

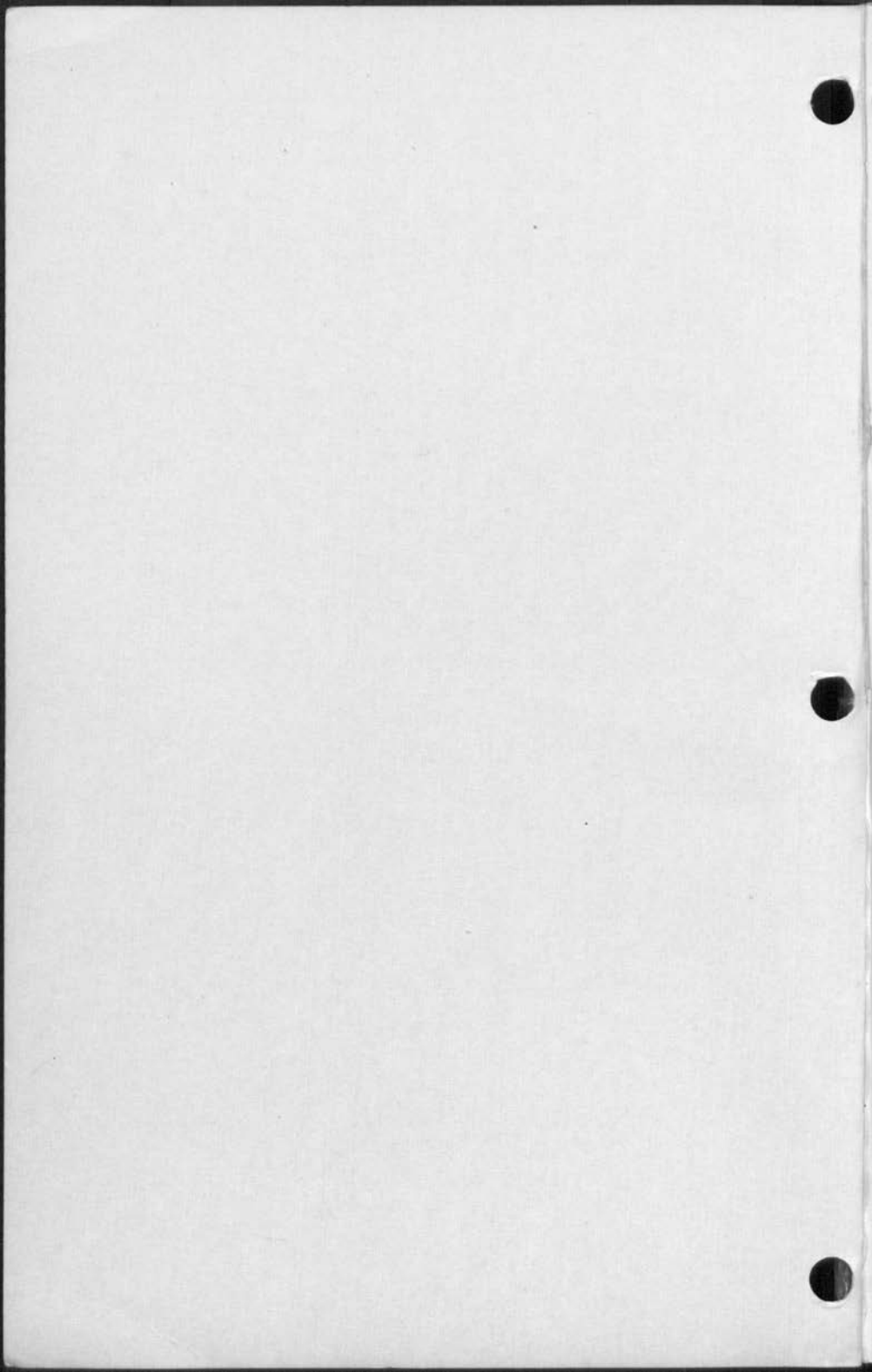
Gift Annuity Agreements of Charitable Organizations



**ECONOMIC REVIEW
POOLED LIFE INCOME
STATE AND FEDERAL REGULATION
ADMINISTRATIVE GUIDES**



**SIXTEENTH CONFERENCE
Celebrating Fifty Years of Service
WISE PUBLIC GIVING SERIES, NO. 55
1977**



Gift Annuity Agreements of Charitable Organizations

PAPERS PRESENTED AT THE SIXTEENTH
CONFERENCE ON GIFT ANNUITIES, HELD
IN MINNEAPOLIS, MINNESOTA, WEDNESDAY
AND THURSDAY, MAY 4 & 5, 1977 UNDER
THE AUSPICES OF THE COMMITTEE ON
GIFT ANNUITIES



COMMITTEE ON GIFT ANNUITIES

1865 Broadway

New York, N.Y. 10023

WISE PUBLIC GIVING SERIES NO. 55
1977

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OPENING REMARKS

Dr. Charles W. Baas

Chairman, Committee on Gift Annuities

Welcome to the Sixteenth Conference on Gift Annuities. Perhaps of more significance is the fact that the first Conference was held on April 29, 1927. This, therefore, is also the Fiftieth Anniversary Conference! The first Conference occurred as a result of a meeting on financial and fiduciary matters of the Federal Council of the Churches of Christ in America on March 22-24, 1927, which authorized the appointment of a continuing subcommittee with the following instructions:

“to study and recommend the proper range of rates, the form of contracts, the amount and type of reserve funds and nomenclature to be used; to ascertain and advise as to the legislation in the United States and the various states regarding annuities, their taxability, et. cetera. This committee is requested to make an immediate study of the matter of rates and to call a conference of interested parties on this matter at the earliest possible date. This committee should be guided in its study by an early determination as to what is the primary motive in the writing of annuity contracts.”

THAT SUBCOMMITTEE OF SIX PERSONS REALLY MOVED!

A conference occurred one month later. I don't like to compare that with our own performance as it took the twenty-two of us on the present Committee just about three years to organize the Sixteenth Conference. Of course, things are slightly more complex and a larger number of people are involved now, yet forty-seven (47) people were present at the first Conference with a program which included:

- Actuarial basis of rates
- Administrative policy
- Legislation and taxation
- Finding prospective donors, and
- Securing the gifts.

Arranging such a program, in itself, was no small thing. The report of the Committee on Findings, which was adopted by the First Conference, included the recommendation that there be a standard in rates and uniformity in practice regarding annuities. They went further and recommended that the standard include a seventy (70) percent residuum and that the maximum rate paid be nine (9) percent. The interest assumption in the calculations was to be four and one-half percent and a table of mor-

tality was recommended which had wide acceptability at the time. The Conference agreed that the issuance of annuities involving more than two lives should not be encouraged. They asked that the Committee draw up a standard form of contract; recommendations dealing with administrative procedures, reserves, bookkeeping and investing of annuity funds. Does all this sound familiar? The group at the First Conference that made these decisions was representative of institutions quite different from our present constituency. Churches, Church Boards and other religious groups made up over eighty (80) percent of the total attending the First Conference. Now, at the present Conference, the largest single group is the educational sector, composing over forty (40) percent of the representatives in attendance today. At the First Conference there were no representatives from Foundations or Homes and Hospitals, which today constitutes about a fifth of our group. No doubt, the difference in constituency now and in earlier years had to do with the fact that the first eight general conferences were held as a part of the Federal Council of the Churches of Christ, until this body was united with the National Council of Churches of Christ in 1950. The Committee on Gift Annuities had no official status with the succeeding organization until October 1951 when the joint Department of Stewardship and Benevolence of the National Council at a special meeting passed this resolution:

That the previously constituted Committee on Annuities of the Federal Council of Churches be continued as a separate Committee under the division of Christian life and work of the National Council of Churches.

On recommendation of the Committee, the Ninth Conference on Gift Annuities, held in October of 1955, adopted an action as follows:

Whereas the Committee on Annuities was originally a subcommittee of the Federal Council of the Churches of Christ in America and has been cooperating with the National Council of Churches of Christ in the United States of America, and Whereas it is the consensus of this Ninth Conference on Gift Annuities that the Committee on Gift Annuities should be perpetuated as an independent agency of service to religious, educational and charitable organizations.

Then it goes on with the succeeding six parts of this seven part resolution found in the proceedings of the Ninth Conference on Annuities outlining the framework within which the Committee and the Conference on Gift

Annuities was expected to function. Under this frame of reference, the Committee, which is now independent, has a constitution and by-laws which can be found beginning on page 155.

Incidentally, another interesting aspect of the First Conference is that in attendance were both our Honorary Chairman, Gilbert Darlington and Honorary Treasurer, Forrest Smith, who are still around, but are no longer active in Committee affairs. Perhaps the Conference could send greetings to these former officials as I would be sure that they would like to be remembered.

Today, present in Minneapolis we have 505 persons from 376 organizations; but the real story is in the sponsorship of the Committee which now totals 857. All these figures are the highest ever.

During the time between Conferences, your Committee has held six meetings. Looking back over the agenda of those meetings, one feels that these were a fairly easy three years. Of course, there were items of decision leading up to, for example, the rate schedule which will be presented to you today. Then, of course, there was that perennial problem of state regulations which was without fail a subject on the agenda. As mentioned earlier, the Committee also did plan this Conference and decided a few other things such as the extension of the tables in the "Red" book. But, by and large, during these three years the Committee seems to have missed the opportunity to participate in the crises which has been a feature so often in the past.

Enough for history—let's switch over to the program for this Conference.

First let me remind you that there has been ample time provided for questions from the floor—so this opportunity to secure additional information is yours.

The program starts with the usual pattern for good reason. This morning we will consider matters directly relating to annuity rates. These subjects get priority because the Conference will be asked to take action on rates the first thing tomorrow morning.

Related data will be provided this morning in the *Economic Review and Projections* and in the Actuary's report. The delay in taking action is intended to give you time to think about what is being proposed—so feel free to discuss the subject with other delegates at the Conference.

Among the subjects offered this afternoon will be two workshops on Gift Annuities. One is termed "Basic" and the other "Advanced." The program will provide you with some guidance as to which workshop may

be appropriate for you. You will be welcome at either section.

Once again there will be a special session at 5:30 p.m. for those interested in Canadian taxation.

The evening session convenes at 7:30 p.m. and will last approximately an hour.

As at previous Conferences, the Committee on Gift Annuities recommends that the drafting of resolutions to be considered by the Conference be placed in the hands of a Resolutions Committee. The following persons have been suggested to serve as a Resolutions Committee, all of whom have attended several previous Conferences.

1. Mr. A. C. McKee, as Chairman
Director of Trust Services, General Conference of Seventh-day Adventists
2. Mr. Charles L. Burrall, Jr.
Actuary, Huggins & Company, Inc.
3. Dr. Darold H. Morgan
President, Annuity Board of the Southern Baptist Convention
4. Dr. Chester A. Myrom
Director, Lutheran Church in America Foundation
5. Mr. Ray R. Ramseyer
Vice President for Development, Berea College
6. Mr. Herbert A. Schwarze
Director, The American Lutheran Church Foundation

with your Chairman as an ex-officio member.

Our special thanks go to the Subcommittee on Arrangements headed by Dave Johnson and to the Program Subcommittee led by Jim Potter.

Now we are ready to start the Conference!

ECONOMIC REVIEW AND PROJECTIONS

Dr. Sung Won Son

Vice President and Chief Economist

Northwestern National Bank

Minneapolis, Minnesota

In today's rapidly changing economic environment a long-term economic outlook is difficult to formulate. But it is still essential in government economic policy decisions, corporate planning, investment decisions and many other applications. Thus, I would like to discuss my long-term economic outlook and those factors which were important in its formulations.

Today the economics profession is divided into two groups: pessimists and optimists. Pessimists say, "a boom and bust cycle is coming. Compared to what we are going to get the 1973-1975 experience was just a Sunday picnic." On the other hand, optimists say, "there is nothing to worry about, sit back and enjoy it. We can have a beautiful and sustained economic expansion over the next several years". "So, if you buy stocks and bonds today, prices will go up and up and you will live happily ever after."

Now, what do I think? Well to determine that, I would like to talk about several things. First of all, economic history, then politicians, and finally, you and me.

So first let me begin with economic history. Many times we can learn something from history. Economists like to make a lot of fearless economic forecasts but there is something that we don't quite understand, something known as economic cycles. We know why the cycles occurred in the past but we don't quite know why they occur in regular intervals. There are 50-year economic cycles, 10-year economic cycles, and 4-year economic cycles. So let me today talk about the two extremes; the 50-year cycle and the 4-year cycle.

The longest cycle, the 50-year cycle, is known as the Kondradieff cycle. It simply says that a major war is followed by a period of golden years and then by a depression. For instance, the Civil War was followed by a period of several good years and then by the depression of 1874 to 1878. Also, World War I was followed by the golden 20's and then, of course, by the Great Depression of the 1930's. The 50-year cycle applied not only to economics but also to other things as well. For example, did you know that the women's liberation movement asserted itself 50 years ago? Did

you know that the Tea Pot Dome scandal was exposed 50 years ago? I might be carrying the analysis too far, but did you know that swine flu made its appearance 50 years ago?

If we extrapolate this historical pattern, I suppose it would be possible to look back from the year 2000 and say that the Viet Nam War was followed by the golden 70's and then finally, by the depression of the 1980's. I really have no idea whether we are going to have golden 70's or a depression in the 1980s, but we cannot really dismiss economic history as hogwash. Quite often the past is a good indicator of the future.

Now to let me move on to the other extreme, the 4-year cycle. We have had an economic recession on the average of every 3.8 years for the last 120 years. Again, extrapolating the historical pattern, a boom in 1978 followed by a bust in 1979 would be right on schedule. So, what's it going to be? Are we going to have a boom-and-bust cycle over the next several years or are we going to have a sustained and balanced economic expansion? I think much of it will depend upon what happens to inflation. There are lots of leading indicators but the best leading indicator that I know of is the inflation rate. For instance, if you could tell me that we are going to have a double digit rate of inflation, then I probably could promise you an unmitigated hell in the economy. On the other hand, if you could tell me that we will have the inflation rate approaching zero percent, then I probably could promise you a dream-come-true economy. Well, are we going to have a dream-come-true economy? No! I can tell you that much. Why not? Well, we have too many inflation biases built in the economy. There are quite a few but let me just list three.

The first one is energy costs. I think President Carter ought to be commended for proposing a program even though it is not necessarily popular. But I think there are a couple of problems with the program. First, it places too much emphasis on taxes and regulation. We need more energy produced at home. Taxes and regulations are not ways to increase production. Instead, they discourage production. The other problem with the program is this; the public is not convinced that we have an energy crisis. Ralph Nader says that we have enough crude oil and natural gas to last for the next 1,000 years, and public opinion polls show that a substantial portion of the American public believes that we don't have an energy crisis; the crisis is concocted by big corporations trying to increase their monopoly profits. This is nothing new. As you recall, back in 1975, Congress tried to pass legislation to increase taxes on gasoline and gas-guzzlers. The tax on gasoline was beaten by a margin of 5-to-1

and the gas-guzzler tax was also soundly beaten. Now I ask you, what has changed since 1975 to get this new program through Congress? As far as I can see, very little. The American public must be convinced that we have a problem and then we will convince our Senators and Congressmen to do something about it. What would it take to convince the American public? In my view, I think we will need more Pearl Harbors, such as the Arab oil embargo and more cold winters. Our dependence on foreign oil will surely continue to increase, causing inflation.

Let's leave energy and turn to something else. My second major concern is the mass of government regulations that we face today. Take banks for instance. We can't pay the market rate of interest on consumer deposits because Uncle Sam says no. So we have to give away dishes, crystal, toy trains and teddy bears instead of higher interest payments. The economy also is forced to sacrifice jobs to save unknown species of flora and fauna and to beautify the landscape beyond its natural state. As a matter of fact, Uncle Sam tells you what to produce, how to produce, to whom to sell and how much to charge. The big government is our Board of Directors. I suppose it is not surprising that the Washington bureaucrats like to regulate everything and everybody. But the unfortunate thing is that the regulated industries like it; they love it; they want to keep it. The airlines and the trucking industry are two good examples. So the point is that we will be lucky to keep our heads above water over the next several years. Regulations will continue to be a source of major inflation.

The third inflation bias that I am concerned about is restrictive labor practices. We agree that labor unions have a legitimate place in the economy. But when we talk about limiting the size of the paint brush and banning the butcher's electric meat saw, everyone loses. The construction unions are a good example. Nationally, the unemployment rate is 7%. In the construction industry, the unemployment rate is about 12%. My guess is that there is no reason to believe that the situation will reverse very radically and, again, this will continue to be a source of inflation for many, many years to come. I have talked about three major concerns. Does that mean that we are going to have this unmitigated hell in the economy due to the inflation biases that I have talked about? It depends upon some other things especially whether we have a collision between supply and demand in the short run. So let's talk about supply and demand.

On the supply side, the economic recession in 1974 and 1975,

followed by a moderate economic expansion, has created a lot of excess capacity. My calculations show that excess capacity could amount to as much as 10% of present level of production. The excess capacity is not evenly spread throughout the economy. However, at this stage of the economic cycle, that is a lot of excess capacity. Given that much excess capacity which is very large at this stage of the economic expansion, if we can manage the demand side, then we can probably avoid a collision. To determine that, let's talk about politicians who control government spending, and then you and I, businessmen and consumers.

First politicians. Quite a few people say, "Now that the Democrats control Congress and the White House, you know exactly what will happen. They will definitely spend their way to a hell of an inflation. Right? Not necessarily. It doesn't look that way. For instance, how about our new President? Some people ask "Isn't he a wild eyed liberal?" Let's go back to November 1976 and see what happened. Mr. Carter was elected by the southerners, blacks and labor. Even then, he squeezed enough. Mr. Carter's narrow victory in 1976 has significant economic implications. What kind of significant economic implications? Mr. Carter, has already said that, if all goes well, he would like to run for reelection in 1980. What would you do if you knew that you had a narrow political base, both geographically and philosophically. You would have to broaden the base. For instance, how about economic policy? His economic policy obviously will have to be much more conservative and cautious than the campaign rhetoric of 1976 would have indicated. To begin with, he appointed a few fiscal conservatives and moderates at cabinet positions and that was a good beginning. And since then he made some gutsy moves. For instance, organized labor, was outraged and astonished when Mr. Carter recommended only a modest increase in minimum wage. Farmers and farm groups weren't happy when Mr. Carter recommended only a small increase in grain price supports. Also politicians in both parties were dumbfounded when Mr. Carter tried to kill politically sacred cows, those water projects. Even low and moderate income groups were dissatisfied when Mr. Carter cancelled the \$50 tax rebate. A lot of them had spent the money already. Mr. Carter is not a politics-as-usual politician. Apparently he meant what he promised. So, I think this is a hopeful sign. Maybe this is one of the ways that we can contain government spending and prevent it from going out of sight. This is definitely a positive sign.

Let's assume that Mr. Carter will behave. He will try to reduce

deficit spending even though he may not be able to meet the goal that he has stated by 1981. But can he do the job alone? Mr. Carter, in spite of his good intentions, cannot hold inflation down alone. He has to get some help from Chairman Burns, the man who controls the life blood of our economy. He is the nation's best-known inflation fighter. He has been saying for some time that inflation is our number one problem. So as long as we have Chairman Burns in Washington, I suppose it is safe to assume that he will do everything he can to hold down inflation. Budget deficit or no deficit, he will continue to say, "ladies and gentlemen, this is all the money and credit you are going to get." Then you know exactly what happens. Uncle Sam gets his share and then, we, the private sector, scramble for the rest. If that is the case, deficit spending does not necessarily have to lead to more inflation because we are simply reshuffling, that is, reallocating the available supply of money and credit. Mr. Burns is 72 years old and he's scheduled to retire about a year from now, to be exact, on January 31, 1978. But he could be reappointed. I don't think that probability is very high, but I wouldn't rule that out. He could very well be reappointed. If that is the case, I think that would be very good news for the economy. Even though he doesn't get reappointed, I have some hope that monetary policy will remain cautious.

Politicians and Chairman Burns will behave. But how about you and me? Are we going on a spending spree?

As you know, consumer spending accounts for some two-thirds of GNP. So, if consumers stop spending, we have a recession. If consumers continue spending, we have an economic expansion. It's as simple as that. How about businessmen? Naturally they watch whether consumers are spending or not. If consumers do not spend, businessmen get pessimistic and if consumers spend, businessmen become optimistic.

But over the last couple of years during the current economic expansion, you and I know that consumers and therefore, businessmen have been very, very cautious. As a matter of fact, their cautiousness was one of the reasons why we had this so-called economic pause in 1976. This is the reason why we are having a generally sluggish economic expansion compared to previous economic recoveries.

Many people thought that the economic pause was the beginning of another recession. Now it looks like that was not a beginning of an economic recession, but just a pause, luckily. But a lot of people say that current recovery is a sexless one lacking passion, purpose, and satisfaction. I don't look at it that way. As a matter of fact, I think this sluggish

economic expansion that some people are concerned about is good news. Why are we having this sluggish economic expansion? The reason is because you and I are scared. As long as we are scared there is nothing to worry about. This is, we are not going on a spending spree. That means we are not going to have a boom-and-bust cycle. If you and I decide that we have licked all the economic problems that will be the beginning of a boom-and-bust cycle.

In terms of the long term economic outlook, it looks like we have excess capacity, contrary to our early expectations, it looks like our new President is a fiscal conservative. He's not a politics-as-usual politician and apparently he means what he said. And businessmen and consumers are cautious and scared. And if we combine these things, it is entirely possible that the decade of 1960's when we had the longest sustained economic expansion on record, could repeat itself.

REPORT ON MORTALITY EXPERIENCE STUDIES AND DISCUSSION OF GIFT ANNUITY RATES

Mr. Charles L. Burrall, Jr.

Consulting Actuary, Huggins & Company, Inc.

One of the key elements of actuarial science is the use of the experience of the past as a guide to what is likely to occur in the future. Over the past 50 years the Committee on Gift Annuities has sponsored periodic studies of mortality experience among a significant number of gift annuitant lives as a guide to the suitability of the mortality table being used in the determination of the uniform gift annuity rates recommended by the Committee.

The use to which these studies have been put may be illustrated by a brief reference to Schedule A which presents a historical comparison of annuity rates recommended by the Committee on Gift Annuities. The mortality table used in the 1927 rates was changed to a different table in 1931, with another change in tables occurring in 1934. The Combined Annuity Table, which was adopted in 1934, constituted the mortality basis for the rates for a period of 21 years, until the 1937 Standard Annuity Table was adopted in 1955. That table was used for a period of ten years until 1965 when the mortality table which constitutes the basis for the present rates, namely, the 1955 American Annuity Table, was adopted. I'm telling you one of the ends of my story at the beginning when I point out to you that the rates which are being proposed for adoption by this Conference are based on a newer mortality table, namely, the 1971 Individual Annuity Mortality Table.

I'd like to make the observation that all of the mortality tables listed in the schedule are tables that have been used over the years by insurance companies for the determination of premiums and reserves related to annuities rather than to life insurance. Here it is important to realize the difference between the actuarial hazard involved in issuing an annuity as compared with issuing a policy of life insurance. A person taking out a policy of life insurance is insuring against the hazard of death. On the other hand, a person who purchases an annuity is insuring against the hazard of living too long. On average, the individuals who purchase annuities will tend to be in much better physical condition than those purchasing life insurance policies. Consequently, mortality tables which are suitable for the calculation of life insurance premiums are totally un-

suitable for the calculation of annuity rates.

One other procedural comment needs to be made. There is a reference at several places in the bases of rates shown in Schedule A (page 20) to the term "ages rated as one year younger" or "ages rated as two years younger." The device of setting back ages is one which enables an actuary to modify the prospective longevity envisioned by a mortality table in a manner which will tend to bring it more closely into line with the longevity expected as the result of studying mortality experience. Thus, when the table is being used "with ages set back one year" you are assuming that an annuitant of a given age will have the prospective longevity of an individual one age younger.

With this background, let us proceed to an analysis of the results of the mortality study which led the Committee to recommend new annuity rates reflecting a revision in the prospective longevity of individuals entering into gift annuity agreements. The results of the study are set forth in Schedule B (page 21). There are a lot of figures shown there and I am certainly not going to burden you with a detailed discussion of them. I merely want to call attention to some of the highlights of the schedule and state what I think are the appropriate conclusions to be drawn therefrom.

Let me make a few procedural explanations first. You will see that the study covers a six-year period from 1970 through 1975. There is a reference in the second column to the term "life years of exposure." This term is used to refer to the number of lives exposed to the risk of death for a period of one year. For example, an annuitant who received his annuity for the entire six-year period involved in the study produced one life year of exposure at each of six consecutive ages, for a total of six life years of exposure, while annuitants who entered the annuity roll or who died during the six-year period were counted as being exposed to the risk of death only with relation to the time that they were actually on the annuity roll.

You will see that the study reflected 111,318 life years of exposure. Since a six-year period was covered, the average number of lives included in the study was 18,553. It should be mentioned here that the data for the study was supplied by 17 sponsors of the Committee on Gift Annuities, each of which administers a substantial volume of gift annuity agreements. I should like at this time to express the appreciation of the Committee to those 17 sponsors for going to the trouble and expense of assembling this data.

The schedule shows a comparison of the actual deaths that have occurred during the six-year period with what is referred to as "expected

deaths." The latter are the deaths that would have occurred had mortality during the period been exactly in accordance with the mortality table being used. In the case in point, the actual deaths are compared not only with the "expected deaths" in accordance with the mortality basis of the present rates, but also with those expected in accordance with the recommended mortality basis. The comparison of actual and expected deaths is accomplished by developing the ratio of the former to the latter. If the actual deaths paralleled exactly the expected deaths, the ratio of actual to expected deaths would be 100% for each age group and in total. When the ratio of actual to expected deaths is less than 100%, it means that lighter mortality than anticipated has occurred and this is normally referred to as "unfavorable annuity mortality experience." Conversely, if the ratio of actual to expected deaths is more than 100%, it means that heavier mortality than anticipated has occurred and the corresponding reference is to "favorable mortality experience."

Because it has been the practice for many years in the issuance of gift annuity agreements to base annuity rates on mortality experience among female lives, the upper portion of the schedule is the one of most significance. Here it will be seen that there were 4,088 actual deaths during the period. Under the present mortality basis, the expected deaths were 4,195, with a resulting ratio of actual to expected deaths of 97% which is an "unfavorable" result. Under the recommended mortality basis, which contemplates slightly greater longevity among annuitant lives, the expected deaths were 3,965 with a resulting ratio of 103% which is a "favorable" result.

When you look at the results by age groups instead of in total, you get wide varieties of experience under both the present basis and the recommended basis. However, it was our opinion as actuaries, and this opinion was endorsed by the Committee, that the recommended basis does provide a better incidence of mortality in general, particularly at the important ages from 66 through 85, than the present basis.

In addition to considering whether any modification of the mortality assumption was advisable, the Committee on Gift Annuities also gave study to the question as to whether it would be advisable to modify the interest assumption. Here it might be said that if the interest assumption, which is currently $4\frac{1}{2}\%$, were retained and if the mortality basis were changed to one which contemplates somewhat greater longevity, the result would be a slight reduction in gift annuity rates. However, it was the consensus of the Committee and thus its recommendation to this

Conference on Gift Annuities that it would be appropriate to modify the interest assumption through the use of a 5% instead of a 4½% interest assumption. Consequently, the rates being recommended by the Committee are the result of adopting a somewhat more conservative mortality assumption but more than offsetting the effect of this by the adoption of a more liberal interest assumption, with the net effect of the two changes resulting in a liberalization of rates.

It has been a long-time practice of the Committee to modify the tabular rates, that is the rates that are the direct result of the calculations based on the actuarial assumptions, at both the younger and the older ages. It is the current judgment of the Committee that it would be advisable to have the schedule of single life rates show a minimum rate of 4.5% and a maximum rate of 12%. A comparison between the present and the proposed single life rates is set forth in Schedule C (page 22). It will be seen that the proposed rates reflect an increase of .2% at ages 64 through 72, with larger increases at all other ages and with the maximum increase being 2 percentage points in the rate for annuities issued at ages 90 and over.

Schedule D (page 23) sets forth illustrations of gift annuity rates for two lives, joint and survivor, in the manner used for single lives in Schedule C except for the fact that quinquennial specimen ages have been used. In establishing the recommended rates for two lives, there has been observed a principle that has been followed in the development of the uniform rates since 1955; namely, that a rate for two lives will always be at least .2 percentage points less than the single life rate for the younger of the two lives.

I think it's appropriate to refer again to the historical comparison of rates shown in Schedule A. Here you will find that the proposed rates are equal to or higher than any others being shown in this schedule except for rates under age 55 in the 3/17/31 set of rates and at ages under 80 in the 4/29/27 set of rates.

I want to make a few comments about the practice that has been followed by the Committee of Gift Annuities for many years of recommending uniform rates for both male and female donors which are based on mortality experience among female lives who actually have greater longevity. There have been years in the past when the Committee has been criticised for discriminating against males in favor of females. The official reply of the Committee to this accusation has been that this is not the case but that the practice of the Committee simply gives to a male

donor the privilege of making a larger charitable contribution than is the case with a female donor of the same age. However, with the recent pronouncements of the Equal Employment Opportunities Commission and also some recent court decisions ruling against the use of sex related mortality tables in the computation of benefits, it would appear that the Committee has actually been an organization well ahead of its time and now enjoys a support in its uniform rate position that it has not had in previous years.

I'd like to direct your attention now to Schedule E (page 24) which illustrates the calculation of gift annuity rates in the case of a female donor aged 75, with the first column of figures reflecting the use of the current actuarial assumptions and the second column, the recommended assumptions. It should first be stated that, under both the present and proposed rate bases, provision is made for an administrative expense loading of 5% of the total consideration paid for the annuity and a residuum for the issuing organization of 50% of such consideration. Thus, the variation is related only to mortality and interest assumptions.

