

TAX-EXEMPT FOUNDATIONS

MONDAY, DECEMBER 15, 1952

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE TO INVESTIGATE TAX-EXEMPT
FOUNDATIONS AND COMPARABLE ORGANIZATIONS,
Washington, D. C.

The select committee met, pursuant to call at 2:30 p. m., in room 1301, New House Office Building, Hon. Donald L. O'Toole presiding.

Present: Representatives O'Toole (presiding) and Forand.

Also present: Harold M. Keele, counsel to the committee.

Mr. O'TOOLE. The committee will come to order.

Counsel will call his first witness.

Mr. KEELE. Mr. Rosenfeld.

Mr. O'TOOLE. The witness will give his name and address and whom he represents for the record.

STATEMENT OF MOSES W. ROSENFELD, OF BLADES & ROSENFELD, ATTORNEYS AT LAW

Mr. ROSENFELD. My name is Moses W. Rosenfeld, 1206 Fidelity Building, Baltimore, Md. I am an attorney in general practice, and my firm is Blades & Rosenfeld.

Mr. O'TOOLE. At this point the Chair would like it to appear in the record that both the senior Senator, Senator Herbert L. O'Connor, and the junior Senator from the Free State of Maryland, Mr. Butler, both have been anxious to introduce the witness and his associates.

Both Senators vouch most highly for the witness and for the work that his group have been doing.

All right, Mr. Keele.

Mr. KEELE. Mr. Rosenfeld, the committee has had before it a number of witnesses representing the large foundations, and you are the first witness to appear who represents, shall we say, the smaller foundations; and I think I should set some figure there. I think the representative of the smallest foundation which has been heard here was about a million and a half. I think that was the Whitney Foundation.

Others have run up, ranged up, shall we say, to the Ford Foundation.

Because we knew that you had had a great deal of experience with the formation of the small foundations we were anxious to have your testimony here with reference to your views and the views of your clients relative to the foundation question.

I wish you would tell us something of the number of foundations you have organized, the type of foundation they are, and the purpose for which they were organized.

Mr. ROSENFELD. I have counted the number of foundations that I have organized, and they are 33.

The first one was organized 10 years ago almost to this very date.

They have all been organized, with rare exceptions, for the basic purpose of having philanthropically minded people given a medium through which they could accumulate funds in rich years, in the fat years, so that they would be available for lean years.

I would say, in brief, that was the vital purpose of organizing this large number of small foundations.

Would you like me to give an indication as to what I mean by "small," Mr. Keele?

Mr. KEELE. Yes; and if you would go ahead, you need no questions from me, I am sure, to tell your story.

Tell us, take a foundation that you have in mind, a specific example, and give it a name such as foundation X, and let us have you explain what you mean by the "lean years" and "fat years," the way it operates, and the reason why it is desirable.

Keep to that level and the general lines on which you talked to Mr. Kennelly.

Mr. ROSENFELD. I would say, in the first place, I do not believe that any of my foundations have assets as great as \$100,000. I could be mistaken, but I do not believe they do.

These funds are accumulated, are poured into these foundations, by clients of mine. I suppose most clients these days have corporations, and where there are corporations, all of my clients have been anxious to give the full amount that was deductible.

I do not believe there is an exception among my clients to that generalization.

Now, at the same time they do not want to set a standard that they cannot live up to. I think, without exception, no client of mine has ever reduced a contribution to public philanthropy, once made, unless there was some cataclysmic event which had occurred in his financial set-up that would make it absolutely imperative for him to do so.

In other words, if this man was giving \$10,000 to the community fund in the past, and giving \$10,000 to the community fund this year, I don't think any have ever reduced it.

Now, when a man whose business is incorporated has a particularly successful year he invariably has funds available in his corporation that he can conveniently donate to his foundation, and he has done so, the corporation has done so, to the full 5 percent in every instance that I can recall, in what I call fat years.

Now, there have not been so many terribly lean years in the last 10 years, but someday lean years, I am confident, are going to come and then there will be a fat accumulated.

I would say that almost all the foundations that I organized were conceived of in this spirit of having a reservoir into which funds were to be dumped from corporations and from individuals.

Now, I found this, also, that that original purpose would vary, because my clients being philanthropically minded on the whole, found that while they started accumulating the distributions from their foundations to the various charitable organizations increased so much that many of them, of my foundations, have depleted their resources today by giving away already the fat that they had accumulated, the fat that

they thought they would accumulate or were accumulating for lean years.

Mr. FORAND. Right there, might I inquire: Take the instance that you have cited of a man that normally gives a thousand dollars to the community fund, and he sets up a foundation. Am I to understand that instead of making his contributions directly to the community fund, the foundation makes the gift?

Mr. ROSENFELD. That is almost correct. I would rather rephrase it this way: If a man had normally been giving a thousand dollars to the community fund and his 20 percent of individual deductibility, or his 5 percent of corporate enabled him to give \$5,000 in 1952, he would give the \$5,000 to the foundation; the foundation may possibly increase that to \$1,500, but normally would not increase it from a thousand to \$5,000.

Mr. FORAND. Let me get this straight, now: Instead of making his contribution directly to the community fund he makes it to the foundation, and then the foundation in turn makes it to the community fund.

Mr. ROSENFELD. That is entirely correct, sir.

I would say that clients of mine who have foundations, make no substantial contributions of any sort, except through their foundations.

Mr. O'TOOLE. May I ask a question?

Assume the case that you just enumerated where your client intended to give \$1,000 to the community chest; there was a, what you term "fat year," and he turned \$5,000 over to his foundation. Does the foundation, or is it bound to turn \$5,000 over to the community chest, or can they arbitrarily say, "We will only give \$2,000?"

Mr. ROSENFELD. Theoretically the foundation is not obligated to do anything; theoretically it is a separate legal entity with its own separate board of trustees, but as a matter of practical fact, in almost every instance the real donor is one of the trustees, and either his wife or some business associate or other person or persons very close to him comprise the other members of the board of trustees, so it rather tends to be an academic distinction between one or the other.

Is my answer clear?

Mr. O'TOOLE. Where they have that accumulation in the fat years that has not been disbursed, and then the lean years come along, getting back to our old Biblical days, can the foundation turn back any of that accumulation to the sponsor or the founders of the foundations?

Mr. ROSENFELD. It cannot because the charter, all my foundations are corporations, and the corporate provisions require that these funds can only be distributed to, and then I literally copy in the act, I forget the section of the act, I believe it is 106.

Mr. O'TOOLE. Do any of these foundations have on their payrolls as employees members of the sponsor's family.

Mr. ROSENFELD. No foundation that I have organized has anyone on its payroll. None of them have paid anything for operation, except one that I recall that has paid me perhaps a nominal sum of as much as \$50 or \$100 a year, or some such sum as that, for my work in keeping it going. But except for that one, not another single one has. And there may be one more I don't recall at the moment, but except for that one or possibly two, none of these foundations pay any sum whatsoever to anybody. They have no expense items except possibly the safe-deposit box or a brokerage fee or something of that

sort, have no expenses and make no distributions, with the rarest of exceptions, except to organized philanthropies consisting of charities that are on the accumulative list approved by the Internal Revenue Bureau.

Mr. O'TOOLE. Thank you.

Mr. FORAND. I am to understand they do not sponsor any research projects or anything of that sort, but distribute the funds strictly to charitable groups?

Mr. ROSENFELD. That is entirely correct. No one single foundation, so far as I know, sponsors any activities of its own, or makes distributions to any such, making distributions only to other exempt organizations.

Mr. KEELE. It might help, Mr. Rosenfeld, if you were to tell us the average size, let us say, of these 33 foundations so that we will have some idea of the amounts we are talking about here.

Mr. ROSENFELD. When I speak of "average size," it is a difficult question to answer. I could tell you what the average foundation balance sheets disclose. I don't know at the moment; I brought my papers with me and could tell, but I think it would be meaningless because the question I think you are directing my attention to is—how much the foundation receives in a year and how much it distributes in a year.

Now there I would say the smallest foundation would receive—may I ask my secretary to confirm this?

(There was a brief discussion off the record.)

Mr. ROSENFELD. I would think the smallest would be two or three thousand dollars per year. I think that would be exceptional and very, very low.

The largest, I would guess, without checking my records, would be—the largest one that I recall was \$48,000, and I would say that most of them would run from \$10,000 to \$40,000, in that general field.

Mr. KEELE. Per year?

Mr. ROSENFELD. That is contributions to the foundation per year.

Mr. KEELE. Normally, if there is any norm, how much would they retain?

Mr. ROSENFELD. That is an impossible question to answer for the reason that they started out retaining a large part of these sums, but as the years wore on, and the demands of public philanthropy grew greater, the percentage of distribution grew very much greater, so in these recent years some of my foundations have distributed more than they received.

That was not the spirit in which they were conceived, but the demands made upon philanthropic-minded people had results.

