

# Spending the Future

The Legitimacy of Philanthropic Foundations: United States and European Perspectives

edited by kenneth prewitt et al.

russell sage foundation, 294 pages, \$45

The Foundation: A Great American Secret

by joel l. fleishman

publicaffairs, 341 pages, \$27.95

When you give alms,” Jesus says in the Sermon on the Mount, “sound no trumpet before you.” Good advice, but, one must note, it is also forbidden by law in the United States—at least, for those who give alms through foundations. Beginning with the first rules in the 1913 tax code (and growing enormously since the Tax Reform Act of 1969), American regulations require foundations to make their finances public knowledge through disclosure on their tax forms.

In return for this invasion of privacy, foundations receive a benefit of high value: They are almost entirely tax exempt, both in the donations they receive and the income they receive from the growth of their endowments. In fact, tax exemptions made possible the flowering of foundations in the twentieth century. With their sometimes staggering endowments untouched by the IRS, America’s sixty-eight thousand foundations—especially the largest: the two hundred foundations that give more than \$12 million per year—constitute a major independent power center in American life.

The tax code leaves unanswered, of course, the question of why we allow foundations this privilege and this power. In *The Legitimacy of Philanthropic Foundations*, a recent collection of essays on the topic, the lead editor Kenneth Prewitt argues that private grantmaking foundations carry out a function no other institutions can perform. That uniqueness, however, is not immediately evident. After all, foundations redistribute wealth, support scientific and artistic endeavors, and seek to improve social conditions—all of which the government does as well. It is not, concludes Prewitt, what foundations do that makes them unique but what they represent: a Jeffersonian ideal, an American picture of individual freedom in service to moral ends.

This seems to mean that foundations should not be valued for what they are but for what they are not—the state. The state’s benefits to society, Prewitt suggests, are inseparable from coercive means used to achieve them: taxation, market regulation, and eminent domain. “The foundation,” he writes, “is the preeminent exemplar of the noncoercive, nonextractive funder of public goods. The foundation need not do its job well. . . . Legitimacy is unproblematic because foundations emblemize a central quest of the liberal society—a way to attach private wealth to public goods without encroaching on political and economic freedoms.”

Well, perhaps. Certainly Prewitt is correct that these sorts of ideas are why the “core legitimacy” of nonprofit foundations is rarely challenged. What are challenged, particularly by the other contributors to *The Legitimacy of Philanthropic Foundations*, are the specific procedures under which foundations operate. Under current laws, grantmaking foundations are required to pay out 5 percent of their asset value each year. Critics of foundations—including liberals who see foundations as too conservative, and conservatives who see foundations as too liberal—want that percentage increased, and there were attempts to increase it in Congress in 2003 and 2004.

This would doom foundations to short lives through ever-shrinking endowments, unless their holdings consistently increased by more than their payout each year. The more leftist among the writers in *The Legitimacy of Philanthropic Foundations* look suspiciously at foundations’ enormous tax-free wealth and want to make foundations even more redistributive and devoted to leftist causes than they already are. They criticize the tax deduction for donations as a “tax subsidy,” a payoff to the wealthy. Nowhere in Prewitt’s collection of essays is it suggested that the tax rewards for charitable donations might not be large enough.

More common are statements such as that of tax-law professor John D. Colombo: “Why should an institution with billions in the bank get tax exemption?” While there is no actual prospect that Congress will remove the tax exemptions that allow foundations to exist, Colombo’s question always hangs in the air, forcing foundations to justify their existence.

Thus, in *The Foundation: A Great American Secret*, another recent volume on the topic, Joel Fleishman asks whether society is getting its money’s worth. Are foundations living up to their “responsibility for achieving significant social impact through their programs”? And he answers: “The best response is clear evidence that foundations are adding significant value to the money they handle and investing it to create the highest possible level of benefits for society. Otherwise, why should society continue to subsidize them?”

While the argument seems reasonable, we should not forget the context in which it is made. The leftist pressure on foundations comes not just from without but from within. In the United States, a universal historical cycle has taken on a distinctively American form: (1) freedom produces great new wealth; (2) wealthy individuals must do something with their excess wealth, and they want to do something good with it; but (3) since the reigning notions of good in modern society are left-liberal, wealthy individuals tend to invest their millions in left-liberal causes, many of which undermine the financial and social order that made their wealth possible.

The result is that, since the 1960s, the leading foundations have been a great engine of radicalism in America. The Ford Foundation’s notorious funding of Catholics for a Free Choice and the National Council of La Raza comes to mind, as does the William and Melinda Gates Foundation’s support for the new KCIA Arab school in Brooklyn, which will have a Muslim-centered curriculum.

In practical terms, the problem of radicalism in the foundations comes down to the personnel who make up the foundations' leadership and staff. At the risk of oversimplifying, we might say there are three types of people in the majority of America's foundations: what we might call the Bolsheviks, the Fabians, and the Furniture. The Bolsheviks are on the hard left, reasonably open about that fact, except when speaking to the public, and rigidly opposed to foundation projects that remotely hint at being conservative. The Fabians believe in ultimate leftist victory but are less hard-line than the Bolsheviks and more generous to non-leftists. The Furniture are just occupying space.

