Foundation,Inc.
Unitarian Universalist Service Committee,Inc.
United Friends of Needy & Displaced People of Yugoslavia,Inc.
United Hias Service,Inc.
United Israel Appeal,Inc.
United Lithuanian Relief Fund of America,Inc.
United Seamen's Service,Inc.
United Ukrainian American Relief Committee,Inc.
World Relief Commission,Inc.
World University Service
Young Women's Christian Association of the U.S.A.

September 12,1969

STATEMENT REGARDING

PROPOSALS AFFECTING TAX TREATMENT OF CHARITABLE CONTRIBUTIONS TO

EDUCATIONAL AND TAX-EXEMPT INSTITUTIONS

Presented to: The Committee on Finance,
United States Senate

The Honorable Russell B. Long, Chairman

Submitted by: Arland F. Christ-Janer
President, Boston University
President, Association of Independent Colleges
and Universities in Massachusetts*

Dated: September 12, 1969

*Names of 52 member colleges and universities attached to this statement.

Mr. Chairman and Members of the Committee:

All colleges and universities, public as well as private, face critical financial problems as they attempt to maintain and develop sound educational programs for an increasing number of students. At no time in the history of this country have educational institutions needed so much private support to meet their challenges.

The Congress of the United States, recognizing the will and the wish of the people to participate, independently of the government, in the development of educational and philanthropic institutions, established income tax laws which provided incentives for voluntary support of such organizations.

Realizing that our existing tax system requires reform in terms of fairness and equality, we are deeply concerned that some of the remedial proposals will seriously curtail our ability to meet the growing demands for expanded and improved facilities and programs.

The passage of H.R. 13270, understandably introduced in part to curb the highly-publicized though rare tax abuses of certain individuals and foundations, threatens the very principle of private philanthropy. Congressman James B. Utt (Republican-California), a member of the Ways and Means Committee and of the Joint Committee on Internal Revenue Taxation, takes note, in his statement on the bill, of the imagination and creativity of private philanthropy to meet the heavy financial responsibilities of private educational institutions, and warns that withdrawal of such support would place a heavy burden on the Federal government.

Passage of the proposed tax reform legislation would result in serious loss of income to educational institutions, thereby effecting a reduction of services which they render and a substantial weakening of their financial stability. State-supported as well as private colleges and universities would be affected, for all higher education institutions receive voluntary support from alumni and friends.

A review of the services offered by the independent colleges and universities of Massachusetts and some of their financial problems reveals some pertinent factors.

....During the 1967-68 academic year, 66% or 166,741 of the total 252,638 students enrolled in the Commonwealth were in private institutions.

....75% of the Bachelor's degrees, 85% of the Masters' and first professional degrees, and 95% of the Doctoral degrees were granted by independent colleges and universities.

....Approximately 57 institutions of higher learning in Metropolitan Boston serve an estimated 141,000 students; of these, 48 are privately supported, enrolling 124,000 or 88% of the total.

Of more specific interest, these 48 private institutions faced estimated operating deficits of nearly $7 million for 1967-68, and conservative projections point to deficits of $10 million annually before 1976. These are operating deficits and do not include expansion of physical facilities which, by tradition, have been financed largely by gifts of alumni, friends, industry, and foundations.

If the independent colleges and universities of Massachusetts are to continue their important role in our system of higher education, their financial viability must be enhanced, and new avenues of financial support must be developed. Legislation which would curtail gift support

would be catastrophic, and would increase the financial burdens of the people of the Commonwealth. For if the Massachusetts residents currently enrolled in our independent institutions were to transfer to publicly-controlled institutions, it would add over $100 million annually to the current tax burden for operating expenses only.

We are deeply concerned with any decisions affecting gifts of appreciated securities, life income gifts, and with the provisions regarding allocation of deductions. A recent study of 28 of the member institutions of the Association of Independent Colleges and Universities in Massachusetts revealed that during a single fiscal year, an average of 56% of gifts from individuals were in the form of securities and properties. If the present provisions for tax reform are approved, this support will be curtailed drastically.

We believe that Congress can review and enact meaningful tax reform legislation that is compatible with traditional and historic policy that has nurtured the growth of free and independent institutions in our country.

On behalf of all of the independent colleges and universities in Massachusetts, I ask that the new tax law reaffirm and extend the long-established and essential tax incentives to charitable giving which will support the American philosophy of private philanthropy in support of educational institutions.