Mr. FORAND. You mean the distribution was such that you were distributing part of the corpus?

Mr. ROSENFELD. Yes, indeed; exactly so.

In other words, when the charitable demands from a community fund, or what not, were made to these foundations these appeals were so strong, and conditions were such that many of these foundations, I wouldn't say most, but at a guess I would say half have distributed more than they have received in the last 2, 3, or 4 years.

That was not true in the preceding 5 or 6 years, by any means.

Mr. O'TOOLE. The Jewish philanthropists have found themselves in a rather unique position, as compared to other groups, due to the persecution in Europe and the separation of families, and the necessity of assisting the refugees—these have all created a great demand upon Jewish philanthropists, have they not?

Mr. ROSENFELD. To a very great extent, to an extent no one could have conceived of in 1942, '43, '44, or '45, and people have been responding wonderfully, it was a great response. People have been reminded to dip deep in making their contributions.

The great benefit to the body politic that I see in these small foundations is, experience teaches me several things: I like to try to be realistic in dealing with people, as I find them, and not idealistic and try to deal with people as they ought to be, but talking about good people, philanthropic people, I find that among such people, they are anxious to give to public philanthropy the full amount that is deductible for tax purposes. They are ready to do it, and do do it.

Now, they don't want to give that directly to the public charities, because it sets a level of giving, and they never want to be in position of reducing that level.

Now, whether that is praiseworthy or not, I make no comment on, but it is realistic, and if they cannot give these funds to their foundations in the rich years, and get these deductions for them, those funds will not be available for the leaner years, in my judgment.

Mr. FORAND. What is the amount upon which a foundation is set up, say, the lowest amount, or the smallest foundation you have? How much did the donor set aside to start his foundation with?

Mr. ROSENFELD. Well, the most normal thing is that sometime in late December, some client of mine will come in to see me and say, "I have had a good year this year, and I find that my 5 percent or my 15 percent then, maybe 20 percent today, will permit me to contribute thirty or forty thousand dollars to charity this year. How quickly can you get a foundation organized?"

It is very simple in Maryland, in Baltimore particularly, when you simply draw up a charter, walk two blocks, file it with the State tax commissioner and are incorporated—these are all stenographically the same charters, and the next minute or the next day, perhaps, Joe Doakes contributes this thirty or forty thousand dollars to this foundation, and the amount has invariably been determined in no other way except the way I describe it.

Mr. FORAND. That has not answered my question.

Mr. ROSENFELD. Sorry.

Mr. FORAND. I want to know how much, or how little some of them start a foundation with—is it \$1,000, \$2,000, \$10,000, or how much?

Mr. ROSENFELD. I would say the lowest would probably be \$2,500 or \$3,000; I would say that was exceptional, that there are very few that low. Most of them, the lowest would start with ten or twenty thousand dollars and none of them, I don't believe—I don't believe any of them started with anything like \$100,000; I can't believe that that happened in my practice.

Mr. FORAND. You would say roughly from \$20,000 up?

Mr. ROSENFELD. I would say from \$15,000 to \$40,000, generally speaking, with exceptions perhaps either way.

Mr. FORAND. Thank you very much.

Mr. KEELE. Now, Mr. Rosenfeld, what is the advantage, if any, other than those you have cited of an individual giving through a foundation which he has organized as a vehicle for his own personal philanthropies?

Mr. ROSENFELD. One very great advantage is that under it, under the impulsion to get money out by a deadline date, the individual, as you know, must make his contribution in cash before the end of the fiscal year, the corporations, since 1951, has, I think it is 60 days if the proper resolution is drawn up, but in the case of an individual, if he is on a calendar-year basis, as most individuals are, he knows much more by late December what his income is likely to be than he does at any other time.

Now, he is concentrating at that time, in his thoughts, on getting into his foundation the maximum amount possible, and at that moment he is not thinking of whether this is to go to the Community Fund or Bureau of Catholic Charities, or the Cancer Fund or the United Jewish Appeal, Associated Jewish Charities, or anything else, he is not thinking about that. He wants to get that twenty or thirty thousand dollars out.

The same thing is true with the corporation, at the end of 60 days they want to get that money out. It would be very difficult for them at that time, in the absence of the foundation, to allocate the ultimate recipients of the funds, or the ultimate charities that are going to get it.

That is a very great advantage.

Mr. FORAND. December is picked out by those particularly who work on a calendar basis?

Mr. ROSENFELD. Yes, sir.

Mr. FORAND. As being the end of the calendar year?

Mr. ROSENFELD. Yes, sir; but almost all individuals do, as individuals.

There are so many advantages.

Another advantage is the facility with which one can donate appreciated assets. Many people, individuals, may have very little cash and have securities with very great appreciation in them.

Now, it is perfectly true that any organized charity that I know of will accept a contribution of a hundred shares of General Electric stock, but if a man only wants to give away 100 shares of General Electric, and wants to divide that up with, say, \$500 here, a thousand dollars there, \$2,000 there, it is mechanically pretty burdensome to try to do that with 6, 8, or 10 different ultimate recipients, whereas, it is extremely simple to turn that over to his foundation and let the foundation sell it and have the foundation make the distribution to the various public philanthropies.

That is another very strong reason.

Mr. O'TOOLE. What are the tax benefits to the individual who sets up a foundation?

Mr. ROSENFELD. The last explanation I gave suggested the tax benefits, in that they can properly avoid paying a capital gains tax on the appreciation. In other words, if an individual has bought a hundred share of General Electric at 50, and today it is 70, and if he sells it over 6 months, he pays roughly 25 percent, or a fraction more, whereas, if he gives it to the foundation, he can legally and properly avoid that

capital gains tax because if the foundation sells it, of course it pays no tax on its income. That is another way by which individuals get more assets into the foundation than they could otherwise afford to do, because among my clients, among this group of clients, the test is how much they can spare, and still be within their 5 percent.

Mr. O'TOOLE. There must be great difficulty in determining the individual's thought, insofar as just what he really wants to give, whether for philanthropic purposes or whether he has a tax-evasion idea in mind.

Mr. ROSENFELD. I could answer that by saying that I see no tax evasion whatsoever in anything that I have indicated.

Mr. O'TOOLE. Perhaps I have used the wrong phrase in that "tax evasion."

Mr. KEELE. "Tax avoidance" might be better, sir.

Mr. O'TOOLE. Yes; tax avoidance.

Mr. ROSENFELD. I have an antipathy toward the word "evasion"; it is an anathema in my ears.

Mr. KEELE. Well, "evasion" puts you in jail, whereas "avoidance" is legal.

Mr. ROSENFELD. I am trying to stay out, and, of course, this is in jest and off the record.

Seriously, you see, if a client of mine with an appreciated security—we will use this General Electric example—it cost him 50, and he can sell it today for 70 if he wants to, if he sells it—if he is minded to turn it over to the foundation, and wishes it to go to charity, then charity gets \$7,000, whereas if he sells it himself and gives the whole proceeds to charity, after taxes, he will give less to charity, although he will have parted with the same amount.

Is that clear, sir?

Mr. O'TOOLE. You say you represent about 30 or 33 of these foundations?

Mr. ROSENFELD. I didn't mean to say that. I organized 33; I represent most of them now, but not all.

Mr. O'TOOLE. To your knowledge, are there many more of this type foundation in Baltimore?

Mr. ROSENFELD. I don't like to say, of my own knowledge, but I am strictly confident there are quite a number more.

Mr. O'TOOLE. Do you have any idea of the extent of the number?

Mr. ROSENFELD. From what I can learn, I believe I have organized—that is an understatement—I know I have organized more than any one person, and I am inclined to believe that I may have organized as many as all the other lawyers in Baltimore together, perhaps. I don't know why, except that I do represent a lot of people who are very philanthropic-minded.

Mr. O'TOOLE. That is all.

Mr. KEELE. I would like to ask a question, Mr. Rosenfeld: At what figure does this hypothetical philanthropist turn in that appreciated stock to his foundation?

Mr. ROSENFELD. At market value on the day of the gift.

Mr. KEELE. In other words, he buys it at 50, he turns it in to the foundation at 70, and takes that 70 points, or 70 on as many stocks as he turns in, or shares, as against his 20-percent deduction?

Mr. ROSENFELD. That is right; exactly right.

Mr. KEELE. Then, the foundation sells the stock, if it chooses to do so, and gets the 70 points, but the client, your client, the philanthropist in this case, would not have to pay the capital gains tax on that?

Mr. ROSENFELD. That is correct.

Mr. KEELE. Which is a perfectly legal procedure, let us say, there is no question about that.

Mr. ROSENFELD. It is not only legal but, in my judgment, it gets more money into public philanthropy than would otherwise go into public philanthropy.

I feel very strongly that the body politic benefits by getting money into private philanthropies. I don't feel the taxpayers lose by that at all, and I say that to you emphatically, for several reasons.

Firstly, I am convinced—and I have no statistics, but I am convinced—that private philanthropies are more economic, more efficient than those administered by any governmental agency can possibly be.