Part I of the schedule presents the calculation in a manner which is usually a little more understandable to most people. Here the approach is first to deduct the expense loading and then set aside the 50% residuum, using the assumed interest on the latter during the lifetime of the annuitant, with the principal being payable to the organization at her death. The balance of the total consideration then becomes available, principal and interest, for the purchase of an annuity. The rate is finally determined by adding together the annuity purchased by this balance and the interest that is available on the residuum being held.

Part II sets forth an alternative calculation in which the concept is one of purchasing what is the equivalent of paid up life insurance in the amount of the 50% residuum, with the balance being then used to provide an actuarially equivalent amount of annuity. It will be seen that the same final result is achieved in both calculations.

The assumption as to the rate of mortality is involved in lines 6, 12 and 14. The assumption as to the rate of interest is involved in lines 6, 8, 12 and 14. The assumption as to expense loading is involved in line 2 and the assumption as to residuum is involved in lines 4 and 12.

In summary, it is the recommendation of the Committee on Gift Annuities that the uniform gift annuity rates to be adopted by this Conference should be based on the following assumptions:

Expense loading—5% of the total consideration

Residuum—50% of the total consideration

Rate of mortality—1971 Individual Annuity Mortality Table,
female lives with ages set back one year

Rate of interest—5% per annum, compounded annually.

It is the further recommendation of the Committee that (a) the schedule of single life rates should show a minimum rate of 4.5% and a maximum rate of 12% and (b) a rate for two lives should be at least .2 percentage points less than the single life rate for the younger of the two lives.

HISTORICAL COMPARISON OF ANNUITY RATES
RECOMMENDED BY THE COMMITTEE ON
GIFT ANNUITIES

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>	<u>I</u>
	Date of Conference Action								
Age	4/29/27	3/17/31	11/20/34	10/05/39	10/04/55	4/07/65	4/15/71	5/02/74	(Proposed) 5/04/77
30	5.0%	4.9%	3.0%	2.5%	3.0%	3.0%	4.0%	4.0%	4.5%
35	5.1	4.9	3.0	2.5	3.0	3.0	4.0	4.0	4.5
40	5.2	5.0	3.5	3.0	3.5	3.5	4.0	4.3	4.8
45	5.4	5.2	4.0	3.5	3.7	4.0	4.4	4.5	5.0
50	5.6	5.3	4.5	4.0	3.9	4.2	4.6	4.7	5.2
55	5.8	5.5	5.0	4.5	4.2	4.4	4.9	5.1	5.6
60	6.2	5.8	5.3	4.7	4.5	4.7	5.2	5.5	5.8
65	6.8	6.2	5.7	5.1	5.0	5.2	5.6	6.0	6.2
70	7.6	6.7	6.2	5.5	5.5	5.7	6.2	6.6	6.8
75	8.7	7.3	7.0	6.2	6.3	6.5	7.0	7.4	7.7
80	9.0	8.0	8.0	7.0	7.4	7.6	8.2	8.5	9.0
85	9.0	8.0	8.0	7.0	7.4	8.0	9.7	10.0	10.5
90	9.0	8.0	8.0	7.0	7.4	8.0	10.0	10.0	12.0

BASIS OF RATES:

- A. McClintock Table of Mortality; male lives; interest at 4 ½%; 70% residuum; tabular rates modified at older ages; no expense loading.
- B. American Annuitants Table of Mortality; female lives; interest at 4 ½%; 70% residuum; tabular rates modified at older ages; no expense loading.
- C. Combined Annuity Table; female lives; interest at 4%; 70% residuum; tabular rates modified at younger and older ages; no expense loading.
- D. Combined Annuity Table; female lives with ages rated as two years younger; interest at 3%; 50% residuum; tabular rates modified at younger and older ages; no expense loading.
- E. 1937 Standard Annuity Table; female lives with ages rated as one year younger; interest at 3%; 50% residuum; tabular rates modified at younger and older ages; expense loading of 5% of total gift.
- F. 1955 American Annuity Table; female lives; interest at 3 ½%; 50% residuum; tabular rates modified at younger and older ages; expense loading of 5% of total gift.
- G. 1955 American Annuity Table; female lives; interest at 4%; 50% residuum; tabular rates modified at younger and older ages; expense loading of 5% of total gift.
- H. 1955 American Annuity Table; female lives; interest at 4 ½%; 50% residuum; tabular rates modified at younger and older ages; expense loading at 5% of total gift.
- I. 1971 Individual Annuity Mortality Table; female lives with ages rated as one year younger; interest at 5%; 50% residuum; tabular rates modified at younger and older ages; expense loading at 5% of total gift.

SCHEDULE A

COMMITTEE ON GIFT ANNUITIES

Mortality Study—January 1, 1970 through December 31, 1975

<u>Age Groups</u>	<u>Life Years of Exposure</u>	<u>Actual Deaths</u>	<u>Present Mortality Basis*</u>		<u>Recommended Mortality Basis**</u>	
			<u>Expected Deaths</u>	<u>Ratio A/E</u>	<u>Expected Deaths</u>	<u>Ratio A/E</u>
<u>FEMALE LIVES</u>						
51-55	2,622	32	10	320%	7	457%
56-60	4,155	51	25	204	21	243
61-65	6,545	91	66	138	51	178
66-70	10,744	177	182	97	118	150
71-75	15,349	325	420	77	277	117
76-80	17,709	647	756	86	577	112
81-85	16,372	1,013	1,064	95	976	104
86-90	10,692	1,071	1,032	104	1,145	94
91-95	4,531	681	640	106	793	86
Total	<u>88,719</u>	<u>4,088</u>	<u>4,195</u>	97%	<u>3,965</u>	103%
<u>MALE LIVES</u>						
51-55	1,130	17	4	425%	3	567%
56-60	1,422	13	9	144	7	186
61-65	2,094	40	21	190	16	250
66-70	2,667	52	45	116	29	179
71-75	3,321	102	91	112	60	170
76-80	4,090	191	174	110	133	144
81-85	4,073	255	266	96	245	104
86-90	2,696	278	260	107	289	96
91-95	1,106	163	155	105	192	85
Total	<u>22,599</u>	<u>1,111</u>	<u>1,025</u>	108%	<u>974</u>	114%
<u>ALL LIVES</u>						
51-55	3,752	49	14	350%	10	490%
56-60	5,577	64	34	188	28	229
61-65	8,639	131	87	151	67	196
66-70	13,411	229	227	101	147	156
71-75	18,670	427	511	84	337	127
76-80	21,799	838	930	90	710	118
81-85	20,445	1,268	1,330	95	1,221	104
86-90	13,388	1,349	1,292	104	1,434	94
91-95	<u>5,637</u>	<u>844</u>	<u>795</u>	106	<u>985</u>	86
Total	<u>111,318</u>	<u>5,199</u>	<u>5,220</u>	100%	<u>4,939</u>	105%

*Present Mortality Basis: 1955 American Annuity Table, female lives with no set-back in ages.

**Recommended Mortality Basis: 1971 Individual Annuity Mortality Table, female lives with ages set back one year.

SCHEDULE B

COMMITTEE ON GIFT ANNUITIES

Gift Annuity Rates—Single Life

<u>Age</u>	<u>Present</u>	<u>Proposed</u>	<u>Increase</u>	<u>Age</u>	<u>Present</u>	<u>Proposed</u>	<u>Increase</u>
35 & under	4.0%	4.5%	.5%	65	6.0%	6.2%	.2%
36	4.1	4.6	.5	66	6.1	6.3	.2
37	4.2	4.7	.5	67	6.2	6.4	.2
38	4.2	4.7	.5	68	6.3	6.5	.2
39	4.3	4.8	.5	69	6.4	6.6	.2
40	4.3	4.8	.5	70	6.6	6.8	.2
41	4.3	4.8	.5	71	6.7	6.9	.2
42	4.4	4.9	.5	72	6.9	7.1	.2
43	4.4	4.9	.5	73	7.0	7.3	.3
44	4.4	4.9	.5	74	7.2	7.5	.3
45	4.5	5.0	.5	75	7.4	7.7	.3
46	4.5	5.0	.5	76	7.6	7.9	.3
47	4.6	5.1	.5	77	7.8	8.2	.4
48	4.6	5.1	.5	78	8.0	8.4	.4
49	4.7	5.2	.5	79	8.2	8.7	.5
50	4.7	5.2	.5	80	8.5	9.0	.5
51	4.8	5.3	.5	81	8.8	9.3	.5
52	4.9	5.4	.5	82	9.1	9.6	.5
53	4.9	5.4	.5	83	9.4	9.9	.5
54	5.0	5.5	.5	84	9.7	10.2	.5
55	5.1	5.6	.5	85	10.0	10.5	.5
56	5.1	5.6	.5	86	10.0	10.8	.8
57	5.2	5.7	.5	87	10.0	11.1	1.1
58	5.3	5.7	.4	88	10.0	11.4	1.4
59	5.4	5.8	.4	89	10.0	11.7	1.7
60	5.5	5.8	.3	90 and Over	10.0	12.0	2.0
61	5.6	5.9	.3				
62	5.7	6.0	.3				
63	5.8	6.1	.3				
64	5.9	6.1	.2				

Actuarial Assumptions

All rates provide for a 50% residuum and an expense loading of 5% of total gift.

The mortality and interest assumptions are as follows:

- (a) Present Rates: 1955 American Annuity Table, female lives with no set-back in ages; interest at the rate of 4½%; tabular rates modified at younger and older ages.
- (b) Recommended Rates: 1971 Individual Annuity Mortality Table, female lives with ages set back one year; interest at the rate of 5%; tabular rates modified at younger and older ages.

SCHEDULE C

COMMITTEE ON GIFT ANNUITIES

Illustrations of Gift Annuity Rates—Two Lives— Joint and Survivor

Age of Younger Life	Present	Proposed	Increase	Present	Proposed	Increase	Present	Proposed	Increase
	Age of Younger Life			Age of Older Life					
	90			85			80		
90	9.5	11.1	1.6						
85	8.6	9.8	1.2	8.0	9.0	1.0			
80	7.8	8.5	.7	7.4	8.1	.7	7.0	7.6	.6
75	7.0	7.5	.5	6.8	7.3	.5	6.6	7.0	.4
70	6.4	6.6	.2	6.3	6.6	.3	6.1	6.5	.4
65	5.8	6.0	.2	5.8	6.0	.2	5.7	6.0	.3
60	5.3	5.6	.3	5.3	5.6	.3	5.3	5.6	.3
55	4.9	5.4	.5	4.9	5.4	.5	4.9	5.4	.5
50	4.5	5.0	.5	4.5	5.0	.5	4.5	5.0	.5
45	4.3	4.8	.5	4.3	4.8	.5	4.3	4.8	.5
40	4.1	4.6	.5	4.1	4.6	.5	4.1	4.6	.5
35	3.8	4.3	.5	3.8	4.3	.5	3.8	4.3	.5
	75			70			65		
75	6.2	6.7	.5						
70	5.9	6.4	.5	5.6	6.1	.5			
65	5.5	6.0	.5	5.3	5.8	.5	5.1	5.7	.6
60	5.2	5.6	.4	5.0	5.6	.6	4.9	5.5	.6
55	4.9	5.4	.5	4.8	5.4	.6	4.7	5.4	.7
50	4.5	5.0	.5	4.5	5.0	.5	4.5	5.0	.5
45	4.3	4.8	.5	4.3	4.8	.5	4.3	4.8	.5
40	4.1	4.6	.5	4.1	4.6	.5	4.1	4.6	.5
35	3.8	4.3	.5	3.8	4.3	.5	3.8	4.3	.5
	60			55			50		
60	4.8	5.4	.6						
55	4.6	5.3	.7	4.5	5.2	.7			
50	4.4	5.0	.6	4.4	5.0	.6	4.3	5.0	.7
45	4.3	4.8	.5	4.2	4.8	.6	4.2	4.8	.6
40	4.1	4.6	.5	4.1	4.6	.5	4.1	4.6	.5
35	3.8	4.3	.5	3.8	4.3	.5	3.8	4.3	.5
	45			40			35		
45	4.2	4.8	.6						
40	4.0	4.6	.6	4.0	4.6	.6			
35	3.8	4.3	.5	3.8	4.3	.5	3.8	4.3	.5

Actuarial Assumptions

All rates provide for a 50% residuum and an expense loading of 5% of total gift. The mortality and interest assumptions are as follows:

- (a) Present Rates: 1955 American Annuity Table, female lives with no set-back in ages; interest at the rate of 4½%; tabular rates modified at younger and older ages.
- (b) Recommended Rates: 1971 Individual Annuity Mortality Table, female lives with ages set back one year; interest at the rate of 5%; tabular rates modified at younger and older ages.

SCHEDULE D

COMMITTEE ON GIFT ANNUITIES

Illustration of Calculation of a Gift Annuity Rate in the Case of a Female Donor Aged 75

	<i>Rate Basis</i>	
	<i>Present</i>	<i>Proposed</i>
<i>I—Calculation</i>		
1. Amount of principal donated	\$1,000	\$1,000
2. Expense loading to be deducted: 5% x 1	<u>50</u>	<u>50</u>
3. Balance for annuity payments and residuum: 1-2	\$ 950	\$ 950
4. Residuum to be set aside with interest thereon available	500	500
5. Balance for annuity payments: 3-4	\$ <u>450</u>	\$ <u>450</u>
6. Cost of \$1 per year of life annuity	\$ 8.80	\$ 8.68
7. Annuity provided by balance in 5: 5÷6	51.14	51.84
8. Interest provided by residuum in 4: 4 x interest rate	22.50	25.00
9. Total annual income available: 7+8	73.64	76.84
10. Annuity rate: 9÷\$1,000	7.4%	7.7%
<i>II—Alternate Calculation as a Check</i>		
11. Balance for annuity payments and residuum: No. 3 in I	\$950.00	\$950.00
12. Cost of \$500 residuum payable at death	<u>301.97</u>	<u>283.03</u>
13. Balance for annuity payments: 11-12	\$ <u>648.03</u>	\$ <u>666.97</u>
14. Cost of \$1 per year of life annuity: No. 6 in I	\$ 8.80	\$ 8.68
15. Annuity provided by balance in 13: 13÷14	\$ 73.64	\$ 76.84
16. Annuity rate: 15÷\$1,000	7.4%	7.7%

SCHEDULE E

FIFTY YEARS OF SERVICE IN GIFT ANNUITIES AND DEFERRED GIVING

The Reverend Dr. J. Homer Magee
The United Methodist Church (Retired)
Honorary Committee Member

I read a short time ago that most after dinner speakers are just that,—after dinner. I assure you that I am here for far more than that. Having been a member of the Committee on Gift Annuities for nineteen years and having attended the Ninth through the Fourteenth Conferences, but having missed the last one because the calendar caught up with me, I am more than glad to be here to meet old friends and new, and hear the old refrains that have to be repeated so often about rates, terminology, taxation and similar problems, as well as learning what is new in this ever-growing field.

Some of you have heard that speeches are like tails. Some speeches are like a dog's tail,—“bound to a cur”. I suppose all speeches that come after meals come under that classification. Some speeches are like a cat's tail,—“fur to the end”. I hope this presentation will not seem that way to you. Rather, I hope it will be more like a rat's tail,—“straight to the point”. Of course the best speeches are like a rabbit's tail,—“just a suggestion”, but since I have been given the assignment of telling the story of the fifty years this Committee on Gift Annuities has been in action, even “just a suggestion” has to become quite a tale.

In fact, if I had to put the story of the half-century of the work of this committee in a couple of sentences, I would tell about a man I knew back in my college days. His wife, when they were married, had apparently weighed only slightly over a hundred pounds, but when I knew her, she was quite substantially built. This man used to bug his wife by saying that when he married her, he knew he was taking on a lot of responsibility, but anyone could see his responsibilities had grown. So we shall take a look at the way the responsibilities of the Committee have grown by looking at the Conferences preceding this one.

EARLY CONFERENCES

In his opening remarks, our Chairman covered well the background of the First Gift Annuity Conference and the Conference itself, and thereby shortened this rat's tail considerably. My only comment is that Article I of the Constitution of the Committee on Gift Annuities is mostly quoted from the resolution which set up the First Conference.

There was no set policy in the early days for the frequency of holding Conferences on Gift Annuities. The Second Conference was held in 1928, the Third in 1930 and the Fourth in 1931. That was four Conferences in five years. It was then three years until the Fifth Conference in 1934, and another five years until the Sixth in 1939.

This Sixth Conference was an important one because New York had just adopted its new regulations regarding gift annuities. Probably the most important paper, and certainly the one which differed most from any previously presented, was on the subject, "The Regulation and Supervision of the Issuance of Annuity Agreements by a Charitable Society", by Charles C. Dubuar, Principal Actuary of the Insurance Department of New York. This was the first two-day Conference, and the first which had an investment person speaking on the investment outlook.

The Seventh Conference was called two years later in 1941 because of amendments in the New York regulations. The Depression was on and only 78 persons attended. The rates they adopted, and I presume their spirits, were at an all time low. It was five years before the Eighth Conference met in 1946. Probably the most important action of this Conference was the authorizing of a letter recommending a new basis for the taxation of annuities. This new basis was promulgated in 1934.

ON ITS OWN

It was a long nine years between the Eighth Conference in 1948 and the Ninth Conference in 1955. In the meantime much had been happening in the field of inter-church cooperation. Up to now the Committee on Annuities had been under the auspices of the Federal Council of the Churches of Christ in America. But several inter-denominational agencies, working in the fields of missions, education, social concerns, overseas relief and other activities decided they could do their work better if they joined forces to avoid overlapping. They called their new organization the National Council of Churches. To leave the Committee on Gift Annuities free to carry on its activities with governmental agencies, the Committee became an independent agency.

At this Conference a new light appeared on the scene. Charles A. Baas, then Assistant Treasurer of the American Bible Society, presented his first paper to a Gift Annuity Conference. Can this be why this was the first Conference to be attended by more than a hundred persons? If you will allow me a few percentage points, the 159 persons attending this Conference were double the 80 who attended the previous one.

The Tenth Conference was held in 1959. Charles Baas was the chairman of this Conference and two new faces we have come to know well appeared on the platform for the first time. Chester A. Myrom presented a paper on terminology and Roland A. Matthies was the first to show the expanding responsibilities of the Committee as he presented a paper on "The Comparison of Gift Annuities with Life Income and Other Agreements". This Conference made three requests of the Committee. The first was the preparation of a booklet showing how to prepare the tax implications of a gift annuity. This was prepared and offered in 1961 (the Green Book). The second request was for a recommended form for a gift annuity agreement. This was prepared, reviewed by legal counsel and appeared in later editions of the Green Book. The third suggestion was to request Internal Revenue Service for more realistic tables for valuation of gift annuities. A delegation went to Washington in 1960. New tables were published in 1961. (This is probably more sequence than cause and effect.)

The Eleventh Conference was held in 1962, and marked the beginning of a new policy of holding a Conference every three years. It was the first one specializing in Life Income Agreements because of the great interest in this new form of giving, and a 1961 decision of the Committee to broaden the scope of its activities.

The Twelfth Conference was held in Chicago, and was the first one to be held west of New York. Interest, attendance and the number of sponsoring institutions and agencies had been growing. In 1962, in New York, the attendance was 223. In 1965, the midwest colleges responded, so that there were 418 persons present, representing 303 organizations, 128 of which were represented for the first time.

The Thirteenth Conference in 1968 called for quick action on the part of the Committee. The hotel where the Conference was to be held closed its doors without previous notice a day or so before Christmas, and the Conference was scheduled for February 6 and 7. Finding a location and making arrangements in that short a time was not easy, but the Convention Bureaus of the country came to our rescue and found us a location in Detroit, and 362 persons attended the Conference. 48% of them represented educational institutions. Compare this with the 24% attending the Second Conference in 1928! The innovation at this Conference was a short paper by a representative of the American Bible Society on the possibilities of data processing gift annuities.

The Fourteenth Conference in 1971 was the first after the 1969 Tax

Reform Act. Those present were thankful to Roland Matthies and Conrad Teitell for shedding a little more light on the regulations governing the new Charitable Remainder Annuity Trust, the Charitable Remainder Unitrust, and Pooled Income Funds.

The Fifteenth Conference in 1974 in Atlanta was the largest yet with 429 delegates, coming from 36 States, the District of Columbia and Canada. The new topics were deferred annuities and Canadian taxation.

GIFT ANNUITY RATES

Without going into many technicalities, a word should be said about changing gift annuity rates (For more details, see Schedule A of Charles L. Burrall, Jr.'s "Report of Actuary and Discussion of Rates".) The subject has been presented at each Conference. Maximum rates were adopted at the First Conference and have been changed seven times since. During the entire half-century the policy has been to modify rates at the upper and lower ages. The presumed residuum of 70% was used in formulating the rates until 1939 when the residuum was reduced to 50%. A 5% expense loading was included for the first time in 1955. The changes in the interest used in the calculation are an interesting reflection of our economic situations: 1927, 4½%; 1931, 4½%; 1934, 4%; 1939, 3%; 1955, 3%; 1965, 3½%; 1971, 4%; 1974, 4½%. So the change in interest rates are in general down for the first 28 years of the Committee and up for the last 22.

A WORD ABOUT PEOPLE

A word should be said before I close about some of the outstanding and longstanding persons on the Committee on Gift Annuities. Gilbert Darlington well deserves the distinction of being Honorary Chairman, for he was one of the "founding fathers" fifty years ago and was a powerhouse on the Committee for many years. Forrest Smith became a member of the Committee 35 years ago and is Honorary Treasurer in recognition of his many years as active treasurer. He was present at the First Conference and presented a paper on "Accounting Methods" at the Second Conference. Charles A. Baas became a member of the Committee in 1951, 26 years ago, and took over the reins as Chairman in 1958 when retirement caused Gilbert Darlington to drop them. He has been a worthy successor. Roland C. Matthies became a member of the Committee 22 years ago in 1955, and has been invaluable because of his legal training and also because of his contacts and activities as a representative of the college of which he has been Vice President and Treasurer. Chester

A. Myrom became a member of the Committee in 1957, and has been Secretary for many years. Charles L. Burrall, Jr. was the right hand man of George A. Huggins, another of the "founding fathers" as Consulting Actuary, and became his successor on the Committee upon Mr. Huggins death in 1959. Without his knowledge and service as actuary, the Committee could not have been effective in the making and recommending of annuity rates. R. Alton Reed also served on the Committee for more than fifteen years before his retirement. I hope others not mentioned will forgive the omission. Some have been *outstanding* but not so *longstanding*.

THE FUTURE LIES AHEAD

Compare the 47 who attended the First Conference fifty years ago with the size of the group gathered here, representing educational institutions, churches and church boards, foundations, hospitals and homes, other religious, charitable and secular groups and professionals. Compare the agenda with the first one, when there was neither a commonly agreed upon terminology among the agencies selling gift annuities, nor an accepted schedule of rates, with the widely diversified interests and programs with which the Committee on Gift Annuities has to keep abreast in order to provide the services which you, its many sponsors, have come to expect and depend upon.

Remember that I said at the first that the story of the first fifty years of the Committee could be stated in "How its responsibilities have grown." With the dedicated volunteers we have on the Committee, and the continued support of you, the sponsors, we hope that at the end of another twenty-five or fifty years, a group similar to this will meet and in looking back will be able to say, "That was a capable and dedicated group in 1977, but just see how their responsibilities have grown."

POOLED INCOME FUNDS

Administration, Tax Implications and Investing

Miss Edith A. Reinhardt

*Vice President, The Fidelity Bank,
Philadelphia, Pennsylvania*

An organization known as Main Event Management, Inc., with headquarters on the west coast has a novel system designed to make managers more effective. The course is based on the concept that the manager, to assure that decisions are based on all of the information, properly considered, should develop a new alphabet. This one is made up of models rather than letters. The model which the company also uses as its logo is called "Main Event Compass", and it provides a good basis for this discussion of pooled income funds.

The five points of the compass represent the five kinds of decisions that managers must make in taking action. These are: **WHAT** to do, **WHEN** to do it, **WHERE** to do it, **HOW** to do it, and **Who** is to do it. The circle in the center of the diagram represents the "WHY" behind each of these five decisions.

Suppose that a charitable organization must decide whether or not to add a pooled income fund to its list of donor-oriented plans. The first question to be answered is "WHAT?"

There is no better answer to that question than the definition of a pooled income fund which is clearly set forth in the IRS Regulations:

A POOLED INCOME FUND IS A TRUST. . . .

1. To which each donor transfers property, contributing an irrevocable remainder interest in such property to or for the use of an organization described in Section 170(b) (1) (A) (other than clauses vii or viii), and retaining an income interest for the life of one or more beneficiaries living at the time of such transfer,
2. In which the property transferred by each donor is commingled with property transferred by other donors who have made or make similar transfers,
3. Which cannot have investments in securities which are exempt from the taxes imposed by sub-title A,
4. Which includes only amounts received from transfers which meet the requirements of this paragraph,

5. Which is maintained by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and
6. From which each beneficiary of an income interest receives income, for each year for which he is entitled to receive the income interest referred to in sub-paragraph A, determined by the rate of return earned by the trust for such year.

The first provision in this definition may need some further explanation as to what constitutes an organization described in Section 170(b)(1)(A), clauses 1 through 6. No doubt most of the organizations represented here today qualify under this section. Actually this is the answer to one aspect of the question "WHO?". Included are:

1. A church or convention or association of churches
2. An educational organization which normally maintains a regular faculty, curriculum and student body
3. A hospital or organization which provides medical education or medical research
4. An organization receiving support from a governmental unit or the general public which holds and administers property for a college or university which is an instrumentality of a state or political sub-division thereof
5. A governmental unit
6. An organization normally receiving a substantial part of its support from a governmental unit or from the general public. These organizations include corporations, trusts, funds or foundations operated for religious, charitable, scientific, literary or educational purposes.

Provisions 2, 3, and 4 appear to need no further explanation at this time.

Under provision 5 the word "maintained" needs further definition. An organization may designate a corporate fiduciary as trustee. The requirement that a fund be maintained by the organization is met if, in the fund plan, the organization reserves the right to remove the trustee. Provision 6 will be discussed in detail later, but this requirement is satisfied if the income is distributed in its entirety within 65 days following the close of the fund year.

The "WHEN" of the compass, can be disposed of very quickly. If an organization reaches the decision that a pooled income-fund is a vehi-

cle from which it would benefit, the WHEN is NOW. More and more such funds are coming into being and a charity which must admit that it is not prepared to offer this alternative in its bag of donor-oriented plans may, indeed, lose the gift to an organization which is so prepared. There is a substantial amount of competition for the charitable dollar. Fund raisers are naturally going to seek gifts for the organizations which employ them. It is not an easy undertaking and the more attractive plans one can place before a donor, the better chance one has of retaining that donor's interest. Thus the answer to the question, "WHEN does an organization need a pooled income fund?", appears to be "NOW." Many organizations have reached that conclusion only to be stopped in their tracks by the question—"HOW?"

The HOW question is more difficult to answer. There are, in fact, two major questions:

1. How can an organization start a pooled income fund?
2. How must a pooled income fund be administered?

Certainly it will not be necessary to deal with the second question if the first one cannot be answered. How can a pooled income fund be started when, by definition, it is a commingled fund? The ideal situation is to have ten or twenty donors all simultaneously interested in making gifts to the charity's pooled income fund. It is difficult to think of circumstances more likely to inspire the organization to research. Unfortunately, it's difficult to think of circumstances less likely to occur. There are two alternatives.

- (1) When the organization has two or more donors ready to transfer property to a qualified pooled income fund, establish the fund by making it part of a combined investment fund, the other part being endowment or other funds of the organization.
- (2) It may be possible to find a bank which administers a combined investment fund for pooled income funds. If that bank is made trustee of the charity's fund, even though it is a very small fund, it will enjoy diversification of investment. The trick is to find such a bank in the charity's area. Unfortunately, there are very few.

If the organization chooses alternative number one, an important factor to consider is record-keeping. Very careful records must be kept to show that the pooled income fund participations have been accounted for separately. Consideration must be given to the preparation of the tax return for the fund. All transactions in the commingled fund must be

allocated proportionately to the various funds which participate. For example, if the pooled income fund amounts to 50% of the total funds, 50% of all gains and losses must be reported in the pooled income fund tax return. Investment goals are also a consideration. A pooled income fund, to be effective, must have a reasonably well-controlled rate of return. Investment advisors must be mindful of the fact that short term capital gains are taxable and that there can be no investments in tax-exempt securities.

In short, the investment goals of the pooled income fund must be the investment goals of the combined investing fund. The commingled fund is merely an investment vehicle. While this vehicle calls for some special accounting procedures, it is a good response to the question, "HOW can I start a pooled income fund?". Keep in mind that at some future time when the pooled income fund section of this combined investing fund reaches an acceptable size, it can be separated from the total fund by simply withdrawing its units.

The question as to acceptable size is one which is frequently asked and there are many different answers. It appears that most portfolio managers would prefer a fund of not less than \$500,000.00. Many funds, less than half that size, have been administered successfully with no insurmountable difficulties. The larger the fund, however, the easier it is to control the very important rate of return.

Thus, by finding several interested donors with several dollars, or by finding a bank with a combined investment fund for pooled income funds, or by creating a combined investment fund of its own, the charity has solved the first problem—but only the first. The fund raiser is gratified, but the administrative staff, the investment advisors and the accountants are now asking "HOW?".

The next step is to devise a fund plan, usually called a deed or declaration of trust and a transfer form usually known as the instrument of transfer. This should be done in cooperation with counsel and auditors. In Revenue Ruling 72-196, the IRS has published sample provisions for these documents. The instrument of transfer, for example, must state clearly that the transfer is irrevocable and that the remainder interest is payable to a qualified public charity. Income beneficiaries and the share to which each is entitled must be specified. In the declaration of trust, there should be a provision which requires that all transfers to the pooled income fund be commingled. It may also be advisable to include the statement that all or any portion of the fund may be invested jointly

with other properties not a part of the fund. The governing instrument must contain specific prohibitions against accepting or investing in securities, the income from which is tax-exempt. Another sample clause provides that the charity shall always maintain control over the fund and that, while it may designate a trustee other than itself, it retains the power to remove such trustee. This will satisfy the maintenance of control requirements. Also to be included is the statement that a donor or beneficiary may not be a trustee. The trust should provide that all capital gains be permanently set aside for charitable purposes. This is to assist in the preparation of the tax return. Methods for allocating units and income and rules for terminations should be clearly described.