If the contributors to *The Legitimacy of Philanthropic Foundations* are mainly Bolsheviks, then Joel Fleishman in *The Foundation: A Great American Secret* must be counted a Fabian. He's willing to note the few conservative grantmaking foundations, for instance, and he pays them due compliments. Yet he never uses the parallel word liberal to describe any foundations: Ford, Gates, etc. are simply "foundations." More significantly, Fleishman, after acknowledging that "some of our greatest social problems may remain intractable for the foreseeable future," nevertheless insists that foundations make large-scale grants to programs trying to solve them. His justification for this contradictory position is that foundations must pay society back for their tax-free and unaccountable status: Foundations cannot cure the ills of inequality, bigotry, and so on, but by trying to do something they prove their good intentions and thus secure their legitimacy.

Wealthy conservatives, of course, have the same natural desire to spend their wealth on socially worthy causes as do wealthy liberals. But how can they do so without seeing their money and their hopes hijacked, as Henry Ford II, after he retired from the foundation in 1976, famously complained the Ford Foundation had done to his family's money?

One organization that successfully avoided such hijacking was the John M. Olin Foundation, a principal funder of the right for several decades. In its original statement of purpose, the Olin Foundation declared that it existed "to provide support for projects that reflect or are intended to strengthen the economic, political, and cultural institutions upon which the American heritage of constitutional government and private enterprise is based."

You can't get much more explicitly conservative than that. Yet, perhaps because of what was happening to the Ford Foundation, Olin feared that even this express mandate would not be sufficient to protect his organization. He therefore required that all his foundation's assets be spent within a generation of his death. And so it happened: Olin died in 1982, and his foundation, having dispensed hundreds of millions of dollars to conservative think tanks and activities, went out of existence in 2005.

For all his foresight, Olin did not originate the idea of the self-consuming foundation. That honor goes to Julius Rosenwald, part owner of Sears, Roebuck, and creator of the Rosenwald Fund, which gave millions to black educational institutions, especially to Booker T. Washington's Tuskegee Institute. Rosenwald argued strenuously that future generations could be relied on to provide for their own needs and that life limits on foundations were the only way to "avoid those tendencies

toward bureaucracy and a formal or perfunctory attitude toward work which almost inevitably develop in organizations which prolong their existence indefinitely.” Accordingly, the Rosenwald Fund, instead of funding itself in perpetuity, was mandated to use up its entire endowment. It did so by 1948, sixteen years after Rosenwald’s death in 1932.

There are good conservative reasons for setting a term to the life of a foundation. And yet there is also an argument for wealthy conservatives to reject life limits, since such limits will mean much higher spending on left-liberal causes thirty years later when the liberal foundations survive and the conservative foundations have spent down their endowments. Indeed, Fleishman argues that there are good general reasons to oppose limited-life foundations. “It is almost always the perpetual foundations that have a monopoly on serendipitous discovery,” he points out. “Life-limited foundations are usually so fixated on producing results in the short run that they cannot afford the time or resources to explore the byways of problems where solutions are encountered by chance. Only the perpetual foundations have the luxury to prepare themselves today to solve the problems of tomorrow.”

The drift in a foundation’s original purpose remains a puzzle, and it’s hard to criticize founders who decide—as Rosenwald and Olin did—to limit the life of their creations. Smaller foundations that are tightly focused on one thing might be best if life-limited, for example. Still, for foundations of any size, the balance of arguments tilts decisively in favor of perpetual foundations. Our society is awash in short-run thinking, from payday loans and tattoos to the lack of entitlement reform and the ballooning of the trade deficit. Founders of major foundations should think long-term.

The temptation always exists to give only to expressive causes and projects, which tend merely to replicate what has been done before. Giving to an opera house or to a local adoption agency that counsels young women to choose adoption over abortion is worthy. And yet, remembering that the distinctive purpose of foundations is not to provide charity but to help find innovative ways to effect permanent positive change in society, thoughtful donors should look for projects that are instrumental and uncharted, instead of merely expressive and replicative. And that means taking risks—not just the risk of financial loss but also the risk of social embarrassment.

Peter Thiel is president of Clarium Capital Management and cofounder of PayPal.

Photo by Dakota Roos on Unsplash. Image cropped.

Dear Reader,

Can I be direct with you?

So much of what passes for “culture” today degrades rather than ennobles. Literary magazines that once shaped American identity have either folded or surrendered to ideology.

First Things is stepping into the breach. With Portico, our new literary quarterly. With our newsletters reaching thousands. With Koinonia, building community for the next generation.

But we can't do it without you.

Our goal: 1,000 readers giving \$500,000 to sustain literary excellence and cultural renewal.

A gift of \$50, \$100, or even \$250 or more shores up Western culture against its ruins.

Make your Spring Campaign gift now using the button below.

### **Worth Beyond Our Works**

In the future, everyone will know the grief of Garry Kasparov. The Russian grandmaster was bested by...

### **Beware the Benedict Bot**

The words of a dead man / Are modified in the guts of the living." Neither W....

### **The Calculated Spectacle Behind Magnifica Humanitas**

The first encyclical letter of Pope Leo XIV has been engaged widely on its substance, but its...