I am likewise convinced if private philanthropies did not support our hospitals and other social welfare agencies, your city, State, or Nation would have to, because we are not going to close our hospital doors for lack of funds.

Broadly speaking, in this way we are getting a maximum amount of money into not only directly into the hospitals' hands, but also, in the fat years, into a reservoir into which diggings can be made in those lean years when the Ways and Means Committee is going to find it very difficult to raise funds.

The Ways and Means Committee has not found it too tough in the last 10 years, from the standpoint of earnings being available for taxation; so today I think all of us agree that can well happen and when that year comes, it is going to be difficult, and that is going to be the very year when there will be great demands on public charities.

Mr. O'TOOLE. Wouldn't the same situation exist, as far as these foundations are concerned, when there are lean years for the Ways and Means Committee, there will be lean years for the foundations?

Mr. ROSENFELD. Of course there will be, but they will have accumulated fat for those lean years, and that is exactly what I wish to urge upon this committee.

Mr. O'TOOLE. The witness just testified that sometimes the foundations today, in fat years, have given more than they have on hand.

Mr. ROSENFELD. That is correct, and I say that is not the spirit in which they were conceived, and that was the result where it was pointed out that abnormal demands were made in recent years upon these particular foundations in which these philanthropists were interested, but the whole plan and purpose and scope of the idea of small foundations is to get into them in the rich years and the fat years the maximum deductible sum, so that they will be available in the lean years.

I also said that was only true of some of the foundations, not all, perhaps half, I wouldn't know the exact percentage, but certainly a large percentage of the foundations I have created still have substantial funds in them, relatively speaking, of course.

Mr. O'TOOLE. Does the witness believe that in the lean years a great number of these foundations will disappear, and when I say "lean year," I mean the economically lean years?

Mr. ROSENFELD. I don't believe they will disappear, but I believe they will dissipate the bulk of their assets in lean years. I think they will have something in lean years, I think people will make some con-

tributions to them in lean years, but I think that there will be more, I am confident, as confident as I can be, that there will be far greater distributions than contributions in the lean years.

Mr. O'TOOLE. I don't see how the witness can talk about the lean years. I have just listened to the speakers for the two major political parties in the last campaign and their statements have been that regardless of who was elected they were going to be the fattest years the country ever had.

Mr. ROSENFELD. Am I asked to comment on that, sir?

Mr. O'TOOLE. Not yet; but 4 years from now.

Mr. ROSENFELD. I would like to point out one other aspect of this question of appreciation and giving appreciated securities and what you characterize, sir, as a proper tax avoidance.

The gift of appreciated securities is not limited to gifts to foundations. I said, a few moments ago, that if a donor wanted to give a hundred shares of General Electric he could give 2 shares to this charity, 3 to that one, and 40 to another one, and he would get the same tax-avoidance benefit. That is perfectly legal and proper. The only relationship of a foundation to that problem is that it is a convenient way of doing it because it simplifies the mechanics of the thing.

I would like to urge, for your consideration, I don't know whether this is the proper forum or not, but I was deeply gratified at the recent increase from 15 to 20 percent in the amount of allowable contributions, and I was awfully sorry that a similar increase was not made in corporate contributions.

As you know, of course, that is limited to 5 percent, and it would seem to me that this increase from 5 to 10 percent would be of inestimable value to these foundations and a gain to the body politic in making that much more money available for these lean years that I still say, in my judgment, are one of these days coming along.

I am perfectly confident that the vast bulk of corporations that I represent would, at all times, be happy to contribute the maximum amount that was deductible for tax purposes to a foundation, so that they could build these foundations for lean years.

Of course, these accumulations are not exclusively and necessarily for lean years. The accumulations, when they reach a certain point, can be used for endowment purposes. If one of these foundations accumulated in the course of 5, 10, or 15 years \$100,000 or \$150,000 it may well see fit to endow some room or bed or what not in a hospital or other philanthropic institution.

In other words, I would like to emphasize as strongly as I know how, I do not believe that the taxpayers' money is being wasted or dissipated in any sense by increasing this deduction from 5 to 10 percent. On the contrary, because I so sincerely believe that private philanthropy as administered is so much more economical than any philanthropy sponsored by any governmental agency could possibly be, that the taxpayers ultimately benefit from the larger amount of money that can be diverted to private foundations.

Mr. KEELE. Let me see if I can correctly sum up your argument—

Mr. ROSENFELD. May I interrupt before you sum up, Mr. Keele, as to one question?

Mr. KEELE. Yes.

Mr. ROSENFELD. Would you like to discuss or like to have me discuss my views on the question of publicity of these returns?

Mr. KEELE. I was coming to that, but thought that before we got to that point we might just say this: As I understand it, these small foundations to which you have been testifying are created as the vehicle for the philanthropic giving of individuals, that is, shall we say a family, an individual in his family, who would normally give 20 percent of the income for charitable purposes. If they have a corporation which they control, which they own, that corporation would give 5 percent normally of its income to charitable purposes.

Now, with no tax saving to them, but for other reasons which I shall come to, a foundation is created and the individual retains for tax purposes control of that foundation and he transfers into the foundation those funds for which he takes a deduction up to 20 percent as an individual, on an individual basis, and 5 percent on a corporate basis. The only advantages are those which flow from the operations of a foundation as against the operations of an individual. There is no tax saving to the man up to this point, is there?

Mr. ROSENFELD. There is no tax saving to the man.

Mr. KEELE. All right.

Mr. ROSENFELD. There is an equalization over fat and lean years.

Mr. KEELE. Now we come to the advantages. The tax incidence are precisely the same, so far as the individual is concerned.

Mr. ROSENFELD. That is even—that is unquestionably correct.

Mr. KEELE. But the foundation has these advantages:

One, it can accumulate income, or rather, it can accumulate and hold the gifts which it receives from the individual, which the individual cannot do, and get his tax exemption; isn't that right?

Mr. ROSENFELD. That is correct.

Mr. KEELE. In other words, the individual must actually make his expenditures on a charitable basis in order to take his exemptions within the taxable year; is that not right?

Mr. ROSENFELD. That is right, or the corporation, within a short time thereafter.

Mr. KEELE. But the corporation, the foundation need not expend the money it has received from the individual; isn't that right?

Mr. ROSENFELD. That is correct.

Mr. KEELE. Because it is not income and, therefore, it does not come under supplement U.

Mr. ROSENFELD. That is right.

Mr. KEELE. Therefore, the foundation can take its time in selecting the proper objects of its giving, whereas the individual would be forced to make his decision rapidly when he learns toward the end of the year exactly what he can afford to give; is that right?

Mr. ROSENFELD. That is entirely right.

Mr. KEELE. Now then, aside from that and aside from the fact that the foundation offers a convenient way for obtaining the gain on appreciated securities, let us say, what other advantages are there in the foundation over the individual, so far as you view it from a charitable point of view, or philanthropic point of view?

Mr. ROSENFELD. Aside from what you said to me, the greatest advantage is as I mentioned before, if Mr. Jones has been giving a thousand dollars a year to the Community Fund and he has a year—assuming that his only contribution is that—and he has a year when he could deduct \$5,000, he is I was about to say, reluctant, but I will go further than that, I will say in most cases he is unwilling to increase

his contribution from a thousand dollars to \$5,000 because the champions of the charity will want him to maintain that \$5,000 contribution in future years, and it is very embarrassing to him, he fears the embarrassment of, once having raised it to \$5,000 of saying, "I can't afford to pay \$5,000 any more."

He is happy to part with the \$5,000, but he does not want to be burdened with a continuing obligation, and to most of these people there is an utter unwillingness ever to reduce a contribution to charity, as distinct from that contribution to his own foundation.

Mr. KEELE. And you feel that is a real psychological hazard against their giving to the limit, lest they be held to this point year after year when they could not properly afford it?

Mr. ROSENFELD. I agree, but—

Mr. KEELE. I say, you do consider that a real psychological hazard?

Mr. ROSENFELD. I agree with your statement, but think it is an understatement.

The words "psychological hazard" has a very real meaning and in layman's language I would say I just know that people are not going to do that; they are not going to contribute on the scale I just mentioned, of \$5,000, if they have been on a \$1,000 scale, just because they could deduct it the one year. I know they are not. There is no question in my mind about it. And these gentlemen who are here with me, who have been, well, one is the president of the Associated Jewish Charities of Baltimore, and one is a past president, they could tell you that more convincingly than I. They have the job of going out to raise funds for public charities.

Mr. KEELE. We are going to ask them to testify, Mr. Rosenfeld. I am not challenging your statement, I am not critical, but merely asking for information.

Mr. ROSENFELD. All right.