Arland F. Christ-Janer
President, Boston University
President, Association of Independent Colleges and Universities in Massachusetts

52 Member Institutions of the Association of Independent Colleges and Universities in Massachusetts

American International College, Springfield

Amherst College, Amherst

Anna Maria College for Women, Paxton

Assumption College, Worcester

Atlantic Union College, South Lancaster

Babson College, Wellesley

Bay Path Junior College, Longmeadow

Bentley College of Accounting and Finance, Waltham

Boston College, Chestnut Hill

Boston University, Boston

Bradford Junior College, Bradford

Brandeis University, Waltham

Cardinal Cushing College, Brookline

Clark University, Worcester

College of our Lady of the Elms, Chicopee

College of the Holy Cross, Worcester

Dean Junior College, Franklin

Eastern Nazarene College, Quincy

Emerson College, Boston

Emmanuel College, Boston

Endicott Junior College, Beverly

Garland Junior College, Boston

Gordon College, Wenham

Harvard University, Cambridge

Hebrew Teachers College, Brookline

Lasell Junior College, Auburndale

Leicester Junior College, Leicester

Lesley College, Cambridge

Massachusetts Institute of Technology, Cambridge

Merrimack College, North Andover

Mount Holyoke College, South Hadley

New England Conversatory of Music, Boston

Newton College of the Sacred Heart, Newton

Nichols College of Business Administration, Dudley

Northeastern University, Boston

Pine Manor Junior College, Chestnut Hill

Radcliffe College, Cambridge

Regis College, Weston

Simmons College, Boston

Smith College, Northampton

Springfield College, Springfield

Stonehill College, North Easton

Suffolk University, Boston

Tufts University, Medford

Wellesley College, Wellesley

Wentworth Institute, Boston

Western New England College, Springfield

Wheaton College, Norton

Wheelock College, Boston

Williams College, Williamstown

Worcester Junior College, Worcester

Worcester Polytechnic Institute, Worcester

THE SENATE FINANCE COMMITTEE

Public Hearings on Tax Reform Proposals
September 15, 1969

TESTIMONY OF THE SOCIETY FOR THE PROPAGATION OF THE FAITH

366 Fifth Avenue, New York, New York

Presented by

THE RIGHT REVEREND EDWARD T. O'MEARA, NATIONAL DIRECTOR

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TESTIMONY OF THE SOCIETY FOR THE PROPAGATION OF THE FAITH

Appreciation

The Society for the Propagation of the Faith expresses appreciation on behalf of the National Director, its one hundred and fifty Diocesan Directors, and over 300,000 priests, brothers, sisters and lay people working in the mission effort of the Catholic Church, for the privilege and opportunity to make this presentation to the Senate Finance Committee.

The Society for the Propagation of the Faith is well aware of the problems and perplexity that must surely confront members of the Senate Finance Committee as they seek to arrive at a Bill that is both fair and just. We sincerely hope that the presentation which follows will be helpful to you in making your final decision.

The Society for the Propagation of the Faith

What it is.
What it does.
Who it represents.

(a) The Society for the Propagation of the Faith is a religious charitable organization organized as a membership corporation under the laws of the State of New York.

(b) The scope and function of the Society for the Propagation of the Faith is accurately described by the following statement:

"The Society for the Propagation of the Faith is the principal official agency of the Roman Catholic Church in the United States for the world support of the Church's missionary activities. The Society's funds are used to support its missionaries, to train its future personnel, and to subsidize its projects of assistance in the developing areas of the world."

(c) The Society for the Propagation of the Faith thus represents over 47 million Catholics in the United States in gathering assistance for the world-wide mission effort of the Catholic Church.

Tax Incentives to Religious, Educational and Other Philanthropic Institutions

At the outset, we wish to recognize the munificent way in which our government has rendered indirect assistance to worthy causes by the provisions of its tax legislation. Gifts to educational, religious, social welfare and other philanthropic institutions are encouraged by the Federal Income, Estate and Gift Tax Laws.

However, except in most unusual circumstances, a donor sacrifices substantial economic worth when he makes a philanthropic gift. Thus, his prime giving motive is his belief in the philanthropy's work and goals. Tax savings become important only after he decides to make a gift. They reduce the cost of giving and enable a donor to contribute

more than he initially thought possible. The Society for the Propagation of the Faith is grateful for the benefits reaped in the past from the operation of these concepts and makes its presentation in the hope that such benefits may continue.

Tax Reform Act of 1969 (H.R. 12370)

This Act is probably the most far-reaching modification of the Internal Revenue Code since the inception of the Internal Revenue Act. We feel that the Act as passed by the House of Representatives includes many changes of substance which had not been announced as even tentative decisions, and this has been done without acknowledging that there has been a substantial change and direction. We admit that there have been abuses, but in small numbers. We are confident that these abuses could be stopped by the enforcement of present legislation and rulings. It is our opinion that this proposed legislation goes too far in expressing punitive regulations which may or may not meet the approval of the voting taxpayer. Be assured, however, that we are not in disagreement with the entire Bill. There are sections that we wholeheartedly approve and others that we are willing to accept. These will be listed later in our presentation.