It is entirely possible that the charity may wish to include provisions not described in this revenue ruling, such as investment powers. Also State laws as they relate to public charities and to trusts must be considered. When both the declaration of trust and the instrument of transfer have been completed, they should be submitted to the IRS for a ruling. It is comforting, indeed, to have in the file a letter from the IRS giving its official blessing to these very important documents.

In order to prepare a declaration of trust and to make the fund operative, many administrative decisions must be made including determination dates, method of distributing income, and the rate of return. The selection of a rate of return is most important. At least three factors enter into this decision:

1. The charitable deduction available to the donor
2. The annual distribution to the income beneficiary
3. The return on investments currently available in the market place

CONSIDER THIS ILLUSTRATION:

ASSUME - Male, age 65, transfers property having a fair market value of \$20,000

1. To a POOLED INCOME FUND having a rate of return of 4%
Factor: .62925
Charitable Deduction: \$12,585.00
2. To a POOLED INCOME FUND having a rate of return of 7%
Factor: .47359
Charitable Deduction: \$9,471.80

These benefits will be tools used by your fund-raiser when he discusses gifts of remainder interests with prospective donors.

In the area of administration, there are a few "HOW TO" questions which must be answered before any gifts can be accepted—actually, these must be answered when the declaration of trust is being developed. First, how are units of participation in this plan assigned and subsequently valued? An initial unit value must be selected. Many funds are operated with an opening unit value of \$10.00 with two or more decimal places. If, then, the fund is established with gifts totaling \$50,000, there will be 5,000 units. A decision must be made as to determination dates. This term is the one the IRS uses to describe the dates on which the fund is to be valued and on which units may be admitted or withdrawn. The regulations require that the fund must be valued on the first day of its tax year (January 1, if you are on a calendar year basis) and that there cannot be more than three calendar months between valuation or determination dates. Accordingly, most calendar year funds choose January, April, July, and October 1 as the determination dates. Distribution of income may be made on the same dates, but that is not required. The requirement is only that income for the tax year be distributed in its entirety within 65 days following the close of the year.

The first assignment of units is the easy one. Then the complications begin. There are various methods acceptable to the IRS, and one is described in detail in the regulations. Another somewhat more complicated method which many believe to be more equitable is as follows:

ASSUME: Unit Value 4/1/76 - \$22.18135489
 Unit Value 1/1/76 - \$23.17358690
 $\$-0.99223201 \div 90 \text{ days} =$
 $\$-0.01102480$

Gift: \$3,500.00

Date of Gift: 1/3/76

Number of days from 1/1/76 = 2

Two days X decrease per day: $2 \times -.01102480 = -.02204960$

Unit value on date of gift = $\$23.17358690 \div .02224960 =$
 $\$23.15153730$

Number of units purchased: $\$3,500 \div \$23.15153730 = 151.1778$

Another "HOW" question concerns the valuation of the fund on each determination date. Principal and income must be valued separately. The principal valuation is made up of cash, securities at current market value, receivables, less payables, and less participations pending (those gifts made since the last previous determination date). The net principal value of the fund so determined is then divided by the number of

units held without giving consideration to current admissions or withdrawals. The result is the current principal unit value.

The distribution of income may be accomplished by various methods. One is to annualize income and pay a stated amount quarterly—preferably a conservative estimate. This method requires a fifth distribution of income within the prescribed 65 days following the close of the tax year. The charity may choose to distribute its income on the accrued basis. On the income distribution date, the amount of interest accrued is calculated and dividends declared but not yet received are totaled. The accrual on the previous income distribution date is deducted. The net income value of the fund consists of cash, interest and dividends receivable, less any accrued expenses.

The next question to be considered is how income should be allocated among units in the fund and those representing gifts received during the quarter. There are various methods, and it would probably be wise for the charity to call upon its auditors at this point. The following is one suggestion using the example previously presented. In that example, the gift of \$3,500.00 made on 1/3/76 had purchased 151.1778 units. To calculate the amount of income to which this donor is entitled, determine the number of "unit days" the gift was held and the income distribution for each unit day as follows:

Number of days units held in quarter = 88

Number of unit days: $88 \times 151.1778 = 13,303.65$

DETERMINATION OF DISTRIBUTION PER UNIT DAY:

1. Determine total amount of income distributable for quarter
 $\$125,750.17$
2. Determine total number of unit days applicable to new admissions
 $165,705.79$ (unit days applicable to gifts during quarter)
3. Determine number of unit days applicable to units outstanding 1/1/76
 $282,003.97$ units \times 90 days = $25,380,357.30$ unit days
4. Divide income distribution by total number of unit days
 $25,380,357.30 + 165,705.79 = 25,546,063.09$
(Total number of unit days)
 $\$125,750.17 \div 25,546,063.09 = \0.00492249

DISTRIBUTION PER UNIT DAY = \$0.00492249

The gift of \$3,500 held 13,303.65 unit days earns \$65.49 as of 4/1/76.

Consideration has now been given to the valuation of the fund, the allocation of units, and the distribution of income. It would be well to give some further consideration to the rate of return. It is most important that this rate be controlled. When it has been determined, investment advisors must make decisions as to the balance to be maintained between stocks and bonds. They must be aware of the prohibition against tax-exempt securities and the fact that short term capital gains are taxable—a fact that grows increasingly important. Under the Tax Reform Act of 1976, a security must be held for nine months in 1977 and one year thereafter before a gain on its sale can be classified as long-term. All of these considerations affect the rate of return and the credibility of the charity is at stake.

The regulations specify that the rate of return to be used by a donor in calculating the charitable deduction is the highest rate reported by the charity in the three-year period preceding the year in which the transfer is made. If the pooled income fund is less than three years old, the rate which must be used is 6%. The method for calculating this rate of return is set forth clearly in the regulations.

Consideration has now been given to the questions (1) WHAT is a pooled income fund, (2) WHEN does a charity need one, and (3) HOW can one be created and maintained. There are just two questions remaining on the Main Event Compass—"WHO?" and "WHERE?"

It seems to be abundantly clear that a great many people, inside and outside the charity may be involved in the question "WHO?". Depending on the anticipated size of the fund and the size of the charity's staff, it may be advisable to involve outside investment advisors, outside corporate fiduciaries, and perhaps even outside accountants. The answer to the question "WHO?" would seem to dictate the answer to "WHERE?"

Using the Main Event compass is no guarantee of good decisions. If however, the charity has considered the what, when, where, who and how and all of the why's, and has decided to establish a pooled income fund or if it has one or more already in operation, let us hope that it can now find several donors with several dollars.

CHARITABLE DEDUCTION

ASSUME - Male, age 65, transfers property having a fair market value of \$20,000

1. To a POOLED INCOME FUND having a rate of return of 4%
FACTOR: .62925
CHARITABLE DEDUCTION: \$12,585.00
2. To a POOLED INCOME FUND having a rate of return of 7%
FACTOR: .47359
CHARITABLE DEDUCTION: \$9,471.80

POOLED INCOME FUND GIFT

Assume POOLED INCOME FUND with a rate of return of 7%

MALE, age 65, has securities (which are not tax-exempt)

Fair Market Value = \$20,000

Rate of return = 3%

Annual Income = \$600

Tax Cost = \$5,000

Securities are sold and other purchased in an attempt to increase income:

Net proceeds = \$19,800

Capital Gains tax = \$1,850 (Assuming 25% tax bracket)

Net available to invest = \$17,925

Reinvest in securities yielding 7%

Annual income = \$1,254.75

Securities are transferred to POOLED INCOME FUND

Charitable deduction = \$9,471.80

Approximate annual income = \$1,400

ALLOCATION OF UNITS - ADMISSIONS

ASSUME: POOLED INCOME FUND with determination dates of
January 1, April 1, July 1, and October 1

1/1/76 - Fair market value of all property in fund = \$100,000
1,000 units outstanding with a value of \$100 each

2/19/76 - "B" transfers property to fund with fair market value of
\$50,000

NO OTHER ADMISSIONS DURING QUARTER

4/1/76 - Fair market value of all property in fund including
transfer is \$160,000

Average fair market value of property in fund (exclusive of
transfer by "B" is \$105,000)

CALCULATION = $\$100,000 + (\$160,000 - \$50,000) \div 2 = \$105,000$

Unit value at time of transfer by "B" = \$105

$\$105,000 \div 1,000 \text{ units} = \105 (Average unit value)

"B" is assigned 476.19 units of participation in the fund
 $\$50,000 \div \$105 = 476.19$

ALLOCATION OF UNITS - ADMISSIONS

Unit Value 4/1/76 - \$22.18135489

Unit Value 1/1/76 - \$23.17358690

$$\$0.99223201 \div 90 = \$ (0.01102480)$$

Gift: \$3,500.00

Date of Gift: 1/3/76

Number of Days from 1/1/76: 2

Two Days X decrease per day: 2 X .01102480 = .02204960

Unit Value on Date of Gift = \$23.17358690 - .02204960 =
\$23.15153730

Number of Units Purchased: \$3500.00 \div \$23.15153730 = 151.1778

Number of Days Units Held in Quarter: 88

Number of "Unit Days": 88 X 151.1778 = 13,303.65

*Income Distribution Per Unit Day: \$0.00492249

Income Distribution: 13303.65 X \$0.00492249 = \$65.49

*DETERMINATION OF DISTRIBUTION PER UNIT DAY:

1. Determine total amount of income distributable for quarter

\$125,750.17

2. Determine total of unit days applicable to admissions

165,705.79

3. Determine number of unit days applicable to units outstanding
1/1/76

282,003.97 X 90 (days) = 25,380,357.30

4. Divide income distribution by total number of unit days

Unit Days = 25,380,357.30 + 165,705.79 = 25,546,063.09

\$125,750.17 \div 25,546,063.09 = \$0.00492249

DISTRIBUTION PER UNIT DAY = \$0.00492249

STATE REGULATIONS REPORT
 CREDIT STATE OF CALIFORNIA

STATEMENT OF CONDITION AS OF JANUARY 1, 1976

PRINCIPAL

Cash		\$	3,801.13
Accounts Receivable - Securities Sold			37,723.75
Investments (Market Value):			
Bonds	\$5,937,562.50		
Stocks	1,148,503.67		
Other	138,111.15		<u>7,224,177.32</u>
			\$7,265,702.20
LESS: Participations Pending	\$ 821,833.06		
Accounts Payable - Securities Purchased	114,687.50		<u>936,520.56</u>
NET PRINCIPAL VALUE OF FUND			<u>\$6,329,181.64</u>
Participations (Book Value)			\$6,065,561.81
ADD (DEDUCT): Realized Profits and Losses	\$ 205,900.45		
Redeemed Units Profits and Losses	(7,456.57)		
Unrealized Profits and Losses	65,175.95		<u>263,619.83</u>
PARTICIPANTS' INTEREST			<u>\$6,329,181.64</u>

INCOME

Cash		\$	33,370.19
Interest Receivable			54,446.08
Dividends Declared - Not Collected			<u>14,493.43</u>
		\$	102,309.70
LESS: Accrued Expenses			<u>1,249.65</u>
NET INCOME VALUE OF FUND		\$	<u>101,060.05</u>
Number of Units Outstanding: 273,120.50			
Unit Values: Principal \$23.17358690			
Income \$.36336936			
Income Distribution Per Unit Day: \$0.003949667			

COMPUTATION OF FUND'S YEARLY RATE OF RETURN

Determination Dates	Fair Market Value
10/1/75	\$110,104.44
1/1/76	191,358.13
4/1/76	271,495.00
7/1/76	<u>269,497.50</u>
	<u>\$842,455.07</u>

Average fair market value \$210,613.77

Corrective Term Adjustment:

Income Payments = 1/8/76 - \$	1,751.30
4/6/76 -	4,201.63
7/7/76 -	4,687.99
10/6/76 -	<u>4,739.30</u>
	<u>\$15,380.22</u>

75% of \$1,751.30 - \$	1,313.48
50% of \$4,201.63 -	2,100.82
25% of \$4,687.99 -	1,172.00
0% of \$4,739.30 -	<u>-0-</u>

\$ 4,586.30 = Adjustment

The Fund's yearly rate of return for the fiscal year ended September 30, 1976, is determined as follows:

$$\frac{\$15,380.22}{\$210,613.77 - \$4,586.30} = 0.074651$$

RATE OF RETURN - 7.47%

STATE REGULATIONS REPORT— Current Status: Gift Annuities

Dr. Chester A. Myrom

Director, Lutheran Church in America Foundation

A Backward Look

Having given the paper on this subject in 1965 and again in 1974, and having reread those together with the reports for 1968 and 1971 (prepared and presented by our departed friend, James R. Cousins), there seems basis for asserting that the state regulations situation continues pretty much as it was three years ago; that is, "unsettled" and "unsettling."

A Significant Change

A notable change is that the two states that for many years have had precise regulations governing gift annuity agreements, New York and California, since the time of the prior conference have been joined by Florida, New Jersey and Wisconsin. Another state, Oregon is reported to be in that group as well.

Our Own Experience

My own organization, the Lutheran Church in America, has been licensed, or otherwise authorized, in New York, California and Florida. Applications to New Jersey and Wisconsin will be undertaken after this conference.

I use the word "undertaken" advisably. One organization wrote the Committee on Gift Annuities recently, "making application for licensing can be a difficult and time-consuming chore." Another of you wrote, "the procedure takes much time and much information."

An accompanying frustration to the process, at least so far as our office is concerned, as we conscientiously sought to fulfill all that was required of us, has been the time lapse between the time of our initial approach and the final granting of the license or permit. I cite these instances out of our own experience:

In the case of New York, several years ago now, it took the intervention of an insurance company president in Nebraska to an official in Albany, at the initiative of one of our then board members, to get our application "off of dead center" where it had rested for many months. At that time, we were told later, there had been no new applicants for licensing for so long that none of the present personnel knew how to process the application.

With respect to Florida, one of the newcomer states to the licensing group, and presumed ready to follow through on their own recently enacted legislation, eighteen months elapsed between our first contact with the insurance commissioner's office and ultimate receipt of the permit.

In the case of New Jersey, six months after the first application had been scrupulously made, on the form provided us at our request, came a letter stating "a new application form had been developed and we should resubmit our application."

Since it was then late in the year, we could foresee that the data submitted in the initial report would in all probability be deemed "not current." The New Jersey application file was thereupon set aside for processing early this year. It remains in the "gotta do soon" category.

What Can One Do?

The point of all this for practitioners in the gift annuity field, in my view at least, is two-fold: don't get "too uptight" about state regulations and don't desist from gift annuity promotion and solicitation in the meanwhile.

No instance has been reported to the Committee on Gift Annuities of a state authority having made things difficult for any reputable organization that has issued gift annuities in that state's jurisdiction without proper authority in advance. If such become known, report them to the Committee at once.

Some Annoyance Along the Way

One new development should be reported relative to licensing in California. Whereas the reporting procedure remains the same, accompanying the renewal form that came to our office a few weeks ago was a printed form setting forth a new schedule of fees charged for various state functions. The former filing fee for charitable annuity issuing permits has been advanced from \$5.00 to \$52.50!

We paid the fee without protest but it seems to us a mild protest was in order. Do any others here today share that view? A collective response might be better than single ones.

In addition, California is the only state that requires a five dollar payment to the state for each annuity as it is written.

Just as I was completing this paper, and feeling comfortable that the three annual reports we file had been completed, on April 11, 1977 we received this letter from the Insurance Commissioner's office in Florida:

"Enclosed is the Department's Annual Report form which was not developed in time for use by the March 1, 1977 deadline.

"Although you have filed a report for 1976, we request that the information be provided on the new format for 1976 at your earliest convenience and in any event, no later than June 1, 1977."

The New York State Department of Insurance procedures continue as they have been for many years. Theirs is by far the most complex and complete report but with repetition it becomes quite manageable. Helpfully, a photocopy of the New York report is acceptable to California. Excerpted sections of it comprise the Florida report and appear to meet the requirements of New Jersey and Wisconsin.

Interestingly, New York State requires no filing fee.

New Pressures Are Upon Us

One development during the past three years that deserves comment before this constituency is the proliferation of legislation affecting the philanthropic community in a broader way than gift annuity administration. I mention it here because in some inquiries the Committee has received this legislation is deemed to be the gift annuity regulation we are talking about today. It is broader than that.

According to one authoritative report, 31 states, plus the District of Columbia, have regulations covering the activities of charitable organizations in fund-raising. This covers every kind of solicitation.

The June, 1976 issue of the bulletin "GIVING USA," a publication of the American Association of Fund-Raising Counsel, Inc. lists the states having regulations and briefly describes them. A footnote on the bulletin says copies of it are available for 50c.

Believing the publication to be one each organization here ought to be aware of, I called the organization's office in New York to inquire as to its current availability. I was told that the bulletin "was no longer available." However, as a public service and responsive to what they regard as a widespread need, photocopy reprints of the bulletin will be provided without charge.

The place to write or phone is the organization's office at 500 Fifth Avenue, New York, N.Y., 10036; 212/354-5799.

Still Another Threat

Still another development affecting fund-raising on a broader level than annuity solicitation, this one at the federal level, needs to be cited.

Church bodies like ours, and other organizations as well, are concerned by the implications of the Wilson "Charitable Disclosure" bill currently under consideration in Washington as H.R.41.

A spokesman for the inter-Lutheran agency known as the Lutheran Council in the USA has given testimony to a congressional committee against it.

For those that may not know of it, the bill requires the furnishing of certain information in connection with the solicitation of charitable contributions by mail. Exemption is afforded "any bona fide membership organization" when it solicits exclusively its own members.

This observation by our Lutheran spokesman may be representative of your own position on the matter. In my view, his assertions are sound and may provide a point of view that others can support:

"Unfortunately, there have been several recent and highly publicized scandals involving charitable organizations that have apparently abused the public's trust. And regrettably, several of these have involved church-related or religious institutions. The actions of these few groups, however, should not be allowed to cast a shadow on the overwhelming majority of church-related charitable organizations which have enviable reputations in the areas of low administrative and fund-raising costs, the efficient delivery of goods and services, and open and voluntary financial disclosure."

"In general, we endorse the goals behind H.R.41, including the open reporting of financial operations by charitable organizations and the creation of an informed giving community. We condemn abuse of the public trust by charitable organizations and the participation in questionable or dishonest fund-raising activities by such organizations."

A Suggested Course of Action

What then should a neophyte development officer propose to his president and board of directors in the face of all that I have cited? I presume to offer these suggestions:

- 1) First of all, let your organization become ten years of age. This minimum period of existence is a common requisite of all the states requiring licensing or granting a permit.
- 2) In the meanwhile, don't refrain from including the gift annuity agreement in the array of giving opportunities offered to your constituency. If your organization is related to a church body, the likelihood is strong that at your church's headquarters is an

agency similar to the one I serve which will gladly administer annuity gifts on your behalf.

Interestingly, the Wisconsin legislation is the only one that I have observed that straight out prescribes "co-insurance" as the route to be followed by the young or small organization.

- 3) Follow the gift annuity rate schedule recommended by these periodic Conferences on Gift Annuities.
- 4) When gift annuity contributions are received, be scrupulously mindful that the main concern of the states that have regulations affecting gift annuity organizations is the **segregation of assets and adequate safeguarding of them.**
- 5) As a matter of preferred procedure, if you can possibly do so, **set the full corpus apart.** This is the procedure our organization has followed from the outset of our operation. It pays out well in the end. Our average remainder value experience on 57 agreements terminated during 1976 became 91.4%.
- 6) If it is proposed by your board of directors or executive officer that some portion of a gift annuity could surely be used for current operations, and in fact must be, point out that another common stipulation for state authorization is that an **actuarially computed legal reserve amount, plus 10% additional reserve, must be segregated as the annuity reserve.** For smaller societies the added reserve is 25%.
- 7) In advertising and promotion, avoid "flagrant" or "excessive" statements as to tax benefits.
- 8) Make application only to those states in which you have a substantial constituency. New York State, it should be noted, will not consider your application until your annuity holdings are at the \$100,000 level.
- 9) As a convenience to those who see their operation as being subject to the regulations of one or more states, the addresses of the known State Insurance Commissioners to whom application for a "donor annuity agreement permit" should be made can be found on pages 48 and 49.

The Role of the Committee on Gift Annuities

In conclusion, the considered position of the Committee on Gift Annuities, in the light of this kind of situation, has been to "not press the issue." Also it is deemed advisable to desist from periodic and extensive surveys of the several states as to their respective rule and practices. Per-

sistent inquiry in the past has had the negative effect of the officials of some states without regulations apparently saying to themselves, "It appears we should have some."

Operating as it does without fulltime staff, and with a modest budget, the Committee on Gift Annuities cannot actively lobby for legislation on these matters in the several states. *It can, however, serve as a clearing house and stands ready to do so!*

It is only fair to report, and to include in the record of this conference, that at least two organizations are not quite satisfied with this stand. They have proposed in letters we have received that sponsoring organizations, if asked, would be willing to pay an annual fee of \$100 so that a "center" might be established whose function would be to monitor these developments, to assist organizations making application for the first time, to answer questions and, hopefully, to assist in the shaping of legislation, both state and federal, before it is enacted.

The Committee on Gift Annuities means to be as responsive as it can be and welcomes comments and suggestions, here or later, as to how it can more effectively serve this significant and growing specialization within the field of philanthropic endeavor.

A Continuing Appeal

In the meanwhile, as Dr. Gilbert Darlington wisely said in his paper on this topic in 1959, "The Committee on Gift Annuities seeks by self-regulation of its members to make state regulation unnecessary by the Insurance Departments of additional states, but any attempt by other agencies of the states or federal government should in my judgment be vigorously opposed by your Committee. Please keep the Committee informed."

Addresses for State Insurance Commissioners

California;

Mr. Walter H. Walley
Department of Insurance
The Life Analysis Bureau
State of California
100 Van Ness Avenue
San Francisco, California 94102

Florida:

State of Florida
Insurance Commissioner
Bureau of Allied Lines
Tallahassee 32304

New Jersey:

State of New Jersey
Department of Insurance
201 East State Street
Trenton, New Jersey 08625

New York:

Mr. Robert Ginnelly
General Counsel
New York State Insurance Department
Empire State Plaza, Agency Bldg. No. 1
Albany, New York 12223

Wisconsin:

State of Wisconsin
Office of the Commissioner of Insurance
123 West Washington Avenue
Madison Wisconsin 53702

STATE REGULATIONS REPORT— Current Status: Pooled Income Funds

Julius P. Fouts, Esq.

Partner, Donovan Leisure Newton & Irvine

I. Introduction

Tax exempt organizations have been reluctant to recognize the applicability of federal and state securities laws to certain of their fund raising activities, including, notably, their pooled income funds. The uncertainty as to whether such funds are within the ambit of securities regulation and the concern of incurring the expense and administrative burden that might result from complying with such laws have combined to produce what some have called the "Ostrich Syndrome." It has been feared that if one or more major charities complied with such laws, other charities might be compelled to follow suit. It has also been hoped that a national legislative solution would render "Blue Sky" registration unnecessary. And, implicitly, it has been felt that pooled income funds organized and managed by nationally prestigious institutions simply should not have to be regulated in the same manner as profit-oriented, public corporations.

Let's examine these concerns in the light of the general nature, purpose and application of the Blue Sky laws in the context of pooled income funds.

II. *An Overview of Blue Sky Laws*

Each state (as well as the District of Columbia and Puerto Rico) has some form of Blue Sky law in effect. These laws share a common purpose: they are designed to provide investor protection in connection with the purchase of securities. Many of the jurisdictions' Blue Sky laws have a number of provisions in common, but in general, the scope and sophistication of such laws vary widely and significantly.

As most of you will know, the Blue Sky laws apply to a given transaction only if a "security" is involved. An argument can be made that a transfer of cash or securities to a pooled income fund and the sharing by the transferors in the fund's income does not involve the purchase of a "security" since the primary purpose of the transaction is not profit making, but the making of a gift. But the statutory definitions of "security" are broad in scope and do not refer to the purpose which may underlie any given transaction. The definitions of "security" typically include a description such as a "participation in a profit-sharing agree-

ment." A pooled income fund's declaration of trust and instruments of transfer, taken as a whole, may arguably be construed as constituting such a participation.

The staff of the federal Securities and Exchange Commission has adopted the position that a transfer of property to a pooled income fund involves the purchase of a "security" under federal law. While registration has not been required, the anti-fraud provisions of the federal securities laws are applicable to sales of units of participation and written disclosures clearly and accurately describing the fund must be given to all prospective donors.

Blue Sky laws not only may apply to the transfer of property to a pooled income fund in exchange for units of participation in the income, but to preliminary advertising and other forms of solicitation as well, without regard to the success of such efforts. Whether the law of a jurisdiction applies to a particular transfer of property depends upon the location of the charity, the trustee (if an independent organization) and the residence of the donor. The law of the location of the trustee and the charity will apply to each transfer as well as state law where the donor resides. Thus, even the most "local" type of tax exempt organization will probably find itself concerned with more than one Blue Sky jurisdiction.

Blue Sky laws attempt to achieve investor protection through various anti-fraud and registration provisions. In general, the anti-fraud provisions prohibit the dissemination of misleading information. Such provisions can best be complied with through careful drafting of all advertisements, communications, and documents to insure that they are accurate, complete and not misleading. However, in the case of an organization with a number of persons involved in solicitation, it is difficult to minimize the possibility that exaggerated claims or inaccurate tax information might be given to prospective donors.

Registration provisions of Blue Sky laws are elaborate and often compliance is costly. Two forms of registration exist: registration of securities and registration of the organizations as well as the individuals involved in effecting securities transactions. While most securities registration provisions have broad application to all securities, they usually contain exemptions from registration for certain types of securities, particular types of organizations and particular transactions. Similarly, broker-dealer and salesman or agent registration provisions

usually exclude certain persons from the class that must register. If exemptions and exclusions from these registration provisions cannot be found, then registration presumably is required.

III. *Compliance with the Blue Sky Laws—Pros and Cons*

Once compliance with federal tax laws is effected and appropriate SEC and tax rulings obtained, most organizations with pooled income funds have proceeded to solicit contributions to their funds without state registration or exemption.

In an informal survey undertaken in early 1976, we found that, with the exception of several institutions which had been required to register in their own states, few educational and philanthropic institutions and only one national religious organization had undertaken to comply with state Blue Sky laws on a broad basis. All other charitable institutions had chosen, as one university attorney put it, to ignore the potential liability for non-registration "like the ostrich with its head in the sand."

Our survey revealed a widespread concern at the notion that charities should be required to comply with state securities laws both because it was felt that no significant public interest would be furthered by such a requirement, and also because the expense of compliance would be overly burdensome for most organizations and, indeed, might cause them to forego the pooled income fund as one of their methods of raising funds.

The opinion was expressed to us by lawyers and laymen alike that the solution to the problem of compliance with state securities laws was the formation of a national coalition to seek a federal law exempting charities meeting prescribed standards from both federal and state registration and regulation. Insofar as I am aware, little or no progress has been made toward this objective.

It has therefore been necessary for each organization to decide for itself whether the protection afforded by compliance with the Blue Sky laws outweighs the burden created by registration requirements. An organization ignoring such requirements does so at its own risk, of course. While Blue Sky officials may not bring legal action against a particular organization, the possibility exists that a pooled income fund could be fined or more likely enjoined from further operation in a state in which it failed to register. An over zealous securities administrator or state attorney general's office could cause much unfavorable publicity through threat of injunction or fine. The organization could also of course be sued by donors who find in retrospect that their irrevocable con-

tributions to such funds were improvident, or who find that a promised rate of return has not met their expectations. In such cases as these, the fund could be forced to regurgitate the donations made to it. In view of the penalties and various potential consequences that may result from failure to register, it would behoove most organizations to examine the expense and administrative burden of compliance.

In order to ascertain whether the burdens outweigh the benefits it may be necessary to request a survey of the Blue Sky laws as they apply to your particular charity and pooled income fund. While there is great similarity among all funds since they must all conform to Section 642 of the Internal Revenue Code, there are significant differences in the way in which sponsoring charities may organize their funds and solicit donations to such funds. For example, paid staff members as opposed to volunteers may be used in the solicitation of donations to its funds.

A Blue Sky survey is a state by state study undertaken by your attorney to ascertain if you must register or if you may obtain some form of "clearance" short of registration that will give your charity a relative degree of protection against administrative enforcement of the Blue Sky laws and against private suit. The registration process requires the filing of an application to which various documents relating to the fund and its sponsor must be attached. These include charter, by-laws, declarations of trust, financial statements, disclosure brochures and advertising materials. A filing fee will be payable that may vary from \$50 to \$200 in most states. Your attorney may conclude that registration in a particular state is required or that your particular charity and fund are excluded or exempted from regulation. It is likely, however, that he will also tell you that certain action will be required to be taken to achieve compliance with the Blue Sky laws in most jurisdictions of the United States.

This is so for at least two reasons. First, few states have addressed the problem of regulation squarely by providing express exemptions from regulation. Most Blue Sky laws were enacted before the concept and popularity of pooled income funds developed. As a result, few jurisdictions have Blue Sky laws or regulations specifically addressed to pooled income funds. Since pooled income funds do not generally fit the pattern of the traditional transactions contemplated by the Blue Sky laws, it is difficult to ascertain with any certainty the registration requirements without contacting the agencies in each state responsible for administering the pertinent Blue Sky laws. Second, in each state obtaining an exemption from securities registration is only half of the battle; it is also necessary to

obtain exemptions from the registration of the sponsoring charity, as a broker/dealer and the registration of its employees or volunteers as agents or salesmen. It is a peculiarity of the Blue Sky laws that they may require registration of a salesman but not always what he sells.