Mr. KEELE. Now, what about the requirements for reporting and public accountability. I think we have had some discussion, and Mr. Kennelly has had some discussion with you about it, and you know I am sure by this time, that the large foundations whose representatives have appeared here, had said to those representatives that they favored public accountability, and by this they have indicated that they would go so far as to say that they should show their assets, listing their securities even, they would show their disbursements, both administrative expenses, with a breakdown there of administrative expenses, and their grants by items, that is, their gifts; the purpose of each gift as well as the donee to which it goes.

Further, that that material should be readily available, not only to the taxing authorities but should be available to the public.

Now, with those statements in mind, would you comment on the view that you take in connection with the organization representatives of these smaller foundations to which you have been addressing yourself?

Mr. ROSENFELD. I think it would be extremely unfortunate if the records of the smaller foundations were required to be made public, and when I speak of "records," I would like to divide them into two categories: First, I would like to speak about the contributions to the foundation.

Most of the people that I represent are recognized in the community as being philanthropists, and being philanthropic-minded, and the

public would assume, rightly or wrongly, the public would assume that these people were giving their full 5 percent and/or 20 percent, and if Mr. Jones' corporation gave \$5,000 to his foundation in a particular year, the public would be convinced that the earnings of the corporation were \$100,000 that year. If his corporation gave \$50,000 to his foundation, and that were public, the public would know that he had made a million dollars that year, and most of the Mr. Joneses that I represent are unwilling to have their earnings made public.

There is no requirement for it today in our system, in our economy.

I think that they feel that so long—they feel strongly that a law requiring small foundations to make public their contributions, if such a law were passed, I believe that they would dry up. I believe that my foundations would cease to exist because it would be too ready a way by which people could form a very accurate guess of the incomes of the individuals, which they are not required to disclose anywhere for public information.

Mr. O'TOOLE. How would you distinguish between a large and a small foundation?

Mr. ROSENFELD. I would think it makes no difference, from the standpoint of contributions to the foundation. I do not see what public interest can possibly be adversely affected by funds given to a foundation. I don't think that the public should be interested.

Mr. O'TOOLE. I agree with you on that, but several times you have used the phrase "large and small foundations." I was just wondering how you determine which is a large one and which is a small one.

Mr. ROSENFELD. Well, I make no mathematical distinction, but certainly a foundation with gifts, or rather, with contributions to it of ten, twenty, thirty, forty, fifty thousand dollars in a year, to my mind is certainly small; and one with assets of \$2 million and contributions of two or three hundred thousand dollars a year, to my mind is large.

I agree that that is an arbitrary definition, but that is the way I am using my English.

Now, as far as distributions by the foundations are concerned, I can see, and particularly in view of what Mr. Keele has told me about certain abuses that are suspected, I can see a different problem.

In all my foundations, as I said, there are no salaries, no expenses of any kind, except these utterly insignificant things.

Mr. FORAND. At that point, would you tell us how many trustees those foundations have, under the system you use in setting them up?

Mr. ROSENFELD. I would say, not less than three and no more than seven. I would say most of them probably have five, but—three to seven would be it.

Mr. FORAND. Does the donor or creator of the foundation exert influence over the trustees, or do the trustees act independently?

Mr. ROSENFELD. That is a very difficult question to answer categorically. Certainly the suggestions of the creator of the foundation bear great weight, but in most cases, there is certainly no compulsion, and the trustees decide what is to be done, and do it.

Mr. FORAND. What prompted that question was what we discussed before, relative to this man who was in the habit of contributing a thousand dollars annually to a charitable fund, the community chest or something and now, if he is going to discontinue making those contributions himself and the foundation is expected to take care of those

gifts, there must be some understanding with the foundation that he wants the foundation to consider so much to be contributed to this, or that, or the other.

Mr. ROSENFELD. I had rather answer that by an illustration.

If you two gentlemen and I were members, were trustees of a foundation that I created, and as a courtesy to me, you consented to act as trustees—

Mr. O'TOOLE. I am very happy you said that you created it, because we won't be able to do it.

Mr. ROSENFELD. That was purely a hypothetical illustration. I mean, it was created for a client of mine, I did not mean that it was created for myself.

Well, let me put it in the first person, simply to illustrate my point.

If I created it, and if I contributed, and I will be utterly fantastic, say, \$10,000 to that foundation this year, and we were to meet around a table and say, "what shall we do with this money this year?"

If I would say to you gentlemen, "I would like to give a thousand of this money to the Cancer Society, out of it, and \$2,000 to the Associated Jewish Charities, \$500 to the community fund—I think you gentlemen would probably be most inclined to follow my suggestions.

There would be no compulsion on you to do so.

That is the actual way in which this thing works.

Mr. FORAND. Actually the donor's influence is felt in these smaller corporations to a marked degree; is that not correct?

Mr. ROSENFELD. That is certainly true, certainly true.

Mr. O'TOOLE. In any of these foundations, are the trustees relatives or employees of the creator?

Mr. ROSENFELD. I recall no instance of there being an employee, and in almost every instance I would say there are some relatives.

Mr. O'TOOLE. Let me ask this question: Has it been the custom in the creation of these foundations, to have the creator's attorney a member of the board of trustees?

Mr. ROSENFELD. There has been no uniformity. I believe that I am probably a member of the board of trustees of half of them, and that is simply a guess.

Mr. O'TOOLE. I did not mean you, specifically, I meant was that the custom?

Mr. ROSENFELD. When you say, "the attorney," I am the only attorney in the office that would be, and in perhaps a half I am a member of the board of trustees.

Mr. FORAND. The trustees serve without pay, do they not?

Mr. ROSENFELD. I made that one qualification, as I recall, that nominal fee for one, and except for that, nobody gets any self-benefit from these foundations at all, not one cent.

Now, on the question of publication of distribution of foundations, I would not like to see that required, although I feel less strongly about that than on the subject of publication of contributions to the foundations.

I would hope, if a law is ever passed requiring that distributions by the foundations be made public, there could be an exception, if the trustees certified under oath that all distributions are made to organizations on the approved list, and that there are no salaries or expenses of any kind, or perhaps no expenses in excess of a hundred dollars a year of any kind, to take care of a safe-deposit box or what not, it

would seem to me if the trustees of a foundation certified that there are no expenses of any kind, except a hundred dollars a year, and that there are no contributions made except to other exempt organizations, it would seem that there would be no possible harm done to the body politic by not having these things made public.

I find a great many philanthropists are modest people. They don't like the publicity attendant upon proclaiming large-sum gifts to charity. Certainly we see plenty of anonymous contributions made from time to time, and the very fact of that seeking after anonymity sets forth the psychological factor that compels most of my clients in seeking to avoid publicity, to prevent their names from being mentioned in the contribution, or they won't do it.

Mr. FORAND. It isn't that so much as it is a matter of setting their name up as a target for anyone seeking further contributions—

Mr. ROSENFELD. In the language of the streets, they don't like to be on the "sucker list."

Mr. O'TOOLE. I have never seen such a display of backwardness at the fund-raising dinners.

Mr. ROSENFELD. Well, I would rather let my associates explain that, because they are the fund raisers, and they can tell it more directly than I can, in answer to that question.

Mr. KEELE. Mr. Rosenfeld, have you examined with any degree of care, pages 3 and 4 of Form 990-A, which is the return—I will give you a sheet of it in a moment, of organizations exempt from tax under section 101-6 that has to be made available to the public in the office of, formerly the collector of internal revenue, where they are filed?

If you will examine that, I believe you will agree with me that anyone interested in checking that will be able to tell, in the case of a foundation, of such type as you have testified to, precisely what is being given.

Mr. ROSENFELD. May I examine it half a minute?

Mr. KEELE. Certainly.

Mr. ROSENFELD. Do you have the 990-A Form there?

Mr. KEELE. I will be glad to show you this [indicating volume]. You sit right there, and I will bring it to you.

It is the second and detachable sheet here, 990-A.

Mr. ROSENFELD. Just a second.

I point out to you, Mr. Keele, this confirms my recollection but I wanted to see it first, the page of Form 990-A, the original page and the client's office copy has 25 items on it. The sheet that is available that you just described has 24 items on it and omits the twenty-fifth item; and the twenty-fifth item is "Contributions, gifts, grants, et cetera, received."

In other words, I point out to you, sir, that the form that is now available for public inspection does not show the receipts of the foundation.

Mr. KEELE. But, if I know that a foundation, through public knowledge, is the creation of a certain individual, and if I take the time and trouble to check that sheet from year to year, I can tell pretty nearly the very thing which you say the individual wants to conceal, can I not?

Mr. ROSENFELD. I think you can, if you take the trouble to do it, but I want to make it difficult for people to do it, and not easy, not tempting.

Mr. KEELE. The information is available to the public now, is it not, on this type of foundation, if they want to follow it?

Mr. ROSENFELD. Available after a fashion.

There is nothing available to the public today, as to who makes the contributions to the foundation.

Mr. KEELE. No, but if they know that it is a vehicle of a certain family or of a certain individual, and that does become known, does it not?

Mr. ROSENFELD. It does become known, yes.