Deferred Giving

The Society for the Propagation of the Faith is particularly concerned about the passages in the House Bill which threaten the future of its Deferred Giving Programs. In the past few years Gift Annuities and Charitable Remainder Trusts have become a large part of The Society for the Propagation of the Faith's plans and hopes for the raising of the necessary funds to support its work. Current giving sources are no longer sufficient to take

care adequately of our needs and we have been forced to turn to Deferred Giving as a means of keeping abreast of steadily rising needs for the services provided by the Church's mission effort.

RECOMMENDATIONS

Charitable Gift Annuities

Present tax treatment when appreciated property is contributed for an annuity should be retained. (Detailed in Rev. Rule. 62-136, 1962)
If the House Bill's provision on bargain sales is enacted, the law should specifically state that the transfer of appreciated property for a charitable gift annuity is not a bargain sale.

Charitable Remainder Trusts

Present law provides for no capital gains tax on the transfer of appreciated property to fund a charitable remainder trust; nor is there a capital gains tax if the property transferred is later sold by the trust and the gain permanently set aside for the charity. These rules should be retained. The very complicated provisions for charitable remainder annuity trusts and charitable remainder unitrusts should not be substituted for the widely used and understood charitable remainder trust.
Further, the House Bill allows no estate tax charitable deduction for a charitable remainder trust unless it is a unitrust or an annuity trust. This estate tax change would thus affect the estates of donors dying after the Bill is enacted. It would even apply to charitable remainder

trusts created before the Bill's enactment, no matter how long ago they were created. The retroactive nature of this provision seems so harsh and unfair that we can only feel it must be the result of an oversight. These charitable remainder trusts which the Society has issued in full compliance with the laws in existence at the time the trusts were created, would be basically and radically changed, with disastrous results for the donor as well as for the Society for the Propagation of the Faith. The benefactor who contributed the assets of the trust, relied upon the statements of the Society, which were always based upon existing laws concerning the tax details about the donor's original gift, the transactions occurring in the trust, and the way the trust would affect the donor's estate. Many of these people are elderly, and it is most unfair to submit them to these penalties long after they have entered into the gift.

Also, the charitable deduction for gifts of appreciated property should be based upon the fair market value of the trust at the time of its creation, rather than requiring the donor to base his deduction upon his cost basis, or pay a capital gains tax if he elects to compute his deduction based on the fair market value. Further capital gains incurred by the trust and permanently set aside for charity, should not be taxed.

The Society for the Propagation of the Faith is also seriously concerned about the provisions of the proposed tax legislation which affect outright gifts, especially gifts of appreciated property. We are concerned also with the proposed Allocation of Deductions provision. However, because these are common concerns to so many other religious, educational and charitable organizations, we have limited our presentation to those areas affecting Deferred Giving, in which the Society for the Propagation of the Faith has been somewhat of a pioneer.

The Society Supports

1. The Society supports extending the unrelated business income tax to cover all organizations now exempt.

2. The Society supports taxing organizations on income received from debt-financed investments; for example, Clay Brown transactions.

Important, But Willing to Sacrifice

1. Two Year Trusts.

2. Appreciated property gifts which would generate ordinary income if sold [e.g., inventory; "Section 306 stock"; property which if sold would generate short term capital gain (held 12 months or less under the House Bill)].

3. The unlimited charitable deduction.

4. Rent-free use of property.

Conclusion

The Society for the Propagation of the Faith appreciates greatly the chance that we have had to present our opinions to you. We hope you will permit us to point out the possibility that Government can be excessively preoccupied with abuses of which only a tiny minority of donor-taxpayers are guilty. Thus the possibility of corrective legislation which overcorrects. Such legislation removes not only the abuse but also tax benefits which before

were not questioned. The United States Supreme Court has decleared that the charitable contribution deductions provided by the Code should be broadly construed. As far back as 1934 it said: "The exemption of income devoted to charity and the reduction of the rate on capital gains are liberalizations of the law in the taxpayer's favor and were begotten from motives of public policy, and are not to be narrowly construed." Throughout the years the courts have liberally construed the Internal Revenue Code provisions in favor of donors and philanthropic institutions. In a good majority of recent litigated cases on charitable deductions, donors have prevailed. However, the mere fact that a donor may have to litigate his right to the charitable deduction in some instances inhibits his generosity in giving. We confidently hope that the current tax legislation will reflect the magnanimity for which there is such well-founded precedent.

Our final appeal is not only for the Society for the Propagation of the Faith, but for all non-profit organizations which are operating in conscientious compliance with our Government's laws and regulations. We are at this point desperately in need of further help. If this help is not given, many of these wonderful institutions may go out of existence, and the burden of continuing the services they are rendering will fall on the Federal Government -- and at much greater cost. I pray that the Senate Finance Committee in considering not only our own testimony, but that of all of the other organizations, will come to the conclusion that it is much better to let publicly supported organizations continue to handle the problems that they have taken care of up until now with remarkable efficiency, by granting them continued favorable taxation provisions.