Once your attorney has completed a Blue Sky survey, you are then in a position to ascertain the possible costs and administrative burdens that may result from a compliance program. You may decide, for example, that registration in certain states would be unnecessary for you do not plan to solicit donations in such states. Or, given the nature of your particular organization, you feel the risk of private lawsuit is minimal but you wish nevertheless to ensure that no state agency will seek to enforce any registration requirements against you. Then, your attorney may advise you to seek an administrative order, interpretative opinion or no-action letter from the Blue Sky administrators in those states in which registration would otherwise be required. If you are successful, you will have avoided the cost and effort associated with registration and yet have achieved a relative degree of protection for your organization and its fund. Or, finally, you may simply conclude that the risks of non-compliance are acceptable.

III. *An Example of Compliance*

Having already undertaken the foregoing analysis on behalf of a national charity, we were instructed to seek to obtain "clearances" in all states, Puerto Rico and the District of Columbia on its behalf. The results of this effort are described on the Summary which is attached.

1. *Registration*

The only state we encountered that actually required registration of the pooled income fund with which we were concerned was, interestingly enough, Minnesota. Compliance in Minnesota may be effected by the simple procedure of notification and the payment of a fee based upon a theoretical maximum "offering price" of units of participation to be issued by the fund. While it is of course difficult to measure in advance the amount of donations to a pooled income fund, the Minnesota authorities nevertheless required the payment of a fee based upon a maximum aggregate "offering price."

Of course, depending upon the particular objectives, national or local scope and organization of your charity, it may be advisable, and, perhaps, may be required that you effect registration in other states unless opinion of local counsel is obtained that registration is not necessary

(i.e., in Arizona where officials will not issue interpretative opinions and no-action letters).

2. *Statutory Exemptions and Exclusions*

A number of states have Blue Sky Laws which provide some form of statutory exemption or exception from registration. These exemptions and exceptions may be found under a variety of headings in state securities laws—some are in the section setting forth definitions, while others may be found in the section setting forth exemptions from the registration provisions. The distinction is important: while an “exception” from a definition under a state securities act may take a particular activity outside the act altogether, an “exemption” from registration will not keep the anti-fraud provisions of the act from applying to a charity’s solicitation activities. Administrative opinions or interpretative rulings such as no-action letters usually only exempt the activity from registration and contain statements to the effect that the anti-fraud provisions are fully applicable to the proposed solicitations.

We concluded in our survey that exclusions from all regulation were applicable in eleven states. In all remaining jurisdictions, we felt it would be necessary to obtain administrative orders, interpretative opinions or rulings or no-action letters if securities, broker/dealer and agent or salesman registration were all to be avoided. The value of such clearances varies from state to state and often depends upon whether the clearance is granted by the state securities commission (typically a ruling or order is issued) or by the securities commissioner (*i.e.*, an interpretative opinion is given) or, by persons of lesser rank (*i.e.*, sometimes no-action letters).

The relative desirability of such clearances may also depend upon the amount of effort required to obtain them. For example, in some states which have recently promulgated regulations requiring considerable documentation of no-action requests, we obtained instead interpretative opinions giving the same or a greater degree of relative comfort and requiring much less expenditure of effort. The availability of such clearances is another factor to be considered. Some states will not respond to no-action requests or will give verbal clearances only (*i.e.*, Louisiana and Florida). In these states, it may be necessary to incur the expense of obtaining formal exemptive orders or opinions of local counsel.

In general, we found that Blue Sky officials often agreed that an appropriate form of exemption should be available for the activities of charity related funds and recognized that such funds represented no substantial danger to the investing public and that registration would be a burden

both financially and administratively to sponsoring charities. Nevertheless, it was our experience that more effort had to be expended in obtaining clearances than we had anticipated. While the administrators in most states were sympathetic to the assertion that their securities laws ought not be enforced against pooled income funds, this view came about only after considerable effort was made to describe and explain the nature of pooled income funds to administrators who lacked familiarity with them.

In issuing no-action letters, Blue Sky officials considered it significant that the organization in question had obtained favorable income tax and SEC rulings, that it employed the services of a well-known bank as trustee of the pooled income fund and that it proposed to solicit transactions only through written disclosures. They may also be persuaded that volunteers who receive no compensation for soliciting contributions to a pooled income fund are not agents or salesmen (who must be registered) if the volunteers make no oral representations regarding the fund, merely refer prospective donors to the written brochure for answers to any questions they may have, and engage in no other solicitation or securities activities.

IV. *Conclusion*

In view of the controls to which pooled income funds are already subjected under the tax and securities laws, few state authorities believe that any genuine public interest is served by regulating such funds. As each state has its own particular scheme or regulation, the burden on charities to conform to state Blue Sky laws particularly as to disclosure creates administrative costs that may outweigh the benefits expected to be obtained from this form of fund raising for all but the most well-established national charities. While Blue Sky officials acknowledge their fear of creating a "loophole" in the securities laws for unscrupulous operators and have been hesitant to issue broad rulings sought by charities sponsoring such funds, they are on the whole sympathetic to the burden registration would place on charities.

The securities acts in eleven states contain statutory exemptions and exceptions permitting the units of participation to be issued without registration by charity related funds. In certain states, notably Pennsylvania and Texas, proposed regulations are pending that would expressly exclude such units and the trust as well as the charity from registration. While the promulgation of such regulations would clearly give charities better protection from private suit than no-action letters, a

price would have to be paid. The Pennsylvania regulations require extensive disclosure of information, which could impose a considerable burden on charities. Unless the Blue Sky commissions of the states with laws containing similar types of exemptions can agree on uniform disclosure guidelines governing pooled income funds, compliance with such laws could grow more difficult.

Possibly the only effective way to obtain relief from state regulation may be a state-by-state coordinated campaign to obtain appropriate legislative or administrative exclusions or exemptions from regulation for charities which can show the following:

1. IRS Ruling
2. SEC No-Action Letter
3. Compliance by the charity with other state and federal provisions regarding charities and charitable solicitations.

However, there does not appear to be a strong interest in this kind of effort and for the time being, charitable organizations will simply have to weigh the risks to determine whether they ought to undertake the burdens of compliance.

*Summary of Registration Requirements
Relating to the Solicitation of
Contributions to a Pooled Income Fund Trust*

A large well-known charitable organization (the "Charity") entered into a trust agreement with an independent bank, as trustee, for the establishment of a pooled income fund trust (the "Fund"). Thereafter, a review of the laws of all states, the District of Columbia and Puerto Rico was conducted to determine what registration, if any, was required of the Charity before engaging in the solicitation of contributions to its Fund. A summary of the results of that survey follows:

I. In the following jurisdictions, it was determined that the Charity was not required to take any action before soliciting contributions to its Fund:

Idaho	New Mexico
Kentucky	Rhode Island
Montana	Wisconsin*
New Hampshire*	

* In these jurisdictions, the Blue Sky authorities have rendered opinions that units of participation in the Fund are excepted from their definitions of "security."

II. In the following jurisdictions, the Charity is exempted by statutory regulation from all registration requirements with respect to the solicitation of contributions to its Fund:

California
Massachusetts
Oregon
Washington

III. The Charity obtained in the following jurisdictions exemptions by administrative order from all registration requirements with respect to the solicitation of contributions to its Fund:

Arkansas
Michigan
New York
Pennsylvania
Virginia

IV. In the following jurisdictions, the Blue Sky authorities have stated that they will not bring an enforcement action against the Charity for the solicitation of contributions to its Fund without complying with registration requirements:

Alabama	Missouri
Alaska	Nebraska
Colorado	Nevada
Connecticut	New Jersey
District of Columbia	North Carolina
Florida	North Dakota
Georgia	Ohio
Hawaii	Oklahoma
Illinois	Puerto Rico*
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Louisiana	Texas
Maine	Utah
Maryland	Vermont
Mississippi	West Virginia
	Wyoming

* The Charity must obtain a ruling from Puerto Rico's Income Tax Bureau and disclose such ruling to its prospective donors in Puerto Rico.

V. In Arizona, the Securities Commission advised that it "does not render 'no-action' letters; therefore the burden of proving an exemption from the securities laws is on the issuer, broker and private counsel."

VI. In Minnesota, the Charity applied for and received an Order of Registration by Notification for the solicitation of contributions to its Fund.

In Delaware, the Charity, although having received informal, verbal assurances, is awaiting formal action from the securities administration.

DO'S AND DON'TS

Dr. Roland C. Matthies

*Vice President and Treasurer Emeritus
Wittenberg University*

Time has a way of slipping by and already I am almost two years past my first retirement plateau! My Golden Age is here, and I thank God for good health, ambition, and a continuing desire to teach. Through my 34 years of experience in Deferred Giving, both at Wittenberg University and as a Consultant-Teacher, I have developed these "Pearls of Wisdom," called Do's and Don'ts which should be helpful to you.

Do Thank God for the privilege, and I mean just that, of working in this field. Many of us can testify to the fact that the people who are the objects of our attention and cultivation, are a truly choice lot.

Do Realize the uncertainties of life, and **Keep Records, Keep Records, Keep Records!** College presidents are notorious for husbanding information and not recording it. They are too busy or not sufficiently self-disciplined. Be sure that you acquire and keep the excellent habit of utilizing a portable cassette set in order that you may very promptly record the information obtained at your latest visit. Just as soon as you have driven away from a place, turn the corner, locate a good parking spot, and "start recording." Be sure that your secretary is trained to have that same kind of determination to record. Can someone else pick up your files and information cards with complete assurance that they are right up-to-date? Most of us carry around some very choice information about our donors and our prospective givers, some of which material we feel is so confidential that we should not place it in a file at the office. Record it, nevertheless, and see that the files are kept confidential. The fact that Mrs. Donor simply detests purple neckties or affectionate lovebirds could be mighty important! Let's all be aware that recording the idiosyncracies, whims, and biases of our prospects is truly helpful in the process of cultivation.

Don't Rely upon your auditing firm to tell you how to run a Pooled Life Income Fund. It's your job, and that of your business officer, to know the requirements of the law.

Recently I have seen two instances of college balance sheets showing that each college operated its own Pooled Life Income Fund and made advances from its current operating funds for the operation of the Pooled Fund. The Pooled Fund is a Trust and must stand alone.

While the participant in a Pooled Fund may very much wish to have equal quarterly payments from your Fund, advancements from the current funds of the institution for such purpose are contrary to the law.

Don't Sell appreciated securities, given for a Pooled Life Income Fund contract, before placing them into the Pooled Fund. I have uncovered a recent instance where the institution soliciting the gift had automatically sold the appreciated securities and then turned over the net cash to the investment house operating the fund. As most of you know, this establishes a somewhat dangerous agency situation that would have the attention of the Internal Revenue Service. In effect, the IRS would say, the institution selling the securities has acted as agent for the donor and thus the donor has not avoided the capital gain and the resultant tax. Be sure to maintain very clear records that the securities have gone into the Pooled Fund, there to be disposed of or retained after market value has been determined and units established for the donor.

Do Have established policies governing your deferred giving program, approved by the Board of Trustees of your institution, and circulated among staff members. Those policies should cover:

Who serves as legal counsel and what members of the staff may bring problems directly to counsel.

Who is authorized to negotiate and thus determine valuations acceptable to the donor and the institution. Is this the responsibility of one person, two persons, or a committee of the Board?

What are the minimum amounts which will be received for a Charitable Gift Annuity and a Pooled Fund contract. If the institution acts as Trustee for Charitable Remainder Trusts, minimums should be established.

Who receives securities, how are they transmitted within the office, and who has ultimate responsibility for retaining physical possession of them.

Who has authority to sign instruments of contract. Who has authority to sign tax information reporting to the donors.

Do Be aware that donors should make a Federal Gift Tax return for the year of the gift. Quarterly returns, required for other than charitable gifts, need not be utilized.

Don't Issue a Charitable Gift Annuity Agreement if the charitable gift portion is ten percent or less. IRC514(c)(5). I find no such limitation with regard to a Pooled Life Income Fund contract.

Don't Issue a Charitable Gift Annuity Agreement on more than two lives. Again, this limitation does not apply to the Pooled Life Income Fund contract.

Do Be particularly careful in a capital gains situation funding a Charitable Gift Annuity Agreement. The agreement must be non-assignable. *If* the donor is one of the annuitants, and only then, the capital gain is reported ratably over the donor's life expectancy. It appears that the Treasury regulations do not cover how the capital gain is to be reported when the Charitable Gift Annuity has been funded with jointly-owned or community property. Conrad Teitell states that a reasonable rule would be to report the capital gain ratably over the joint life expectancy and that a private letter ruling has been issued to that effect.*

Do Familiarize yourselves with Publication 561 of the Internal Revenue Service on "Valuation of Donated Property." Its opening words, "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." We should remind the members of the Congress with regularity that this is one of the fundamental principles of our federal tax laws. Be aware that the delivery date for securities and for the acceptance of title to real estate is very clearly spelled out. Delivery to another party, for the benefit of your institution, is not effective delivery unless an agency relationship is clearly established. The date on the security or on the deed is merely circumstantial evidence.

Do Be aware that computing the charitable contribution deduction for a remainder interest in a personal residence or farm is not a simple task. The mechanical computation is not especially difficult, but getting the fair market value of the land and the buildings, to the satisfaction of the Internal Revenue Service and of your Board committee, is a real problem. Furthermore, getting the "estimated useful life of the buildings," together with calculating the value of the buildings at the end of their estimated useful lives, can become quite difficult. Because of the matters required to be taken into the calculations, the resulting charitable contribution deduction is often of minimum attraction to the donor.

*The Journal of College and University Law, Vol. 3, No. 1.

Don't Send out a tax calculation for a Charitable Gift Annuity or a Pooled Life Income Fund contract without a second calculation being done by another person in your office. Even our modern day calculators cannot completely overcome the chance for human error.

Do Be aware of the vital importance of significant follow-up in dealing with your donors. One of the largest organizations writing deferred giving contracts reports that 60% of its gifts are from previous donors. I firmly believe that there needs to be a one-to-one relationship with donors and with prospects, clearly assigned at the office, and that there be no so-called "cross fertilization" from the visits and approaches of other staff members. Of course, the timing of a visit from your President should be based upon your recommendation.

Don't Forget the importance of participation in the deferred giving program by the members of your Board of Trustees. They not only need to be informed about the program, they obviously need to participate. It should go without saying, but I say it nevertheless, that your personal participation in the form of a commitment is a condition precedent to any approach!

Do Plan ahead with regard to your travel schedule and the calls to be accomplished. Far too often I find that planning is not carefully laid out and that far too much time is spent in the office. Deferred giving solicitation is not the job of an amateur or of an untrained volunteer, it is your job as a professional. For some of you who have a large area to cover, the nights away from home are the tough parts of the job, but there is simply no other way to get it done.

Do How you spend your time is more important than how you spend your money. Money mistakes can be corrected, but time is gone forever.

Do Believe that hard work isn't bad for you. Dr. Hans Selye, Director of the Institute of Experimental Medicine and Surgery at the University of Montreal, said

"... the Western world is racked by the unsatiable demand for less work, more pay. Work is seen as something that wears you down, that produces stress—and stress is known to take a heavy toll.

"Stress is the spice of life. It is associated with all types of activity, and we could avoid it only by never doing anything. Who would enjoy a life of 'no runs, no hits, no errors?'"

"Our aim, therefore, should not be to avoid work but to find the kind that suits us best. Only thus can we eliminate the need for

constant adaptation which is the major cause of harmful stress. Work wears you out mainly through the frustration of failure. Each period of stress, especially if it results from unsuccessful struggles, leaves some irreversible chemical scars which accumulate to constitute the signs of tissue aging. Successful activity, no matter how intense, leaves virtually no such scars. Instead, it provides you with the exhilarating feeling of youthful strength, even at very advanced age.

“The art is to find a job that you like and one that people honor. Man must have recognition; he cannot tolerate constant censure. “Short hours are a boon only for those underprivileged who are not good at anything, have no particular taste for anything, and no hunger for achievement. These are the true paupers of mankind.”

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Don't Forget that your congressman and senators are in need of your attention. They hold the key to more tax reform. *Cultivate, Educate, Elucidate!!*

Despite advice of the previous speaker, the Committee has found that it is better if you

Don't MUDDY THE WATERS IN YOUR STATE BY INQUIRING OF STATE OFFICIALS WHAT REGULATIONS NEED TO BE MET.

I conclude with a very strong DO!

Do Thank your understanding wife and your children for their support. They hold down the fort while you are out spending the ammunition. That support and understanding are your blessings.

REFERENCE DATA FOR ADVANCED WORKSHOP

Clinton A. Schroeder, Esq.

Robert L. Helland, Esq.

Partners; Gray, Plant, Mooty, Mooty, & Bennett

I.

CAPITAL GAINS AND BARGAIN SALE COMPUTATIONS

A. *Capital Gain Rule* - The exchange of appreciated property for a gift annuity results in a partial recognition of capital gain.

1. Amount of gain is the excess of the "investment in the contract" over the donor's adjusted basis in the property exchanged for the annuity (see Bargain Sale Rule below).

2. Gain may be deferred over donor's life expectancy if two conditions are met:

a. Donor must be one of the annuitants

b. Annuity must be nonassignable

... Income Tax Regs. Sec. 1.1011-2(a)(4)

3. Gain is reported only from that portion of the annual annuity that constitutes a return of investment.

... Income Tax Regs. Sec. 1.1011-2(c), Ex.8

4. Unreported gain need never be reported in certain cases:

a. Where donor dies leaving no survivor annuitant

b. Where donor relinquishes the annuity to the charity.

5. On a two-life annuity, gain is still spread only over donor's life. If donor dies before entire gain is reported, survivor continues to report gain on same basis out of his annuity payments.

B. *Bargain Sale Rule*. - The Internal Revenue Service contends that the bargain sale rules apply to gift annuity agreements. The adjusted basis of property, which is exchanged for a gift annuity, must be allocated between the sale portion and the gift portion of the transaction. A formula for determination of this allocation is to determine the ratio of the investment in the contract (which is the technical term given to the value of the annuity) to the total fair market value of the gift property. This ratio or fraction is then applied to the adjusted cost basis of the entire gift property to determine the portion of the basis that is allocated to the bargain sale. This allocated portion of the basis is then subtracted from the value

of the annuity to determine the amount of the gain.

1. A shortcut method for calculating the capital gain on a bargain sale from a gift annuity would be to take the investment in the contract over the total fair market value of the gift property and multiply that fraction by the total appreciation—the amount that would have been reported as capital gain had the donor sold the property.
2. If the property transferred is subject to an indebtedness, the amount of the debt is treated as an additional amount realized on the bargain sale, even though the transferee does not agree to assume or pay the debt.

... Income Tax Regs. Sec. 1.1011-2(b)

C. *Examples:*

1. Single life.

Assume a male aged 65 transfers securities having a cost basis of \$2,000 and a fair market value of \$10,000 in exchange for a gift annuity paying 6%. Under the tables in Rev. Rul. 72-438, the investment in the contract would be \$6,062.00 and the charitable contribution would be \$3,938.00. The computation of the capital gain would be as follows:

a. *Bargain Sale Computation:*

$$\frac{6062}{10,000} \times (10,000 - 2,000) =$$

$$60.62\% \times \$8,000 = \$4,850$$

b. *Reported over life expectancy of donor:*

$$\frac{\$4,850}{15} = \$323 \text{ each year}$$

2. Two-life.

Assume a male aged 81 transfers securities having a cost basis of \$10,000 and a fair market value of \$50,000 in exchange for a two-life gift annuity for the life of donor and his spouse, a female aged 78. The annuity will be a 6.9% annuity paying an annual amount of \$3,450, payable quarterly. Under the tables in Rev.

Rul. 72-438, the investment in the contract would be \$29,384 and the charitable contribution would be \$20,616. Each year 68.69% (or \$2,370) of the annuity would be excluded from income as a return of investment. The computation of the capital gain would be as follows:

a. *Bargain Sale Computation:*

$$\frac{29,384}{50,000} \times (\$50,000 - 10,000) =$$

$$58.77\% \times \$40,000 = \$23,508$$

b. *Reported over life expectancy of donor:*

$$\frac{\$23,508}{7.1} \left(\frac{\text{Gain}}{\text{Donor's life expectancy}} \right) = \$3,311 \text{ each year}$$

but, since this exceeds excluded amount as return of investment of \$2,370, only \$2,370 will be reportable as taxable capital gain.

II.

ESTATE AND GIFT TAX IMPLICATIONS

A. *Gift Tax Consequences*

1. If the only interests created are those of the donor and the charity, no taxable gift results since the entire interest received by the charity is offset by the gift tax charitable deduction and the interest of the donor has been reserved by him and not transferred to any other person.
2. If the Agreement creates an interest in any person other than the donor and the charity, a transfer reportable for gift tax purposes occurs. For example, if the donor transfers property in exchange for an agreement to pay an annuity to the donor for life, and thereafter to the donor's wife for her life, the donor has made a gift to his wife of the value of her right to receive an annuity for life, beginning after the death of her husband. Gift Tax Reg. § 25.2511-2(c).

3. The federal gift tax annual exclusion of \$3,000 is not available in the above example since that exclusion is available only if the donee receives a "present interest", whereas the interest of the wife in the above example is a "future interest", since she cannot enjoy her interest until some time in the future; namely, after the death of the donor. IRC § 2503 (b).
4. The federal gift tax marital deduction is not available in computing the federal gift tax on such a gift. The interest received by the wife in the above example is a "terminable interest" (because the interest of the wife will terminate in the event of her death and thereafter another person can enjoy an interest in the subject matter of her gift; namely, the donor, if he is still living). Reg. § 25.2523(b)-1(c)(2).
5. The value, for gift tax purposes, of the interest which has been transferred to the wife in the above example is determined in accordance with the provisions of Rev. Rul. 72-438.
6. The donor can avoid making any gift if, in the Gift Annuity Agreement, he reserves the power to revoke the interest of his wife by means of a provision in his will or a written instrument executed by him during his lifetime (which, if exercised, enlarges the interest of the charity).

B. *Estate Tax Consequences*

1. If the Agreement creates interests in no persons other than the donor and the charity, no federal estate tax consequences result since the interest of the donor is completely extinguished by his death. The only payment received by the charity was the original transfer to it in exchange for the annuity and thus it did not receive any ". . . payment . . . by reason of surviving the decedent under any form of contract or agreement . . ." as required by IRC § 2039 (a) in order for an interest to be included in an estate in connection with an annuity.
2. Again, if the Agreement creates an interest in any person other than the donor and the charity, and that person survives the donor, the value of the interest thus received by that person is included in the gross estate of the donor for federal estate tax pur-

poses. IRC § 2039(a). In the example in paragraph 2 above, the interest of the donor's wife would be included in the gross estate of the donor if she survived him.

3. The federal estate tax marital deduction is available if the private individual who succeeds to an annuity after the death of the donor is the spouse of the donor. (Reg. § 20.2056(b)-1(g) example 3). (The interest thus received by the surviving spouse is not regarded as a "terminable interest", apparently because even though the interest of the surviving spouse will terminate upon her death, no other person will thereupon succeed to an interest in the property.)
4. The value for federal estate tax purposes of the interest received by the donor's wife upon his death in the above example is similarly determined in accordance with the provisions of Rev. Rul. 72-438. Such value will be based upon her then age and will represent her right to receive the annuity for her remaining life expectancy.
5. Even though the donor reserved in the Agreement a power to revoke the interest of the other annuitant, if he died without exercising that power of revocation, thereby permitting the surviving annuitant to receive her interest, that interest will be included in the gross estate of the donor.

III.

SURVIVOR'S DEDUCTION FOR INCOME IN RESPECT OF A DECEDENT

1. After the death of the donor, an income tax deduction becomes available to any annuitant whose annuity interest was includable in the gross estate of the donor and occasioned the payment of federal estate tax as a result. The amounts of income included in each annuity payment received by such survivor constitute "... income in respect to a decedent" as defined in IRC § 691(a) and therefore create an entitlement to the income tax deduction authorized by IRC § 691(c) equal to that portion of a donor's federal estate tax attributable to the inclusion in his estate of such items of income, computed in the manner required by IRC § 691(d).
2. The deduction described above must be spread ratably over the nor-

mal life expectancy of the surviving annuitant. If she dies prematurely, the unused portion of the deduction is lost. Even though she outlives her normal life expectancy, she cannot deduct more than the total amount computed as indicated above. Reg. § 1.691(c).

IV.

DEFERRED GIFT ANNUITY AGREEMENTS

A. *Definition and Philosophy*

1. *Description*: A giving plan, similar to the straight gift annuity except that annuity payments are deferred until retirement, or another later date, when the donor may be in greater need of income and when his tax bracket may be lower.
2. *Philosophy*: Where a donor does not have need for immediate income but wishes to begin to set aside funds which will provide for future income coupled with a charitable gift, the deferred payment gift annuity may be an attractive gift method.

B. *Payment rates* are the Uniform Rates adopted by the Conference on Gift Annuities, the same rates used for regular annuities. The age of the donor at the time payments begin is used to establish the payment rate.

Actual payment amounts are based on the original gift compounded annually at a given rate of interest for the period until the annuity begins. Then the annuity payment rate is applied to the total amount accumulated over the number of years during which payments are to be deferred.

C. *Contribution deduction* is allowed to the donor in the year cash or property is transferred to the charity. The deduction is based on the initial value of the contribution, not on the projected amount accumulated at the time payments begin.

D. *Appreciated property* which is transferred to the charity for Deferred Payment Gift Annuity will be treated as a bargain sale. Part of the capital gain may be taxed. But this gain can be reported in installments starting at the time payments begin.

E. *Income* partly tax free based on annuity rules.

F. *Example:*

Assume a male aged 55 transfers securities having a market value of \$10,000 and a cost basis of \$2,000 for a deferred gift annuity with first payment to begin in 10 years.

1. *Computation of Rate of Deferred Annuity*

Factor for interest at 4-1/2%	1.48609
Normal annuity for M65	<u>6%</u>
Deferred annuity rate	<u>8.9%</u>

2. *Computation of Charitable Gift Value*

Value of \$1.00 of annuity M65	10.104
Adjustment for semi-annual	+ <u>.532</u>
Adjusted value	10.636
Deferred period factor (DxRatio)	<u>.497562</u>
Single life value of \$1 deferred annuity	5.292
Amount of annual payment	\$ <u>890</u>
Actuarial value	\$ 4,710
Charitable gift value	5,290

3. *Bargain Sale Computation*

$$\frac{4,710}{10,000} \times (\$10,000 - \$2,000)$$

$$47.1\% \times \$8,000 = \$3,768 \text{ gain}$$

4. *Reported Over Life Expectancy*

$$\frac{\$3,768}{15} = \$251 \text{ each year}$$

MANAGEMENT OF ASSETS

Miss Agnes Claire Reithebuch

*Accounting Manager, The Society for the
Propagation of the Faith*

In his "Designs for Fund-Raising," Harold J. Seymour wrote in 1966:

"Just as any good pair of scissors needs two blades, with each blade helping to keep the other sharp, so it is that any good fund-raising operation needs both kinds of leadership—the layman who leads and the staff man who manages and serves. The better each is and the better they work together, the better the result will be."

His concern here was not with managers of Annuity Funds, but I have always found the thought most applicable for those of us in Deferred Giving.

Being in the staff area, I feel free to express my opinion about priorities. The first person on the team is the fund raiser, for we who manage and serve would have little to do if the fund raiser did not raise those funds. The whole operation has to feed to and assist the one who meets the public, speaks the cause, gains the friends.

Thereafter, however, the managers follow, and if they do not do their job well, the whole operation can fall upon itself. An Annuity Program has to be run like a business. There are legal and economic facts of life. You have a legal instrument binding your institution to pay an annual return to which you have committed all of the assets of your institution. You need both kinds of leadership. So, while I know who comes first, I cannot venture to say who is more important. One thing I feel certain of: one person cannot do both jobs. Each is more than a full-time job, even if the operation is small.

Management of Assets—the considerations of and approaches to the problems of investing Gift Annuities—is in the area of the second step, following the thrust forward. It must be firm and sure, or is sure to bring down the house. I hope that some of the ideas that follow will assist the sure progress forward.

How do you invest your Annuity Fund?

This question might better read: Who will your organization choose to make the decisions about investing your Annuity Fund? I see but four ways to go: 1) In-House management (do-it-yourself); 2) Out-of-house advisory service; 3) Appointment of a Trust Company with complete discretion; and 4) Reinsurance.

The largest, most prestigious Gift Annuity issuing organization has an in-house administration. They have a volunteer Finance Committee who are members of their Board—twelve professionals available to the organization with expertise in the economy, banking, investment and management skills. Investment advice is gratuitously given by these professionals who meet monthly. There is also investment counsel on their staff. If your organization has this kind of talent, the answer to “who” is happily solved.

If you do not have these resources available to you, it would be wise to seek out an investment advisor, or the appointment of a Trust Company to do it for you. What do you look for here? The following list of considerations has been suggested:

Determine investment goals, i.e., income, capital appreciation or some combination of the two. This is essential to the determination of a portfolio mix that will produce maximum performance with minimum risks. (Certainly of primary concern should be adequate yield, but there must be some potential for growth and capital gains from both inflation and real growth.)

Ask successful organizations, friends, bankers, lawyers, and/or accountants to recommend investment counselors.

Meet with several investment counseling firms. Obtain and study each firm's market comments of the past six months to one year to judge their advice in the light of recent history.

Ask each advisor to outline in writing how he would structure or restructure the portfolio to meet the investment objectives.

Learn all you can about the advisor who will manage the portfolio—his education and experience, plus the size and number of accounts he handles. Just how much time and attention can he give your institution?

Consider asking for references—ask for account names with whom you could check.

Ask other banks about the advisor—has he been in business for a long time? Has he handled all phases of the market activity and cycles of the market? Have the number of accounts and size of the accounts grown?

