History of Intellectual Culture

http://www.ucalgary.ca/hic • ISSN 1492-7810
2010/11 • Vol. 9, No. 1

"Forever is a Long Time": Reconsidering Universities' Perpetual Endowment Policies in the Twenty-First Century

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Abstract

College and university officials in the United States have long invoked a combination of Anglo-Saxon legal precedents, plus the obligations of responsible philanthropic stewardship, to justify policies of perpetual endowments. Closely related to this general principle has been the practice of not spending more than the annual earnings (in other words, interest and dividends) from an endowment. Our historical analysis provides a counter to this contemporary conventional wisdom that has been accepted with little critical consideration in American higher education. Rediscovery of philosophical arguments, and actual cases of foundations and philanthropists who placed limits on the life span of gifts, demonstrates how historical research can provide an informed base for reconsideration of government and institutional policies and practices that shape giving and spending at colleges and universities in the twenty-first century.

The grounding in economics for our study is Howard Bowen's 1980 "revenue theory" of college costs. The historical precedent for our policy analysis comes from eighteenth-century France, as advanced by A.J. Turgot, to shape national economic development. Its implications for higher education in the United States is illustrated by philanthropist John D. Rockefeller's reservations about a perpetual endowment for an educational project: "Forever is a long time . . ." Our historical research addresses the consequences — pro and con — of government policies requiring colleges to spend endowments at more than a marginal annual rate and in a fixed period of time; and, secondly, are there good reasons for donors to colleges to voluntarily opt to increase spending and place time limits on gifts?

Introduction

Perpetual endowments are the hallmark and lifeblood of colleges and universities in the United States. Today, the customary definition of "sound practice" is that spending more than the annual accrued interest is to be a poor steward of resources since, after all, universities are intended to educate and exist forever. Most often, this has been operationalized to mean limiting annual draws from endowments to less than 5 percent even when interest rates surpassed that figure. But this conventional wisdom and standard practice are not the whole story. As John D. Rockefeller — one of the legendary donors to higher education a century ago — told his advisors, he was reluctant to set up a perpetual endowment for an educational project because: "Forever is a long, long time."[1] And, due to the visibility of congressional

[1] See the extended narrative of John D. Rockefeller's considerations in establishing the General Education Board as a limited life foundation, in Raymond B. Fosdick, *Adventures in Giving: The Story of the General Education Board* (New York: Harper and Row, 1962); Ron Chernow, *Titan: The Life of John D. Rockefeller, Sr.* (New York: Random House,

hearings over the past four years in which university leaders were questioned about their policies of relatively little spending from endowments that had enjoyed several years of double-digit percentage growth, one now finds serious consideration of proposed legislation intended to alter this customary behavior of academic institutions' endowment management.[2] In 2006, for example, universities with an endowment of more than $1 billion had reported a one-year return of 15.2 percent and a ten-year return of 11.4 percent.[3] The gist of the congressional discussions was to draft legislation requiring colleges and universities to spend substantially from endowments at an accelerated rate, rather than think only in terms of a minimal annual payout. This realignment leads to a distinct, yet related, reconsideration of the assumption that perpetuity of endowments was both universally desirable and obligatory.

This theme in the congressional panel discussions brings to the surface a potential change that reconsiders the historical customs and statutes of charitable trusts and academic endowments that have been dominant for over four centuries in American higher education. The aim of this scholarly paper is to connect the study of philanthropy with the study of higher education. Our approach is to bring together past and present in analyzing the philosophical and legal issues associated with placing limits on the payout from, and duration of, college and university endowments.

The Research Questions

The foremost public policy question for our historical research includes consideration of the multiple consequences — pro and con — of a state or national policy that required colleges and universities to spend down their endowment at a fixed spending rate that was more than a minimal annual rate commensurate with the annual interest income. What are the consequences of a policy that would require endowments to be spent down in a fixed period of time? Are there good reasons for donors to colleges and universities to voluntarily opt to increase spending and place time limits on gifts? Our approach is to review recent events that introduce questions of policy reconsiderations. This includes grounding our research in economics with reference to an influential theory on higher education spending — namely, Howard Bowen's "revenue theory of costs."[4] This study will also explore endowment policies by initially drawing from a detailed case study of an important institution — Harvard University. Harvard University is, of course, not a typical college or university. It is the largest, oldest, and wealthiest academic institution in the nation. As such, it is significant because it is prestigious, powerful, and, by extension, an influential model that other institutions often attempt to emulate — one that attracts public and legislative attention.

To start the look at endowments with the magnetism of historic, wealthy institutions as a significant case study has precedent: Henry Hansmann's 1990 article "Why Do Universities Have Endowments?" has detailed financial analyses drawn largely from Yale University records — an institution comparable

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1998); and also Grant Segall, *John D. Rockefeller: Anointed with Oil* (Oxford and New York: Oxford University Press, 2001).

[2] Goldie Blumenstyk, "Pressure Builds on Wealthy Colleges to Spend More of Their Assets," *The Chronicle of Higher Education* LIV, 10 (2 November 2007): A1-A21; J.J. Hermes, "Senators Weigh Idea of Requiring Payout Rates for Large University Endowments," *The Chronicle of Higher Education* LIV, 5 (27 September 2007): A1; Stephanie Strom, "How Long Should Gifts Just Grow? Trillions of Tax-Free Dollars Earning Double-Digit Returns are Inciting Calls to Speed Up Spending," Giving Section, *The New York Times*, 12 November 2007.

[3] Endowment data presented in Resources section "Total Return on College Endowments," *The Chronicle of Higher Education Almanac Issue (2007-2008)*, 33.

[4] Howard Bowen, *The Costs of Higher Education: How Much Do Colleges and Universities Spend Per Student and How Much Should They Spend?* (San Francisco: Jossey-Bass, 1980), 19-20.

to Harvard in that it is old, prestigious, and wealthy.[5] Furthermore, a half-century ago, sociologist David Riesman's *Constraint and Variety in American Education* used the example of Harvard to depict the academic procession with the metaphor of the head of a snake whose actions and decisions are eventually, albeit belatedly, followed by the tail of other ambitious institutions.[6] Most recently, this phenomenon of imitating rich and famous universities has been presented in sociologist Gaye Tuchman's analysis of the corporate character of the American campus, *Wanna Be U: Inside the Corporate University*.[7]

Large endowments are, however, not the exclusive domain of independent (private) academic institutions. In 2006, for example, three state universities — the University of Texas, the University of California, and Texas A&M — were listed as having endowments that place them in the top ten of all colleges and universities. Indeed, fund-raising with an eye towards building an endowment has become a widespread goal, if not achievement, across the landscape of American higher education. In 2006, 230 institutions had an endowment of more than $200 million; within this group, sixty-two colleges and universities had an endowment of more than $1 billion.[8]