Mr. KEELE. Within a group, we will say.

Mr. ROSENFELD. Unquestionably it becomes known.

Mr. KEELE. And then, they follow it as it acquires the assets, and the disbursements shown there, and they can pretty nearly tell what contributions are being made, can they not?

Mr. ROSENFELD. I have to answer that with qualifications to this extent—it would not show from whom, or from how many corporations it came, or from how many individuals it came, and there would not be the ability to capitalize on the 5 percent or 20 percent to disclose the information as to what the corporate income was or what the individual tax was.

Mr. KEELE. I think that follows. I think that is right. It does tend to conceal it to some extent, that is, the amount that may be given by a corporation, the amount that may be given by an individual, or it might be in varying amounts that might be given by a number of individuals.

Mr. ROSENFELD. That is right, and I would like to keep that concealed.

It makes the preparation of a sucker list more difficult.

Mr. KEELE. What regulations are there in the State of Maryland with reference to making public, or at least filing where the public may see it, returns of any kind from a foundation such as this that you have been talking of.

Mr. ROSENFELD. You embarrass me. I don't really know. I don't believe that there are any, but I would hate to assert that negatively, sir. We file a report with the State Tax Commission of Maryland, but it shows extremely little, and I am confident, I could be wrong, but I am quite confident that the State of Maryland has no method of learning of these contributions, certainly not of disclosing them to the people.

Mr. KEELE. Well, I gather that the net of what you have said here with reference to public accountability is this: That in your opinion, based upon your experience and your knowledge of the individuals involved, with reference to this group of corporations which are foundations, to which you have testified, there would be a tendency to dry up those foundations or corporations if the law required them to set forth the contributions made each year.

Mr. ROSENFELD. I consider that an understatement.

Mr. KEELE. And that purely on the basis that the individuals would not want disclosed to the public their annual contributions to charities.

Mr. ROSENFELD. Purely on that basis.

Mr. KEELE. What is the basis, then, the motivation for the giving by these individuals who do place moneys within these foundations for distribution, what are their motivations?

Mr. ROSENFELD. I think it is very natural and normal and wholesome, and that is to do an act of charity.

Mr. KEELE. If one really wants to do an act of charity, would the question of satisfaction of approbation have anything to do with it?

Mr. ROSENFELD. I don't think my clients are perfect. I take them as I find them.

Mr. KEELE. Yes, or no; you are evading the question. You don't mean to, I am sure, but do you think that social approbation enters into philanthropic giving, if one is motivated entirely by the desire to give?

Mr. ROSENFELD. I think that question is almost a contradiction in itself, sir. I think that public approbation enters a large part of philanthropic giving.

Mr. KEELE. Well now, the public approving of philanthropic giving—that is well-known, is it not?

Mr. ROSENFELD. Of course.

Mr. KEELE. Then why not the more one gives, the better, so far as public approbation is concerned?

Mr. ROSENFELD. So far as public approbation is concerned, the more one gives, the better, no question about it, but it has two consequences.

Mr. KEELE. What are they?

Mr. ROSENFELD. They have the sucker list consequence, as one, and the other is, from the standpoint of public approbation the great disinclination anyone has to ever reduce the amount of an annual contribution.

Mr. KEELE. From what does that stem? That, I could not understand.

Mr. ROSENFELD. I can speak from personal experience there; I can speak very personally. I am not a rich man, by the standards of my own clients even, but I can never recall having reduced a contribution to any charity that I make. It just would go against my grain. That is my reaction; that is my nature. I think that is the nature of of my clients.

I think my clients, generally speaking, and barring some, I think I used the words "cataclysmic event" in their business life, barring such event as that, my clients do not reduce their annual contributions, they do not do it and do not do it for the reason that I do not—it goes against our grain to do it; we don't want to do it.

Mr. KEELE. Well, you may not want to do it, but again I think you must be referring to the question of social approbation or social pressures.

Mr. ROSENFELD. A combination of social approbation plus the unwillingness to publish to the world that the donor's resources have radically changed.

Now, maybe in your definition that is a phase of public approbation, I don't know, but if I have been giving, illustratively, a thousand dollars to the community fund each year, and I would cut that down next year to \$500, I believe the people would feel that I was not able to give that much money and perhaps I am vain not to want that to happen.

I think that expresses the attitude of my clients.

Mr. KEELE. Well, it is not for me to sit here in criticism or judgment, but I begin to question the motivation of a philanthropist, which hinges upon social approbation, or personal pride.

Mr. ROSENFELD. I think they are all wrapped up together in this crazy world of ours. They are inextricable, and I don't think you could get them in the pure form, such as you could in a laboratory, for example, in reference to a chemical.

Mr. KEELE. If a man wants to give, what has the 20-percent deduction got to do with it?

Mr. ROSENFELD. It affords a very great inducement for him to give a maximum amount in the year when he is having a good year.

Mr. KEELE. Then, I suppose we ought to give greater credit, then, to men such as Rockefeller and Carnegie, who made vast donations in a time when there was no such thing as a tax allowance in connection with it; there was no income tax at the time they set up their great philanthropies.

Mr. ROSENFELD. Well, with all respect to you, Mr. Keele, I don't think that is pertinent to the issue here. That doesn't apply to the type of people we have been discussing.

I don't know how much Mr. Rockefeller was worth, but if he was worth 500 million, by sharing 25 million, that was still a very much different kind of thing than my contributing a thousand dollars to a community fund. It is a different kind of a pain.

Mr. KEELE. Your money was not as important to your client as it was to Rockefeller, judging by the relative amounts they accumulated. Shall we put it that way?

Mr. ROSENFELD. That isn't the point I meant to emphasize.

Mr. KEELE. Mr. Rosenfeld, now considering the possibility of abuses, and I think we discussed the possible abuses, and I am willing to concede there are no such abuses, as I understand it, in these foundations which you have organized, what do you think about the over-all advisability of public accountability to avoid those abuses?

I am not asking you now about your group generally, but thinking now of the over-all picture.

Mr. ROSENFELD. I repeat, Mr. Keele, I see no relationship between abuses and contributions to the foundations at all. I see no relationship there.

Therefore, I think that public listings of contributions to a foundation is a needless prying into the private lives of individuals and corporations which I individually think, I don't want to say that, which I individually am confident will result in lesser funds being made available to public philanthropy. I do see the possibility of abuses, of course, in distributions by foundations, and I have no adverse comment to make whatsoever upon any requirement for public listings in connection with such distribution, except that I would like to ask that where you can certify that all of the distribution has been made to approved organizations, and where the total expenses is less than so much, say a nominal sum such as a hundred dollars, that they be given an exemption from that.

Mr. KEELE. I think that is all for Mr. Rosenfeld.

Mr. FORAND. I have no more questions.

Mr. KEELE. Have you any other thoughts you would like to give the committee on the question of foundations?

You mentioned the fact yourself that you felt it would be highly desirable if the Ways and Means Committee should increase the corporate exemption to 10 percent, shall we say?

Mr. ROSENFELD. Yes.

Mr. KEELE. Anything else that you would like to say at this time?

Mr. ROSENFELD. I think I have talked a lot. I hope I have left a message with the committee.

Mr. KEELE. Thank you very much on behalf of the committee. I feel sure the committee appreciates this.

Mr. FORAND. Do you have another witness?

Mr. KEELE. Yes.

Mr. Myers, would you come forward, please.

Mr. Myers, would you state for the record your name and your residence, please?

STATEMENT OF ELKAN R. MYERS, PRESIDENT, ASSOCIATED JEWISH CHARITIES OF BALTIMORE, BALTIMORE, MD.

Mr. MYERS. Elkan R. Myers, 6608 Park Heights Avenue, Baltimore.

Mr. KEELE. Mr. Myers, I have what I sometimes refer to as an obituary here, which reveals the fact that you are president of the Associated Jewish Charities of Baltimore.

Mr. MYERS. Right.

Mr. KEELE. And as of tonight, you will become chairman of the Baltimore Chapter of the American Red Cross?

Mr. MYERS. It looks that way, sir.

Mr. KEELE. And you are vice president of the Baltimore Hebrew Congregation?

Mr. MYERS. Right.

Mr. KEELE. And a member of the executive committee and board of the Community Chest of Baltimore?

Mr. MYERS. Right.

Mr. KEELE. And a board member of the Baltimore Council of Social Agencies?

Mr. MYERS. Right.

Mr. KEELE. And the past president of the Jewish Welfare Fund of Baltimore?

Mr. MYERS. Right.

Mr. KEELE. And a board member of the Baltimore Association of Commerce?

Mr. MYERS. Right.

Mr. KEELE. And a board member of the Better Business Bureau?

Mr. MYERS. Right.

Mr. KEELE. Aside from that, I take it that you are also a businessman, is that right?

Mr. MYERS. Right.

Mr. KEELE. The reason I have taken you through that list of organizations was so that we might have here on the record and for the benefit of the committee and the staff the extent of your experience in philanthropy. That is the only reason for it, I assure you.

