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Clifford C. Nelson

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The Forty-first American Assembly met at Arden House, Harriman, New York, November 2-5, 1972 to consider The Future of Foundations. The participants, 72 Americans, came from all sections of the nation and represented various pursuits and viewpoints: from the foundations, business, education, communications, government, the legal profession (bench and bar), the medical, clerical and military professions and civic organizations. For three days they discussed in depth the rationale for foundations, their structure and operation; they assessed government regulation of foundations and considered interaction between foundations and government programs. On the fourth day, in plenary session, they reviewed the report which appears on these pages.

During the course of the Assembly, formal addresses were given by H. E. Soedjatmoko of Indonesia, President John H. Knowles of The Rockefeller Foundation, Under Secretary of the Treasury Edwin S. Cohen, and U.S. Congressman Barber Conable of the House Ways and Means Committee.

Under the editorial supervision of Fritz F. Heimann, background papers were prepared as advance reading for the Assembly as follows:

1. The Foundation: "A Special American Institution" — Thomas Parrish
2. Foundations and Social Activism — Jeffrey Hart
3. Foundations and Public Controversy — John G. Simon
4. 1969 Tax Reforms Reconsidered — John R. Labovitz
5. Should Foundations be Third-Class Charities? — Boris I. Bittker
7. Perspectives on Internal Functioning of Foundations — H. Thomas James
8. Do We Know What We Are Doing? — Orville G. Brim, Jr.

Regional Assemblies, making use of American Assembly conference techniques, will be held across the nation with the cooperation of other educational institutions.

The report which follows reflects the broad consensus of the participants in their private capacities, reached after several days of organized discussion of a prepared agenda. The American Assembly itself, a nonpartisan educational forum, takes no official position on matters it presents for public discussion. The partial funding of the program by the following persons and organizations is much appreciated, but it should not be construed that they necessarily share the opinions contained herein: DeWitt Wallace, Douglas Dillon, Robert O. Anderson, Robert W. Woodruff, The Rockefeller Foundation, the Henry Luce Foundation, and the William Benton Foundation.

CLIFFORD C. NELSON
President
The American Assembly
Foundations are privately managed sources of funds dedicated to public purposes. There are more than 25,000 grant-making foundations, and the existence of such decentralized sources of money is of great importance to our society and particularly to the nonprofit sector. There is great diversity among foundations. Only a few are large; most are quite small. Few people have a clear conception of what the word foundation* means or what foundations do.

Since the publicized foundations are usually linked to names of great wealth, there is a widespread assumption that foundations have great influence in our society. This has led to unwarranted concern over their supposed power. The foundations themselves are partly to blame, because of the rhetoric they have used to describe their own activities.

Actually, even the larger foundations are quite small when compared with such organizations as government agencies and business corporations. Total assets of all foundations amount to about $25 billion, and their annual grants are in the $1.5 to $2 billion range. By comparison, the annual expenditures of the Department of Health, Education and Welfare are approximately $30 billion. The Ford Foundation, with assets of $3.4 billion and annual expenditures in the $250-million range, is disproportionate in size only by comparison with other foundations.

One major consideration in appraising foundations is the enormous expansion of governmental activities during the past generation. Government agencies are active with vastly larger funds in essentially all areas in which foundations work. Foundation programs inevitably interact with government programs, and there is opportunity for both collaboration and conflict. This makes the work of foundations at once more difficult and more challenging: yet foundations as diversified and decentralized sources of funds will continue to have an important role in the future.

Because foundation resources can be allocated with greater flexibility than those of most other institutions, they possess a special potential for responding to the changing needs of society, including the financing of experimentation, which is of great significance at a time of rapid change.

The deliberations of the Assembly focused primarily on private grant-making foundations and these recommendations should be read in that light.

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But it is also of importance to the health of society that foundations continue to support other nonprofit institutions, particularly in the fields of education, science and culture. At a time when such institutions are encountering severe financial difficulties, continued help is essential.

Too often foundations are inaccessible and their decision-making processes mysterious and arbitrary. Foundations must perform their role responsibly, openly and in the public interest.

We therefore make the following recommendations:

1. Responsiveness to the Public Interest. Many foundations, large and small, are not sufficiently exposed to the wide range of public interests that they wish to serve. Action should be taken to reduce this isolation. There are many methods to achieve systematic and balanced exposure to public concerns. Specifically, foundations should seek social and economic diversification in their trustees; should meet with, rather than retreat from, their critics; should invite critiques of their programs by outside review panels; should have deliberate policies producing trustee, and where appropriate, staff turnover; and should periodically meet with representative unsuccessful grant applicants to hear their views.

Foundations should take the initiative in developing services that will enable them to become more useful to the public. To the extent feasible, foundations should offer a wide range of counseling and consulting services to applicants, grantees and other interested parties. Better information systems need to be developed. Organizations serving the foundation field should be strengthened and should invite public participation in their work. More active clearing house operations are needed, and much more cooperative activity among foundations should take place.