A third feature of this exploration is to analyze recent debates by examining the influential works and policies associated with late eighteenth-century French economist and government official A.J. Turgot, and with deliberate attention to those writers, donors, reformers, and government officials in the United States who were influential in shaping the essential policies and practices of endowments. Our analysis draws from events circa 1900 to 1930: namely, during the formative period of the great foundations, what were the deliberations in terms of federal tax law? How did incentives or deterrents for endowments fit into the essential discussions? Were concerns raised about perpetual endowments even if they did not prevail in ultimate decisions? Have they resurfaced periodically at crucial junctures when, for example, there were congressional reforms of the tax code with implications for philanthropy?[9]

How American Colleges and Universities Behave: An Economic Theory

Any discussion of endowments is closely tied to the patterns of getting and spending exhibited by a college or university. Howard Bowen, an economist who also had been president of the University of Iowa and Grinnell College, provided one of the most influential explanations of this organizational behavior in his 1980 book *The Costs of Higher Education.* According to Bowen's "revenue theory" of higher education costs, colleges and universities in the United States were guided by five "natural laws" whose cumulative impact was to promote ever-increasing expenditures, namely due to the quest for excellence, prestige, and influence. His third and fourth laws can be combined and summarized as: "Colleges raise all they can — and spend all they raise."[10]

One possible inference from this general observation might be that colleges and universities' spendthrift inclinations extend to endowments — leading to continual pressures to draw from endowments to meet immediate expenses, whether it be to balance a budget in lean times or to pursue

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[5] Henry Hansmann, "Why Do Universities Have Endowments?" *Journal of Legal Studies* XIX (January 1990): 3-42.

[6] David Riesman, *Constraint and Variety in American Education* (Garden City, New York: Doubleday Anchor, 1956).

[7] Gaye Tuchman, *Wanna Be U: Inside the Corporate University* (Chicago: University of Chicago Press, 2009).

[8] Endowment data presented in Resources section "College and University Endowments Over $200-Million, 2006," *The Chronicle of Higher Education Almanac Issue (2007-2008)*, 32.

[9] Robert H. Bremner, "Benevolent Trusts and Distrusts," in *American Philanthropy* (Chicago: University of Chicago Press, 1960), 100-115.

[10] Bowen, *Costs of Higher Education,* 19-20. See also, William F. Lasher and Deborah L. Greene, "College and University Budgeting: What Do We Know? What Do We Need to Know?" in *The Finance of Higher Education: Theory, Research, Policy and Practice,* eds. Michael Paulsen and John Smart (New York: Agathon Press, 2001): 501-542, esp. 511-12.

new, ambitious projects in times of optimism and growth. The ostensible danger of such practices is that a president and board of trustees could be selfish or myopic by exhausting the endowment during their own tenure, leaving the institution at risk for future generations. But has this happened? In fact, a close reading of Bowen's book indicates that in the United States, endowment practices represent a significant exception to the rule of raising all the money one can and then spending all that one raises. As Bowen noted: "The few institutions that become very affluent, however, are able to save substantial amounts and accumulate significant endowments."[11] And, as economists William F. Lasher and Deborah L. Greene elaborated in their extended analysis of Bowen's law that "each institution spends all it raises," was the important codicil: "An exception to this is the endowments that are raised where the endowment principal is not spent, but the annual income is."[12]

If endowment management has been the fiscally constrained exception to the general rule of increased spending by colleges and universities, what have been the consequences for institutional priorities and planning? Has the maintenance and growth of perpetual endowments tended to make colleges socially responsible in honoring their charters to benefit the public good? Has cautious endowment spending fostered responsible decisions in colleges and universities over all? Henry Hansmann asked: "Why do universities have endowments?" A subsequent question is: Why do colleges and universities support as sound higher education policy the maintenance of perpetual endowments with marginal annual spending from endowments?

Controversies in Context

From 2005 to 2008, the national press, along with those scholarly journals and specialized professional publications dealing with philanthropy and public policy, gave considerable attention to the issue of requiring colleges and universities to spend their endowments at a substantial annual rate so as to provide an antidote to accumulating substantial institutional assets.[13] Focus was primarily on the practices at Harvard University and other visible, affluent institutions with substantial endowments. The bulk of the attention was volatile, as it emphasized the role of government regulation and requirements in endowment spend-down. Most conspicuous were the US congressional hearings chaired by Senator Charles E. Grassley (R) of Iowa between May and October 2007, which led some members of the Senate Finance Committee to consider possible legislation that would "tax certain elements of university endowments and put restrictions on the offshore hedge fund investments that some endowments make."[14]

Less strident and more sanguine were committee deliberations leading to requests for numerous colleges and universities to file reports on their practices and track records. The question that emerged from the hearings was: "How long should gifts just grow?" The implication was that: "Trillions of tax-

[11] Bowen, *Costs of Higher Education*, 20.

[12] Lasher and Greene, "College and University Budgeting," 511.

[13] Francie Ostrower, *Limited Life Foundations: Motivations, Experiences, and Strategies* (The Urban Institute: Center on Nonprofits and Philanthropy, 2009); "Foundation Life Spans: A Vexing Issue," *The Chronicle of Philanthropy* 21, 15 (19 May 2009): n.p. John R. Thelin and Richard Trollinger, *Time is of the Essence: Foundations and the Policies of Limited Life and Endowment Spend-Down* (Washington, DC: The Aspen Institute, 2009); and Loren Renz and David Wolcheck, *Perpetuity or Limited Lifespan: How Do Family Foundations Decide?* (Washington, DC: The Foundation Center with the Council on Foundations, 2009). An influential work, preceding the studies published from 2005-2009, is Waldemar A. Nielsen, "The Pitfalls of Perpetuity," in *Inside American Philanthropy: The Dramas of Donorship* (Norman and London: University of Oklahoma Press, 1996): 245-52.

[14] As quoted in Hermes, "Senators Weigh Idea," A1.

free dollars earning double-digit returns are inciting calls to speed up spending."[15] The issue was contentious throughout American higher education (and its related foundations of the nonprofit sector) because it brought into question an essential, historic, and defining feature of responsible foundation stewardship: the sanctity of perpetual endowments. Closely related to this concern was the objection by national higher education associations and lobbying groups to any measures that would allow government regulation concerning how an academic endowment is spent.[16] The arguments gained momentum, as higher education representatives from institutions with small endowments emphasized that their conduct (and plight) was markedly different from the options and opportunities facing Harvard and a relatively few universities with large endowments.[17]

Most of this debate focused on accountability and potential changes in tax policies and requirements to prompt colleges and universities to substantially increase their percentage and amount of endowment spend-down annually. Building from this, our historical research adds another dimension. In contrast to congressional hearings and proposed punitive or coercive legislation, we consider the past and present propositions that academic institutions, in their role as eleemosynary institutions (in other words, as legally chartered nonprofit charitable organizations), opt voluntarily to spend down endowments. By extension, for many cases, this includes consideration that boards and donors may wish to plan for deliberate dissolution of funds or foundations to coincide with a fixed, finite target date for addressing solutions to specific foundation programs and agenda items.