Now, you have heard, or were you able to follow the discussions that went forward here?

Mr. MYERS. Pretty well.

Mr. KEELE. Mr. Myers, will you just give us your views—I do not think that I need address any more than a general question to you—you have heard the discussion here. Tell us what you think about these various points that we have been discussing.

Mr. MYERS. I think that I was possibly invited here because of my enthusiasm in the presence of Mr. Kennelly for these small foundations.

There is hardly a week or a month that passes but what I do not try to talk someone into starting a charitable foundation. I would like to tell you of one or two instances so that you can see for yourself how marvelous it has been. A friend of mine, who was in business, and whose business had not been so good—I happen to be a stockholder with him—we had lost about half of what we were worth, up through 1939 to 1942.

The business started to do well in 1943. In 1944, he dissolved this corporation, and it became a partnership. I was not in it. He made a considerable amount of money. He started a foundation and put about \$120,000 on the basis of 15 percent of their entire earnings.

And the next year, he put a like amount in. In the meantime, his wife passed away. Because he had something in that foundation, he wanted to do something in memory of his wife. I happened to be president of his foundation. We went to the Cornell Medical Center in New York. We made arrangements with them to start a research laboratory.

We made a contract with them to pay them \$20,000 a year for 10 years, and this research is still going on out of money that was made in 1943, 1944, and 1945. In 1946 the man went out of business and has had a very small opportunity to put in any more money into his foundation.

He took it out of the fat years that Mr. Rosenfeld has told you of, and is able to continue to give to this wonderful research work at the Cornell Medical Center.

That was one example of a foundation, showing you the marvelous good it did.

Mr. KEELE. May I interrupt you just to ask, now, in your opinion, would he have made that contribution to charity or to philanthropy in the year that he had made the contribution?

Mr. MYERS. Without the slightest hesitancy, the answer is "no."

Mr. KEELE. Why wouldn't he, if you will tell us that?

Mr. MYERS. Because there was nothing that he could give that kind of—yes, he could have gone to Cornell University and turned over to them the first year \$120,000. But he had not made up his mind then.

When he made the \$120,000, he had no idea what he was going to do with it. He just had in mind that he wanted to do something—I do not think that his wife had died then. His wife died the second year. And after she died, he knew that he wanted to do something in her memory.

There is a portrait of his wife at the entrance to the laboratory, and it bears her name—the research laboratory.

Mr. KEELE. Your point is that, not having in mind precisely what he would do with that money, if he did give it, he probably would not have given it to the extent, anyway?

Mr. MYERS. There is not any question about that. There is not the slightest doubt that this money was saved for charitable purposes because he was able to start a foundation and put his money in. He would not have thought of giving it to any particular charities.

Mr. KEELE. All right. Now, tell us your opinion, based upon your experience, as to whether the establishment of foundations, such

as we have been talking about here, tends to produce more money for charitable or philanthropic giving than would otherwise be the case.

Mr. MYERS. I do not think that there is the slightest question about it. This is an instance in which it produced about \$200,000 for medical research. I can tell you of another instance in 1944.

I happened to be on the board with the gentleman. I think that up until that time he had not made any money particularly. This particular year was a wonderful year for him. He had made a little fortune. His charities amounted to \$1,000 or possibly \$2,000, all told.

I called on him near the end of the year, in December, sometime, to get his pledge for the coming year, because I wanted to get the money out of the year he was earning it.

I called on him even before the drive was on, and suggested a larger amount to him, \$20,000, to give, and he said, "I couldn't do that. What am I going to do next year when I don't earn as much? I cannot give \$20,000 this year and cut it next year"—the very thing that Mr. Rosenfeld was trying to impress you with.

I know for a fact that that is so, because I have been soliciting money over 30 years, possibly 40, since I was 18. And people hate to work themselves up and then have to cut off.

They feel that the public thinks that they are a failure in the particular year, or what not.

Now, there are some people that have to do it, because they have given so generously. But this particular person would not have considered it.

I finally got \$5,000 for this particular cause. He had given \$1,000, or \$1,200 the year past. So I said to him, "You are having a marvelous year." It was he and his brother and his father. "Why don't you put the rest of the money into a charitable foundation?"

"What are you talking about? I have never heard of one."

So I explained to him thoroughly that he could put his money in this year to a charitable foundation, with the understanding that not one cent could ever come back to him. It had to be given to charitable organizations, and he could give it over a period of 5 years, 8 years, or 10 years and assure himself that he could keep up his charities.

And this was on a Friday, and the following Tuesday he called me up and he said, "Elkan, I know that you will be happy to hear that we started a foundation, and we put \$90,000 in it."

Now, there was \$90,000 found for charities that had been given to the Red Cross, the community chest, hospitals, to Hopkins, in Baltimore, and other organizations that never would have been, because the man would have given his \$5,000 and that is all. He is the type of person who is an introvert. He would not have thought of having the public know—he told me in confidence—that he was making that kind of money and was able to give it away.

The following year, he put in a like amount. The next year they went out of business and have not been able to put, maybe, \$5,000 or \$6,000 a year into the charities, but they have been able to do very nicely for the charities because of what they put in in 1945 and 1946.

Mr. KEELE. What do you think, Mr. Myers, about the effect of public accountability upon foundations of the type that you have been testifying to?

Mr. MYERS. I think there are many people who would object to having it known that Mr. X put into his foundation this year \$12,000, and maybe his wife put in a certain amount and his brother so much, and the corporation so much. But I certainly feel that if there are abuses of it, which you want to stop, it would be not at all harmful to list every penny, not only contributions, but any set expense.

Now, it happens that I have a very small foundation. There has never been 1 cent of expense since 1944 of any kind, and the foundation has given only to organizations that are in the books of exempt organizations.

Mr. KEELE. I take it that you yourself take out the expense, if there is any, connected with the giving of the money?

Mr. MYERS. There just is no expense. I do the work, and there is no expense. It is very small. It is only a question of putting the two or three checks a year in, depositing them. And if you have securities, getting the dividends and depositing them. There is no work of any kind.

Mr. KEELE. In other words, you do it yourself?

Mr. MYERS. That is right.

Mr. KEELE. And that is entirely possible and feasible with small foundations, is it not?

Mr. MYERS. That is being done by every foundation that I know of. I have never heard of a foundation in Baltimore, those that I call on, and during the course of a year I call on a minimum of 300 to 500 firms—I work just as hard for the Red Cross as I did for the community chest. There is not a drive in the past 20 years that I have not worked on, for all of them.

And there is not a foundation that I know of that has a set expense—I do not know of any—of these small foundations.

I am not talking of Rockefeller or Carnegie or any of these others. I am talking of the small foundations that we are talking about, when a man put in \$3,000, \$4,000, or \$50,000 when he has his good years.

Mr. KEELE. Mr. Myers, I recall that Mr. O'Toole, I think it was, asked Mr. Rosenfeld of how many foundations there were of this type that he knew of in Baltimore. How many would you say there were?

Mr. MYERS. I would guess 75. But that is only a guess. I would say that possibly all Baltimore attorneys have set up as many as, maybe, Mr. Rosenfeld.

Mr. KEELE. Are these small foundations of this type that we have been talking about here of recent development, Mr. Myers?

Mr. MYERS. I would say since people started to make a lot of money in 1942, 1943, and 1944. Where businesses used to make a \$30,000 or \$40,000 profit, in the war years they made \$100,000.

Mr. KEELE. Your testimony checks with what our statistics show, from a study of these questionnaires. There was a great upsurge in the number of small foundations in 1942, 1943, 1944, and 1945.

Mr. MYERS. That is right.

Mr. KEELE. But there has been a tendency, I believe the figures show, although I do not want to be held to this, to be a falling off of the rate of increase about 1945 or 1946.

Mr. MYERS. That is right.

Mr. KEELE. Would that be your experience, Mr. Myers?

Mr. MYERS. That is because I have not been so successful in getting them to start more. I have tried hard. That is, in Baltimore anyway.

I want to say here, because I want to put it over, that if any of you have any influence to have our Congress allow a 10-percent deduction for corporations, it will help every hospital in the country; it will help all charities. Now, Bethlehem Steel and United States Steel and others are not going to give any more, because most of them do not give their 5 percent. But it is the smaller people who support our charities in Baltimore.

When you go to your Red Cross, it is not the Bethlehem contribution—and they are largest employer—that supports your big charities. It is the number of smaller people that earn \$15,000 or \$20,000, and give \$300, \$500, and \$1,000, that support your Red Cross and your community chest.

And later the people who would be happy to give 10 percent of their corporate profits—

Mr. FORAND. I am glad, Mr. Myers, to have permitted you to get that into the record, although this committee will have absolutely nothing to do with that phase of it. But I think that you should make your plea to the Ways and Means Committee, which has jurisdiction over that particular phase.