The Right Reverend Edward T. O'Meara,
National Director
The Society for the Propagation of the Faith

STATEMENT TO THE SENATE FINANCE COMMITTEE
WITH REFERENCE TO THE TAX REFORM ACT
OF 1969

by

Dr. E. J. Boling
Vice President for Development and Administration
The University of Tennessee

Although The University of Tennessee is a tax-aided institution, state tax funds supplied only 36% of the University's operating budget for the 1968-69 fiscal year. Approximately 14% of the budget was provided directly from student fees. Of the remaining percentage, gifts and grants accounted for 23% of the total support. Gifts to The University of Tennessee subsidize scholarships, faculty salary supplements, library endowments and other "extras" necessary to satisfy the requirements for academic excellence.

Without private philanthropy, the University would have to curtail many programs which are so vitally necessary to the whole concept of education.

The following chart indicates the total amount of gifts that The University of Tennessee received in 1968-69 from private philanthropy:

Annual Giving Program	$ 373,150.33
Deferred Gifts Program	$ 763,999.09
Business and Corporate Gifts Programs	$ 752,892.00
Special (No Federal Monies)	$ 2,568,136.91
TOTAL	$ 4,458,178.33

Without these monies, 83 freshman scholarships, 20 freshman merit awards, 8 distinguished service professorships, 15 upperclass scholarships, 10 National Merit Scholarships and many other programs would not have been available. Again, in the future, we must rely on the same type of private support to fulfill these vital needs.

The Tax Reform Bill encompasses a broad field as evidenced by the 300-page plus document passed by the House and now before the Senate Finance Committee. Undoubtedly, tax reform is warranted and indeed much of the proposed bill contains desirable legislation. This is where the real danger looms. The idea of tax reform is so appealing that apparently members of the House voted for the entire package without carefully scrutinizing the contents. We are for laws aimed at taxing organizations on income received from debt-financed investments (such as the Clay Brown transactions) and extending the unrelated business income tax to cover all organizations not exempt. These are things that need to be corrected.

However, we contend that there are some provisions in that same bill that would cripple philanthropic support of our nation's legitimate charities including educational institutions; and here, it is worthy to note that through the years, Congress has repeatedly liberalized the tax laws encouraging individuals to support educational institutions. For example, the Senate Finance Committee rejected a House provision passed in the 1938 Tax Act which would have eliminated the added tax benefits on the donation of appreciated property to charity in these words:

> "Representations were made to the Committee by officials of educational and charitable institutions that the effect of such a provision would be to discourage the making of charitable gifts in property. The Committee believes that charitable gifts, generally, are to be encouraged and so eliminated the provision of the House bill." (S.Rep.No.1567, 75th Cong., 3rd Sess. 1938).

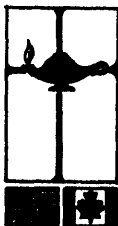
Once again we ask the Senate Finance Committee to eliminate those provisions which would impede charitable giving. We are most concerned with those which would affect: (1) Gifts of appreciated property; (2) Life income contracts; (3) Charitable remainder trusts and the section which would subject the charitable deduction to the allocation of deductions formula. Changes in the present law governing any of these situations will have a drastic effect on the private support obtained by the University.

We know from talking with our largest contributors, that some of our gifts would have never been made had the Tax Reform Bill been in effect. The University's largest living benefactor, Mr. Clayton Arnold, retired farmer and postman, recently made the statement, "I would not have entered into a charitable life income agreement with The University of Tennessee had the current 'Tax Reform Bill' been law". In addition, the tax benefits of his most current gift, $225,000, are in jeopardy because of the retroactive dates attached to the bill as passed by the House. Mr. Arnold's statement sincerely expresses the attitude of the majority of our substantial contributors.

Contrary to the common interpretation of the new tax bill, tax revision would not affect contributions of just wealthy individuals. Nine out of the 10 gifts of $50,000 or more received by the University during the past three years have come from people who could not have been classified in the millionaire category. Rather, they have come from farmers or elderly couples without dependents who were willing to give the majority of their estates through charitable remainder trusts whereby they could receive the income during their lives. Eighty per cent of these same gifts previously mentioned were all gifts of appreciated securities or appreciated real estate.

The Treasury will not be guaranteed any immediate revenue by enacting the provisions we have previously discussed if the prospective donor loses his charitable incentive. He will more than likely hold the appreciated securities until death, thus avoiding capital gains tax anyway! Estate taxes could be diminished by testamentary gifts, so why curtail immediate gifts for no good reason?

Let us say again that we are for tax reform, but not to the extent that it would hinder philanthropy. We urge the members of the Senate Finance Committee to amend the bill passed by the House and in finality, to bring forth a bill which will continue to encourage private support for educational institutions.