The groundswell of articles and reports dealing with limited life span and philanthropic endowments published from 2007 through 2009 were not isolated.[18] In fact, they are best depicted as the latest examples of a theme that tends to resurface periodically. About a decade ago, several articles brought attention to donors and foundations that were, indeed, committed to devoting their resources to specific projects that were to be completed in a set, relatively short period. In 1996, Waldemar Nielsen, a highly respected scholar and analyst of the nonprofit sector, wrote about "The Pitfalls of Perpetuity."[19] In 1997, Julie Nicklin of the *Chronicle of Higher Education* wrote several lengthy articles featuring foundations that were on schedule to spend down and close out, with special attention to the Markey Trust, which had given $500 million and was deliberately closing down.[20] Nicklin also brought attention to the case of the Whitaker Foundation's mandate to meet its appropriation goals and then go out of business. A few years later, Diane Granat wrote about what was hailed as the "Give While You Live" phenomenon among donors.[21] Thus the recent interest in the topic was in fact a resurrection of a persistent strand of planning in American philanthropy, not merely an example of spontaneous combustion sparked by the inordinate investment returns of the years 2003 to 2008. These relatively recent works and articles were the legacies of such classic works as Jesse Brundage Sears' 1922 pioneering study for the United States Commissioner of Education, *Philanthropy in the History of American Higher Education*.[22]

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[15] Strom, "How Long Should Gifts Just Grow?"

[16] For a definitive statement of the tradition of academic institutions to resent and resist any federal regulation that would intrude on the autonomy of colleges and universities, see Derek C. Bok, "The Federal Government and the University," *The Public Interest* 58 (Winter 1980): 80-101.

[17] See, for example, Karen W. Arenson, "Soaring Endowments Widen a Higher Education Gap" *The New York Times*, 4 February 2008; and Blumenstyk, "Pressure Builds."

[18] Hermes, "Senators Weigh Idea"; Strom, "How Long Should Gifts Just Grow?"; Arenson, "Soaring Endowments"; and Blumenstyk, "Pressure Builds."

[19] Nielsen, "The Pitfalls of Perpetuity." See also Ostrower, "Foundation Life Spans."

[20] Julie Nicklin, "Markey Trust, Having Given $500 Million, Will Close This Year," *The Chronicle of Higher Education* (28 February 1997).

[21] Diane Granat, "America's 'Give While You Live' Philanthropist," *The APF Reporter* 21 (2003).

[22] Jesse Brundage Sears, "Development of a Theory of Philanthropy," in *Philanthropy in the History of American Higher Education* (Washington, DC: US Government Printing Office, 1922), 1-9.

Exhibit A: The Case of Contemporary Harvard and Its Endowment

Near the end of his 1922 study, Sears speculated that because of the funds being given to colleges and universities for permanent endowments, soon would come a day when those institutions would no longer need income from other sources.[23] To subject this projection to historical analysis, we opt to focus on an atypical institution that provides what might be termed a "best-case" scenario for endowment growth — Harvard University.[24] Looking back, Sears' optimism seems quaintly naïve. While endowments continued to grow, no doubt exceeding Sears' wildest imaginings, today there seems to be an inverse relationship between the size of a college's endowment and the amount it charges students in tuition and fees: The larger the size of the endowment, the greater the charges to students.

About a century ago, some private universities, in particular Stanford and Rice, charged their students no tuition, relying on endowment to keep fees low and to keep the institution competitive with rival institutions such as the public University of California, whose tradition of charging no tuition to in-state students extended for over a century.[25] At most historic institutions on the East Coast, annual tuition and fee charges between 1890 and 1910 were deliberately kept low, showing little change from a typical charge of $150 per year over two decades — a price that would be about $3,500 in 2010 when indexed for inflation.[26] The complication for contemporary policy deliberations is that the rationale and guidelines for endowment usage designed to keep tuition prices low, as set forth by founders at Rice and Stanford in the late nineteenth and early twentieth centuries, have tended to fade from higher education memory in the early twenty-first century.

One explanation for this institutional behavior comes from labor economist Ronald Ehrenberg in his 2000 book, *Tuition Rising: Why College Costs So Much.* According to Ehrenberg, the pursuit of prestige and excellence, especially in attracting talented students and faculty, is the paramount dynamic in driving the budget of an academically strong institution. To echo Howard Bowen's revenue theory, a highly ranked university will spend to keep pace or go ahead of those benchmark institutions with which it competes for talent.[27] There was little incentive to reduce costs, especially when the guiding principle, as noted by economist Charles Clotfelter, is "buying the best" — the strategy he identified in 1996 as the crucial explanation for the escalation of costs at elite colleges and universities.[28] However, as Bowen noted, since universities are constrained by custom and regulations to draw substantial resources from endowment funds, the need for fresh resources often comes from raising tuition and mandatory fees charged to students. In other words, the escalation of the costs of a college education was increasingly met by raising the price — rather than drawing from endowment resources. Documentation of this sustained trend comes from year-by-year tracking of college tuition price either through the Consumer Price Index (CPI) or the Higher Education Price Index (HEPI), both of which indicate that college prices have, since 1985, consistently increased at an annual rate higher than general inflation. In 2010, the price for attending an

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[23] Sears, "Summary and Conclusions," *Philanthropy in the History of American Higher Education*, 103-111.

[24] For historical background on Harvard University's endowment and fundraising, see Carl A. Vigeland, *Great Good Fortune: How Harvard Makes Its Money* (New York: Houghton Mifflin, 1986).

[25] Laurence M. Veysey, *The Emergence of the American University* (Chicago: University of Chicago Press, 1964), 63; and John B. Boles, *University Builder: Edgar Odell Lovett and the Founding of The Rice Institute* (Baton Rouge: Louisiana State University Press, 2007).

[26] John R. Thelin, "Access and Affordability," in *A History of American Higher Education* (Baltimore and London: Johns Hopkins University Press, 2004), 168-71.

[27] Ronald G. Ehrenberg, *Tuition Rising: Why College Costs So Much* (Cambridge, Massachusetts: Harvard University Press, 2000).