Get performance figures on paper—in all cycles of the market. Is this the kind of objective we have? (You might want to check to see if the portfolio managers who produced quality performance are still with the service.)

You may wish to start with a small sum—start with a part of the portfolio, if it is large enough to split. The person you use must give evidence of service, and good rapport is essential. Avoid being the new account that receives good service at first but sees that service decline. If you have split the assets, tell them that you are judging their results against another's performance. Require quarterly or at least annual portfolio reviews on market values. Market value and total return must be used in assessing the performance of an investment manager. The professional advisor will charge a fee which is generally calculated on the basis of a percentage of the monies invested, but fees should also be based on performance.

As for the appointment of a Trust Company with power of attorney and complete discretion who will do your investing for you, that decision might be based on satisfactory responses to the points listed above as well as on others important to you. Remember, the ultimate investment risk lies with you, a burden no one can ever fully shoulder. The professional can, however, spell out risks and guide you in reasonable investment strategies tailored to your particular needs. Performance is to be measured against stated objectives and methods.

Are there any suggestions for an organization whose total investment is too small for out-of-house investment service, and whose situation does not find the in-house talent of the necessary professionals? Is there an in-house approach to be taken here? Answers to this question are difficult to find, and inquiries made on this point have brought cautious responses lest they be construed as investment advice. In this light, may I report some ideas that might be explored:

A no-load mutual fund. Each August 15th issue of *Forbes* magazine has a review of mutual funds. After analysis of the statistical data there, look at who is managing the fund. Choose a fund with a record, run by a well-regarded investment firm in business for many years. Then get the Prospectus to see if the holdings are of the quality and type you want, (e.g., stay away from special purpose funds.) There also is a book by Weisenberger published annually with analysis of all fund performances for the history of the fund.

Bank common stock fund—if it is a legal investment for an Annuity Fund in your State.

Savings Bank Time Deposits.

Seek the assistance of a well regarded Brokerage House in your

area whose professionals have an interest in your cause. (Then again you may be reluctant to entrust investment decisions to the broker who handles the actual purchasing because he is wearing two hats.)

We have come now to the option of Reinsurance. If you are new in the field with a minimum number of annuities, you might look at this possibility. You may choose to reinsure your annuity contracts with a Commercial Insurance Company. The information regarding reinsurance which follows was given to me by a Certified Life Underwriter with a New York Commercial Insurance Company presently reinsuring annuities for several charitable organizations.

The charity will quote the gift annuity rate as recommended by the Committee on Gift Annuities. We shall assume that the annuitant is giving \$10,000 charitable gift annuity and has requested quarterly annuity payments. The charity draws up the institution's contract with the annuitant, (i.e., at present rates, \$600 annually at age 65). The charity buys from the Insurance Company the desired income (\$600 annually or \$150 per quarter). The most usual purchase is a single premium refund annuity. The charity is the owner, purchaser, beneficiary and payee. The annuitant is merely the measuring life, for this company of completed years and completed months.

Insurance companies' annuity contracts usually give the annuitant the power to change the beneficiary. If this is the case, the contract should be amended to reserve that right to the owner. After the first annuity payment to the charity, the charity may direct the Insurance Company to make future payments to the annuitant until further notice, reserving the right to change this direction in the future, thereby assuring itself of the ownership and avoiding inference of gift of value of the contract to the annuitant. This company, however, is perfectly willing to continue payments to the charity. The charity can then draw its own check to the order of the annuitant for the gift annuity payments, thereby assuring the charity's constant contact with the donor. If you send your own checks, there is no reason why the annuitant should know of the reinsurance, since in all cases you would advise the annuitant of the necessary Income Tax Information.

The difference between the principal donated for the annuitant and the cost of the charity for reinsuring the contract with the Insurance Company is immediately available to the charity. In the case of the refund annuity, if the annuitant dies before the total payments he or she has received equal the price the charity has paid for the reinsuring contract,

the balance of the payments are made to the charity, or payments can be commuted and paid in a single sum to the charity. If you choose to reinsure annuities in the beginning, consider keeping the gift available to your institution in a separate fund for in-house investment. As the fund grows, it can become the basis for independence.

I have had supplied to me an illustration of a \$10,000 Gift Annuity reinsured through this Insurance Company. I have also prepared an illustration of a \$10,000 Gift Annuity for the same ages as is issued by organizations following the recommended rates of the Committee on Gift Annuities. In both illustrations you will find information for three ages under our present rates and under the newly proposed rates. See page 78.

Please note that the Insurance Company figures do not take into consideration any state premium tax. Since one half of our states have such a premium, the cost would be correspondingly higher.

No discussion of the problems of investing Gift Annuities would be valid without reference to the laws of the states. This subject is important enough to be reviewed at every Conference, and rightly so, for our very right to function depends upon our adherence to these regulations. While preparing this paper I had thought to report on the methods and experience of several successful organizations as regards income return, mortality experience, reserves and expenses. With limited investigation, I found, however, that the way organizations handle an Annuity Fund varies greatly and no two seem to proceed in the same way. Although the methods may be diversified, there is a great unity in the expression of need to adhere to the strictest interpretation of our fiduciary responsibilities. This is usually expressed by reference to the regulations of the State of New York regarding Gift Annuity Funds. Actually, this legislation was designed to impose no arduous burden on charitable annuity societies. It provides for a limited degree of supervision. The main concern of the law is the segregation of assets and adequate safeguards of such assets. These safeguards refer to the reserves and the quality of the assets in that reserve.

When a Gift Annuity is received, the organization sets up a reserve to assure its ability to pay the annuity. The amount of the reserve may be the entire sum given (a procedure recommended by the Committee on Gift Annuities) or it may be the actuarial value of the Annuity, plus 10% or whatever additional amount is needed to satisfy legal requirements. The law of New York requires that these reserves be invested only in

securities permitted for reserves of authorized Life Insurance Companies. It provides that investment must be in specified types of securities such as obligations of the United States or guaranteed by it, obligations of state governments not in default, corporate bonds which meet certain tests, and mortgage and preferred stock as described in the statute. Common stock may be held in an aggregate amount not to exceed 5% of the assets or one-half the unassigned surplus, whichever is less. It also must meet certain standards. There are no legal restrictions regarding surplus funds in excess of the minimum required by law. If your organization has its situs in New York, these regulations are a necessary guide for investing the fund. The State Regulation Report this afternoon has also given you direction. But, whether you are bound by some state law or not, it is wise to follow a sufficiently conservative policy to fall within New York law in case you desire to qualify at some future time to sell Gift Annuities in New York or in another regulated state. Entirely apart from the law, a charitable or religious organization should hold itself to the highest standard possible of integrity and discretion.

A paper prepared by a New York State Insurance examiner some years ago reviewed the history of the Committee on Gift Annuities, examining the conditions that led to its establishment. May I share some part of the report with you.

Operations by "Charitable Annuity Societies" had been conducted as early as 1850. In 1925, statutes were construed to permit supervisory authorities to examine such funds. Following the enactment of a provision in the 1925 New York Insurance Code, the Committee on Financial and Fiduciary Matters of the Federal Council of Churches of Christ in America formed a Subcommittee on Annuities to explore the matter of uniform rates and other related problems.

Originally, the only restraints on organizations were self-imposed and many rate bases, reserve and investment programs were in vogue. In some cases, the term "investment" was used very loosely. In a number of instances, not only was no gift obtained, but the issuing institution went into bankruptcy, defaulting on all its annuity obligations.

The first Conference was called in 1927 for all interested parties. The major accomplishment of that first Conference was the recommendation of the first uniform table of annuity rates. At the time (to quote this examiner), "it was a *giant stride from a chaotic situation then existing.*" The report continues with a history of the Committee's recommendations on administration and investment procedure.

Our membership is voluntary, and the Committee has maintained the posture of recommendation to be accepted at your discretion. There is no illusion of power—it has none except for the power that comes from gathering the experience of long-standing successful organizations which is distilled into guidelines. As mentioned before, these organizations have very different ways of doing things. There is no one way, but there are certain rules to be followed and certain safeguards that each must take for the good of all.

\$10,000 GIFT ANNUITY ISSUED
BY CHARITY

Present Rates

Male	Age		Annual Income Quarterly Payments	Actuarial Value Under C.G.A.		Gift Available	
	Female			Male	Female	Male	Female
	65	65	\$600	\$6,142.20	\$6,793.80	\$3,857.80	\$3,206.20
	70	70	660	5,771.70	6,566.34	4,228.30	3,433.66
	75	75	740	5,303.58	6,241.16	4,696.42	3,758.84

Proposed Rates

	65	65	\$620	\$6,346.94	\$7,020.26	\$3,653.06	\$2,979.74
	70	70	680	5,946.60	6,765.32	4,053.40	3,234.68
	75	75	770	5,518.59	6,494.18	4,481.41	3,505.82

\$10,000 GIFT ANNUITY REINSURED
THROUGH INSURANCE COMPANY

Present Rates

Male	Age*		Annual Income**	Single Premium***		Gift Available	
	Female			Male	Female	Male	Female
	65	65	\$600	\$6,049.08	\$6,631.20	\$3,950.92	\$3,368.80
	70	70	660	5,973.82	6,562.40	4,026.18	3,437.60
	75	75	740	5,905.61	6,485.77	4,094.39	3,514.23

Proposed Rates

	65	65	\$620	\$6,248.22	\$6,848.74	\$3,751.78	\$3,151.26
	70	70	680	6,152.57	6,758.99	3,847.43	3,241.01
	75	75	770	6,141.98	6,745.66	3,858.02	3,254.34

* Age figured in completed years and completed months.

** Paid in Quarterly Installments.

*** Installment Refund Annuity without any State Tax Factor which may be applicable.

THE GIFT ANNUITY AND THE WEALTHY DONOR

Mr. Robert E. Steward

*Director of Planned Giving Program
American Foundation for the Blind, Inc.*

You will probably see, if you haven't already, a hesitation to recommend the Gift Annuity to donors in the higher tax brackets who have appreciated securities to give. With donors such as these, the reflex is to recommend a Charitable Remainder Trust, either a Unitrust, Annuity Trust or Pooled Income Fund.

I suggest that the reason that the Gift Annuity is not recommended to the wealthy donor with appreciated securities is a belief that the following argument is valid.

THE ARGUMENT

- 1) The donor ought to fund that deferred giving instrument that will give him the greatest after-tax income.
- 2) If a Gift Annuity is funded with appreciated securities, then the donor incurs a capital gains tax liability.
- 3) If a charitable remainder trust—A Unitrust, Annuity Trust or Pooled Income Fund—is funded with appreciated securities, then the donor does not incur a capital gains liability.
- 4) Tf: if the donor wishes to fund a deferred giving instrument with appreciated securities, then he ought to fund a charitable remainder trust rather than a Gift Annuity.

This argument, however, contains a suppressed premise.

THE SUPPRESSED PREMISE

The capital gains liability suffered by funding a Gift Annuity is so great that the donor will have less after tax income with a Gift Annuity than with a Charitable Remainder Trust.

This is the suppressed premise in the argument and this premise is false. To see that the premise is false, consider the following counter-example.

THE COUNTER-EXAMPLE

Sex	Male
Age	65
FMV of securities	3,333,333
Rate of return	3%
Taxable income	100,000
After-tax income	54,820

This individual is in the higher tax brackets and let us imagine that he wishes to make the following gift:

FMV of gift	415,129
Cost basis (75% apprec.)	103,782
Beneficiaries	1 (the donor)

Let us look at the alternatives that we could recommend to this donor:

THE ALTERNATIVES

UNITRUST: Rate of return 6% annual appreciation 0%; dividends taxed as ordinary income. *Mean yearly after-tax income for life expectancy* . . . 66,342

UNITRUST: Rate of return 9%; annual appreciation 0%; dividends taxed as ordinary income. *Mean yearly after-tax income for life expectancy* . . . 70,232

GIFT ANNUITY: Rate of return 6%. *Mean yearly after-tax income for life expectancy* . . . 72,558

As we can see, a 6% Gift Annuity returns more after-tax income than a 9% Unitrust. Comparing the alternatives with respect to the mean yearly after-tax income does not exhibit the donor's cash flow. The following is an annual accounting of the donor's after-tax income.

YEARLY ACCOUNTING

YEAR OF TRUST	UNITRUST	UNITRUST	GIFT	ANNUITY
	6%	9%	6%	
00	54,820	54,820	54,820	
01	77,691	82,783	83,615	
02	"	"	"	
02	"	"	"	
03	"	"	"	
04	"	"	"	
05	"	"	"	
06	"	67,931	78,146	
07	59,533	64,187	66,323	
08	"	"	"	
09	"	"	"	
10	"	"	"	
11	"	"	"	
12	"	"	"	
13	"	"	"	
14	"	"	"	
15	"	"	"	
16	"	"	67,802	

The first column from the left lists the years of the trust, or annuity. Recall that the assumption is that the donor is 65 years old during the first year of the trust. Notice that with each of the three alternatives, his after-tax income increases substantially when he begins his participation in a deferred giving instrument. Also, his after-tax income after the 6th year is substantially less than the first 6 years because the charitable contribution income tax deduction with the five year carryover period has been exhausted. The important point for us is to notice that in every year the 6% Gift Annuity returns to the donor more after-tax income than either the 9% Unitrust or the 6% Unitrust.

THEREFORE

It is FALSE that the capital gains liability suffered by funding a Gift Annuity with appreciated securities is so great that the donor will have less after-tax income with a Gift Annuity than with a charitable remainder trust.

THEREFORE

It does NOT follow from the argument that if the donor wishes to fund a deferred giving instrument with appreciated securities, then

he ought to fund a Charitable Remainder Trust rather than a Gift Annuity.

There are at least three objections to the COUNTER-EXAMPLE.

OBJECTION 1

You are being unfair to the Unitrust.

You are taxing all of the return at ordinary income rates.

A Unitrust may pay-out long-term capital gains and tax free income.

Hence, the Unitrust *may* yield more after-tax income than a Gift Annuity.

REPLY TO OBJECTION 1

- 1) Mean yearly income of the 6% Unitrust paying only long term capital gains taxes at 25% equals 74,779
- 2) Mean income of Gift Annuity equals 72,558
- 3) But, a Unitrust only "may" pay-out capital gains.
- 4) I have not considered Min or Max tax, and I have taxed the gains at 25%.

OBJECTION 2

- 1) You have assumed that the donor is a beneficiary, thus enabling you to pro-rate his capital gains liability.
- 2) If the donor is NOT a beneficiary, then he is better off with a Unitrust.

REPLY TO OBJECTION 2

True, that is the assumption.

Mean yearly after-tax income 72,281

First year's after-tax income 33,711

After-tax income before gift 54,820

While the mean yearly after-tax income is about the same as the case in which the donor is a beneficiary, his first year's after-tax income is more than \$20,000 less than his after-tax income before he made the gift. Of course, his first year's income is so low because the donor who is not a beneficiary must pay all of the capital gains tax in the first year.

OBJECTION 3

- 1) You have assumed that the donor is in a very high income tax bracket.

- 2) If the donor is in a lower tax bracket, then the tax-free portion of the Gift Annuity payment is worth less with respect to the taxed portion of the Unitrust payment.
- 3) Therefore, if the donor is in a lower tax bracket, then he may be better off with a Unitrust than with a Gift Annuity.

REPLY TO OBJECTION 3

TRUE

Now we have come full circle. In some cases the Gift Annuity is the appropriate deferred giving instrument to recommend to donors who are in the highest tax brackets and who have appreciated securities to give.

MANAGING THE SMALL DEVELOPMENT OFFICE AND PROGRAM

Miss Jane Stuber

*Associate Director, Development
Smith College*

We have heard from attorneys, trust officers, investment managers—even from an actuary—and these specialists have shared all the technical information we need to run deferred giving programs in our institutions. Perhaps I am here, a Development Officer from a small single-sex institution in Western Massachusetts, so that others also reared in the great tradition of the generalist will not lose heart.

Because Deferred Giving is essentially a team sport, the burdens of success or failure are not ours alone. However, as Development Officers, we must define precisely what our role on that team will be. If we are to see ourselves as leaders, directors, and coordinators, we must hone basic skills into precision instruments, frequently through tedious and repetitive drill work.

An almost mystical aura surrounds a good deferred giving program. Professional articles and our own publications remind us constantly that the work we do is so complex, the strain would push an air-traffic controller to the brink of insanity. This attitude, while balm to my own ego, is a partial truth at best. In reality those of us in charge of deferred giving programs need not radiate incandescent brilliance at every moment. Nevertheless, since primatologists and *Newsweek* confirm that Washoe the Chimpanzee has mastered 132 signs of Ameslan (the American Sign Language used by the deaf) while understanding the rudiments of grammar, and KoKo the Gorilla makes use of 300 signs through which she not only expresses emotion, but also demonstrates a conceptual understanding of past, present, and future, it probably would do us little harm to refine our own communication skills. Ability to read, comprehend, and interpret to others; to write syntactically correct sentences (which say at least almost what we intend them to say); and a working knowledge of fourth-grade arithmetic are essential, but not impossible requirements to meet.

Assuming our performance in these areas is perfection personified, to mold and hold a deferred giving program together effectively, we must bring to it the human qualities of patience, politeness, perception, and perseverance—combined with the tenacity of a terrier.

Many outstanding and gifted fund raisers do not achieve their best

results in the deferred giving area. Those who know themselves temperamentally unsuited to spend hours meandering through the past at a donor's pace, who are unwilling to reflect in both dress and manner the codes of courtesy instilled by mothers and grandmothers, those who are inwardly troubled by the sight of a palsied head or hand, and those who draw little inspiration from the fact there stands before them in the form of a prospective donor—however bent and frail—a proud, independent soul who in all probability will not go gently into that good night—those Development Officers should not become involved in deferred giving programs. Rather, they should take their undisputed talents and concentrate their efforts on equally vital and immediately rewarding areas of fund raising for their institutions. Their endeavors should be devoted entirely to the success of a capital campaign, to increasing the size of the annual fund, to organizing yet another special gifts club, because real success in a deferred giving program depends on more than computerization, efficient management, and the ability to memorize sections of the Internal Revenue Code.

Deferred Giving is first and foremost a person-to-person program. Knowing this, we and our trustees must be willing to meet personal commitments, and to accept moral responsibilities which are only beginning the day we bring home the gift. A deferred giving constituency, for the most part outside the mainstream of life as you and I know it, is a very special one. It is composed primarily of elderly men and women made vulnerable by diminishing physical and mental capacities, by lack of camaraderie with contemporaries, by ever-narrowing opportunities to mingle with generations younger than their own, by a creeping aloneness resulting from loss of friends and family, and the insecurity of knowing each day brings them close to that dreaded break with all that yet remains familiar and, therefore, dear.

Your special constituency—yours because no one else in your fast-paced institution will care to bother with it—reflects the spectrum of human personality and human perversity. Many pleasures await those of us who work in this area—not just the satisfaction of a job well done for our institutions—but in the personal discovery and enjoyment of unsuspected stores of good humor (often in the face of adversity) and in the sharing of rare and intelligent wit.

Of course we will treat our deferred giving prospects with tenderness and affectionate respect, being neither familiar nor condescending, but above all, we must take time to join with them in laughter.

From our mutual association, you and I may even come to know—as T.H. White's Arthur learned from Merlin—something about why the world wags and what it is that wags it. At the very least, we will come to appreciate and understand things we never knew before about the graying of America.

Let us begin with the premise that fund raisers are like porcupines. To love one, you have to be one. Then let us bite the bullet and accept with grace the fact that, however effective the outcome, we have been trained primarily in a realm of techniques and gimmicks which cannot be equated, except by the broadest stretch of imagination, with any real intellectual discipline. Yet, in the deferred giving area, we must strive continually to keep the faculty of effort alive, for here we are supplied with a specific body of data to learn, understand, and apply in a professional sense.

Admittedly, my comments are tailored to development officers, especially those associated with educational institutions, but I will be pleased indeed if those who represent other facets of an organization or who fulfill the important role of counseling our donors gain some small insight into the peculiarities of our particular problems.

In the hierarchy of an old, distinguished, and heavily tenured institution, an Associate Director of anything is technically outranked by almost everybody. Consequently, the creation and backing of a strong, highly respected Deferred Giving Committee does much to conserve staff time for other functions. At Smith, our Deferred Giving Committee is composed not only of key administrative officers, but also of outside professionals who bring to the campus a sense of that real world outside the walls of academe. We draw upon the experience and talents of two alumnae tax experts, two attorneys, an insurance executive and a retired businessman who have Smith wives and daughters, and two non-professional alumnae volunteers who previously served the College as Chairman of the Board of Trustees and Chairman of the Board of Counselors—an advisory group directly responsible to the Trustees. To these people we have given the power of the vote; it is to this diverse group, drawn together by a common interest, that a staff member must turn for support. We have been fortunate in maintaining a remarkable continuity, and in six years we have forged a cohesive working unit adept at waging war when necessary. Serving on the Committee in an ex officio capacity are the Chairman of the Development Council, President of the Alumnae Association (both of whom are Trustees), the Executive Direc-

tor of the Alumnae Association (which at Smith is a separately incorporated entity), the Treasurer of the College, Associate Treasurer, the Director of Development, and the deferred giving staff member.

The Committee is charged with overseeing the entire deferred giving program and is responsible for conducting an annual two-day conference for the network of Class Bequest Chairmen—one representative for each class out of College 20 years or more. It is in the Committee's name that information concerning Bequests, Charitable Gift Annuities, Charitable Remainder Trusts, and the Pooled Income Fund is prepared and distributed once a year to approximately 17,000 alumnae who fall within this age group.

Recommendations for expansion or changes in policy guidelines made by the Deferred Giving Committee must be forwarded through the 18-member Development Council in order to reach the attention of the Board of Trustees. Thus far, the Committee has maintained two unblemished records: we have never lost a gift when a personal visitation has taken place, and every motion sent to the Development Council has been forwarded to the Board of Trustees with the Council's added recommendation for favorable action.

Because success has the tendency to obliterate from memory those agonizing months of indecision, near-apoplectic raging, cloakroom politicking, and the frustrations of marshalling and deploying those troops thought to be amenable to the cause, we know we have created—at least on the flow chart—a streamlined, efficient, and workable structure.

Regardless of the efficiency of in-house structure, it is axiomatic that without a donor, there is no program. Rather than belabor this obvious point, let me caution against overlooking the needs of the female donor. You fall prey to a severe form of mental aberration if you think she is less interested than her male counterpart in knowing what your institution will do with her money, how her income will be taxed, or how the capital gain generated by funding an annuity with long-term appreciated securities is reportable in her *specific* situation. If you allow this to happen, you deserve all she will say about you to her friends. Even rechanneling the entire development office budget towards an extensive advertising campaign will not save you from word-of-mouth reputation.

If you suffer from sweet-little-old-lady-syndrome, cure the disease before you make your call because she, as well as her dog, will find you out. Sweet and old she may be, and a lady she is, but screened by bluish hair and translucent skin may lurk a mind shrewdly steeped in survival,

having learned to wrestle with burdens and hardships imposed, quite unnecessarily and with the best intentions, by the unenlightened estate planning of a long-dead husband, on the advice of that least lovable creature remembered as the Captain Queeg of the legal world—her husband's attorney.

You may know something about current tax laws that she does not, but remember her knowledge of The War to End War (and all the wars that followed), ginless days, the Great Depression, and that Day of Infamy has been attained firsthand. She has lived through political assassinations and learned to cope with changing mores of the 20th Century. Ideally, by the time you and she become acquainted, she will have sought and found competent legal counsellors in whom she can and does place her trust; otherwise, you may find her wary indeed. Certainly you can count on her to speak her mind.

I share with you a letter written by a graduate of the Class of 1913.

Dear Miss Stuber:

I consider your sending Gift and Bequest Program information to Smith College graduates—classes previous to 1916—unnecessary and a reflection on the foresight and mentality of a Smith graduate who, I am sure in her octogenarian decade, if not before, has arranged for the disposition of her estate!

Sincerely yours,

Unless you are content merely to cloak yourself in the mantle of a super salesperson, pushing a product you probably have not tried, you must take initiative in building confidence in the integrity of your organization by carefully explaining—verbally and through follow-up correspondence confirming every conversation—not just the advantages, but the possible personal disadvantages inherent to creating a charitable life income arrangement. You then will have in your files a written record to which you can refer and which will serve to safeguard you and your organization should a misunderstanding arise at a later time. Additionally, written statements which can be reviewed by the donor's counsel afford added protection against unpleasant ramifications resulting from possible error on your part.

If you have not passed the Bar, if you are not a Chartered Life Underwriter, it is not your job to counsel your donor. Your function is not to advise, but to help your donor comprehend what Sylvia Porter so aptly christened "bafflegab," and to assist your donor's advisors at any time, in

every way you can, from behind the scene. You must see to it that your donor understands that he or she is about to make a meaningful charitable contribution to an institution with whose purpose the donor feels a strong philosophical commitment. Federal tax benefits, however real and welcome, must be presented by you as secondary considerations.

Unless you know something most of us do not, resist the temptation to lean heavily on that well loved but mythical \$100,000 Unitrust which, in spite of fluctuations in the market, dramatically and consistently appreciates and appreciates, providing greater and greater income each year. When your donor understands that unitrust income is determined by multiplying the fair market value of the trust as revalued not less frequently than annually, by the percentage retained in the trust agreement, remind both of you—as a check against overenthusiasm and unrealistic optimism—that zero multiplied by 5% is still zero.

Do not try to impress your prospect with a fine command of legal verbiage. Your donors have learned to look to their own counsel for this and in all likelihood, in this specific area, have never found them wanting. With the aid of Kennedy Sinclair, the Newkirk home study course, training sessions sponsored by Philip Converse and Robert Sharpe, the Philanthropy Tax Institute manuals, CASE workshops, and the Caswell and Associates seminars (to name a few), we are abundantly supplied with proven methods designed to culminate in a successful call from which presumably will follow the creation of a beautiful life income arrangement. Borrowing from these splendid sources and relying on intuitive responses, we must develop a style appropriate to a given institution.

Although we may enter the office of a prospective donor or the donor's attorney safely armed with purchased flipcharts and our own presentations worked up and thoroughly rechecked the day before, do the outward vestiges of business property belong in a living room—at least on the initial call? However fine the fittings of a briefcase, does it lend itself naturally to this background? Is there any way to keep a business card from looking insignificant and cold as it languishes on a coffee table? As a representative of an institution for which the donor and I share a fondness, and which in turn greatly values and respects the alumnae body from which it must seek financial support, the answer to these questions, for me, is “no.”

However we choose to make our calls, it will seldom be what we take from a briefcase that determines whether a prospective donor completes a

tentative plan to make a gift; it is what we take from our heads that will count. Yet, we must always be prepared to say honestly and openly, "I do not know"—adding, of course, that we will find out and share the answer immediately.

It is possible to quickly obtain through the push of a button an amazing amount of information concerning prospective donors. Nonetheless, if you recall that a computer, when asked to translate the idiom "out of sight, out of mind" spewed forth the answer "invisible, insane," you may find it profitable to do some searching on your own. Check your alumnae files. Irritate the Registrar and the Dean of Students once again. Call their offices to obtain information about a prospect's early intellectual interests and life on campus. Do a little homework concerning well-known faculty in the prime of their teaching and publishing careers during the years your prospect lived on campus. Pay attention to the reminiscences of older alumnae and retired professors. By assimilating seemingly unrelated bits of trivia, what could be an awkward encounter between you and your donor is likely to become a pleasurable and rewarding experience. You will be able to settle back and listen for *volunteered answers* to those personal questions you instinctively feel it is tasteless to ask a stranger.

We are expected to know what is presently happening at our institutions, and donors take great pride in present-day achievements. Nevertheless, it is imperative, when talking to those who may not have returned to campus within 50 years, that we have an understanding of the institution's history in order to appreciate what life was like before the Art Center was built, when there was only one small gymnasium, when attendance at religious exercises was a daily requirement, when the library closed at eight o'clock, when dates in the parlour were discreetly chaperoned, when the President who spanned the years from 1908 through 1925 knew the name of every student and held tea parties on Sunday afternoons. In the memory of the heart, this is the institution to which your deferred giving donor is making a charitable contribution.

During your call, use the power of observation wisely, never underestimating the importance of birds, plants, animals and fish. Old Hector, ambling arthritically across the room, may look to you like a carabou in molt but, seen through the eyes of love, he is still the most remarkable pup there ever was. However weak his legs and dim his sight, look upon him as your friend for his very presence guarantees that conversation will

not lag. I remind you also that the acceptable euphemism for alley cat is "domestic shorthair."

In your work with donors, committee members, and other volunteers, you will maintain high visibility. It is you they will telephone on week-ends and evenings. If you find this disruption of your private life annoying, consider the alternative. Unless you keep yourself readily available to enthusiastic volunteer groups your desk will cease to be the central clearing agency. If you do not lead your volunteers they will soon lead you—down the garden path to chaos—and you will be amazed at the accelerating speed with which a carefully coordinated program disintegrates because, with due respect to the Internal Revenue Service, depreciation does not take place at a uniform rate.

If you are managing a one-person deferred giving shop, you may find that as little as 20% of your time can be expended directly on donor contact and volunteer groups. All the rest of your time will be needed for the cultivation and possibly education of outside professionals on whose part you cannot presuppose an existing affection for, or even an interest in your institution, but without whose support your entire program will flounder.

Among the crucial decisions to be made in implementing a deferred giving program is the selection of legal counsel which will represent not your donor, but your institution. Do at all cost whatever you can to avoid gratis legal services. The greatest jeopardy in which your program can be placed, unless it is to have no counsel at all, is dependence on the good intentions of a well-meaning board member who happens to be an attorney. The more knowledgeable he is in the area of charitable giving and taxation, the busier he will be. When the December year-end giving rush is on (and at every other time as well) your volunteer attorney must, by necessity, first meet the needs and demands of those clients whose fees are paying the mortgage on his house and sending his children through college. The minute your institution accepts free legal counsel, it has forfeited all control of quality and closed all avenues of redress. Although your Comptroller may blanch at the size of another firm's fees, you will never even know what free legal work has cost your institution in terms of lost gifts.