Lutheran Educational Conference of North America

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September 18, 1969

TO: COMMITTEE ON FINANCE
UNITED STATES SENATE
Russell B. Long, Chairman

SUBJECT: TAX REFORM ACT OF 1969(H.R.13270)
WRITTEN STATEMENT BY PRESIDENT SIDNEY A. RAND,
LUTHERAN EDUCATIONAL CONFERENCE OF NORTH AMERICA

SUMMARY: 1. Congress should continue to encourage private philanthropy.
   a. LTP and ADR discourages giving, especially appreciated property.
   b. Charitable remainder annuity trusts and unitrusts should not be substituted.
   c. Transfer of appreciated property for charitable gift annuity should not be considered a "bargain sale".
2. New paragraph (8) under Section 201(a)(3) may be ambiguous and deny charitable deductions for life income agreements and should be deleted,
3. 7½% tax on foundations is excessive.

TO THE MEMBERS OF THE SENATE FINANCE COMMITTEE:

The Lutheran Educational Conference of North America represents sixty-two institutions of higher education in the United States and Canada having affiliation with Lutheran churches. In the United States, member institutions located in twenty-two states include fifteen two-year colleges and thirty-one four-year colleges and universities. Several of the member institutions offer graduate and professional work in addition to the undergraduate program.

During the 1968-69 school year, these colleges and universities enrolled 55,360 full-time students and another 26,800 students in part-time graduate and undergraduate programs.

Graduates of these institutions enter such varied career fields as teaching, medicine, nursing, law, engineering, the ministry, social work, foreign service, and business. Some of them send an average of one-third of their graduates into professional and graduate schools. One of the institutions has a school of law and a school of engineering. All of them are dedicated to the serving of our society by providing students with the opportunity for an education which broadens the vision, deepens the understanding, and nurtures the spirit of man.

These institutions share with all private education a common characteristic--they depend for support on private philanthropy. The Congress has long encouraged this support as beneficial to the common good. The Senate Finance Committee of the 75th Congress, third session, in referring to a provision included in the House bill that would have placed a capital gains tax on the appreciation of equities and real property given to an exempt organization, said:

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> "Representations were made to the Committee by officials of educational and charitable institutions that the effect of such a provision would be to discourage the making of charitable gifts in property. The Committee believes that charitable gifts generally are to be encouraged and so has eliminated the provision of the House Bill."

Today the private support of higher education is even more critical than it was in 1938. Private colleges and universities are facing a severe financial crisis. Their continued existence as private institutions is dependent on not only maintaining but also increasing gift income. During the latest fiscal year, the institutions in this conference received over $40,000,000 in gift income. Of this amount, about 10% has come in the form of appreciated property, a growing source of gifts in the last three or four years. Some of these institutions receive annually as high as 33% of gift income in the form of appreciated property, amounting in one instance to more than $2,000,000.

A change such as that advocated in H.R.13270 would materially affect the flow of such gifts and could well cripple the programs of these colleges. While it is true that the House bill retains the present provision in regard to the treatment of gifts of appreciated property, it effectively negates this retention by categorizing such appreciation as one of the "tax preference" items. In addition, making the charitable deduction subject to the allocation of deduction rule certainly discourages rather than encourages private philanthropy.

We are also deeply concerned with the provisions having to do with the tax treatment of deferred gifts. This method of philanthropy is of increasing importance.

One of the important reasons this type of philanthropy should be encouraged is that it enables people of more moderate wealth to make substantial gifts to educational and charitable institutions in which they have a profound interest. It is our opinion that the very complicated provisions for charitable remainder annuity trusts and charitable remainder unitrusts should not be substituted for the widely used and understood charitable remainder trust.

A widely used gift method involving deferred gifts, often of modest amounts of $1,000 or less, namely the Life Income Agreement, may be endangered by an ambiguous section of the House bill, Section 201(a)(3) adding a new paragraph (8) to I.R.C.Sec.170(b). Although not entirely clear, this section could be interpreted to deny any charitable deduction for life income agreement gifts. Because of this possibility, the proposed paragraph (8) should be deleted.

If the source of support is to continue, it is essential that capital gains incurred by a trust or life income pooled fund and permanently set aside for charity should not be taxed. If the provisions presently in H.R.13270 regarding "bargain sales" are adopted, we would hope that the law would specifically state that the transfer of appreciated property for a charitable gift annuity is not a bargain sale.

These institutions received $1,465,000 from private foundations last year. These grants have strengthened these colleges and universities and have made possible programs which could not otherwise be financed. These programs have in turn benefited not only the institution that was the beneficiary of the grant but also many other colleges, public and private alike.

For this reason we feel that the 7½% tax on foundation income is excessive and will penalize not the foundations but rather education, both in its teaching and research aspects.