[28] Charles T. Clotfelter Jr., *Buying the Best: Cost Escalation in Elite Higher Education* (New Jersey: Princeton University Press, 1996).

academically selective residential campus as an undergraduate ranged from about $50,000 to $60,000 per academic year.[29]

Even when Harvard's endowment hit its pre-recession peak of $36.9 billion in 2008, the university gave no indication that it would ever consider eliminating charges to its students. Harvard was not alone, of course, in maintaining silence in response to a growing number of calls from various sectors of society for well-endowed colleges and universities to eliminate student charges; it was simply the most prominent and frequent target of these appeals since it had by far the largest endowment. The silence was rather deafening to a public, increasingly frustrated by the rising cost of higher education, whose tuition charges have long outstripped increases in the consumer price index. Congress soon took notice, especially Senator Charles Grassley who was the ranking Republican on the Senate Finance Committee. What most offended Grassley was the clear indication that Harvard was spending less than 5 percent of the value of its endowment each year (known as its "spend" or "payout" rate). He was keenly aware that, since 1969, America's foundations have been required by law to spend a minimum of 5 percent (it was originally 6 percent) of the value of their endowments annually. Grassley protested that if American colleges and universities did not want their endowments to come under similar federal mandates, they had better start being more mindful of the fact that those funds had received privileged tax treatment because of their charitable nature.[30] In response, Harvard and a handful of other wealthy institutions quickly announced plans to eliminate student loans from their financial aid awards. While this was not quite the response that many had hoped for, it was enough at the time to forestall further action; with the following recession, this became a moot issue.

The privileged tax treatment that college and university endowment funds receive is twofold.[31] In the first place, donors who made the original gifts (assuming they were made since 1917) received a charitable deduction from their income taxes for the contributions. (In many instances, the favorable treatment was threefold because the income tax deduction for gifts of appreciated securities and other assets is calculated at their current fair market value, not their cost basis.) Further, because colleges and universities are tax-exempt, the income from their investment of these funds is free of taxation. This means that a university such as Harvard, when it was spending less than 5 percent of the value of its endowment annually, was simply putting more money back into investments in order to grow its endowment at a faster rate. What was wrong with this scenario was that the favorable tax treatment given to charitable contributions was based on the historic understanding that these funds were to provide a public benefit.

Historically, colleges fulfilled this obligation by providing an affordable education, often to students needing financial support; this was accomplished by either keeping the price of college low and/or awarding ample financial aid to applicants. Our argument is that, in fact and fairness, the public derives little or no discernible benefit from the accumulation of charitable funds. Colleges and universities may have increased their prestige as a result of having larger endowments, but the public has received no benefit from the accrued bragging rights of higher education institutions in which endowment figures have become a construct or proxy to suggest a measure of institutional strength.

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[29] "Finance: 99 Institutions Charged $50K or More in 2010-22," *The Chronicle of Higher Education Almanac Issue 2011-12* LVIII, 1 (26 August 2011): 14.

[30] Brad Wolverton, "Senate Committee Examines Endowments," *The Chronicle of Higher Education* 53, 40 (8 June 2007): A25. Justin Pope, "Congress Eyes College Wealth: Endowments Tied to Tuition Concerns," Associated Press, 15 October 2007.

[31] For a detailed account, see Merle Curti and Roderick Nash, "For Alma Mater" and "Corporations and Higher Learning," in *Philanthropy and the Shaping of American Higher Education* (New Brunswick, New Jersey: Rutgers University Press, 1965), 186-211, 238-48.

College and university administrators did not readily admit that at least part of the motivation to increase the size of their institution's endowment was based on the desire to enhance its prestige. Instead, they explained, they needed to grow the size of their endowments aggressively in up markets to have a greater cushion when the next inevitable economic downturn occurs. The most recent recession would appear to be a good case in point for this argument except for the fact that those funds received favorable tax treatment because they provide a public benefit now, not just in the future. Many arguments about ensuring that we do not sell the future short by failing to maintain the current purchasing power of the endowment seem to question whether the economy will grow in the future, as it has in the past, and if gifts will continue to be as forthcoming. In fact, both economic growth and charitable giving will likely continue in the future. In light of the steep increases in tuition and fees over the past decade, maintaining today's gifts to take care of today's needs, and for future gifts to take care of future needs, is a compelling argument. Moreover, looking at this as part of educational mission, one might question whether returning a dollar to the endowment to be available for future spending is better rather than investing that dollar in today's student.[32]

Although Harvard and other prestigious colleges and universities were unwilling to consider using endowment earnings to eliminate or lower tuition charges, the university's records indicated an unwillingness to engage in risky investment behavior in an effort to ensure continued high growth rates. When the recession hit, Harvard's endowment quickly lost $10.1 billion, or 27 percent of its value. This steep loss has been blamed on equally steep allocations of the investment pool to what are known as alternative assets, which are more speculative and harder to value.

If arguments for spending at least as much of a university's endowment as is required of a foundation appear overly theoretical, consider the possibility that any university with an endowment payout rate of less than 5 percent really does not need a larger endowment — or an endowment as large as the one it already has. Clearly, a spend rate of at least 5 percent would mean that more money could be awarded to needy students or applied to academic programs. Many — if not most — colleges and universities with smaller endowments are of necessity having to spend 5 percent or more of their endowment's value annually just to meet their obligations. Moreover, huge endowments could be seen to encourage inefficiency and waste. Before the onset of the recent recession, one faculty member at a well-endowed midwestern liberal arts college told a *Chronicle of Higher Education* reporter that he believed it was not a good thing for endowment earnings to provide more than 40 percent of an institution's annual operating budget. He had seen the poor decision making that results from access to too much easy money: mediocre ideas get funded because it is easier to give than to say no, and since the funds are available, why not?[33]

The record of spending in big-time varsity athletics has also demonstrated that easy money in large quantities encourages waste. Detailed economic analyses from such independent commissions as the Knight Foundation, for example, indicated that by 2009, increased spending on intercollegiate athletics had for years surpassed percentage increases in institutional spending for educational programs — a phenomenon that led university presidents to acknowledge that they, as institutional officers, had little or no control over this syndrome.[34] For data to support this concern, one need only look at the salaries of

[32] An excellent summary of these frequent justifications of perpetual endowments that wealthy universities have invoked are provided — along with the author's well-argued counters and refutations of these claims — in Hansmann, "Why Do Universities Have Endowments?"

[33] Steve O. Michael, "Why Give to a College That Already Has Enough?" *The Chronicle of Higher Education* 53, 44 (6 July 2007): B10. See also Richard Ekman, "Many Small Private Colleges Thrive With Modest Endowments," *The Chronicle of Higher Education* 52, 39 (2 June 2006): B22.

[34] Knight Commission on Intercollegiate Athletics, *Restoring the Balance: Dollars, Values, and the Future of College Sports* (Miami: The Knight Foundation, 2010). This report and other data indicate that in a given year only about 17-

football coaches of such athletic programs whose compensation in 2010 surpassed, on average, more than one million dollars per year. At the same time, salaries of presidents at some of the best-endowed colleges and universities, along with the number of high-level administrative positions, have increased at a far greater rate than the number of and salaries for tenure-track professors.[35] During the same period, the amount of money that has been devoted to expanded staff at some of these colleges continues to surpass percentage increases for instruction and educational programs.[36] This is also illustrated by spending on elaborate campus amenities to attract affluent applicants.[37] These concessions to student consumerism tend not to be paid by increased spending from endowment, but by raising the price of tuition and fees paid by students — a strategy that transfers a disproportionate burden of cost on to students from modest income families.