Mr. MYERS. I would love to, if I could be invited to a meeting.

Mr. FORAND. I think that you may well be if you address a communication to the chairman after the new Congress meets, setting forth what you have in mind and asking for a hearing. That would be the approach.

Mr. MYERS. Thank you.

Mr. FORAND. And as a member of that committee, I assure you that I shall do what I can to give you a hearing.

Mr. MYERS. I shall be happy to be there.

Mr. KEELE. Have you any other questions?

Mr. FORAND. I have no further questions.

Mr. KEELE. I think that answers most of the questions we had. But, Mr. Myers, if there is anything else that you would like to add here, we would be very happy to have the benefit of your experience.

Mr. MYERS. I do not know of anything, except to say this, that to give you a very concrete example of how foundations help, we formed our foundation in 1944, and we had pretty fair years in 1944, 1945, and 1946, and our corporation put in just over the 5 percent every year, so that we would be sure that it was 5 percent. And I put in just over my 15 percent into the foundation, and an associate of mine put some in. And because they were pretty fair years, we accumulated some money. That was not all given away. We happen to have 4 years in the red of the last 5.

In 1947, 1948, 1949, 1950, and 1951, our firm lost money 4 years. They have not put one cent into the foundation. I personally have accepted the responsibility of our charities in those years. I put in as high as 40 percent of my net income some of the years, and we were able to not keep up the amounts that we had given in the big years, but to give creditably to charities.

If it had not been for our foundation, we could not have done it. In other words, the amount that I gave—we gave away more every year from 1946 on, possibly, than was put into the foundation. We gave

out of the cushion that we had created in 1944, 1945, and 1946. There was no question. I have given to Johns Hopkins, for me very liberally, to the other hospitals, and to the other charities, and if it were not for the fact that it was put away in 1944, 1945, and 1946, we could not have done.

That is the reason that I tried so hard to get everyone—I would like to give you an instance of the type of thinking. At a Christmas party in 1945 or 1946, a friend of mine—I happened to be on a board with him—said, “Can you imagine, Elkan, I have to pay \$80,000 excess-profits tax this year.” He said, “A small firm like me.”

I made a mental note of it, and the next morning called the Red Cross and asked, “How much did so and so give to charities?”

“Five dollars.”

“And how much does he give to the community chest?”

“Five dollars.”

So I had them write me a letter that possibly if I called on him, I might be able to do better. I called on him to try hard to get him to establish a charitable foundation in that particular year, so that he could put in 5 percent of his \$120,000 that he was making, with \$80,000 going to excess-profits tax.

On most people you can get them to do it, and they can then give more than their \$5 to the Red Cross and the community chest.

Mr. FORAND. We thank you very much for your contribution.

Mr. MYERS. I thank you for the opportunity.

Mr. FORAND. Do you have another witness, Mr. Keele?

Mr. KEELE. I think we ought to call Mr. Katzner, who is here, who is also a man who devotes a great deal of his time.

STATEMENT OF J. BENJAMIN KATZNER, BALTIMORE, MD.

Mr. KEELE. Will you state your name for the record, and your address, Mr. Katzner?

Mr. KATZNER. J. Benjamin Katzner, 2700 Queen Anne Road, Baltimore, Md.

Mr. KEELE. All right. Suppose you tell us the basis of your experience in philanthropic giving.

Mr. KATZNER. My experience has not been nearly as vast as Mr. Myers'. In fact, Mr. Myers has been my teacher, and he has been a source of great inspiration to me over a fairly long number of years.

I think that the advantages to communities and to the public charities in communities of foundations are very important to the public philanthropists. I would like to cite some examples.

I think examples always prove a point more readily than perhaps just generalizations. I happen to be chairman of the fund-raising committee for the Jewish Medical Center. The Jewish Medical Center is engaged in building or raising the funds at this time to establish a medical center on a nonsectarian basis that will cost \$16,000,000. A campaign has been under way intermittently for 4 years.

The Jewish community generally is aware of this campaign and has been aware of it, even though it did not start until 4 years ago, and had been aware that it was going to be started perhaps as far back as 7 or 8 years ago.

There was a certain gentleman who knew about it. He was not particularly generous in his giving to most community things. But

this hospital idea appealed to him, and he organized a foundation some few years ago and began to put money away in it without hardly anybody knowing about it. I know that I did not, although I know I called on him fairly often.

Just last week, I was able to get from him a gift of \$100,000 toward this medical center which he had accumulated over a period of good years that he had, similar to the experience that Mr. Myers has told you about.

Now, I think that if foundations were not permitted or were obstructed in some way by some inhibitions, this \$100,000 would never have been made available to this particular medical center.

And I think we could go on and cite experience after experience along these lines.

It is for this reason that I thought publicity, unnecessary publicity that does not accomplish anything, would be nothing short of disastrous to many philanthropic organizations. I think that if we publicized the gifts to these organizations, or to the charities, it would be very harmful, and I believe that institutions, universities, hospitals, and welfare agencies all would suffer in that process. They would have to.

I just hope that out of this will come some other method of eliminating the evils that go with these foundations. I hope that some other method can be found so as not to make it necessary to publicize particularly the giving side. The paying side is another thing.

Mr. KEELE. It is the contributions that you feel should be kept from being published?

Mr. KATZNER. Yes. Mr. O'Toole happened to comment on the fact that he did not see any reticence, before he left, on the part of people to announce gifts at fund-raising meetings. I happen to attend a lot of those fund-raising meetings. In fact, I very often am at the head table calling people by name and asking them to stand up and say how much they will give. And there is great reticence. We have to fight with people and urge them please to do it, because their gift, by example, might help others to do the same thing.

Mr. FORAND. Do you just invite them?

Mr. KEELE. That is sort of packing the caucus.

Mr. KATZNER. It packs the caucus a bit. But by the same token, there are many people in the community who refuse to announce publicly or refuse to permit us to announce publicly whatever gifts they may give.

It may be a sense of modesty. It may be for many reasons. Nevertheless, publicity, in my opinion, would do a whole lot more harm than the good it could do. It seems to me that there ought to be a simpler way of finding out where the abuses lie and stopping them than publicizing these things.

Mr. KEELE. I take it that you subscribe to all the points that have been made here by Mr. Rosenfeld and Mr. Myers?

Mr. KATZNER. Very wholeheartedly, with particular emphasis on the two points, the publicity and the—

Mr. KEELE. Your testimony would be much the same if we had put the same questions to you?

Mr. KATZNER. I think so, particularly on the two points with regard to publicity and the possible increase, by the Ways and Means Committee to a 10-percent limitation on corporate deductions.

Mr. KEELE. I think that is all. Thank you very much.

I would like to read into the record, with the chairman's permission, a correction of the testimony of Mr. Rusk, on behalf of the Rockefeller Foundation, and he himself requests that it be read in.

Mr. FORAND. Without objection, it is so ordered.

Mr. KEELE. Very well. This is a letter on the stationery of the Rockefeller Foundation, dated December 11, 1952:

DEAR MR. KEELE: I have carefully examined the typewritten transcript of that portion of the hearings of the select committee which covers the testimony of the Rockefeller Foundation in order to insure that, through inadvertence, no incorrect impression was left with the committee by such testimony. In two instances, it seems to me that a further comment might serve to avoid possible misunderstanding.

I

First, in my testimony appearing at pages 1073, 1074, 1079, and 1082-1085 (transcript), I may not have sufficiently appreciated that the terminology employed within the Rockefeller Foundation's own organization might be confusing to others, particularly since we have "trustees" on our governing board and "directors" as the executive heads of our component divisions. Many organizations use the term "directors" where the foundation uses "trustees" as members of the governing board. The following outlines grant-making responsibility in the Rockefeller Foundation.

(1) The board of trustees may make grants without limit in amount, from either income or principal. Approximately 60 percent of all funds appropriated by the foundation are appropriated by the full board of trustees.

(2) The executive committee of the board of trustees consisting of seven members and two alternate members (all trustees) may make grants from either income or principal, subject to the following limitations:

(a) Each grant must be in accordance with the general policies approved by the board;

(b) No grant may increase by more than \$500,000 a grant previously made by the board;

(c) No new grant may exceed \$500,000; and

(d) Total grants by the executive committee between meetings of the board may not exceed \$5,000,000 unless authorized by the board.

Approximately 25 percent of all funds appropriated by the foundation are appropriated by the executive committee.

(3) The officers of the foundation are authorized by the trustees to make grants-in-aid and fellowships from funds appropriated annually by the board of trustees specifically for these purposes. Grants made by the officers pursuant to such authorization amount to approximately 15 percent of all funds distributed by the foundation. Each grant-in-aid is limited to \$10,000. Total allocations to a project may not exceed \$10,000 in any one year, and support to a project through grants-in-aid may not extend beyond a 3-year period. The average grant-in-aid is about \$3,000; not more than 4 percent are for as much as \$10,000.