2. Public Communications. To improve their own operations and to better serve the public, foundations must take positive steps to minimize secretiveness. Adequate disclosure of their activities, including their financial affairs, is essential. However, because annual reports will not be widely read — and, in any case, are an inadequate device — foundations must explore other methods of communication with the objective of encouraging greater interest, response and criticism. The forms of communication should vary with the foundation's program and should be directed both to the general public and to more specialized publics such as professional groups and potential grantees of all kinds.

3. Relations with Grantees. The relation between foundations and their grantees is a sensitive one, and foundations should be careful not to overstep the proper bounds. In the case of grants to well-established organizations, foundations should, as a general rule, not go beyond a review of the grantees' expenditures and evaluation of the work, except where the common interest of the foundation and the grantee requires closer and more continuous consultation. Foundations should provide less well-established organizations with assistance as needed. Foundations should view themselves as service resources for grantees as well as providers of funds.

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4. **Staffwork.** Effective foundation work requires a high degree of competence and diligence. Whether a professional staff is required by a foundation depends on the nature of the foundation, its program, and the time and attention which trustees can bring to the work. The most important element is the quality of the work, not whether it is done by trustees, professional staff or outside consultants. The Council on Foundations and community foundations, as well as the larger foundations, should take steps to assist smaller foundations by making advice and consultation available to them.

5. **Self-dealing Transactions.** There must be strict controls to assure the avoidance of self-dealing transactions between the donor and the foundation. However, some of the prohibitions embodied in the present tax law have resulted in unintended and inappropriate rigidity when applied to certain forms of indirect relationships. The law should be modified to eliminate these rigidities.

6. **Payout Requirement.** Foundations should be required to make adequate annual grants. This recognizes that the present problems of our society are sufficiently serious that available philanthropic resources, including reasonable return on endowments, should be currently utilized. We do not at this time recommend any change in the present annual payout requirement currently set at 5.5 percent by the Treasury Department; however, it should be re-examined after additional experience has been obtained.

7. **Prohibition on Political Activities.** No financial contributions or other assistance should be provided by foundations which could reasonably be construed as aiding a party, a candidate or advocating a specific result in a referendum issue in any election.

8. **Legislative Issues.** Foundations should be free to sponsor the study and discussion of public issues, even when such issues are taken up by Congress or other legislative bodies. They should also be free to appear and testify before legislative bodies. However, foundations should not engage in grassroots lobbying. This does not preclude foundations informing members of Congress and the public of foundation activities.

9. **Support of Litigation.** Foundations should be able to support litigation, such as that carried on by public interest law firms, as permitted under present law.

10. **Government Agencies.** We endorse the Congressional decision not to restrict foundation interaction with regulatory and other executive agencies at the federal, state and local levels. Foundations should avail themselves of appropriate opportunities to work in partnership with government agencies, to support evaluation and monitoring of government programs, and to fund competitive programs in fields of interaction between government agencies and foundations. Adequate mechanisms for information exchanges should be developed.

11. **Government Regulation of Foundations.** The primary objective of government regulation of foundations should be the prevention of self-dealing and other types of financial abuse. Such regulation is essential to assure that foundation funds are used for public purposes and that public confidence in foundations is maintained. Regulation to prevent fiscal abuses should be carried out by the Internal Revenue Service. The importance of federal regulation should not obscure the need for effective self-regulation.

The government should exercise restraint in the regulation of foundation program activities. Such regulation, unlike the prevention of fiscal abuses, presents a threat to the integrity of private initiative. The more foundation programs are hemmed in by government regulations, the more will foundation activities resemble government programs and thereby lose one of their reasons for being.

12. **Differential Tax Incentives.** We question the soundness of the differences in tax incentives between foundations and other charities established by the 1969 tax legislation. The Treasury Department should collect data to permit an evaluation of the effects of the 1969 amendments on total philanthropic giving and on gifts to foundations as compared with gifts to other types of charitable organizations. Concern was expressed about provisions in the law that may adversely affect the incentives for establishing new foundations, particularly the provisions regarding the donation of appreciated property and the restrictions on the holding of control stock. From the public’s point of view, the new energy and new ideas that can come from the establishment of new foundations must be encouraged.

13. **Role of Donor.** The opportunity for active involvement by donors is an important incentive for the creation of new foundations. Therefore restrictions on the role of donors are likely to reduce the creation of new foundations. However, over a reasonable period of time after their creation, foundations should take steps to reduce the influence of donors.

14. **Control Stock.** To encourage the creation of new foundations, ownership of controlling blocks of stock in business corporations should be permitted for a reasonable period of time.

15. **Tax on Foundations.** The tax on foundation income reduces the flow of funds for charitable programs and represents an inappropriate diversion of philanthropic funds to the government (over $50 million in fiscal year 1972). The tax is unsound in principle and should be repealed.

Foundations should not be singled out for an audit charge. If such charges are used, they should not exceed actual audit costs.

16. **Size Restrictions.** No minimum- or maximum-size restrictions should be imposed on foundations.