Help your attorney help you (which is what your institution is paying him to do) by learning to gather, record, and relay information accurately, by setting up realistic deadlines (not every request needs or deserves instantaneous action), and by occasionally showing appreciation for an exceptionally well-executed maneuver which brings hap-

piness to your donor and riches to your organization.

Do not settle for an attorney who is willing only to give you a yes or no answer to a specific question, who does not seem genuinely interested in the growth and success of your particular program, who does not make you feel—regardless of his workload—that your institution ranks first among all those other equals retaining his services, who does not take time to explain a point so that you understand it.

Equally vital will be the determination of whether your institution is equipped and staffed to serve as Trustee for life income arrangements or whether its primary role will be that of remainderman. An outside fiduciary reasonably can be expected to handle the receipt of contributions, the sale of non-cash assets, the entry of contributions into the appropriate investment vehicle, to value the assets of charitable remainder trusts on a regular basis, to determine income payable to income recipients, to remit income checks at specified times, to prepare annual tax reports for income recipients, to handle all accounting procedures, to file required government forms, to determine the annual rate of return for a Pooled Income Fund Trust, to prepare the annual report for that Fund which will assist your organization in meeting requirements of full and fair disclosure, and to distribute the remainder to your organization at the termination of a life interest.

At Smith we have turned to a Connecticut banking institution for these services, partly because of staff limitations and partly in an endeavor to avoid a potential conflict of interest between the needs of an income recipient and an institution vitally interested in the preservation and growth of the remainder interest. This arrangement frees an institution's staff to work with prospective donors, to prepare and distribute promotional information, to provide agreement forms for signature, to give instructions for the transfer of assets to be used for funding, to provide information relating to the charitable contribution deduction generated by each gift, and to share with the donor—always for review by the donor's counsel—general information concerning proper reporting procedures for an individual gift.

If you are not qualified to discuss investment mix and cash reserves with those donors who want to do so, you will find the assistance and accessibility of trust officers familiar with your accounts a key source of support.

In turning your accounts over to a bank, never think your institution is relinquishing its obligation to its donors. Expansion of your program

will result in greater need to work closely with members of a trust department. We now meet quarterly to review and refine public relations procedures, to simplify methods of operation which have grown cumbersome, and to work out mutually supportive practices which enable both the bank and the College to best meet donor needs. The representatives of a well managed trust department can greatly strengthen your deferred giving team. You also will find in the years of the Bear, when income recipients fret over shrinking income, expressions of dissatisfaction inevitably will be directed not towards your organization but towards the bank!

The other outside professional on whose support you must depend is the donor's counsel. In this area, you will be called upon to do your finest work, while keeping a very low profile. If you are out to win an academy award, make certain your nomination comes for Best Supporting Actor, because the donor's attorney must be the Star.

No attorney can be expected to maintain equal competence in every phase of the legal field, and estate planning may play a small part in an overall practice. Your built-in strong suit will be the fact you will have mastered in detail a narrow body of regulations while he has been struggling to keep abreast of changing requirements in a vast area.

In spite of all you hear about attorneys, it is not inconceivable that—misinformed though they may be—there is in their collective minds a special category into which they lump greedy fund-raisers and others of that ilk! Your function, therefore, while respecting attorney-client relationships, is to gain the confidence of your donor's advisor by promptly, conscientiously, and ever-so-tactfully providing specific data about life income gift arrangements, patterned specifically to his client's situation. Make certain he receives this information well in advance of his client's next visit to his office. Let your donor's advisor know also that your institution's legal representatives are available for consultation on request.

Before making the initial contact with a donor's attorney, you may find it helpful to consult THE BAR REGISTER or THE MARTINDALE-HUBBELL LAW DIRECTORY. Although you will disregard the rating system, biographical information will give some indication of background, legal experience, and whether that firm in central Kansas is a one-man affair or one with a dozen senior partners and who-knows-how-many eager, young, law school graduates employed below stairs to carry out menial tasks.

Your success in working with a donor's advisor may determine whether another of his clients will make a gift to your institution in the future. Therefore, his importance to your program far outreaches the culmination of a single gift, however sizable. On behalf of your institution, express appreciation for his cooperation and assistance directly to him, and also to his client. Your payment for services rendered will be the continuing goodwill of a practicing professional who is in a position to influence potential donors to your institution.

In summary: know your constituency; master pertinent facts relating to your program; develop fluency and accuracy in making basic calculations; build an internal structure for your Deferred Giving Program; keep your volunteers informed and enthusiastic; use the services of your institution's attorney; develop an understanding of investment procedures relating to your donor's gift; and assist your donor's attorney whenever you can.

It is of extreme importance to the immediate financial welfare of your institution that you do not permit a deferred giving program to absorb those gifts which ordinarily would be made to an annual or capital fund. The proper function for a deferred giving program is to bring to your institution funds it otherwise would not receive. Track your own record in this area by tracking the previous giving records of life income donors. This information will keep you on target while serving as reserve ammunition against that very accusation which will be leveled against your program, especially when you seek Board authorization for expansion. It also is important that you work closely with your institution's Treasurer (or other chief financial officer) in order to make certain the remainder interest of a life income gift is not restricted by the donor in such a way that its purpose is not in keeping with your organization's needs and goals.

Your office should subscribe to at least one tax newsletter—perhaps J.K. Lasser's *Taxes for Fundraisers*, or *Taxwise Giving*. I suggest you also put in a strong pitch for a subscription to *Trusts & Estates Magazine*.

You will find it helpful to browse through your local library and book stores to familiarize yourself with numerous basic estate planning publications which are now being written for and read by laymen. For easy readability you might sample the revised edition of Robert Brosterman's *The Complete Estate Planning Guide*, remembering that while it has been updated to include 1974 Pension Reform, it does not reflect

1976 changes in the tax law. Try William C. Clay, Jr.'s *The Dow Jones-Irwin Guide To Estate Planning* which does feature the new gift and estate tax provisions. Your donors are reading these books and you should also.

Keep in touch with other institutions. Few Deferred Giving Officers have counterparts within their own organizations, and I have yet to meet one who does not relish finding a new sounding board.

Within the confines of a small Development Office, demands on staff time may include anything from writing publications to sitting on committees whose purposes at best are only vestigially related to the work of the Development Program. Ideally, of course, every staff member will be so well versed that he or she in a single day can write a foundation proposal, explain the tax treatment afforded unitrust income under the four-tier system, determine the proper agreement form to be used for a life income gift funded with community property, and complete arrangements for at least one major gift solicitation before attending a kick-off dinner in a city miles away. At Smith, although development officers maintain a broad overview, these responsibilities are compartmentalized.

Because we view our deferred giving and foundation and corporations programs as on-going functions of the office—whether or not we simultaneously manage a capital campaign as we are doing now—Smith has found compartmentalization and specialization the most effective manner in which to maximize results from a small staff. This compartmentalization, however, does not free staff members from assuming other responsibilities within the office structure.

To Emily Dickinson, the Belle of Amherst, "hope is the thing with feathers that perches in the soul." To my development office colleagues, hope is that pie-in-the-sky dream that if they are very, very good and work very, very hard—someday, someway—God and our Trustees will also give to each of them a real, live, full-time secretary!

FEDERAL TAX LEGISLATION - CURRENT STATUS

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CHARITABLE DEDUCTION IN GRAVE JEOPARDY

Sweeping changes in the tax laws—which would make the 1969 and 1976 Tax Reform Acts minor legislation by comparison—are likely. The proposals are ominous for charitable institutions which rely on tax-encouraged gifts from the private sector.

TAX LAW CHANGES WHICH WOULD ADVERSELY AFFECT CHARITABLE ORGANIZATIONS—EARLY WARNING SIGNALS:

1. President Carter, in his February fireside talk and March Dial-A-President program, promised major tax law changes. In his fireside talk, he said: "We will also move quickly to reform our tax and welfare system. I said in the campaign that our income tax system was a disgrace, because it's so arbitrary, complicated and unfair. I made a commitment to a total overhaul of the income tax laws. My advisors have already started working with Congress on a study of a more complete tax reform, which will give us a fairer, simpler system. We will outline the study procedures very soon and, after consultation with many American citizens and with the Congress, we will present a program of comprehensive tax reform package before the end of this year."

Responding to a question about unfair tax laws on his March 5 Call President Carter program: "I made an issue [of unfair tax laws] during the campaign . . . and in my acceptance speech at the Democratic Convention said that I thought the tax system of this country was a disgrace. I haven't changed my opinion about that and have initiated a comprehensive analysis of the income tax structure and before the end of September we will propose to the American people and the Congress in a highly publicized way basic reforms in the income tax structure. *** We anticipate eliminating in September a great number of loopholes that do benefit the rich and the powerful, and any of those savings that are derived from that will be passed along to the low and middle-income families like, perhaps, yourself. ***"

"The average American family, \$10,000, \$15,000, sometimes \$20,000 a year, has no organization. They don't have any lobbyists, and the only way for them to understand what goes on in very complicated income tax laws is for somebody like the President to take the initiative and present to the American people in a comprehensive way all at once these are the things that are unfair. These are the things that can be changed to make it fair so the American people can be marshalled to exert their influence and their interest in the tax laws.

"A person who has a special privilege, they focus their attention and their influence on that one tiny part of the law and the average American has no idea what's going on. But if I can get the whole American tax-paying body toward the end of September to join with me and demand from the Congress that we make the laws simple and fair, then in that instance I think we can overcome this deterioration, which in my opinion, has taken place ever since 1913 or whenever it was that the income tax laws went into effect. And that's why I'm so interested in having the American people not only believe that I'm acting for them but let them understand what's going on. That's the reason for this radio broadcast."

How can the income tax laws be simplified and made more equitable? Here are the common answers:

- Increase the standard deduction. Every time the standard deduction is increased, millions of taxpayers who formerly itemized change to the standard deduction and no longer have tax incentives to make charitable gifts.
- Eliminate personal itemized deductions—e.g., interest, taxes, medical expenses, charitable contributions.
- Tax capital gains at the same rates as ordinary income. The tax benefits for gifts of appreciated property would be removed if capital gains are taxed the same as ordinary income. Property which is now "capital gain" property and deductible at full fair market value would be deductible at cost-basis only.
- Substitute a credit for personal deductions. A credit of 24% of amounts contributed to charity—as proposed by some tax reformers—would give the same tax inducements, it is said, to those in the 14% bracket to contribute as to those in the 70% bracket. Of course, a credit could not increase giving from those who do not have funds to contribute. But, as studies have shown, would drastically decrease charitable contributions from those who can afford and do make gifts.

2. The Carter tax policy team is likely to favor tax simplification and may support elimination of the charitable deduction. New IRS Commissioner-designate Jerome Kurtz advocates tax simplification. He is a disciple of Harvard Law Professor Stanley Surrey (former Assistant Secretary of the Treasury for Tax Policy) and was Treasury Tax Legislative Counsel from 1966-1968. He participated in developing the 1969 Tax Reform Act. He believes that so-called tax preferences or tax expenditures in the form of credits and deductions are generally undesirable as a means of achieving social and economic goals and prefers direct government subsidies.

Donald Lubick is the new Deputy Assistant Treasury Secretary for Tax Policy. Another disciple of Stanley Surrey, he too was Treasury Tax Legislative Counsel under Stanley Surrey. During the 1973 Tax Reform hearings, he advocated placing floors under the allowable medical, casualty loss and charitable contribution deductions.

Messrs. Kurtz and Lubick are eminent tax lawyers, both graduates of the Harvard Law School and have taught courses at Harvard. Given their public records, it seems unlikely that they wish to preserve the status quo.

Assistant Treasury Secretary for Tax Policy Laurence Woodworth was formerly Chief of Staff of the Joint Committee on Taxation. He was a staff member since 1944 and its chief since 1964. Ways and Means and Senate Finance Committee members—as well as individual members of the Congress—have relied heavily on Dr. Woodworth's expertise. His personal views on tax reform are not known because of his exemplary neutrality as Chief of Staff of the Joint Committee. However, a hint of his leanings is given by the appointment of Messrs. Kurtz and Lubick. And if the President favors tax "reform" and "simplification", Dr. Woodworth is likely to support the President.

3. "Tax Equity" Bill (HR 1040) introduced by Representative Corman (D.-Cal.) and 29 other House members. The bill would: (1) Limit the charitable deduction for gifts of appreciated property to the cost-basis (rather than fair market value); (2) Substitute a 24% credit for the present charitable deduction; (3) Limit the estate tax charitable deduction to the greater of 50% of the gross estate or \$1,000,-000.

4. Ways and Means Committee Chairman Al Ullman (D.-Ore.) includes "general tax reform" on his priority list of legislation over the next two years. Mr. Ullman has said that

Congress by the end of this year could well eliminate the difference between long-term capital gain and ordinary income, thus treating all gain as ordinary income. If enacted, this would eliminate present benefits for gifts of appreciated property.

5. Treasury Blueprints for Basic Tax Reform. In the last days of the Ford Administration, the Treasury released a comprehensive tax reform study with two model tax systems.

The first model calls for broadening the base of the income tax, integration of corporate and personal income taxes, taxation of capital gains at full rates (after allowing an adjustment for inflation) and taxing many other items not presently taxed. Most personal deductions (including the charitable deduction) would be eliminated. In place of the existing rate structure, the plan calls for three rate brackets ranging from 8% to 38%.

The second model is based on consumption and is called a cash flow tax. It differs from an income tax because it excludes savings from taxation—although the withdrawal of savings for the consumption of goods and services would be taxed. This plan also has three tax brackets—with rates from 10% to 40%. Most deductions (including the charitable deduction) would be eliminated.

Both models would abolish the charitable deduction. As an alternative, a limited tax benefit—in the form of a very low credit—would be allowed.

What should you do? For the last eight years you have been importuned to make your views about the importance of the charitable deduction known to your legislators. We have just had a major tax reform act and the natural tendency is to let your guard down. After all, won't Congress and the Administration take a rest for a while? Apparently not. Tax reform is again a hot issue. Administrations and the Congress often talk and talk about tax reform and seem to move slowly. But recent history demonstrates that once deciding to move, they move swiftly—passing major tax revisions in a matter of days.

Do not oppose tax simplification. It is desirable. However, within a simplified tax structure, a charitable deduction can easily be allowed. Abolishing the charitable deduction would be detrimental to lower and middle income Americans. It is they who benefit most from our charitable organizations.

Increasing the standard deduction is desirable. It makes filing

tax returns simpler for millions of Americans. But, at the same time, it removes tax incentives from those who no longer itemize.

The simple solution: Allow the charitable deduction whether or not an individual itemizes. Present law allows some deductions for those who take the standard deduction (as well as those who itemize). For example, moving expenses are deductible for those who take the standard deduction and those who itemize. *Another example—and this is a recent change:* Alimony payments are deductible by those who take the standard deduction (as well as those who itemize). Without passing on the social merits of allowing alimony deductions, it appears that charitable deductions should be given the same status. The charitable deduction is unique. It is distinguishable from other allowable personal deductions because an individual voluntarily reduces his income and assets to make a charitable gift and benefit others—not himself.

Now is the time to communicate with the Administration, Ways and Means and Senate Finance Committee members and all other members of the Congress. Support their efforts to make the tax laws simpler and more equitable. Urge them that in pursuing these laudable goals, they not remove tax incentives to charitable giving. Otherwise, the very taxpayers they are trying to benefit will suffer because of a decline in services by charitable organizations supported by tax-encouraged giving.

The charitable institution you save may be your own. Urge your highest executive officer, board members and constituents to communicate their views to the Administration and the Congress.

Conrad Teitell MCMLXXVII

TREASURY PROPOSALS "TO IMPROVE PRIVATE PHILANTHROPY"

Two days before the Carter Administration took office, the Treasury issued legislative proposals to "improve private philanthropy." Although prepared by an outgoing Administration, the proposals should be taken seriously. Proposals issued by the Treasury a few days before President Johnson left office were the basis of many of the sweeping changes made by the Tax Reform Acts of 1969 and 1976.

The proposals, because of their importance, are reproduced in full:

INTRODUCTION

Private philanthropy plays an important role in our society today, complementing the efforts of government to meet our social and individual needs. Private philanthropy is uniquely capable of responding quickly and flexibly to fill new needs as they arise and of experimenting with new and untested methods in meeting existing needs.

However, the lack of adequate accountability to the public and evidence of abuse has [sic] created a growing public concern about the effectiveness of philanthropic institutions. Government officials are accountable at the polls and businessmen are accountable in the marketplace, but philanthropic organizations face no such test of their efforts, and their accountability to State officials burdened with other responsibilities has often been criticized as inadequate. The result has been the gradual erosion of public confidence in some private philanthropic institutions and of the public's willingness to contribute money, time and effort to them. This erosion of confidence and support, when coupled with financial difficulties that these institutions have been facing in recent years as a result of spiraling inflation, could lead to a severe crisis for private philanthropy generally and threaten its important role in our society.

To avoid this crisis and to restore public confidence and support to these institutions, proposals have been made to increase their public accountability, to minimize abuses, and to improve the Federal tax treatment of charitable contributions. During the past year the Treasury Department has studied the proposals of the privately-established Commission on Private Philanthropy and Public Needs (the Filer Commission), as well as proposals of other groups and commentators.

As a result of this study, the Treasury Department is recommending to the Congress that it consider the following legislative proposals at the earliest feasible date.

TECHNICAL EXPLANATION

I. Improving the Philanthropic Process

A. Accountability.

1. Annual Reports.—

a. *Present law.*—Under present law, the only philanthropic organizations required to file annual reports for public inspection are private foundations having at least \$5,000 worth of assets. The only source of information regarding a public charity available for public inspection is its annual return, and that lacks much of the information contained in the annual reports required of private foundations.

b. *Treasury proposal.*—(1) *General description.*—Every private foundation with at least \$5,000 worth of assets, and every public charity (other than a church¹ or an integrated auxiliary thereof) or social welfare organization which has annual gross receipts of at least \$100,000 or which makes grants annually of more than a specified minimal amount, would be required to make available to the public, and file with the Internal Revenue Service, an annual report regarding its finances, programs and priorities. In addition, any business organization that makes annual charitable contributions of at least \$100,000 would be required to make available and file an annual report on its charitable giving programs. This report would be supplied by the organization upon request, at or below cost, during the year following the date it is filed with the Service.

(2) *Detailed description.*—

(a) *Organizations Affected.*—The new reporting requirements would replace the current requirements for private foundations with at least \$5,000 worth of assets. In addition, they would apply to every public charity and social welfare organization (exempt under section 501(c)(3) or section 501(c)(4), other than a church or an integrated auxiliary thereof), if it makes total grants of more than a specified minimal amount or it has gross receipts of at least \$100,000 for the immediately preceding year (or as an annual average for the five preceding years). The reporting requirements would also apply to business corporations, partnerships and trusts whose annual contributions, together with the amount of direct and indirect expenses attributable to those contributions, totaled at least \$100,000 for the preceding year (or as an annual average for the five preceding years).

¹For purposes of these proposals, the term "church" includes a convention or association of churches.

In determining the amount of gross receipts of a philanthropic organization for any year, the principles in the regulations which now apply in computing gross receipts for purposes of the exemption from the current annual return filing requirement (section 6033) would apply. In determining the \$100,000 contribution figure for a taxable corporation, amounts contributed by such a corporation to its company foundation would not be included if the company foundation files an annual report under these provisions.

(b) *Contents of report.*—The Secretary of the Treasury would be provided with regulatory authority to prescribe the contents of the annual report. It is expected that the regulations would require that the report be written in language clearly understandable to a layman and include the following information: a description of the organization's program and priorities; an explanation of the criteria that are taken into account in accepting or rejecting requests for funds, products or services; and financial information, including a statement of income, a statement of expenditures (including fund-raising and administrative expenditures), and a balance sheet.

It is also expected that the regulations would require that, in discussing the criteria which are applied in awarding and rejecting grants, the report would be specific enough so that a prospective applicant could determine the general policies and circumstances under which grants are awarded or rejected. However, the annual report would not be required to disclose the internal decision-making processes of the organization, particularly with respect to individual grant applications.

In the case of a business organization, the information required would be limited to the pertinent aspects of its charitable giving program.

(c) *Summary Annual Report.*—In addition to an annual report, organizations with annual gross receipts of \$100,000 or more would be required to make available to the public a summary annual report that is in shorter form and in less detail than the annual report.

The Secretary of the Treasury would also be provided with regulatory authority to allow grant-making public charities with annual gross receipts of less than \$100,000 to prepare a summary annual report in place of, rather than in addition to, the basic annual report.

(d) *Availability of the Annual Report.*—Each organization required to file an annual report (or summary report) with the Service would be required to supply the report, or any portion thereof, at or below reproduction cost to any person within 60 days after a request for

such report is made, if the request is made within one year from the date such report is filed with the Service.

If the organization does not respond to a request for information within 60 days, or if the request is made after one year from the filing date, the person requesting the information may then seek it from the Service. The Service would not be required to respond to a request within any definite period of time.

(e) *Sanctions.*—Penalties similar to those imposed for failure to file information returns (section 6652(d)(1)) would be imposed on an organization for failure to file an annual report with the Service or to provide the report promptly to a person requesting it, unless any such failure is due to reasonable cause. Since the Service may not be made aware of a failure to provide information in response to a request from the public, consideration should be given to the type of remedy that should be afforded to a person requesting the report when it is not provided on time.

2. *Regulation of Interstate Solicitation.*—

a. *Present law.*—There is no supervision or monitoring of interstate solicitation by the Federal Government, and the State laws affecting it vary considerably, making it easy, particularly for large fund-raising drives, to circumvent tough enforcement by any one State.

b. *Treasury proposal.*—Interstate solicitation would be subject to Federal legislation administered by the Treasury Department. Disclosure would have to be made with respect to certain financial information about the soliciting organization, particularly with respect to its fund-raising and administrative costs. The annual reports filed with the Internal Revenue Service would allow it to check such disclosures readily.

The Treasury Department recommends that Congress conduct hearings on the appropriate methods for regulating such solicitation, with emphasis on the following issues:

1. The extent of financial data concerning the soliciting organization that must be supplied with the solicitation material;
 2. The need for administrative review of solicitation material prior to dissemination (as opposed to relying solely on criminal and equitable sanctions for misleading or incomplete material);
 3. The appropriate method for regulating oral solicitations (e.g., by telephone or television) and the extent of disclosure required for them;
 4. The need for limitations on fund-raising and administrative costs;
- and

5. The pre-emption of varying State reporting requirements for interstate solicitations, with a uniform Federal report to be filed with all requesting States.

B. Extending Private Foundation Restrictions to Public Charities.

1. Self-Dealing.—

a. *Present law.*—Certain “self-dealing” transactions between a private foundation and any of its “disqualified persons” (basically substantial contributors, foundation managers and related persons) are subject to a two-tier Federal excise tax. Some of these transactions are subject to such a tax whether or not they meet an arms-length standard, and others are subject to tax only if they violate such a standard. The initial tax imposed on the disqualified person is 5 percent per annum of the amount involved (until corrected). He is also subject to an additional tax of 200 percent of the amount involved, if the transaction is not corrected within a specified period. There are similar, but smaller, excise taxes imposed on a foundation manager who knowingly participates in such a self-dealing transaction (without reasonable cause) or refuses to agree to any part of the necessary correction.

No similar sanctions are imposed in the case of a self-dealing transaction with a public charity, although it may lose its tax-exempt status for failing to operate exclusively for charitable purposes. Under State law there are limited restrictions on such transactions, generally requiring them to meet an arms-length standard.

b. *Treasury proposal.*—Since violations of an arms-length standard are often difficult to prove, and the revocation of an organization’s exempt status is usually too severe a sanction for nonrepetitive violations, the Treasury Department proposes to extend the self-dealing prohibitions and excise taxes to transactions involving public charities (other than churches and their integrated auxiliaries). As in the case of private foundations, the general rule would be a flat prohibition against the proscribed transactions, with certain transactions being allowed if they meet an arms-length standard.

However, because of the greater variety in the types of organizations, disqualified persons and transactions that would be affected by such an extension of the flat prohibitions, and the greater potential need for administrative flexibility in providing relief from the unforeseen consequences of such an extension, the Secretary of the Treasury would be provided with regulatory authority to provide ad-

ditional arms-length exceptions to the statutory prohibitions. Such authority should not be authority to promulgate individual exemptions, but merely regulatory authority to provide exceptions for various classes of transactions. Such exceptions would have to be found to be both administratively feasible and beneficial to, as well as protective of, the interests of the public charity.²

2. *Minimum Payout.*—

a. *Present law.*—Under present law, a private nonoperating foundation is subject to a two-tier excise tax if it does not distribute for philanthropic purposes at least 5 percent of its non-charitable assets (generally investment assets), or its adjusted net income, whichever is greater, in the year following the close of its accounting period. For new foundations, there are special liberal rules that allow a set-aside for up to 5 years to qualify as a current distribution under certain circumstances.

Private operating foundations are not subject to this minimum payout requirement, but to qualify for operating status, the foundation must expend at least 85 percent of its adjusted net income directly in the active conduct of its exempt purposes, and must satisfy one of three alternative tests. The alternative tests require the foundation to expend annually 3 1/3 percent of its non-charitable assets directly in such exempt activities, to devote at least 65 percent of its assets directly to such exempt activities, or to receive at least 85 percent of its support from the general public and five or more exempt organizations.

Public charities are not subject to any similar requirements.

b. *Treasury proposal.*—Every public charity (other than churches and their integrated auxiliaries) and every private operating foundation would be required to make qualifying distributions of an amount that is not less than 3 1/3 percent of its noncharitable assets, in the year following the close of its accounting period. Any excess of its adjusted net income over such minimum amount would not be subject to the payout requirement.

Generally, the rules applicable to private nonoperating foundations for determining the minimum amount of noncharitable assets, the sources of distribution, and what constitutes a qualifying distribution would be applied to public charities and private operating foundations. For example, qualifying distributions would include administrative ex-

²In addition, as a technical point, consideration should be given to changing the amount involved for a prohibited loan from the amount of interest to the full amount of the loan, since the latter is a measure of the loss that the organization may face if the disqualified person has difficulty repaying the loan.

penses incurred in the direct conduct of the organization's exempt activities and the cost of acquiring and repairing buildings and other facilities used in such activities. However, to prevent public charities and private operating foundations from avoiding the payout rules by distributing assets back and forth among one another, the distribution by any such organization to another from which it received (directly or indirectly) a contribution in the 5 preceding years would not count as a qualifying distribution. Such a distribution would also increase the recipient's minimum distributable amount³ for the year of receipt, to the extent that it effectively repaid a qualifying distribution made by the recipient during the preceding 5-year period.

The minimum payout for new organizations or organizations whose endowment suddenly increased many times over should be graduated to 3 1/3 percent (or 5 percent for private nonoperating foundations) over a number of years, e.g., five. Alternatively, there could be liberal set-aside rules that would allow, for example, grants to be paid out over several years to allow the granting organization to monitor how they are used.

3. *Jeopardy Investments.*—

a. *Present law.*—Private foundations and their managers are subject to a two-tier excise tax when they make investments (other than program-related investments) that jeopardize the carrying out a foundation's exempt purposes. No such tax is imposed if the investment is not initially a jeopardy investment, but later becomes one and is retained by the private foundation. Nor is an excise tax imposed in the case of a jeopardy investment made or retained by a public charity. However, in both of these latter cases, the trustees or managers of the charity may be subject to fiduciary liability for such investment under State law.

b. *Treasury proposal.*—The tax for making a jeopardy investment would be extended to public charities (other than churches and their integrated auxiliaries).

In addition, the tax would be imposed on any public charity or private foundation (and its managers) which did not dispose of a non-program-related investment within a reasonable period of time after it learned, or should have known, that the investment had become a jeopard-

³Current law treats the repayment of any part of a qualifying distribution of a private non-operating foundation as merely an increase in its adjusted net income. This rule would be changed so that such repayment would increase the foundation's minimum distributable amount.

dy investment, or was in fact a jeopardy investment at the time of its receipt by the organization, e.g., as a charitable contribution.

4. *Taxable Expenditures.*—

a. *Present law.*—Under present law, private foundations and their managers who make certain proscribed expenditures or distributions are subject to a two-tier excise tax on the amount of such expenditures or distributions. These “taxable expenditure” provisions do not apply to public charities. Thus, the only sanction generally available for similar expenditures by these organizations, e.g., for noncharitable purposes, is loss of their tax-exempt status. Certain public charities, however, may elect to become subject to specified limits on their lobbying expenditures. An excise tax is imposed on minor violations of these limits, while loss of exemption is reserved for sustained excessive violations.

In addition, a private foundation is required to take certain steps to ensure that the recipient of any of its grants is spending the grant properly if the recipient is not a public charity. This expenditure oversight requirement applies to a grant from one private foundation to another, even though the latter is also subject to the taxable expenditure provisions.

b. *Treasury proposal.*—In general, the taxable expenditure rules for private foundations would be extended to all public charities (other than churches and their integrated auxiliaries). A public charity, however, would not be required to obtain prior Service approval of grants to individuals for travel, study or similar purposes, as private foundations must do. In addition, in the case of a public charity electing to be subject to the specific limits on lobbying expenditures, sanctions for violations of those limits would be limited to those imposed under present law.

At the same time, the expenditure oversight rules for both private foundations and public charities would be limited to cases where the recipient of a grant is not itself subject to the taxable expenditure rules. This would eliminate the present administrative burden that discourages grants from one private foundation to another (in favor of grants to public charities).