The reliance of American colleges and universities, both independent and state-supported institutions, on ongoing charitable contributions from the public is a good thing. This dependency has created bonds between these institutions and their constituencies. It has also called forth higher levels of accountability and transparency in American higher education. Adequate endowment funding to meet legitimate needs is also positive. As Hansmann had concluded in 1990, too much money in the hands of nonprofit leaders presented great temptation to use it unwisely — potentially harming America's philanthropic tradition and causing public skepticism concerning all of higher education.[38]

Overview of the Scholarship: Rediscovering the French Connection

To induct the significance of recent events and the case study of contemporary Harvard University to general, enduring policy deliberations, it is useful to reconstruct and analyze important historical precedents for national public policies that require foundations to spend down. To paraphrase the language of early economists, we want to identify significant historic episodes in which government officials sought to bring to life the so-called "dead hand" of permanent endowments. If one aim of historical policy analysis is to reduce the myopia of contemporary deliberations on this issue of practices in colleges and universities in the United States, then this is done by bringing attention to some overlooked strands in national policies and laws implemented earlier and elsewhere. The base from which to start is the work of A.J. Turgot.[39] Not only was Turgot influential throughout Europe and the American colonies in the late eighteenth-century as an economist, for several years he was also effective in shaping some crucial regulations for France's economic policies. Central to his writings and policies was the prohibition of perpetual endowments for foundations because they drained both the national economy and the vitality of the foundation leaders. Although influential two centuries ago, this legacy is

20 intercollegiate athletics programs are self-supporting even though the National Collegiate Athletic Association categorical definition for big-time programs includes self-support as a characteristic. The Knight Commission data also indicate that even among highly commercialized athletics departments, only about 7-8 programs show a sustained record of self-support and operating in the black over five consecutive years.

35 Benjamin Ginsberg, *The Fall of the Faculty: The Rise of the All-Administrative University and Why It Matters* (New York and London: Oxford University Press, 2011).

36 Systematic documentation of the disproportionate shift in university spending away from academic and instructional programs is presented in Donna M. Desrochers and Jane Wellman, *Where Does the Money Come From? Where Does It Go? What Does It Buy? Trends in College Spending 1999-2009* (Washington, DC: The Delta Cost Project, 2011).

37 See an analysis of campus spending at well-endowed colleges and universities in Andrew Hacker, "They'd Much Rather Be Rich," *The New York Review of Books* 54, no. 15 (11 October 2007): 31–34.

38 Hansmann, "Why Do Universities Have Endowments?"

39 Jack A. Clarke, "Turgot's Critique of Perpetual Endowments," *French Historical Studies* 3, 4 (Autumn 1964): 495-506.

often forgotten or neglected in the late twentieth and early twenty-first centuries in the United States. Thus, we will critically assess policy analysts and policy makers who followed Turgot — especially those since the nineteenth century — and who, from time to time, brought variations of his work into economic and legislative planning.

The research problem is that American legal and social institutions overwhelmingly bear the influence of Anglo-Saxon precedents. To explore some alternative policies in addition to customary reliance on Anglo-Saxon legal precedents, looking to France for potential models is illuminating. One particularly interesting example is the context of Turgot's economic theory and policies in eighteenth-century France. Although the monarchy was committed to modernization and industrialization as part of concerted economic planning and growth, this was stymied by the lack of fluid capital. Turgot analyzed incomes and expenditures within France and concluded that churches held disproportionate wealth, whether in currency or real estate, in the form of endowments. Yet nothing changed. Hence, Turgot's response was to rail against the "dead hand" of endowments. His antidote for the gridlocked nationwide economy was to put a term limit of five years on all endowments. It was the eighteenth-century equivalent of "use it or lose it." And, as a national policy, it was effective in energizing the economy.[40]

In contrast to Turgot in France, neither the British Crown nor Parliament considered enacting comparable measures. Consider the case of Henry VIII and his contentious battles with the Church (what we know as the Roman Catholic Church). The standard interpretation is that, in his literally unfertile attempts to sire a legitimate male heir, Henry VIII broke from Rome over papal objections to his annulled marriages. What is overlooked is that whatever problems Henry VIII had with his wife — or, rather, wives — he had equally strong and perhaps even more monarchial headaches with England's lethargic economy. One of his bold moves was to seize all church and monastic lands.[41] These represented holdings of wealth that were inordinate — and largely inactive in terms of national economic activity — and also exempt from taxation. It came dangerously close to hoarding. Had Henry VIII's financial advisors thought along the lines of Turgot in France, Henry could likely have avoided much strife over religion and the church, and may have reduced problems in England's domestic economy that persisted into the nineteenth century.

In the eighteenth century, France under Turgot avoided a great deal of this economic misery that persisted for the English monarchy. George Grenville, and his imperial economic plan, was pivotal in American colonial history. First as Treasurer of the Royal Navy and then as England's Prime Minister, Grenville came to be known as the advocate for a policy of lowering domestic taxes by increasing revenues from the colonies of finance.[42] He endorsed an aggressive imperialism in which high taxes on goods in the colonies, including America, bailed out the Mother Country. The infamous *Stamp Act* was the most conspicuous attempt — and, one that most taxed the patience as well as the pocketbooks of American colonists.

Nowhere was Great Britain's quest for revenues from its colonies more consequential for American higher education than in the case of the chartering of the College of William & Mary in Virginia in 1692. When a delegation from Virginia petitioned the Crown for a royal charter — and financial support for a proposed college to educate future civil leaders and provide Christian education that promoted salvation — the initial response was bleak. The Crown's attorney general, preoccupied with budget problems, had little interest in diverting royal monies to educational and charitable endeavors, especially in the colonies.

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[40] Sears, "Place of Educational Foundations in Turgot's Social Theory," *Philanthropy in the History of American Higher Education*, 1-3.

[41] Eamon Duffy, *The Stripping of the Altars: Traditional Religion in England 1400-1580* (New Haven: Yale University Press, 1992); Geoffrey Baskerville, *English Monks and the Suppression of the Monasteries* (New Haven: Yale University Press, 1937); and A.G. Dickens, *The English Reformation* (London: B.T. Batsford, 1989).

[42] Philip Lawson, *George Grenville: A Political Life* (Oxford: Oxford University Press, 1984).