Many provisions of the proposed legislation appear to be equitable and should be enacted into law. However, all provisions which embody change should in fairness be prospective from the date of enactment.

Dr. Solomon Fabricost, professor of economics at New York University and a former director of research, the National Bureau of Economic Research, stated in a recent article entitled "Philanthropy in the American Economy": "Our society has developed a variety of means to cope with the needs of its less fortunate members and to enhance the well-being of all... Indeed it is not going too far afield to recall that the moral justification of our type of economic system is its great effectiveness in harnessing self interest for the benefit of the entire community." The tax laws in respect to the items we have mentioned have to date done exactly this. The changes which are contained in the House bill threaten to destroy the foundations on which our pluralistic system of higher education is built. We respectfully request the Senate Finance Committee to proceed with great care in considering these changes lest irreparable harm be done to the private colleges and universities, to all people who benefit from the work of these institutions, and to the American society itself.

Sidney A. Rand, President
Howard E. Holcomb, Secretary-Treasurer
Lutheran Educational Conference of North America

A STATEMENT ON TAX REFORM

ADDRESSED TO THE SENATE FINANCE COMMITTEE

By

Stanley Marshall, President
Florida State University

Along with many other Americans, I recognize the need for extensive revision of our tax structure and heartily endorse the goal of achieving greater utilization of our national resources and greater equality in the method of taxation.

I watched with interest as the House Ways and Means Committee began its deliberations, but my interest became concern and then alarm with the announcements of tentative decisions regarding philanthropic gifts to charitable and educational institutions. On July 23, I conveyed that alarm to your committee as well as to the House committee. On July 29, I discussed my concern in a meeting with the Florida Congressional Delegation. The subsequent passage of HR 13270 intensified my concern, and, as President of the Florida State University and as one who has spent all of his adult life in public education, I feel impelled to address these brief comments to this distinguished committee.

"The crisis in American higher education" is a familiar story, a major portion of which is economic in nature. The problems at the Florida State University which are no doubt typical of public institutions around the nation emerge in the form of mushrooming enrollment, diminishing space allocations and a desperate need for new and improved programs and facilities. Our expected fall enrollment of 17,000 is projected at 28,000 by 1975. We have an acute shortage of classrooms, laboratories and other academic space, and we have abandoned attempting to provide housing for all our students.

As a state-assisted university, we look to the Florida Legislature for our primary funding. However, in fiscal 1968, state appropriations accounted for less than 53 per cent of our total operating budget. There was no appropriation for capital outlay. For the same period, student fees accounted for approximately 14 per cent of our total operating budget. That left approximately one-third of our total budget to be funded from all other sources including federal agency grants and gifts from private corporations, foundations and individuals. The total of all these funds scarcely met our minimum requirements and fell far short of what would have been required for a program of genuine excellence.

The financial outlook for the immediate future is bleak. The state budget has been strained almost to the breaking point. Federal budget tightening and proposed cutbacks in spending suggest little additional help can be expected from that source. To materially increase student fees in a public institution would be totally contrary to our basic philosophy of public education. Resident tuition in Florida has been increased 20 per cent this fall, but the increase in student fees can hardly be considered a major source of additional funding.

All that remains is the private sector of our economy. House Bill 13270 threatens to destroy the major portion of that source by removing much of the tax incentive accruing from gifts of appreciated property. The vast majority of major philanthropic contributions are in some form of appreciated properties. The Florida State University recently received an inter vivos gift amounting to approximately one million dollars. Not one cent was in cash. The donor, now deceased, named Florida State in his will for a substantial amount which we are told will also be largely, if not entirely, in stocks and properties.

Although HR 13270 does not place a direct capital gain tax on gifts of appreciated property to qualified institutions, I am advised that the provision for allocation of tax preferences would have a serious restricting effect on potential gifts of this type. I am

advised also that the capital gains provision regarding life income contracts and charitable remainder trusts would almost totally remove these methods of deferred giving from our programs.

Although state appropriations will continue to be the predominant factor in our budget at Florida State, there can be no denying that private gifts are desperately needed if we are to provide the youth of our state and nation with the quality education they deserve. I respectfully urge the removal from HR 13270 of any provision which would inhibit or discourage private support of our educational institutions.

September 11, 1969

STATEMENT ON TAX REFORM TO THE MEMBERS OF THE COMMITTEE ON FINANCE, UNITED STATES SENATE, WASHINGTON, D.C., SEPTEMBER 12, 1969

Gentlemen:

I am George W. Keitel, Jr., Director of Budget for the United Church Board for World Ministries on the 16th Floor at 475 Riverside Drive, New York, N.Y.