C. Enforcement Procedures.

1. *Alternative Sanctions.*—

a. *Present law.*—Under present law, the only sanction for violation of any of the statutory requirements imposed upon public charities is loss of exemption. The consequences of such a loss are severe; the charity will be unable to receive charitable contributions and its net income (if any) will be subject to tax. Private foundations on the other hand, are subject

to two-tier excise taxes for certain violations, as described above. Even these sanctions may be severe, particularly the second-tier tax for failure to correct. The foundation and its charitable beneficiaries may be deprived not only of the funds expended in furtherance of the violation, but also of the funds used to pay the excise tax.

b. *Treasury proposal.*—(1) *General description.*—In addition to having the authority to impose excise taxes on public and private charities as described above, the United States District Courts would be invested with a set of equity powers sufficient to remedy any violation of the substantive rules concerning philanthropic organizations in such a way as to minimize any financial detriment to the organization and to preserve its assets for its philanthropic purposes.

(2) *Detailed description.*—

(a) *Equity powers.*—United States District Courts would be invested with (1) equity powers (including, but not limited to, power to rescind transactions, surcharge trustees and order accountings) to remedy any detriment to a philanthropic organization resulting from any violation of the substantive rules, and (2) equity powers (including, but not limited to, power to substitute trustees, divest assets, enjoin activities and appoint receivers) to ensure that the organization's assets are preserved for philanthropic purposes and that violations of the substantive rules will not occur in the future. For example, the purchase of securities owned by a public charity in a self-dealing transaction could be rescinded if the market value of the asset had increased. If the securities had first increased and then declined, the trustees could be surcharged for depriving the charity of the opportunity to dispose of the assets at a higher price. If the value of the securities declined immediately after the self-dealing transaction, the appropriate remedy might be to do nothing under the equity power.

The mandatory specific sanctions would apply regardless of the action or non-action under the equity powers. Thus, even if no remedies were necessary to protect the charity or preserve its assets for charitable purposes, the imposition of the applicable first-tier excise taxes would be mandatory. However, the Secretary of the Treasury could be given authority to waive the first-tier tax under extenuating circumstances.

(b) *Judicial proceedings.*—Upon institution of an equity action by the Government, power to review excise taxes would be vested exclusively in the District Court. Thus, any action to review excise taxes pending

in the Tax Court or Court of Claims would be terminated and be made part of the District Court equity action.

If equity action is necessary, the philanthropic organization and all persons against whom remedies or sanctions are sought would be named as defendants. The extent to which the organization and private persons could all be joined in one suit would depend upon the general rules of venue under the Judicial Code of the United States.

The equity action would spell out the particular specific sanctions and equitable remedies sought against each defendant. Any party's right to a jury trial would be determined under existing law, but the determination of the specific sanctions and appropriate equitable remedies would be determined exclusively by the Court. Thus, for example, any questions of fact concerning the persons who knowingly authorized the organization to engage in a self-dealing transaction could be determined by a jury, in the discretion of the Court; however, the review of the excise taxes and appropriate equitable relief would be determined exclusively by the Court.

(c) *Correlation with State authorities.*—In the event that appropriate State authorities institute action against a philanthropic organization or individuals based upon acts which constitute a violation of substantive rules of law applicable to such an organization, the United States District Court before whom the federal civil action is instituted or was pending would be required to defer action on any equitable relief for protection of the organization or preservation of its assets for its philanthropic purposes until conclusion of the State court action. At the conclusion of the State court action, the District Court could consider the State action adequate or provide further equitable relief, consistent with the State action, as the case warrants. However, no action by a State court would defer or abate the imposition of the initial Federal excise taxes for the violations. Thus, for example, the institution of a State court action based upon a self-dealing transaction would result in a deferral of any action by the federal court to rescind the transaction. However, the review of the first-tier Federal excise taxes imposed for the specific violation would not be deferred.

In any case where the appropriate sanction or equitable remedy requires one or more distributions to other philanthropic organizations, the governing body of the distributing organization would be given the opportunity to select the appropriate recipients. If the governing body failed to select any such recipients, the appropriate State authorities for

supervision of charitable trusts and corporations would be asked to make the choice, with final authority in the District Court in the absence of selection by the distributing organization or State authorities.

Upon loss of exemption by a charity for any reason, the invocation of equity powers to insure that the charity's assets are preserved for charitable purposes would be mandatory. The specific form of the remedy to provide such insurance would be up to the District Court.

2. *Audit Tax.*—

a. *Present law.*—Under present law, private foundations are subject to an excise tax of 4 percent on their net investment income. This tax is designed in part to cover the costs of auditing all exempt organizations, but it produces more than twice the revenue needed to cover such costs.

Other exempt organizations are not subject to any such tax.

b. *Treasury proposal.*—The rate of tax imposed on the net investment income of private foundations would be no more than 2 percent.

In addition, if many of the private foundation restrictions were extended to public charities, consideration should be given to repealing the tax altogether.⁴ There would be little justification for imposing this tax only on private foundations, and not on other philanthropic organizations, or other exempt organizations, as well. Extending this tax to such other organizations, however, would raise serious questions as to (1) whether the net investment income of such organizations is the appropriate tax base for such a tax (and if not, what should it be), (2) what the rate of tax should be, and (3) whether the small amount of revenue collected warrants the imposition of such a tax.

II. Changes Affecting the Charitable Deduction

A. Minimum Tax.

1. *Present law.*—Under the Tax Reform Act of 1976, the charitable deduction is made an item of tax preference subject to the minimum tax to the extent that it, along with the individual taxpayer's other itemized deductions (except medical and casualty loss deductions), exceeds 60 percent of the taxpayer's adjusted gross income. This will have the effect of reducing contributions to many philanthropic organizations that already face financial difficulties.

2. *Treasury proposal.*—The charitable deduction would be eliminated as an item of tax preference.

⁴Such a repeal should not, however, result in a reduction of amounts appropriated under section 1052 of the Employee Retirement Income Security Act of 1974 to support the operation of the Office of Employee Plans and Exempt Organizations of the Internal Revenue Service.

B. Contributions for Foreign Philanthropic Purposes.

1. *Present law.*—Under present law, the criteria for the allowance of a deduction in the case of contributions made for foreign philanthropic purposes vary considerably, depending on whether the deduction is for Federal income, estate or gift tax purposes and, particularly in the case of the income tax, on whether the donor is an individual, corporation, trust or estate. For example, courts have allowed a charitable deduction for estate tax purposes even in the case of contributions made to a foreign government or organization, so long as the contribution is to be used only for philanthropic purposes. On the other hand, for income tax purposes a charitable deduction is never allowable to a corporation for a contribution made for foreign philanthropic purposes, unless the recipient is a corporation (not some other entity) created under the laws of the United States.

2. *Treasury proposal.*—To minimize circumvention of the requirements placed on philanthropic organizations to receive and distribute tax-deductible contributions, no charitable deduction would be allowed for income, estate or gift tax purposes unless the contribution is made to an organization which is created under the laws of the United States and which has full control and discretion as to where the contribution is to be distributed or spent. This will subject the expenditure or initial distribution of such contribution to the scrutiny and jurisdiction of the Internal Revenue Service and the Federal courts.

C. Profiting from the Charitable Deduction.

1. *Present law.*—Under present law, a taxpayer in the high income tax brackets can, with certain largely appreciated capital assets, obtain a greater after-tax benefit from contributing the property to charity than from selling the property. This anomaly results from the fact that, with respect to a charitable contribution of such an asset, a Federal income tax deduction is allowable for the appreciation in such asset (as well as for its basis), even though such appreciation is never taken into income and subject to tax. Because of the taxpayer's high bracket, his tax savings from the charitable deduction is greater than the after-tax proceeds that he could obtain from selling the property.

For example, assume that a taxpayer in the 70 percent bracket has stock with a basis of \$1,000 but a fair market value of \$15,000. Assume further that if he sells the stock, the effective tax rate on his capital gain will be 35 percent (this assumes that he takes the 50% deduction for capital gains and is not subject to the minimum tax). His after-tax

proceeds from such a sale would be \$10,100 (\$15,000—35% (\$14,000)). On the other hand, if he contributes the stock to a public charity, he would be entitled to a charitable deduction for the full \$15,000, even though none of the \$14,000 appreciation is ever included in his income and subject to the capital gains tax. Since he is in the 70 percent bracket, such a deduction would save him \$10,500 in Federal income tax (70% of \$15,000), which is \$400 more than he would have left over (after taxes) if he had sold the property. This \$400 can be viewed as his "tax profit" from contributing the property.

2. *Treasury proposal.*—While the Federal income tax law should continue to encourage taxpayers to contribute appreciated capital assets to charity, it should not allow high bracket taxpayers to "profit" from such a contribution more than if they had sold the property outright.

Accordingly, the Treasury Department proposes that the Federal income tax deduction for such a charitable contribution be reduced by a sufficient amount to eliminate such a "tax profit." To avoid changing the statutory provisions every time the tax rates change, the Secretary of the Treasury would be given regulatory authority to compute the amount of this reduction.

The proposal would not apply to minimal amounts of untaxed appreciation, e.g., \$5,000 or less.

GIFT ANNUITY PROGRAM ADMINISTRATION

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We shall point out in this discussion some of the reporting requirements of the donor, the annuitant and the charity in the completion and administration of a Gift Annuity contract.

Reporting in the year of gift

The donor has an obligation to report the Gift Annuity on his or her income tax return in the year the property is exchanged with the charity in return for a Gift Annuity agreement.

When there is appreciated property, we recommend that the donor entering into a Gift Annuity agreement insert in the contribution section on his tax return at this point the words—"See attached copy of the Gift Annuity Agreement." The donor should actually attach a photo copy of the agreement, normally a 1 or 2 page document, and it will answer any question the Internal Revenue Service might have about the understanding between the donor and charity.

Finally there must be a statement of the total amount claimed as a deduction for that year by reason of contribution of the property. We recommend donor insert a reference to the attached computation and file with his return a copy of the computation provided by your institution of the charitable deduction amount from the gift of property for the Gift Annuity. The computation is based on the Revenue Ruling 72-438.

If donor does not supply this information, it does not defeat his right to claim his charitable contribution deduction. So if the donor merely recites in the contribution section that he has made a gift of property in exchange for a Gift Annuity and that the charitable deduction amount is a certain amount, if that is all that is on the tax return, the deduction still may be allowed. However, in that case, the Internal Revenue Service will likely ask for additional information.

You should assist the donor by providing that kind of information that is needed by the donor to satisfactorily complete his tax return at the very time the Gift Annuity is set up.

In addition to providing information about the gift property, the donor must also complete the capital gain schedule—Schedule D on his Income Tax Return, if appreciated property is exchanged for the Gift Annuity. In addition, the bargain sale computation must be made and attached as an exhibit to the Schedule D.

In addition to reporting on Schedule D, capital gain schedule, it is possible that a gift tax return will be required. Internal Revenue Service takes the position that is any gift is made to any person or institution in excess of \$3,000 a Federal Gift Tax return is required.

In the case of a two life Gift Annuity it is easy to see that a gift may be made to the second annuitant if that person did not provide part of the consideration for the gift property and if the power to revoke by the donor is not retained, as permitted in the regulations. In that case a taxable gift will result.

Even with a single life Annuity, the Internal Revenue Service takes the position that there is a reportable gift made to the extent that property is transferred to a charity having a value in excess of the value of the Annuity that comes back.

If that excess charitable deduction amount exceeds \$3,000 there is a requirement for filing a gift tax return and in turn a charitable deduction will be claimed for the full amount that would be reportable.

Most institutions do not stress this need for filing a Gift Tax return, and it is not an obligation of the institution to so notify the donor. It is clearly his obligation and his tax advisor's obligation. Nevertheless, if you are asked whether there is any need to file a Gift Tax return, I believe that you have an obligation to cite the Internal Revenue Service position which would be that a tax return would be required even though no tax would be payable. There is no penalty for failing to file a Gift Tax return, unless it is a willful failure to file, where there is no gift tax payable. And, the penalty for failure to file is a percent of gift tax payable.

Another form that may be required by the donor that is often overlooked is a special Form 4629 that is required any time there is a transfer of property in excess of \$50,000 to an exempt organization.

This return is required to be filed within 90 days after transfer of property to an exempt organization. The items of information on the form are quite brief. It requires a description of property, date of transfer and fair market value of property. It requires an indication of whether the property was subject to a mortgage or similarly encumbered at the time of transfer—with the amount of mortgage indicated.

Other than that the only information needed is the name and address of the exempt organization to whom the transfer was made and the I.D. number of the exempt organization and of course the name, address and Social Security number of the transferor. That form is filed in Internal Revenue Service district office in Philadelphia.

The form calls for filing by transferor/donor. Of course most donors would be giving in excess of \$50,000 only once or twice in their lifetime and therefore most donors and their tax advisors are likely to be unaware of the requirement of filing this form. Again, I know of no penalty for failure to file and the purpose of the form is informational. It puts the Internal Revenue Service on notice as to property transferred to charity.

You will note that the requirement of the information with respect to the mortgage serves a two-fold purpose in that it might alert the Internal Revenue Service as to any unrelated business income that might be payable because of debt financed income. Finally it might alert the Internal Revenue Service to any bargain sale that would result from the transfer of property subject to a debt.

Reporting payments made to annuitants

Form W-2P is used to report payments to annuitants of \$600 or more in a calendar year. Form W-2P is a form also used by insurance companies for reporting Annuities, pensions or retirement payments. The Form W-2P must be filed on February 28 of the year following the year of payment. Copy A is filed with Internal Revenue Service with cover Form W3. I refer you to the instructions in the W3 for the address of the Internal Revenue Service office where the return is filed. Generally, it is the Internal Revenue Service Center that services the state in which your headquarters are located.

The W-2P contains a place for not only listing a place for your institution's name, I.D. number and address as payor, but also the name and address and Social Security number of the recipient. In addition to that, there are blanks for the gross amount of the Annuity payment in the calendar year, and another blank for the taxable portion of the Annuity payment. In the usual case you would fill out both of these blanks, the gross amount paid and the portion of the payment that is taxable as ordinary income. There is no place on the form for you to make any reporting with respect to the portion of the Annuity record that might be taxable as Capital Gain by the donor. That reporting is solely the requirement of the donor.

This Form W-2P must be filed for all Annuitants where you have paid \$600 or more in a calendar year. Regardless of your institution's fiscal year, this return is filed on a calendar year basis. The purpose of this return is to give the government information as to the amount of taxable income it may expect to be reported by the returns of the recipients.

The instructions on Form W-2P until 1973 contained the provision that it was required, as to Annuity payments totaling \$600 or more.

In 1973 the form was changed and that limitation was removed, so it now appears the form requires all payments to be reported. Nevertheless the regulations clearly provide that the W-2P is legally required only when you pay Annuities of a gross amount of \$600 or more to an individual in a calendar year.

If the annuitant has elected to have tax withheld, which is his option, that is made by filing a W4 with you, the charity. But if the annuitant has made that election, then the Form W-2P must be filed regardless of the amount of the Annuity paid. And at that point the Federal Income Tax withheld must be entered on the form.

State and local law may require reporting as well. The packet of W-2P Forms put out by the Internal Revenue Service contains not only the forms to be filed with the Internal Revenue Service and to be given to donor, but also contains a copy, which may be used to report Annuity payment to state or city if such a report is required.

This same W-2P Form can be used also for reporting each year to the annuitant or donor. The initial report to the donor is to be made at the time of the gift with respect to the information he needs for claiming the charitable contribution deduction. However, in addition to that, after the end of the calendar year, you must then report to the annuitant with respect to the amount of Gift Annuity income payable to him. A copy of the W-2P is used for that purpose.

MINUTES

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Wednesday, May 4, 1977

First Plenary Session

The Conference was called to order at 9:05 a.m. by Chairman Charles W. Baas. The place of meeting was the Hall of States Room of the Hotel Leamington.

Invocation was delivered by The Reverend Alcuin Hemmen, O.S.B., Director of Planned Giving, Benedictine College, Atkinson, Kansas.

Remarks of welcome were made by Dr. Baas. The full text of what he said is separately set forth in this booklet beginning on page 4. He reported that 505 persons were registered for the conference, representing 376 organizations. Sponsoring organizations now number 857.

The Chairman proposed the following persons to constitute the Resolutions Committee:

Chairman: MR. A. C. McKEE, Director of Trust Services, General Conference of Seventh-day Adventists

MR. CHARLES L. BURRALL, Jr., Actuary, Huggins & Company, Inc.

DR. DAROLD H. MORGAN, President, Annuity Board of the Southern Baptist Convention

DR. CHESTER A. MYROM, Director, Lutheran Church in America Foundation

MR. RAY R. RAMSEYER, Vice President for Development, Berea College

MR. HERBERT A. SCHWARZE, Director, The American Lutheran Church Foundation

DR. CHARLES W. BAAS, Treasurer, American Bible Society—Ex Officio

MOTION was made and seconded that the proposed committee be approved.

MOTION CARRIED

Dr. Sung Won Son, Vice President and Economist of the

Northwestern National Bank of Minneapolis, was then introduced to discuss the topic "Economic Review and Projections."

The text of his remarks is separately set forth. His presentation was well received and was impressive in another way in that Dr. Son is a native of Korea and has been a U.S. resident for only fifteen years. A lively period of questions and discussion from the floor was occasioned by his remarks.

A coffee break recess took place from 10:22 a.m. to 10:53 a.m.

When the conference reconvened, Mr. Charles L. Burrall, Jr., Actuary, Huggins & Company, Inc., was called upon to present the "Report of Actuary and a Discussion of Rates." His paper is separately set forth. A new rate schedule was proposed.

As has been the case at prior conferences where he has given an actuarial report, Mr. Burrall's presentation was both clear and helpful. A brief period of questions followed his remarks.

The first plenary session was declared in recess at 11:40 a.m., to resume at 12:00 Noon in the Hall of Cities Room for lunch.

Luncheon Session

Grace was offered by the Reverend Norman L. Porter, Preachers Aid Society of the Southern New England Conference, United Methodist Church.

Following the luncheon Chairman Baas called up Dr. J. Homer Magee, Honorary Committee Member, now retired from his former position with the United Methodist Church and living in Bozeman, Montana, to touch on some of the highlights of the fifty-year history of the Committee on Gift Annuities. His most interesting account is separately set forth.

The Conference recessed from the luncheon setting back to the Hall of States Room.

Second Plenary Session

The second plenary session resumed at 1:35 p.m.

Miss Edith A. Reinhardt, Vice President, The Fidelity Bank, Philadelphia, Pennsylvania, was introduced by Chairman Baas. She gave an illustrated lecture on "Pooled Income Funds—Administration, Tax Implications and Investing." A period of questions and discussion followed her authoritative address. A full account of what she said is set forth beginning on page 30.

This was immediately followed by a two-part presentation on State Regulations.

Dr. Chester A. Myrom, Director, Lutheran Church in America Foundation, first discussed regulations affecting Gift Annuities. He in turn introduced Julius P. Fouts, Esq., Partner, Donovan Leisure Newton & Irvine, to present information related to Pooled Life Income Funds. His presentation was relevant and pertinent because he shared with the Conference the findings his firm had derived from a 50-state survey conducted on behalf of the American Cancer Society.

Both these papers are presented in full elsewhere in these proceedings.

The next speaker was Dr. Roland C. Matthies, Vice President and Treasurer Emeritus, Wittenberg University, Springfield, Ohio. The title of his talk, which was both informative and entertaining, was "Do's and Dont's". The text of it is separately set forth.

In the period of discussion which followed these three speakers, a suggestion was made from the floor which is included for the record. It was to the effect that the Committee on Gift Annuities "would be rendering a useful service if it were to have on file copies of the application form of each state requiring a donor annuity permit."

Comment was made that prospective licensees could request the application form of a particular state without having to write to a state office and could ascertain ahead of time the kind of information that would be required of their organization if they were to formally apply.

The second plenary session was declared recessed at 3:40 p.m. to continue in two Workshop Sessions after a coffee break.

As a final action before recess, mindful that the first of the Nixon-Frost Interviews was to be shown on television between 6:30 p.m. and 8:00 p.m., CST, motion was made, seconded and carried that the evening session, formerly to begin at 7:30 p.m., be delayed in starting to 8:15 p.m.

First Workshop Session

Following the coffee break, registrants at their own discretion could attend either of two workshops. The one entitled "Basic Session," led by Mr. John Deschere, Comptroller, Vassar College, and Miss Mary Leyboldt, Staff Assistant, American Baptist Foreign Mission Society, was intended for persons who were new to this work. The "Advanced Session," as the name implies, was for persons with experience. Leaders of this session were Clinton Schroeder, Esq., Partner, Gray, Plant, Mooty, Mooty & Bennett, Minneapolis, Minnesota, and his associate, Robert Helland, The latter was a replacement for Dr. Leonard Bucklin.

Both sessions were well attended and regarded as useful.

At 5:30 p.m. the Conference was recessed for dinner, to resume at again at 8:15 p.m.

During this interval of time, an Optional Session on Canadian Taxation was held. Dr. Fred Douglas, Director of Special Gifts, The United Church of Canada, was the convener. About 40 persons were reported to have been in attendance.

Evening Session

The Conference reassembled at 8:15 p.m. in the Hall of States Room. Vice chairman Roland C. Matthies convened this session because Chairman Baas was involved with the Resolutions Committee, which was meeting concurrently.

The first topic to be considered was "Annuity Program Administration." The discussion was led by Clinton Schroeder, Esq. His condensed remarks can be found beginning on page 114.

This was followed by a discussion of "Management of Assets." Miss Agnes Claire Reithebuch, Accounting Manager, The Society for the Propagation of the Faith, New York City, was the presenter and leader of the discussion that followed. Miss Reithebuch's paper is printed beginning on page 72.

Then followed a paper presented by Mr. Robert E. Steward, Director of Planned Giving Program, American Foundation for the Blind, Inc. on "The Gift Annuity and the Wealthy Donor."

Thursday, May 5, 1977

The Conference was reconvened at 8:30 a.m. by Chairman Baas. The Chairman of the Resolutions Committee, Mr. A. C. McKee, submitted the following resolution:

BE IT RESOLVED that gift annuity rates based on the 1971 Individual Annuity Mortality Table, female lives with ages set back one year; interest at the rate of 5%; 50% residuum; expense loading of 5%; tabular rates modified at younger and older ages and extending to age 90 at 12%, be adopted by the Sixteenth Conference on Gift Annuities as the maximum uniform rates.

Mr. McKee moved its adoption. It was promptly seconded. A brief period of discussion followed and questions were asked as to the time the rates could become effective and when the complete schedule would be available. The question was called for.

In a voice vote the resolution was ADOPTED. There were no dissenting votes.

The program resumed with a presentation by Miss Jane Stuber,

Director of Development, Smith College. Her subject as "Managing the Small Development Office and Program." The text of her presentation is set forth elsewhere in these proceedings.

After a brief period of questions and discussion, the conference was recessed for a coffee break.

The group reassembled at 10:15 a.m. for the final presentation of the conference. The speaker was Conrad Teitell, Esq., Partner, Prerau and Teitell, New York City. His topic was "Federal Tax Legislation—Current Status."

Speaking without a manuscript and using a roving microphone, Mr. Teitell for over an hour delighted and informed the conference on matters about which Mr. Teitell has become a national authority. Excerpts of what he said are reproduced in these proceedings.

At 11:40 a.m., the agenda for the Conference having been completed, the Chairman of the Resolutions Committee, A. C. McKee, was called upon to present the report of that committee.

The full text of the Resolutions Committee Report is printed beginning on page 123.

Mr. McKee read items I through V and moved their adoption. They were approved.

Items VI through IX were read. The Chairman moved their adoption. They were approved.

Items X and XI were read and motion made that they be approved. Carried.

Item XII was read separately and motion made it be approved. Motion Carried.

Item XV was read. Mr. McKee moved that it be adopted and the Conference's approval be expressed through a standing vote. The motion was carried with sustained applause.

The closing benediction was pronounced by Brigadier Frank Moody, Legal Secretary, The Salvation Army, New York City.

At 11:55 p.m. the Conference was declared adjourned, to reassemble informally for the final luncheon, served buffet style, in the Hall of Cities.

Expressions were numerous that the Conference had been well received by all in attendance.

Respectfully submitted,
Chester A. Myrom, Secretary

REPORT OF THE RESOLUTIONS COMMITTEE

Rate Resolution:

BE IT RESOLVED that gift annuity rates based on the 1971 Individual Annuity Mortality Table, female lives with ages set back one year; interest at the rate of 5%; 50% residuum; expense loading of 5%; tabular rates modified at younger and older ages and extending to age 90 at 12%, be adopted by the Sixteenth Conference on Gift Annuities as the maximum uniform rates.

General Resolutions:

- I. BE IT RESOLVED that the Sixteenth Conference note with special interest and genuine satisfaction the information set forth in Chairman Baas' opening statement regarding the record number of sponsors that have been developed for this conference, now 857, and give recognition that growth to this extent would not have come about without the active personal promotion and support of individuals attending this and prior conferences.
- II. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities express its deep appreciation to Dr. Sung Won Son, Vice President and Economist, Northwestern National Bank of Minneapolis, Minneapolis, Minnesota, for his informative and authoritative address: "Economic Review and Projections."
- III. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities express appreciation to Mr. Charles L. Burrall, Jr., Actuary, Huggins & Company, Inc., for his continuing valuable services to the Committee and for his special presentation: "Report of Actuary and Discussion of Rates."
- IV. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities express special appreciation to those other persons who made plenary session presentations on matters of continuing or emergent concern; namely:

Miss Edith A. Reinhardt, Vice President

The Fidelity Bank, Philadelphia, Pa.:

"POOLED INCOME FUND—Administration,
Tax Implications and Investing"

Dr. Chester A. Myrom, Director

Lutheran Church in America Foundation:

"STATE REGULATIONS REPORT—
Current Status (Gift Annuities)"

- Julius P. Fouts, Esq., Partner
 Donovan Leisure Newton & Irvine:
 "STATE REGULATIONS REPORT—
 Current Status (Pooled Life Income Funds)"
- Dr. Roland C. Matthies, Vice President
 and Treasurer Emeritus, Wittenberg University:
 "DO'S AND DONT'S"
- Miss Jane Stuber, Director of Development
 Smith College:
 "MANAGING THE SMALL DEVELOPMENT
 OFFICE AND PROGRAM"
- Conrad Teitell, Esq., Partner
 Prerau and Teitell:
 "FEDERAL TAX LEGISLATION—Current
 Status."

- V. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities express gratitude to the several persons who gave so generously and well of their knowledge and expertise as workshop and optional session leaders during the course of this Conference; namely the following:
- Mr. John Deschere, Comptroller
 Vassar College
- Miss Mary Leyboldt, Staff Assistant
 American Baptist Foreign Mission Society
- Clinton Schroeder, Esq., Partner
 Gray, Plant, Mooty, Mooty and Bennett
- Robert Helland Esq., Partner
 Gray, Plant, Mooty, Mooty and Bennett
- Dr. Fred Douglas, Director of Special Gifts
 The United Church of Canada
- Miss Agnes Claire Reithebuch, Accounting Manager
 The Society for the Propagation of the Faith
- Mr. Robert E. Steward, Director Planned Giving
 Program
 American Foundation for the Blind, Inc.
- VI. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities recommend to the various societies, agencies, boards and colleges that for the purpose of uniformity and a better understanding of gift annuity agreements:

1. the agreement between the donor and the issuing agency be referred to as a "gift annuity agreement";
 2. the periodic payment under gift annuity agreements be referred to as "annuity payments";
 3. in discussing, promoting or advertising gift annuity agreements such terminology as "bonds," "interest," "investment," "principal," which apply to other forms of financial transactions, be carefully avoided.
- VII. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities recommend that organizations issuing gift annuity agreements maintain the funds related to their gift annuity program as "segregated funds" to make certain that all required annuity payments can be made.
- VIII. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities recommend that religious, educational, and charitable groups which cooperate with the Committee on Gift Annuities be requested to send in to the Chairman of the Committee copies of new rulings by Federal or State authorities dealing with gift annuities or life income agreements.
- IX. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities urge and encourage all organizations issuing gift annuity agreements to adopt the Uniform Gift Annuity Rates as maximum rates.
- X. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities express special appreciation to Dr. J. Homer Magee, Honorary Member, for his informative recapitulation of the Committee's fifty-year history.
- XI. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities send greetings to Dr. Gilbert Darlington, Honorary Chairman; to Mr. Forrest Smith, Honorary Treasurer; and to Dr. R. Alton Reed, Honorary Member, remembering their pertinent observations and wise counsel based on many years in the gift annuity field.
- XII. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities express its appreciation for the special helpfulness extended to this group in connection with arrangements for it, most notably by Miss Edith Soffel, Assistant to the Treasurer, American Bible Society; Mrs. Be Baas, Mrs. Petra Greenfield and Mrs. Victoria Parapugna of the American Bible Society;

Donald L. Sahling, Associate in Fund Development, St. Olaf College; Mrs. Dorothy Roy of St. Olaf College; also by Mrs. Nancy Bykyto, Mrs. Ethel Anderson and Mrs. Pauline Kelly of the Minneapolis Convention and Visitors Bureau; and by the staff and management of the Hotel Leamington.

- XIII. BE IT RESOLVED that the Sixteenth Conference of Gift Annuities express its warm thanks and hearty commendation to Mr. David E. Johnson and Mr. James B. Potter for their leadership as convenors, respectively, of the Arrangements Committee and Program Committee for this Conference.
- XIV. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities express to Dr. Charles W. Baas, Chairman, to the other officers, and to the members of the Committee on Gift Annuities its appreciation for this splendid conference and for their many service since the last conference.
- XV. BE IT RESOLVED that the Sixteenth Conference on Gift Annuities, mindful of the many years of membership and service on the Committee on Gift Annuities by certain individuals, express its affection, respect and appreciation for these persons by a rising vote; namely to:

Charles W. Baas, attending meetings since 1947,
chairman since 1958;

Roland C. Matthies, member since October 18, 1955;

Chester A. Myrom, member since December 4, 1957;

Charles L. Burrall, Jr., member since March 16, 1960;

John M. Deschere, member since 1964;

Fred J. Douglas, member since October, 1966;

Frank Moody, member since November 27, 1967;

William E. Jarvis, member since April 10, 1968;

Kenneth H. Emmerson, member since April 9, 1969;

David E. Johnson, member since April 9, 1969.