He curtly replied to the Virginia petitioners: "Souls! Damn your souls! Raise tobacco!"[43] Fortunately for the development and funding of higher education in the New World, Queen Mary interceded to convince her husband, King William, that granting a royal charter for the college in Virginia was a worthy deed. All parties went away happy, as the Virginians returned home with a precious royal charter for the new college, along with generous subsidies from excise taxes — making it the wealthiest of the eight original colonial colleges. The Crown, in turn, gained a supply of colonial revenues as Virginia tobacco became one of its most enduring, bountiful sources of sales and taxation revenues. The limit to this story, however, is that it was exceptional — it was one of the few ventures of the English Crown into chartering and funding colleges throughout its colonial empire.

Whether in colonial America or during the period of the new United States, this legacy was consequential for colleges and universities. First, it meant in part that England's reliance on imperialism, rather than limiting endowments within its borders, continued their financial problems. Its international political significance was that the emphasis on severe colonial taxation was a pivotal development that led to the American colonies' revolt and eventually to the creation of the new United States. A secondary corollary was in shaping the legal environment of higher education in the young United States, where colleges received a charter but little guaranteed recurring annual financial appropriations from their state legislatures. It represented a marked reversal of the Crown's historic policies towards the ancient English universities of Oxford and Cambridge in which receipt of a royal charter included a pledge of continuing generous royal financial support. In contrast, in the United States, each college had to scramble to make ends meet each year through a combination of donations, bequests, and tuition payments. No national ministry of education was in place comparable to the Crown, as charters were the purview of each state.

Such was the situation that eventually gave rise to a pivotal confrontation over control of colleges — the 1819 Dartmouth College case. According to the legendary account of the trial, in the closing argument, Dartmouth alumnus and attorney Daniel Webster tearfully pleaded to Chief Justice John Marshall and the Supreme Court: "It is, sir, but a small college . . . But there are those who love it."[44] One of many consequences of this case, and its favorable decision for Dartmouth College, was to reinforce and define what are called eleemosynary institutions in American life. These are charitable entities that, by dint of their chartered mission, gain privileges and exemptions to do their good works.

Colleges and universities have gained immensely from being included in this category, which at the time included private voluntary associations that created orphanages, work farms, libraries, schools for the blind, and other charities. The other side of the compact was that such a privileged organization was required, implicitly and explicitly, to demonstrate its fidelity to its chartered, special purpose. It was also expected to record and document its sound stewardship of resources, with special attention to truly spending monies for the right reasons on the right activities and constituencies. Colleges had complex identities under this rubric. They were recipients of philanthropy and, at the same time, they were often also expected as part of their charter to act as dispensers of philanthropy primarily through the requirement that they provide financial aid for needy students. Creating these tax-exempt privileged institutions as charitable foundations meant that it was blessed to give and to receive. What has happened over time is a tendency, whether by accident or design, for colleges to emphasize for themselves the role of being both an object of and recipient of philanthropy. Look again at the other side of the equation, however: their responsibility to distribute (in other words, spend) for educational and philanthropic purposes was integral to the deal. The upshot is that college and universities' perpetual

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[43] Quoted in Frederick Rudolph, "The Colonial College," in *The American College and University: A History* (New York: Knopf, 1962), 8.

[44] Daniel Webster's statement has been attributed to his closing argument to the Supreme Court in the case, *Trustees of Dartmouth College vs. Woodward* (1819). See John Whitehead, "How To Think About the Dartmouth College Case," *History of Education Quarterly* 26 (Fall 1986): 333-49.

endowments in the United States had the potential to be a microcosm variation of the dormant wealth represented by church endowments of eighteenth-century France.

An Implication and Application: Colleges and the Frustration of Restricted Scholarship Endowments

One example of the dysfunction of the historic restrictions on spending is that, somewhere within virtually every college and university in the United States, the sanctity of perpetual endowments provides an annual nuisance, if not a source of frustration. Here, the object of analyses is the numerous endowed student scholarship funds that carry with them the particular conditions and terms of the benefactors. As Michelle York reported in *The New York Times* in 2005: "Every year, millions in scholarships and financial aid are awarded at more than 4,200 colleges and universities. But other scholarships amounting to perhaps several million dollars more are tied up in endowments that have rules so obscure and restrictive that they are rarely tapped — even as the costs of higher education soars."[45]

Illustrative of this syndrome is a scholarship fund restricted to the sons and daughters of Spanish American War veterans. This might have made sense in 1910. What a difference a century makes! If a director of financial aid actually did receive a student application for such a scholarship today, the only logical response would be incredulity and skepticism — such an applicant would be at least 120 years old. This is an extreme case, but illustrates the serious point that the conditions placed on the perpetual scholarship endowment had eventually rendered it useless. Worst of all, it was dysfunctional because the scholarship monies were tied up and could no longer be awarded to needy students. A more recent documented example comes from the University of California, San Diego where the Malcolm R. Stacey Memorial Scholarship is restricted to "Jewish orphans interested in pursuing a graduate degree in aeronautical engineering." After ten years without attracting qualified applicants, the scholarship endowment had grown to $400,000.[46] Ironically, this inutility raises the prestige of the university by keeping both endowment and interest intact while at the same time decreases the role of the university in providing worthy financial aid to needy students.

Other variations on the theme of scholarship endowment stagnation include requirements such as arcane conditions of geography, field of study, or other non-meritocratic features. College and university officers do have a readily potential solution to break the legal stranglehold of perpetual scholarship endowments — the doctrine of *cy pres*. According to this principle (translated as "so near . . ."), if a college can demonstrate to the courts that it has made an effort in good faith to abide by the terms of the restricted scholarship, followed by reasonable attempts to get in touch with heirs of the original donor, to change the restrictions, the court can grant a petition allowing redefinition of the trust terms. Having done so, the college may bundle such dormant scholarship endowments, and request that the court henceforth allow the college to administer the scholarships in a sound, reasonable manner. The doctrine of *cy pres* gives the legal instrument to alter the perpetuity feature of the "dead hand" of endowments.

Unfortunately, many colleges today do not pursue such remedy. According to Hansmann, the utility of the *cy pres* solution has often been ignored by college and university trustees.[47] A more recent analysis by Theodore H. Frank in 2008 noted that *cy pres* settlements were often problematic.[48] For assorted reasons, these kinds of cases indicate that perpetual endowments can be counter-productive to the general aim of providing charitable resources and student financial aid because the burden and nuisance

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[45] Michelle York, "What's in a Name? Some Obscure Scholarships Often Go Begging," *The New York Times*, 3 January 2006.

[46] Example cited in ibid.

[47] Hansmann, "Why Do Universities Have Endowments?" See pages 33-34 (XI The Preferences of Donors).

[48] Theodore H. Frank, "Class Action Watch: *Cy Pres* Settlements," *Class Action Watch*, no. 1 (March 2008): 21-23.

of having college legal staff pursue remedies has tended to create an inertia that allows the dysfunction to persist.