It should be noted that while the small grants made by the officers under the grant-in-aid and fellowship appropriations described above represent approximately 75 percent of the number of grants, they represent from year to year about 15 percent of the total amounts appropriated by the Rockefeller Foundation. These grants are made within the policies established by the board of trustees and are reported promptly to the executive committee and are included in the annual report.

Grants made by the officers are made after full staff conference and represent a group judgment; thus the exercise of this discretion is carried on with the full knowledge of one's colleagues and with prompt reporting to the trustees. Formal actions making these grants bear the signatures of the director of the division concerned, the president or vice president, and the comptroller.

II

The second instance has to do with your question which appears at the bottom of page 1248 of the typewritten transcript. Your question was: "I would like to ask whether, in your opinion, you know any instances in which the Rockefeller

Foundation or any other foundation has knowingly contributed to any Communist-dominated organization or any Communist individual?"

My answer was entirely accurate, to the extent that the question was directed toward subversive organizations or individuals. I know of no instance when the Rockefeller Foundation, or any other foundation, has contributed to any organization or individual known at the time to be subversive. Further, to the extent that the question was directed toward Communist organizations or individuals, my answer was entirely accurate with respect to the recent and present policy of the Rockefeller Foundation regarding such organizations or individuals. (See the excerpt from the foundation's reply to the questionnaire, quoted at pp. 1139-1140 of the typewritten transcript.) To avoid the possibility of any misunderstanding, however, I should point out that I did not construe your question as intended to include instances of grants made to known Communists at a time when, because of the official policy of the United States, such grants seemed clearly not to involve considerations of national security or subversion. In the interests of complete frankness, therefore, your attention is invited to the following:

(1) I testified at pages 1206-1209 of the transcript regarding the Rockefeller Foundation's grants to University College, London, during the years 1935-47 in support of research in genetics under the direction of Prof. J. B. S. Haldane, the eminent British geneticist, whose affiliation with the British Communist Party has been well known since 1943.

(2) During the late 1920's and early 1930's the Rockefeller Foundation awarded certain fellowships to Russians in the fields of medicine, public health, and the natural sciences, and made certain small grants to Russian medical institutions toward the purchase of medical publications and small pieces of medical laboratory equipment. The principal recipients of such grants were the University of Leningrad (\$3,272.80), the University of Moscow (\$2,166.75), Second Institute of Medicine, Moscow (\$4,851.92), the University of Kiev (\$1,453.26), and the Soviet Ministry of Public Health (\$12,399.55). These fellowships and grants were made at a time when United States policy encouraged trade with and engineering and technical assistance to the Soviet Union. (See my testimony on pp. 1246-1247 regarding the State Department publication, Cultural Relations Between the United States and the Soviet Union.) During World War II the Rockefeller Foundation made a grant to enable two Russian public health experts to visit the United States. As a result of this visit the foundation made a grant of \$4,700 in 1944 to the All-Union Institute of Epidemiology, Microbiology, and Experimental Medicine for the purchase of medical books and periodicals and small pieces of equipment for its medical laboratory. The foundation has made no subsequent grants to any Russian individual or institution.

(3) Further note should be made of the special problem of Yugoslavia, a Communist country which the legislative and executive branches of the United States Government are supporting, presumably as a country not a part of the international Communist conspiracy directed by the Soviet Union. Since 1951 the Rockefeller Foundation has made several small grants in Yugoslavia, principally to the University of Zagreb for public health publications and laboratory equipment.

I appreciate this opportunity to clarify the above points.

Sincerely yours,

DEAN RUSK.

Mr. FORAND. That will be made part of the official record.

Mr. KEELE. There is one other correction from Paul Hoffman, if I may, which I would like to read.

Mr. FORAND. Proceed.

Mr. KEELE. This is on the letterhead of the Ford Foundation, 914 East Green Street, Pasadena, Calif., dated December 12, 1952:

DEAR MR. KEELE: I would like to qualify an impression which my testimony before the committee may give with respect to governmental support for studies of human behavior. (See pp. 484-485 of the hearing transcript.)

The opinion I intended to convey was that it might be politically difficult for the Congress to justify appropriations for long-range, highly experimental research on subjects of human behavior, until, as in the case of the physical sciences, the wisdom and promise of such support has been demonstrated. I did not intend to criticize any current appropriations or to discourage future

governmental support for scientists and scholars seeking to improve our capacity to understand and to cope with problems of human behavior.

Sincerely yours,

PAUL G. HOFFMAN, *Director.*

Mr. FORAND. That, too, will be made a part of the record, without objection.

Without objection, there will be included in the record a copy of the letter sent to Chairman Cox by Mr. Solomon Barkin, director of research of the Textile Workers Union of America.

(The letter referred to is as follows:)

TEXTILE WORKERS UNION OF AMERICA,
New York, N. Y., December 10, 1952.

HON. EUGENE COX,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN COX: We would like to present several aspects of the problem of tax-exempt philanthropic foundations which have not been stressed in your current hearings.

Our interest in tax-exempt foundations originated with the operations of Textron, Inc., in Nashua, N. H. It was largely at the instance of the Textile Workers Union of America, that an investigation was initiated by a subcommittee of the Committee on Interstate and Foreign Commerce of the United States Senate in 1948. We also testified before the House Ways and Means Committee in connection with the Revenue Act of 1950 (pp. 780-802).

We have been most interested in promoting the improved discharge of the State's responsibilities in the supervision of charitable trusts and have submitted proposals for the development of special offices within each of the States to assure the realization of the public purposes for which such foundations have been established. We were responsible for the introduction and passage of such a law in the State of Rhode Island.

Our concern is to secure the correction of the abuses occurring in the operation of these trusts and foundations and their restoration to their primary functions. Trusts and foundations are truly private bodies for the administration of public funds. The funds must be used as carefully and prudently as other public funds and for the purposes for which they were intended. The public interest must be protected against the speculative use of these funds, their diversion to improper purposes, excessive administrative costs and their use to control business enterprises.

We look forward to an evaluation of the legislation passed in the Revenue Act of 1950 to determine whether that measure accomplished its purpose.

As a result of our study of this problem, we offer the following observations:

1. The committee should consider the specific qualifications which would entitle foundations and trusts to the tax exemptions provided in the law. State supervision is practically non-existent since only New Hampshire and Rhode Island have specific agencies for supervision. The attorney generals of most States have shown little, or at best, rare interest in the foundations and trusts to insure the protection of the public interest. Trustees have no clear guides for the discharge of their responsibilities.

The more common abuses appear to be the following: (1) failure to make contributions; (2) dormancy of trusts; (3) payments to improper purposes particularly in the case of "family foundations"; (4) excessive diversion of funds to administrators and administrative agencies and operations, including excessive fees; (5) inefficient administration; (6) lack of accounting; (7) reversion of trust property to donors by virtue of noncompliance with conditions of the grant; (8) sale of assets at unfair prices; (9) changes in trust indenture to nullify the charitable intent; (10) use of funds for the widest participation in business activities; and (11) use of charitable foundation for unapprovable political practices.

The opportunities for abuse by the family foundations are carefully spelt out in an article by J. K. Lasser and William J. Casey in the *Dun's Review* (August 1951). They list the following: (1) "the foundation can keep for the donor many of the attributes of wealth"; (2) "can keep income in the family" (3) "can aid employees of the donor's business and therefore contribute to its productivity and goodwill; (4) provide "funds" "for use in new ventures in business"; (5) escape

taxes on property during donor's lifetime; (6) use money in years when it can do the most good for the beneficiaries.

The concentration of the control of these foundations in the hands of the business community has obviously promoted research, writing, and educational activities designed to advance the views of this segment of our population without comparable opportunities to other groups. Similarly, the influence of these groups in the social, welfare, educational, research, and communal institutions has risen markedly with their increased reliance upon contributions from tax-exempt foundations. The promotion of the "5 percent" contributions by corporations is built upon the argument that such aid would strengthen the "public faith in its (business') good judgment and motivation."

2. One of the truly serious problems is the deliberate use of these funds to control specific business organizations. We have proposed, and do urge upon you, further consideration that charitable trusts and foundations should divest holdings in excess of 10 percent of a business enterprise. Similar action was taken by the Conservative government of the Province of Ontario. We commend the Ontario Charitable Gifts Act of 1949 to your committee as providing an appropriate line of action in this connection.

3. Among the specific steps which we urge your committee to consider are:

- (a) The payment of current income of a charitable trust to the beneficiaries.
- (b) The limitation of charitable trusts and foundations to a 25-year period.
- (c) The limitation on the types of investments appropriate for tax-exempt trusts and foundations.

The basic documentation for these views may be found in our testimony before the House Ways and Means Committee in 1950.

Very truly yours,

SOLOMON BARKIN.

Mr. FORAND. The committee will now be in recess until 10 o'clock Wednesday morning.

(Whereupon, at 4:05 p. m., a recess was taken until Wednesday, December 17, 1952, at 10 a. m.)