17. **Philanthropic Policy.** Government action with respect to foundations
requires the recognition of broad social policies which transcend specialized tax concerns. To achieve this objective, an advisory committee on philanthropy should be established. The committee should include representatives of various fields of philanthropy (such as education, social welfare and health), recipients and donors, government officials working in these fields, members of Congress and representatives of the general public. The advisory committee should report to the Secretary of the Treasury and should issue regular publications for general readership.

In addition, there is need for some form of review to suggest how best this society can support its vital, nonprofit institutions, many of which face major curtailment or bankruptcy. Such a basic review should develop long-term formulas for balancing adequate governmental and philanthropic support. This may require suggestions for new institutions and mechanisms that avoid inappropriate governmental interference and make more widely available the benefits and productivity of the nonprofit world.

PARTICIPANTS
THE FORTY-FIRST AMERICAN ASSEMBLY

THEODORE C. ACHILLES
Vice Chairman
The Atlantic Council of the U.S.
Washington, D.C.

GEORGE E. ARNSTEIN
Brookings Institution
Washington, D.C.

LUCY WILSON BENSON
President
League of Women Voters of the U.S.
Washington, D.C.

CHARLES BENTON
President
Films Inc.
Chicago

WILLIAM BENTON
Publisher & Chairman
Encyclopaedia Britannica
Connecticut

FREDERIC S. BERNER
Executive Vice President
Jewish Communal Fund of New York

ORVILLE G. BRIM, JR.
Author and Consultant
Old Greenwich, Conn.

COURTNEY C. BROWN
Professor of Business Policy
Columbia University

McGEORGE BUNNY
President
The Ford Foundation
New York

HARRY BURN
Harriman Scholar
Columbia University

JAMES CASS
Consulting Editor
Saturday Review/Education
New York

DOUGLASS CATER
Director
Communications & Society
Palo Alto

BEVERLY B. CORDRY
Proposal Development Officer
Phoenix College
Arizona

THOMAS B. CURTIS
Vice President and General Counsel
Encyclopaedia Britannica
Chicago

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Deputy Chairman
National Endowment for
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Regional Director
U.S. Department of Health, Education & Welfare
Chicago

ROBERT L. GALE
Gale Associates
Washington, D.C.

FRANK GLENN, M.D.
Consultant in Surgery
The New York Hospital

ROBERT F. GOHEEN
Chairman
Council on Foundations
New York
ABOUT THE AMERICAN ASSEMBLY

The American Assembly was established by Dwight D. Eisenhower at Columbia University in 1950. It holds nonpartisan meetings and publishes authoritative books to illuminate issues of United States policy.

An affiliate of Columbia, with offices in the Graduate School of Business, the Assembly is a national, educational institution incorporated in the State of New York.

The Assembly seeks to provide information, stimulate discussion, and evoke independent conclusions in matters of vital public interest.

AMERICAN ASSEMBLY SESSIONS

At least two national programs are initiated each year. Authorities are retained to write background papers presenting essential data and defining the main issues in each subject.

About 60 men and women representing a broad range of experience, competence, and American leadership meet for several days to discuss the Assembly topic and consider alternatives for national policy.

All Assemblies follow the same procedure. The background papers are sent to participants in advance of the Assembly. The Assembly meets in small groups for four or five lengthy periods. All groups use the same agenda. At the close of these informal sessions participants adopt in plenary session a final report of findings and recommendations.

Regional, state, and local Assemblies are held following the national session at Arden House. Assemblies have also been held in England, Switzerland, Malaysia, Canada, the Caribbean, South America, Central America, the Philippines, and Japan. Over one hundred institutions have cosponsored one or more Assemblies.

ARDEN HOUSE

Home of The American Assembly and scene of the national sessions is Arden House, which was given to Columbia University in 1950 by W. Averell Harriman. E. Roland Harriman joined his brother in contributing toward adaptation of the property for conference purposes. The buildings and surrounding land, known as the Harriman Campus of Columbia University, are 50 miles north of New York City.

Arden House is a distinguished conference center. It is self-supporting and operates throughout the year for use by organizations with educational objectives. The American Assembly is a tenant of this Columbia University facility only during Assembly sessions.

AMERICAN ASSEMBLY BOOKS

The background papers for each Assembly program are published in cloth and paperbound editions for use by individuals, libraries, businesses, public agencies, nongovernmental organizations, educational institutions, discussion and service groups. In this way the deliberations of Assembly sessions are continued and extended. Subjects to date are:

1951 — United States-Western Europe Relationships
1952 — Inflation
1953 — Economic Security for Americans
1954 — The United States’ Stake in the United Nations
1955 — The Federal Government Service
1956 — The Representation of the United States Abroad
1957 — International Stability and Progress
1958 — The United States and Africa
1959 — United States Monetary Policy
1960 — United States Agriculture
1961 — Arms Control: Issues for the Public
1962 — Automation and Technological Change
1963 — The Population Dilemma
1964 — The United States and the Middle East
1965 — The Congress and America’s Future
1966 — The Courts, the Public, and the Law Explosion
1967 — The United States and Eastern Europe
1968 — Black Economic Development
1969 — Uses of the Seas
1970 — The States and the Urban Crisis
1971 — The Future of American Transportation
1972 — The Future of Foundations
1973 — The American Correctional System
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