The United Church Board for World Ministries is the oldest Missionary Board in the United States, with a charter in 1810 as a non-profit charitable corporation, domiciled in Massachusetts with offices at 14 Beacon Street, New York at 475 Riverside Drive, and St Louis at 1720 Choteau Avenue. The United Church Board for World Ministries has 404 missionary personnel serving in 32 countries, with financial support to educational, medical, national leadership training, refugee and rehabilitation and communications programs in a total of 70 countries.

The United Church Board for World Ministries is the overseas instrumentality of the United Church of Christ, which has 2 million members representing 2000 churches in the United States. The 158th Annual Report,* the Treasurer's report for the year 1968,* and the Calendar of Prayer and Directory for 1968-1969* of the United Church Board for World Ministries are enclosed for your reading. These documents outline the programs of the Board, the overseas personnel and their work, and the audited financial statements reflecting the assets, the liabilities, the equities, and investments of the United Church Board for World Ministries.

The United Church Board for World Ministries' very life depends on the continuation at present levels of the charitable contributions. The unrestricted investment balances are equal to only one year's operation. For the year 1970, after stringent budget cuts, we are still faced with a deficit of $1,507,000, which must be paid from unrestricted investment fund balances, assuming that the charitable contributions continue at present levels.

* Under separate cover.

We realize that many who contribute to the United Church Board for World Ministries may take advantage of a tax exemption for that contribution. However, the United Church Board for World Ministries attests that the inherent and constitutional right of every American citizen to give without restriction to the charity of his choice is fundamental to freedom.

The first missionaries to Asia were sent by the United Church Board for World Ministries. The first missionaries to the Sandwich Islands 150 years ago created the vital educational, medical, and religious freedoms which helped bring the 50th state into our nation. The educating of national leaders in Africa today continues to create the freedoms envisioned by our founding fathers. These outstanding examples of "return on investment" of a few dollars donated to extend religious liberty and freedom must be preserved. The efforts of the United Church Board for World Ministries are in the highest tradition of ministering to the needs of mankind.

In light of our background and the obligation to continue present programs and to be involved in new ventures of mission on six continents, the United Church Board for World Ministries calls upon theCommittee on Finance to adopt the following proposed reforms:

Please turn the page . . .

PROPOSED REFORMS

We recognize that a revision of the federal tax structure involves many technical questions. We recognize the need for a more equitable levying of taxes and for simplification of recording and collection procedures. But we are certain that some of the proposals currently before Congress would inhibit private giving and seriously affect the organizations which rely upon many small contributions and in turn affect the millions of people who now benefit from them. We see certain guidelines as basic in any meaningful reform:

1. All personal income, whatever its source, should be subject to a graduated rate of taxation which is progressively heavier as the total amount increases. The actual payment of tax dollars due must flow for deposit into the government treasuries on a current basis. Any exceptions must be fully justified by a vital social or economic purpose, and must be scrutinized particularly as to their effect upon the less affluent members of society.

2. In the interest of greater equity and sufficiency, the following steps should be taken to correct existing preferences and inconsistencies:

a) There is a constitutional question whether the federal government can tax income from state bonds. State bonds are not a part of the federal base (unless new state laws say that the income from state bonds can be taxed by the federal government.) However, assuming no constitutional question, bonds presently tax-exempt, hereafter issued by state and local governments, should be taxed like income from other investments. Existing and proposed federal grants to state and local governments would more than make up for any difficulty they may encounter in borrowing, and would capture important revenue for public purposes

from individuals in the upper income brackets. The recent proposal by the Treasury to issue taxable U.S. securities, and then make federal low-interest loans to state and local governments, would provide an alternate solution. The present tax exemption costs the Treasury more than $2-billion in tax loopholes, yet saves states and local governments little more than $1-billion in lower interest payments.

b) Provision should be made for averaging capital gains to prevent unduly high rates being applied to unusually large gains realized in a single year. Capital gains should be taxed at present rates.

Internal financing and decentralization of diversified corporations fosters the development of vast corporate conglomerates and the submerging of the smaller firms deprived them of access to capital funds and separate existence in the business community.

c) Provisions for averaging income for tax purposes should be extended to taxpayers not presently enjoying this advantage. Persons who receive the bulk of their income in a relatively short period of their working life tend to pay higher income taxes over their lifetimes than those who receive their income more evenly throughout their productive years. In 1964, Congress took a step forward to eliminate this inequity by providing for some averaging of income over a five year span. The averaging provisions are very complex and of limited application. They do not now apply to capital gains.