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Kenneth E. Hagin Evangelistic
 Association, Inc.
 Hamline University
 Hamma School of Theology
 Hampden-Sydney College
 Hampton Institute
 Hardin-Simmons University
 Hastings College
 Hawthorne Gospel Church
 Health Central Institute
 Heidelberg College
 Henry Ford Hospital
 Heralds of Hope, Inc.
 Heritage Village
 Herrick & Smith
 High Point College
 Hillcrest Medical Center
 Hiram College
 Hoag Memorial Hospital
 Presbyterian
 Mr. Lee F. Holdmann
 Holy Land Missions
 Hope College
 Hope Haven
 Houghton College
 R.L. Houts Associates, Inc.
 Huggins & Company, Inc.
 Huntington College
 Huron College

 Illinois College
 Illinois Institute of Technology
 Illinois South Conference
 United Church of Christ
 Illinois Wesleyan University
 Indiana Central University
 Institute of Logopedics
 Intermountain Bible College
 Inter-Mountain Deaconess
 Home for Children
 International Students, Inc.
 Inter-Varsity Christian Fellowship
 Iowa Methodist Hospital
 Iowa Wesleyan College
 Israel Histadrut Foundation, Inc.

 Thomas Jefferson University
 Jess Moody Evangelistic Assoc., Inc.
 Jesuit Mission Bureau
 Jesuit Deferred Giving Program
 Jesuit Seminary and Mission Bureau
 New York Division
 Baltimore, Maryland Division

William Jewell College
Jewish National Fund
Johnson Bible College
Judson College
Juniata College

Kansas Wesleyan
Kennedy Sinclair, Inc.
Kenosha Memorial Hospital
Kent State University Foundation
Kentucky Baptist Board of Child Care
Kettering Medical Center
King College
King's Garden
Kings View Foundation
Kirksville College of Osteopathic
Medicine
Koinonia Foundation

La Grange College
Lake Avenue Congregational Church
Lake Erie College
Lakeside Association
Lambrides and Samson
Lambuth College
Laubach Literacy International
La Verne College
Lawrence University
Lebanon Valley College
Lee College
Lenoir Rhyne College
Le Tourneau College
Lexington Theological Seminary
David Livingstone Missionary
Foundation, Inc.
Alice Lloyd College
Loma Linda University
Long Beach Community Hospital
Foundation
Louisiana Baptist Foundation
Loyola-Marymount University
Loyola University
Lubbock Christian College
Lustre Bible Academy
Luther College
Martin Luther Home
Luther Theological Seminary
Lutheran Church in America
Lutheran Church in America
Foundation
Southern District Lutheran Church
Lutheran Hospital Society of
Southern California

Lutheran Laymen's League
Lutheran Social Service of
Minnesota
Lutheran Social Services,
South Region
Lynchburg College

McCormick Theological Seminary
McPherson College
Macalester College
MacMurray College
Malone College
Manchester College
Manhattan Christian College
March of Dimes—National
Foundation
Marietta College
Marion College
Marquette University
Marshfield Medical Foundation
Mary College
Mary Immaculate League
Marycrest College
Maryville College
Masonic Homes of California
Massachusetts Eye and Ear Infirmary
Medical College of Georgia
Medical University of South
Carolina
Memorial and Children's Medical Center
Foundation
Memorial Sloan-Kettering
Cancer Center
Mennonite Board of Education
Mennonite Board of Missions
Mennonite Foundation Inc.
General Conference Mennonite
Church
Mercy Hospitals Foundation
Meredith College
Messiah College
Messiah Home
Methodist Hospital Foundation, Inc.
Methodist Hospital
Methodist Theological School
Miami Christian College
Michigan State University
Foundation
Mid-America Nazarene College
Midland Lutheran College
Mid-South Bible College
Midway College
Millikin University

Mills College
 Ministers & Missionaries Benefit
 Board of the American
 Baptist Churches
 Minnesota Bible College
 Minnesota Synod of the Lutheran
 Church in America
 Minnesota United Methodist
 Foundation
 Mission to the Cumberland
 Missionary Aviation Fellowship
 Missionary Church, Inc.
 Mississippi College
 Missouri Baptist Foundation
 Missouri Botanical Garden
 Missouri United Methodist Foundation, Inc.
 Monmouth Medical Center
 Montana Institute of the Bible
 Montana State University
 Montreat-Anderson College
 Moody Bible Institute
 Moral Re-Armament Inc.
 Moravian Church, Northern Province
 Morton F. Plant Hospital
 Mount Holyoke College
 Mount Olive College, Inc.
 Mount St. Mary's College
 Mount Sinai Medical Center
 Mount Vernon Bible College
 Muhlenberg College
 John Muir Memorial Hospital
 Mulberry Lutheran Home
 Music, Peeler & Garrett
 Muskingum College

Narramore Christian Foundation
 Nashotah House
 National Association, Congregational
 Christian Churches
 National Association of Evangelicals
 National Audubon Society
 National Benevolent Association
 National Catholic Development
 Conference
 National Council on Alcoholism, Inc.
 National Council of Churches
 of Christ in the USA
 National Insurance Marketing &
 Management Co.
 National Jewish Hospital and
 Research Center
 National United Methodist Foundation
 For Christian Higher Education

National Wildlife Federation
 Navajo Missions, Inc.
 Nebraska Christian High School
 Nebraska Synod, Lutheran Church
 In America
 Nebraska Wesleyan University
 Newark College of Engineering
 New Mexico Baptist Foundation
 New Mexico Boys Ranch
 New Mexico Conference Methodist
 Foundation
 New York International
 Bible Society
 New York University
 New Tribes Mission, Inc.
 Newberry College
 Newkirk Associates
 Newton-Wellesley Hospital
 North American Baptists
 North Carolina Baptist
 Foundation, Inc.
 North Central College
 North Central District Association
 of the Evangelical Free Church
 of America
 North Dakota Lutheran Development
 Fund
 North Park College & Theological
 Seminary
 Northern Baptist Theological
 Seminary
 Northfield Mount Hermon School
 Northwest Baptist Foundation
 Northwest Bible College
 Northwest College of the
 Assemblies of God
 Northwest Christian College
 Northwest Indiana Methodist Home, Inc.
 Northwest Nazarene College
 Northwood Institute
 Northwestern College, Minnesota
 Northwestern College, Iowa
 Northwestern University

Oak Hills Fellowship, Inc.
 Oberlin College
 Occidental College
 Ohio Northern University
 Ohio Wesleyan University
 Old Dominion University
 Old Time Gospel Hour
 OMS International, Inc.
 Open Bible Center

Open Bible Standard Churches, Inc.
 Oram International Corporation
 Oregon State University Foundation
 Orthodox Presbyterian Church
 Osborn Foundation
 OSU Development Foundation
 Ottawa University
 Otterbein College
 Otterbein Home
 Ouachita Baptist University
 Our Lady of Victory Homes of
 Charity
 Overseas Crusades, Inc.
 Ozark Bible College

 Pacific Christian College
 Park Street Church
 Howard Payne College
 Peninsula United Methodist Homes
 Pension Fund of the Christian
 Church
 Pepperdine College
 Philadelphia College of the Bible
 Philhaven Hospital
 Phoebe-Devitt Home
 Pierson, III, William M.
 Pilgrim Place
 Pillsbury Baptist Bible College
 Pinecrest Manor Home for
 Senior Citizens
 Pine Rest Christian Hospital
 Pioneer Girls, Inc.
 Pittsburgh Symphony
 Planned Parenthood World Population
 Plymouth Place, Inc.
 Pofel, Preeshl, Helstad & Shoup
 Point Loma College
 Pomona College
 Pontifical College Josephinum
 Prairie Public Broadcasting
 Prairie View Mental Health Center
 Preachers' Aid Society
 Prerau & Teitell
 Presbyterian Church in the US
 Presbyterian Home for Children
 Presbyterian Hospital Center
 Foundation
 Presbyterian Medical Center
 Presbyterian—University of
 Pennsylvania Medical Center
 Princeton Theological Seminary
 Project Hope
 Purdue University

Radio Bible Class
 Radio and Television Commission
 of the Southern Baptist Convention
 E.M. Ramsdell & Associates
 Ramsey & Ramussen
 Ravenswood Hospital Medical Center
 Redemptorist Foundation
 Reformed Theological Seminary
 Regions Beyond Missionary Union
 Reid Memorial Hospital Foundation, Inc.
 Rennselaer Polytechnic Institute
 Reorganized Church of Jesus Christ
 of the Latter Day Saints
 Resthaven Psychiatric Hospital
 Retirement Housing Foundation
 Revival Fires Ministries
 Rex Humbard World Outreach Ministry
 Bill Rice Ranch
 Rideout Hospital Foundation, Inc.
 Rio Grande Bible Institute, Inc.
 Ripon College
 Roanoke College
 Robert Packer Hospital
 Oral Roberts Association
 Rockford College
 Rockhurst College
 Rocky Mountain Methodist Homes, Inc.
 John R. Rogers Company
 Rollins College
 Rose-Hulman Institute of Technology
 Rural Bible Mission, Inc.

Sacred Heart Southern Missions
 Saint Benedict's Hospital Foundation
 St. Bonaventure University
 St. Francis Boys' Homes
 St. Francis Hospital
 St. Francis Medical Center
 Saint John's University
 St. Joseph Hospital, Stamford, Conn.
 St. Joseph's Hospital, Tucson, Ariz.
 St. Joseph's Hospital and Medical
 Center
 St. Joseph Hospital Foundation
 St. Lawrence National Bank
 Saint Lawrence Seminary
 St. Louis Christian College
 Saint Louis University
 St. Luke's Hospital
 St. Luke's Hospital Medical Center
 St. Luke's Medical Center
 Saint Mary College (Notre Dame,
 Indiana)

Saint Mary's College (Winona,
 Minnesota)
 St. Mary's Junior College
 St. Meinrad Archabbey &
 Seminary
 St. Michael's College
 Saint Olaf College
 St. Paul Bible College
 St. Rita School for the Deaf
 St. Vincent's Hall, Inc.
 Salem Academy and College
 Salesian Missions
 Samford University
 San Jose Hospital Foundation, Inc.
 Save the Children Federation
 Scarritt College
 School of Theology at Claremont
 Agnes Scott College
 Scottsdale Christian Academy
 Scripture Union
 Seattle Pacific College
 Alabama-Mississippi Conference of SDA
 Seventh-Day Adventists
 Allegheny West Conference
 Seventh-Day Adventists
 Atlantic Union Conference
 Seventh-Day Adventists
 Carolina Conference Association
 of SDA
 Seventh-Day Adventists
 Central Union Conference
 Lincoln, Nebraska
 Seventh-Day Adventists
 Columbia Union Conference
 Takoma Park, Maryland
 Seventh-Day Adventists
 Florida Conference Association
 Orlando, Florida
 Seventh-Day Adventists
 General Conference
 Washington, D.C.
 Seventh-Day Adventists
 Georgia-Cumberland Conference
 Decatur, Georgia
 Seventh-Day Adventists
 Kentucky-Tennessee Conference
 Madison, Tennessee
 Seventh-Day Adventists
 Lake Union Conference
 Berrien Springs, Michigan
 Seventh-Day Adventists
 North Pacific Union Conference
 Portland, Oregon
 Seventh-Day Adventists
 Northern Union Conference
 Minneapolis, Minnesota
 Seventh-Day Adventists
 Oklahoma Conference Corporation
 Oklahoma City, Oklahoma
 Seventh-Day Adventists
 Pacific Union Association
 Thousand Oaks, California
 Seventh-Day Adventists
 Pacific Union Association
 San Jose, California
 Seventh-Day Adventists
 Oshawa, Ontario
 Seventh-Day Adventist Radio, TV
 and Film Center
 Seventh-Day Adventists
 South Central Conference
 Nashville, Tennessee
 Seventh-Day Adventists
 Southern Union Conference Association
 Decatur, Georgia
 Seventh-Day Adventists
 Southwestern Union Conference
 Keene, Texas
 Seventh-Day Baptist General Conference
 Donald N. Sharp Memorial Community
 Hospital
 Robert F. Sharpe & Co., Inc.
 Shearin, George L.
 Shenandoah College and Conser-
 vatory of Music
 Siena Heights College
 Simpson College
 Sister Kenny Institute
 Smith College
 Smith, Stratton, Wise and Heher
 Society of St. Edmund
 South American Crusades, Inc.
 South Dakota United Methodist
 Foundation
 Southampton Hospital
 Southern Baptist College
 South Miami Hospital
 Southern Baptist Convention
 Annuity Board
 Southern Baptist Foundation
 Southern Baptist Radio & Television
 Commission
 Southern California College of
 Optometry
 Southern Connecticut State
 College Foundation, Inc.

Southern Methodist University
 Southern Missionary College, SDA
 Southern Publishing Association of SDA
 Southern Seminary Foundation
 Southwest Baptist College
 Southwestern College
 Spelman College
 Spohn Hospital
 Spring Arbor College
 Spring Hill College
 Stanford University
 Starr Commonwealth for Boys
 Sterling College
 Stetson University
 Stewards Foundation
 Sudan Interior Mission
 Suffolk University
 Sunnyside Presbyterian Home
 Suomi College
 Swarthmore College
 Swedish American Hospital
 Sweet Briar College
 Swiss Village, Inc.
 Sword of the Lord Foundation
 Tabitha Home
 Tabor College
 Taylor University
 Teen Challenge, Inc.,
 Birmingham
 Texas Christian University
 The Abbey
 The Allegheny Lutheran Home
 The American Lutheran Church
 Foundation
 The Auburn University Foundation
 The Baby Fold
 The Back to God Hour
 The Baptist Foundation of Alabama
 The Baptist Foundation of Oklahoma
 The Bensenville Home Society
 The Bible Research Foundation, Inc.
 The Brethren Home Missions Council, Inc.
 The Brethren's Home
 The Cedar Lake Home (of the
 Benevolent Corporation of
 the United Church of Christ)
 The Cedars Home for Children
 Foundation, Inc.
 The Chapel in University Park
 The Children's Hospital
 The Children's Hospital of
 Philadelphia
 The Children's Orthopedic Hospital
 and Medical Center
 The Christian and Missionary
 Alliance
 The Christian Broadcasting
 Network, Inc.
 The Cincinnati Bible Seminary
 The Clarke School for the Deaf
 The College of Idaho
 The College of Physicians of
 Philadelphia
 The College of the Ozarks
 The College of St. Catherine
 The College of Wooster
 The Conservative Baptist Foreign
 Mission Society
 The Cooper Union
 The Episcopal Academy
 The Episcopal Church Foundation
 The Evangelical Alliance Mission
 The Evangelical Covenant Church
 of America
 The First Church of Christ,
 Scientist
 The Florida Methodist Foundation, Inc.
 The Free Methodist Church of North
 America
 The Friends of Israel
 The General Conference of the
 Mennonite Brethren Churches
 The General Council of the
 Assemblies of God
 The Gerry Home
 The "Go Ye" Mission, Inc.
 The Gospel Crusade, Inc.
 The Great Commission Foundation
 The Healthaven Corporation
 The Iversen-Norman Associates
 The Jamaica Hospital
 The Kentucky Baptist Foundation, Inc.
 The Kings College
 The Lindenwood Colleges
 The Lutheran Church—Missouri
 Synod Foundation
 The Lutheran Home of Northwest
 Indiana, Inc.
 The Madeira School
 The Madonna Foundation
 The Medical College of Wisconsin
 The Menninger Foundation
 The Minneapolis Society of
 Fine Arts

The Mission Board
 Diocese of Harrisburg
 The Moody Church
 The National Right to Work
 Legal Defense Foundation
 The National Foundation/March
 of Dimes
 The Navigators
 The Oklahoma United Methodist
 Foundation, Inc.
 The Omaha Home for Boys
 The Pension Boards,
 United Church of Christ
 The Pocket Testament League, Inc.
 The Presbyterian Foundation
 The Purnell School
 The Reformed Church of Bronxville
 The Reformed Presbyterian
 Foundation
 The Rockefeller University
 The Sacred Heart Program, Inc.
 The St. Lawrence National Bank
 The Salvation Army
 Rancho Palos Verdes, California
 Atlanta, Georgia
 Chicago, Illinois
 New York, New York
 The School of the Ozarks
 The Seeing Eye, Inc.
 The Society for the Propagation
 of the Faith
 The Swedish Covenant Hospital
 The Texas Methodist Foundation
 The Texas Presbyterian Foundation
 The United Church of Canada
 The United Methodist Church
 The United Methodist Church
 Board of Global Ministries
 The United Methodist Church
 Northern New York Conference
 The United Methodist Home
 The United Methodist Homes of
 New Jersey
 The University of Akron
 The University of Chicago
 The University of Michigan
 The University of Tennessee
 at Chattanooga
 The University of Vermont
 The Voice of Prophecy
 The Wesleyan Church
 The World Radio Missionary
 Fellowship, Inc.

The Young Life Campaign
 Three Crosses Ranch, Inc.
 "Thy Kingdom Come," Inc.
 Transylvania University
 Tressler-Lutheran Services
 Associates
 Trinity Christian College
 Trinity College
 Trinity University
 TRISTate youth for CHRIST, Inc.
 Trust & Estates Magazine
 Tufts University
 Tulane University

Unevangelized Fields Mission
 Union University
 United Church Board for
 World Ministries
 United Church Homes, Inc.
 United Hospitals, Inc.
 United Jewish Appeal, Inc./
 Israel Education Fund
 United Methodist Church Council
 on Finance and Administration
 United Methodist Church Foundation, Inc.
 Kansas Area United Methodist
 Foundation, Inc.
 United Methodist Homes & Services
 United Methodist Church
 General Board of Lay Activities
 United Methodist South Indiana
 Ministers Pension Fund, Inc.
 United Presbyterian Foundation
 U.S. Committee for UNICEF
 United Theological Seminary
 Dayton, Ohio
 United Theological Seminary
 New Brighton, Minnesota
 UAB Medical and Educational Foundation
 University of California,
 Berkeley Foundation
 University of Cincinnati
 University of Florida
 University of Miami
 University of Minnesota Foundation
 University of Nebraska Foundation
 University of Oregon Development
 Fund
 University of Redlands
 University of Rhode Island
 University of Richmond
 University of Tampa
 University of the Pacific

Utah Boys Ranch

Valle Verde Baptist Homes

Valparaiso University

Vassar College

Vellore Christian Medical

College Board, Inc.

Virginia Baptist Homes

Virginia United Methodist Homes, Inc.

Voice of China and Asia

Missionary Society, Inc.

Wabash College

Wagner College

Warner Press, Inc.

Wartburg College

Wartburg Seminary

Washington and Lee University

Washington Bible College

Washington University

Wellesley College

John Wesley College

Wesley Medical Center

Wesley Theological Seminary

Wesleyan University

Roberts Wesleyan College

Leo E. Wesner Associates

West Georgia College Foundation

Western Baptist Bible College

Western Maryland College

Westmar College

Westminster College

Westminster Theological Seminary

Westmont College

Wheaton College, Wheaton, Illinois

Wheaton College, Norton, Massachusetts

Wheelock College

Whitman College

Whitworth College

Wichita State University

Widener College

Willamette University

Williams College

Willis, Butler, Scheifly,

Leydorf & Grant

Winebrenner Theological Seminary

Winebrenner Village

Winston-Salem Bible College

Wisconsin Evangelical Lutheran Synod

Wittenberg University

Woods Hole Oceanographic Institution

Woodward and Slater, Inc.

Worcester Foundation for

Experimental Biology, Inc.

Word of Life Fellowship, Inc.

World Evangelism

World Gospel Mission

World Home Bible League

World Literature Crusade

World Neighbors

World Presbyterian Missions, Inc.

World Vision, Inc.

Eugene Wuesthoff Memorial Hospital

Wycliffe Bible Translators, Inc.

Xavier University

Yellowstone Boys Ranch

York College of Pennsylvania

York College

YMCA Metropolitan Washington, D.C.

YMCA Metropolitan Minneapolis

YWCA Minneapolis Area

YWCA New York, New York

Youth for Christ

CONSTITUTION of the COMMITTEE ON GIFT ANNUITIES

ARTICLE I

The Committee on Gift Annuities, hereinafter referred to as the Committee, shall continue the activities of the Committee on Annuities organized in 1927 as a Sub-Committee on Annuities of the Committee on Financial and Fiduciary Matters of the Federal Council of the Churches of Christ in America.

The Committee shall study and recommend the proper range of rates for charitable gift annuities and the accepted methods of yield computation for pooled income fund agreements.

The Committee shall also study and recommend the form of contracts, the amount and type of reserve funds, and the terminology to be used in describing, advertising and issuing charitable gift annuities and pooled income fund agreements.

The Committee shall ascertain and report as to legislation in the United States and in the various States regarding charitable gift annuities and pooled income fund agreements, their taxability, et cetera.

The Committee shall call a conference on charitable gift annuities at least once each four years and invite those who contribute to its activities to attend.

ARTICLE II

The membership of the Committee shall consist of not more than twenty-five persons. These members shall be chosen by a majority vote of the Committee from important religious, educational, and charitable and other organizations, issuing and experienced in gift annuities and/or life income agreements. In electing members to the Committee, the Committee shall secure representation from the member groups, but such member is not the agent of the group from which he comes, nor does he bind his group by any decisions reached by the Committee.

As a general rule, only one representative shall be selected from each group, unless for special reasons an additional member is selected by the Committee.

ARTICLE III

In order to finance its activities and its research in actuarial, financial, and legal matters, and the publication and dissemination of informa-

tion so obtained, the Committee will collect registration fees from those who attend its Conferences and annual or periodic fees from those who make use of its findings and services. It will request gifts from those groups that cooperate with it to cover the expenses of its various activities, the amount that it requests to be decided by the Committee. The Committee will also sell its printed material to pay for its out-of-pocket expenses.

ARTICLE IV

This Constitution may be changed, provided the proposed changes are presented at one meeting of the Committee and voted upon at the next meeting. Any proposed changes shall be mailed to every member of the Committee, prior to the meeting on which it shall be voted upon and approval by two-thirds of the members present and voting shall be necessary for final approval.

ARTICLE V

The Committee will cooperate with the National Council of the Churches of Christ in the United States of America, but it is entirely free to draw its members from other groups who are not members of the National Council.

BY-LAWS

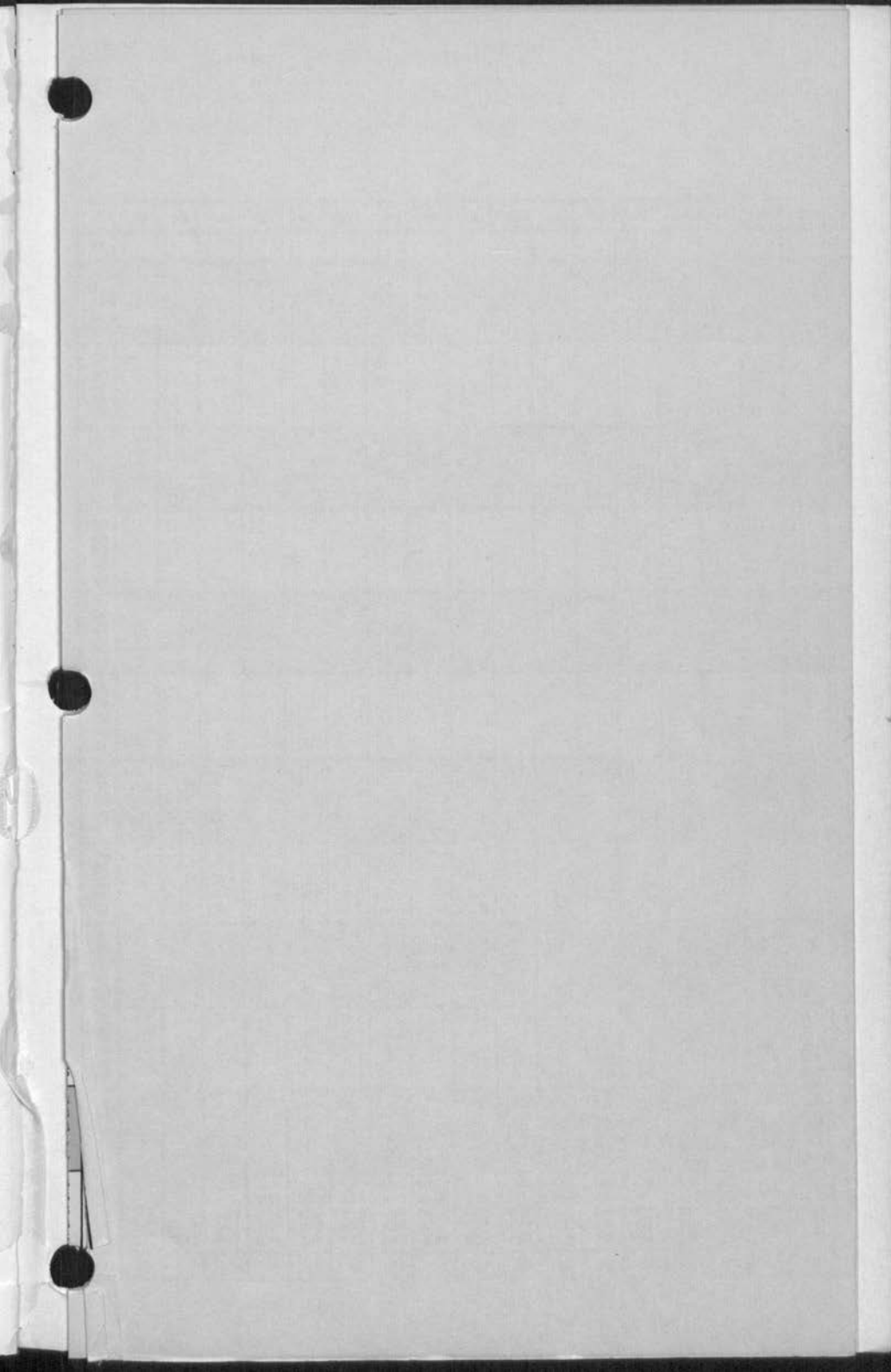
COMMITTEE ON GIFT ANNUITIES

- I. The Officers shall be a Chairman, one or more Vice Chairmen, Treasurer, Secretary, Assistant Treasurer, and Assistant Secretary, who shall be elected at the Committee meeting next following the Charitable Gift Annuity Conference. Officers may be elected to one or more successive terms and a majority vote of Members present will elect.
- II. Vacancies in the offices of the Committee shall be filled by the Committee at any meeting. A vote of a majority of those present will elect.
- III. The Chairman, Vice Chairmen, Treasurer, Secretary, Assistant Treasurer, and Assistant Secretary of the Committee shall fulfill the usual duties of those offices during their term of office. The Treasurer shall keep the accounts, and the Secretary shall keep the Minutes of the meetings of the Committee and each shall perform such other duties as may be assigned them by the Chairman or the Committee.
- IV. The Chairman, or in his absence a Vice Chairman, shall call the meetings of the Committee at such time and place as seems desirable either to the Committee if it is in session, or to the Chairman if the Committee is not in session. At least two weeks' notice of the forthcoming meeting should ordinarily be given.
- V. Conferences on Gift Annuities shall be called periodically as required by the Constitution of the Committee on Gift Annuities. A majority vote of Committee Members shall be required to call a Conference.
- VI. Members of the Committee shall serve until their successors are elected.
- VII. A quorum necessary for the conduct of business of the Committee shall consist of five Members.

VIII. These By-laws may be amended at any regularly called meeting of the Committee, provided the proposed changes are approved by a two-thirds vote of the Members present and voting.

NOTES

NOTES



MEMBERS OF THE COMMITTEE ON GIFT ANNUITIES

Chairman

CHARLES W. BAAS
Treasurer, American Bible Society

Vice Chairman

ROLAND C. MATTHIES
Vice President and Treasurer Emeritus
Wittenberg University

Treasurer

WILLIAM E. JARVIS
Treasurer and Business Manager
American Baptist Foreign
Mission Society

Secretary

CHESTER A. MYROM
Director, Lutheran Church in
America Foundation

LEONARD W. BUCKLIN

Vice President for Advancement
Purdue University

JOHN M. DESCHERE

Comptroller, Vassar College

FRED J. DOUGLAS

Director of Special Gifts
The United Church of Canada

KENNETH H. EMMERSON

Treasurer, General Conference of
Seventh-day Adventists

JOHN G. ESPIE

Assistant General Secretary
Council on Finance and Administration
of The United Methodist Church

ROBERT GREINER

Treasurer, General Board
Church of the Brethren

ROBERT B. GRÖNLUND

Consultant, University of Tampa

DAVID E. JOHNSON

Vice President, Saint Olaf College

FRANK MOODY

Legal Secretary, The Salvation Army

Actuary

CHARLES L. BURRALL, Jr.
Actuary, Huggins & Company, Inc.

Honorary Chairman

GILBERT DARLINGTON
Consultant, American Bible
Society

Honorary Treasurer

FORREST SMITH
American Baptist Foreign Mission
Society (Ret.)

Honorary Members

J. HOMER MAGFE
The United Methodist Church (Ret.)
R. ALTON REED
Southern Baptist Convention (Ret.)

JOHN ORDWAY

Executive Vice President
The Pensions Boards, United
Church of Christ

JAMES B. POTTER

Assistant Director for Gift and
Bequest Administration
United Presbyterian Foundation

R. J. RADCLIFFE

Vice President for Foundation
Affairs, Loma Linda University

AGNES CLAIRE REITHEBUGH

Accounting Manager, The Society
for the Propagation of the Faith

TAL ROBERTS

Vice President and Trust Counsel
Baptist Foundation of Texas

JANE STUBER

Associate Director, Development
Smith College

EUGENE L. WILSON

Controller, American Leprosy Missions
Inc.