Decentralization and Endowments: Foundations and Associations within the University

Most comparisons and compilations treat a given college or university as a single entity especially when it comes to estimating the size and relative rank of endowments. However, in recent years, there is good reason to supplement this portrayal by disaggregating a college or university into its components. This may represent the influence of the historic adage on getting and spending that is often invoked as Harvard's adage, "every tub on its own bottom." We are, of course, familiar with the discrete units of academic organizations — schools, colleges, and departments. And, certainly since about 1980, each dean, whether of the College of Business, Agriculture, Arts & Sciences, or Engineering, devotes substantial time to fund-raising, probably has a sophisticated, expensive development staff, and operates their own arrangement of special funds or endowments. The result is that in the early twenty-first century, many universities adhere, at least in principle, to a goal of decentralized funding. In practice, decentralization is usually combined with allowance for cross-subsidies in which, at the discretion of the president or provost, some funds can be transferred to shore up units that are operating in the red. In general, however, deans and vice presidents are urged to be self-supporting. The most recent example of implementing this principle is in the managerial policy known as RCM — an abbreviation for "Responsibility Centered Management." Under this arrangement, a provost monitors each constituent unit to see whether it is a net giver or net taker in terms of university general funds.

Encouragement of this kind of decentralized arrangement has grown to new levels and complications due to the increasing popularity of a new unit — the academic "center" or "institute." Furthermore, many universities have added within their overall structure numerous privately incorporated associations or foundations; for example, the University Research Foundation, the State University Athletic Association, or a University Research Park. Each college or program has its own "Friends of the . . ." arrangement, usually incorporated as a tax-exempt nonprofit organization. Add to this the distinct entities of dedicated scholarship funds, each with its own endowment, conditions, and restrictions. The appeal of multi-faceted programs and fund-raising entities may be likened to crabgrass — they sprout across the campus landscape. And each center or unit is a hearty perennial that is difficult, if not impossible, to eliminate even when it fails to be self-supporting.

This arrangement may work well in an extended period of financial growth; it is a form of internal patronage and accommodation that is tempting for a provost or president to approve. However, in the early twenty-first century, it has become problematic. Consider, for example, a 2009 report by the Education Advisory Board's University Leadership Council, entitled *Competing in the Era of Big Bets: Achieving Scale in Multidisciplinary Research*.[49] Its strong message is that the proliferation of these numerous sub-units has become counterproductive. They are expensive to run, difficult to monitor, and often end up obligating a university to enduring, perhaps permanent, subsidy. One defense of this practice is that many university-based research institutes and centers are funded by sponsored research grants, often from federal agencies. According to this explanation, when external grant funding runs out, a research institute is closed, but this strict discipline is not always followed. Furthermore, many research and development units are funded in part by endowments and private gifts, especially at their founding, as indicated by the numerous research units and centers named in honor of a philanthropist or donor.

[49] University Leadership Council, *Competing in the Era of Big Bets: Achieving Scale in Multidisciplinary Research* (Washington, DC: The Education Advisory Board, 2009).

Center directors may intend eventually to land external sponsored research grants, but that is an aspiration that tends to come after start-up operations.

This kind of intra-institutional activity is a key area where at least the consideration of term limits on the life span of an endowment would make good sense, both in terms of effective contributions to scholarship and service, and to sound stewardship of institutional resources and governance. Why should a research center for a particular topic or project be presumed to exist forever? Might it not make more sense to establish a reasonable life span and focus resources rather than string them out indefinitely?

Connecting Past and Present: The Timeliness of This Scholarly Paper

The dramatic vacillations in the financial health of colleges and universities during the first decade of the twenty-first century suggest the need for careful reconsideration of customary practices and prohibitions put into place centuries ago to promote the well-being of academic institutions. A few years ago, in 2008, many universities and their related foundations and not-for-profit institutions enjoyed high percentage annual returns on their endowments. For those institutions that had hired experienced hedge fund managers with an enterprising bent, the returns over four or five years had been generous — sometimes as high as 10-20 percent per year. This was an embarrassment of riches in which the quickly-increased resources led soon thereafter to questions, internally and externally, about a given foundation's rate of and calendar for distribution to central services and programs. Problems of policy and practice — that is, making good decisions in an era of abundance — were regarded as the problems of prosperity. If a foundation board and executive director were to have a headache, this would be the complex, yet delightful, problem to have.

Suddenly, and in many cases unexpectedly, declines in the stock market around July 2008 changed the atmosphere and environment of both foundation analysis and foundation behavior. A prosperous foundation in 2006, for example, whose board worried that an annual spend-out of more than 5 percent per annum might be perceived as risky stewardship, now had to deal with the news that with or without increased endowment expenditures, by 2009 endowments had plummeted as much as 25-33 percent in less than a year. The unpredictability of stock portfolios for nonprofit organizations was exacerbated by the real and symbolic shocks that surfaced in December 2008 with revelations of the fraudulent promises and practices of Bernard Madoff; the consequences of his bogus investment schemes had a disproportionate impact on numerous donors. Recipient educational and charitable foundations represented the second double-whammy on the customary generosity of nonprofit organizations in the United States. As Diana B. Henriques outlined in painful detail in *The New York Times*, one crippling effect of the Madoff scheme was that it "kept rippling outward, across borders."[50] Colleges and universities were particularly at risk. It meant substantial loss of resources for program support, plus the crisis of confidence that diffused beyond the literal financial losses. The fluctuations between 2007 and 2009 reinforced the need for universities and donors to think critically about trajectories of time and money in fulfilling college and university goals.

Most likely, many established colleges and universities will resist any attempts to be subjected either to government requirements, or even to suggestions of voluntary decisions to behave as a provider as well as a recipient of philanthropic largesse. Furthermore, colleges and universities that are energetic and effective in acquiring private donations that build the institutional endowment will nonetheless still claim that a large endowment provides little relief in meeting year-to-year expenses. In 1994, for example, a

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[50] Diane B. Henriques, "Madoff Scheme Kept Rippling Outward, Across Borders," *The New York Times*, 19 December 2008.

development officer for the University of Pennsylvania claimed that, even though the university had just completed a successful billion-dollar fund-raising campaign, the institution really was on a tight budget.[51] This explanation echoed and illustrated the primary theme of Howard Bowen's revenue theory: regardless of how many resources come in to a university, the university will spend it — and probably claim the need for yet more funding.

In a similar vein, even the wealthiest universities have sometimes relied on accounting tricks to project an image of chronic financial woe. In 1992, for example, Harvard's annual report taken at face value would have led one to conclude that the cupboard was bare. This was not necessarily the case, however, according to one financial analyst who pointed out the peculiar message Harvard's reports were broadcasting to the public. Despite a multi-billion dollar endowment, its annual operating budget was reported as $42 million in the red. One reason for this profile was the university's use of "fund accounting" reports, leading to the expert interpretation that Harvard was: "Managing its bottom line in such a way as to appear poorer than it really is. The university is in the midst of a plan to reportedly raise $2.5 billion on top of what is already the world's largest private endowment. Harvard is a bit like the rich man who wears scuffed shoes and a frayed collar when he visits his doctor."[52] Perhaps a keen stethoscope of institutional and policy analysis will allow higher education analysts to be alert to what constitutes genuinely healthy conduct by our generously-endowed universities.