The law should be changed to provide for averaging over a more substantial period of an adult's life. Most of the restrictions

and limitations on the availability of the averaging provisions should be eliminated. The adoption of a fair, generally applicable averaging provision including capital gains income should be subject to averaging along with a taxpayer's other income. If this occurs, a taxpayer will not be penalized because he realizes in one year income which accrued through risk-taking over many years. Moreover, by greatly reducing tax differentials resulting when income is made reportable in one year rather than another, many complications of the present law that relate chiefly to such distinctions could be eliminated.

d) The preferential treatment extended to taxpayers who invest in oil, gas, and mineral properties should be ended. Investors are allowed to deduct immediately much of this outlay as a "development expense," and then in addition they are permitted to deduct a substantial percentage (20.0 per cent in the case of oil and gas) of the gross income in computing their tax base, notwithstanding the fact that their total deduction may, and usually does, far exceed their actual investment. Depletion deductions, like depreciation deductions available to taxpayers in other fields, should be limited to the amount of the taxpayer's own actual investment in the oil or mineral property that has not already been recovered tax-free.

e) Foundations, church and educational institutions, which legally and legitimately fulfill the purpose for which they were established are exceedingly important in meeting social needs of people. Such organizations should continue to be recognized as tax exempt charitable organizations and required to file annual business statements with the local, state, and federal governments and

pay tax on unrelated business income. If a charity owns a manufacturing plant, that operation should be fully taxable.

f) We support the proposal to increase the standard deduction and remove the charitable deduction from that area. Charitable giving can very well stand on its own merits.

g) We support the proposal to increase the limit on deductibility of individual contributions to 50 %. If it is fair to assume that a great number of those who give 30 % or more do so for the tax deduction benefit, it is also fair to assume that their giving will increase under more liberal provisions.

h) We are distressed over the proposal to eliminate the provisions for unlimited contributions. The small number of taxpayers eligible for such deductions are generally the "pacesetting" givers, often essential for financing needed programs.

i) The provision that permits the profits on appreciated property to be realized tax free at the owner's death should be continued.[2] Such property is taxable at the high rates under federal estate and state inheritance tax laws at actual value as of the date of death.

j) Individuals who give to a charitable institution property (including stocks) which has appreciated in value since its purchase should be able to secure tax deduction for a charitable contribution of the full appreciated value.

k) Federal estate and gift taxes should be revised to permit a husband or wife to receive property from the spouse tax free; but the law should not permit wealthy families to avoid estate taxes for generations by the use of long-term trust arrangements. Estate and gift taxes should be integrated so that individuals, who make sizeable lifetime grants and receive a tax advantage under

present law, and those who do not transfer their property until death, will have equitable and reasonable treatment.

1) We oppose any proposal to establish a 3 % threshold or any threshold below which charitable gifts would not be deductible. According to the Internal Revenue Service report,[3] more than half of 27 million who itemized deductions gave 3 % or less. By imposing a 3 % threshold, the giving incentive for more than half of the taxpayers itemizing deductions could be drastically affected. This in turn would have serious impact on the ability of such organizations to continue their educational, medical, community services to meet human needs. It is in the interest of the United States that these efforts continue to nurture the lives of citizens. Through the efforts of many and varied agencies, the support of philanthropic works with private giving has increased. If that giving is decreased because of proposals advanced by the Treasury Department, the Government will undoubtedly be faced with the necessity for providing greater aid.

3. The income tax should be completely eliminated for those below the poverty line, and should not fall so heavily upon those immediately above the poverty line that they are thereby brought below it. Millions of citizens living below the subsistence level already pay unduly large portions of their income in income, sales, Social Security, and other taxes.

[2] A study of individual donors who made gifts of a million dollars or more in 1965 reveals that without the tax benefit they would have reduced their total giving by approximately 46 %.

[3] "Statistics of Income, 1966, Individual Income Tax Returns".

It would seem reasonable to eliminate the 7 % investment credit for corporations.

4. Tax dollars should be made available to furnish food and basic clothing and shelter for those living below the poverty line.

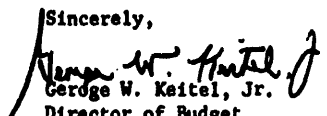
5. Any future increases needed to augment our Social Security trust funds for higher benefits to persons below or near the poverty level, should come from general revenues, principally the graduated income tax, rather than from increased taxes on the low-income worker's take-home pay.

The poor of our nation must not have real income minimized through taxation. They and the poor of the world will never gain wealth on the distribution of tax dollars as will others. Likewise, sharing wealth becomes a greater burden as wealth is increased. The principle of the graduated income tax as the source of funds for all federal programs and tax sharing plans must be preserved.

If national priorities ranging from military defense to health and welfare for all mankind are determined first within long range goals and purposes, then the extent and sources of taxation can be determined. To continue a short range pattern to meet the crises of government first, then to seek taxation to fund programs will destroy the role of taxation in the lives of all American citizens and alienate the various special interest groups, all seeking relief.

We wish to express our appreciation for the opporortunity to present this written statement on proposed tax reform.

Sincerely,



Gerdge W. Keitel, Jr.
Director of Budget
Uniteed Church Board for World Ministries