If this institutional conduct were not sufficiently suspect to give pause to a major university's depiction of, and approach to, its use of resources that includes endowment wealth, events of the past decade have suggested what truly is a world turned upside-down. It has been a strange world in which university values about stewardship have been inverted so as to appear wrong-headed. A decade ago, Yale's chief investment office, David Swensen, wrote the influential book *Pioneering Portfolio Management*, with the interesting subtitle "An unconventional approach to institutional investment."[53] According to Andrew Delbanco's essay review in *The New York Review of Books*, Swensen's principle case to his professional academic investment managers was that he had discovered the formula to assure university endowments high yields with low risks.[54] Indeed, this worked — for awhile. Perusing the annual editions of *The Chronicle of Higher Education's* special Almanac over the past decade, one does indeed find a three- or four-year run where numerous universities reported annual endowment growth of 10, 15 and even 20 percent. But when one looks closely at subsequent trends, one finds that by 2008 and 2009, the double-digit numbers are intact — except that they had turned from gains to losses.

The irony of this historical analysis is that philanthropy and higher education, including the wise and sound stewardship of endowments, evidently have come to mean that in the twenty-first century, a university is prudent to spend 10 or 15 percent per year on academic improvement and enhancements to assure quality and affordability. Evidently it was all right, or at least understandable and forgivable, for the same institution to lose 10-30 percent on its endowment through risky investment strategies. Are our universities off-course in their values, priorities, and goals when losing a lot of the endowment — possibly due to greed and risk-taking investments — is acceptable but off-base; and yet spendthrifts, when investing in the present and future by spending substantially more than the customary yearly limit of 5 percent spend down, provide solutions to educational concerns and problems? That is the devil's dilemma of endowments and philanthropy for American higher education in the twenty-first century.

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[51] Robert S. Shepard, "How Can a University That Raises a Billion Dollars Have a Tight Budget?" *The Chronicle of Higher Education* (12 January 1994): A48.

[52] Rhoula Khalaf, "Customized Accounting," *Forbes*, 25 May 1992, 50.

[53] David F. Swensen, *Pioneering Portfolio Management: An Unconventional Approach to Institutional Investment* (New York: Free Press, 2000).

[54] Andrew Delbanco, "The Universities in Trouble," *The New York Review of Books* 56, 8 (14 May 2009): 40-43.

Conclusion: Policy Reconsiderations for Higher Education as a Public Good

The larger and longer term question that surfaces from this historical analysis is whether, and how, colleges and universities in the United States serve the public good. The numerous privileges that the federal and state governments have granted to academic institutions, including tax exemptions, were originally provided with the understanding that colleges and universities would attract and educate a succession of learned individuals who would serve civil society. Implicit and explicit in this compact was the condition that higher education would be accessible and affordable to talented yet financially needy youth.

The problem is that the cautious stewardship of institutional wealth, in the form of perpetual endowments, appears to be either indifferent or counter-productive in prompting colleges and universities to carry out this societal role. If this shortfall is sufficiently grievous, then historical analysis provides present-day policy makers — within institutions and external governing bodies — the justification to reconsider whether the presumption of permanent endowments and low endowment spending have ceased to demonstrate their efficacy in assisting colleges and universities to serve the public welfare. If not, the historic policy of perpetual endowments warrants review as prelude to drafting a thoughtful new deal.

The historical data on prices and costs of going to college over the past thirty years indicate that an institution that accumulates a large endowment does not necessarily increase its accessibility and affordability to prospective students. Nor does a large perpetual endowment provide any demonstrated safety net when a college or university faces hard times. To the contrary, restrictions on spending give no reason to believe that any financial crisis provides the necessary key to unlock legal restrictions on endowment spending that would dissipate the capital. The pledge of stewardship to provide safety for tomorrow is a false promise because "tomorrow" never comes. Perhaps most counter-productive is the recent tendency for a large endowment to become a symbolic indicator of institutional prestige, an indulgence whose unexpected consequence has been to impede investment in timely, needy educational services.

Historically, the United States Congress has been reluctant to intrude into higher education affairs. Voluntary cooperation and compliance on the part of colleges and universities has been the American tradition of compromise, as illustrated by the reliance on regional accrediting associations, rather than federal agencies, to oversee the appropriate mission and operation of colleges and universities. This was most evident in arrangements between the federal government and academic institutions in establishing conditions for distribution of federal student aid, ranging from the GI Bill to Pell Grants in the half-century following the Second World War.[55] This has been the tradition that led to the National Collegiate Athletic Association (NCAA), rather than a federal agency, to take responsibility for the collective conduct of intercollegiate sports programs.[56] Congress and federal agencies have usually not intruded into the conduct of university affairs until voluntary compacts have broken down.[57]

A proposal for reforming the "dead hand" of endowments would be for college and university boards and presidents to voluntarily adopt an increasingly diversified approach to fund-raising followed

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[55] Nathan Glazer, "Regulating Businesses and the Universities: One Problem or Two?" *The Public Interest* (Summer 1979): 42-65. For an account of voluntary regional accreditation and institutional qualification to receive federal student financial aid, see Chester E. Finn Jr., *Scholars, Dollars and Bureaucrats* (Washington, DC: The Brookings Institution, 1978).

[56] John R. Thelin, "Schools for Scandal, 1946 to 1960," in *Games Colleges Play: Scandal and Reform in Intercollegiate Athletics* (Baltimore: The Johns Hopkins University Press, 1994), 98-127.

[57] The Carnegie Foundation for the Advancement of Teaching, *The Control of the Campus: A Report on the Governance of Higher Education* (New Jersey: Princeton University Press, 1982).

by the management of these private donations. Instead of presuming or insisting that a philanthropic gift be placed in a perpetual endowment, college officials would have to work with donors to reach a mutual agreement on a range of options to best serve the institutional and public goals of higher education. Gifts for some projects may, indeed, best be placed in a perpetual trust. Other gifts, however, might be sought and then administered with realistic appraisals on solving a problem or providing a service in some finite period, whether it be five or ten or one hundred years.

The simultaneous self-reform for campus leaders would be to unlearn the presumption that to spend more than the actual earnings (in other words, interest and dividends paid) of an endowment is bad practice. It would also include reconsideration of the customary belief that to spend more than approximately 5 percent of an endowment in a single year is inappropriate. Institutional discipline and accountability would no longer be automatically defined in terms of preserving a gift forever. The new deal would be to invoke the discipline of thoughtfulness — that is, the responsibility of scrutinizing each philanthropic gift in terms of its distinctive combination of time, money, and goal.