

THE HERITAGE LECTURES

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Privatization for You
and Your Family

By Robert E. Russell



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PRIVATIZATION FOR YOU AND YOUR FAMILY

"Privatization for You and Your Family" was delivered by Robert Russell at the September 16, 1986 founding Conference of The Windsor Society, at Windsor Castle, Windsor, England. The Windsor Society sponsored the three-day Conference, "Privatization Around the World," which brought together thirty-six friends, Trustees, and senior staff of The Heritage Foundation, as well as experts on privatization from both sides of the Atlantic. Mr. Russell's address highlighted the importance of preserving personal intent in estate planning.

Mr. Russell serves The Heritage Foundation as Planned Giving Counselor and has been affiliated with Heritage since 1983. He has been President of his own marketing and management consulting firm, Robert Russell & Associates, since 1976. Among his many other involvements, he is a member of the Steering Committee for the Institute for Educational Affairs in Washington, D.C., a member of the Board of Advisors for the John T. McCarty Memorial Fund in Los Angeles, and a Senior Fellow of the Shavano Institute of Hillsdale College.

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by Robert E. Russell

Windsor Castle

September 16, 1986

This session, "Privatization for You and Your Family," is more than a mere euphemistic use of our theme. It brings something to the table that often we leave undiscussed until it is too late. Sometimes we never really face it at all. More often than not, even if we do handle it, we don't handle it thoroughly enough.

I'm talking, of course, about estates. Yours, mine, and those of the people who mean the most to us: our children, our wives and husbands, our parents. What we do with our estates directly affects the estates of these others who are dear to us if--and when--we precede them in death. It's all too simple to understand in concept. And that's where the simplicity stops.

I'd like to spend the next few minutes not discussing ways to plan your estate but rather the climate in which you are doing that estate planning. This presumes that your estate planning will include some charitable giving and that you're already a philanthropist like the vast majority of Americans.

It strikes me as a nontechnician that privatization, like anything else that's truly effective, is first a good idea. Since charity starts at home, privatization of your estate starts with the idea--your idea: in other words, the intent of your estate.

Ed Feulner defines what it takes for policy institutes to bring about change, particularly in the political arena. He calls this "The Three I's: Ideas, Individuals, Institutions." Ideas, through individuals, become institutions. Through time, some of them have developed into Russell Kirk's (and T.S. Eliot's) "permanent things."

By the way, Kirk says that when you're a conservative, you're a "conservator" of these "permanent things."

Sometimes, maybe more often than not, ideas can get out of control, even in the hands of well-meaning people. For instance, America loves creating bureaucracies, not just in the federal government per se, but even right at home in local committees, businesses, churches, and schools. Look at the state of public education, most health care institutions, bureaus of streets and sanitation, and so on. And look at some of our largest corporations.

For some reason, we Americans love to make decisions en masse. Therefore, in our own privatization efforts, we often have layers of bureaucracies to privatize in order to solve the problems we've created for ourselves.

All this illustrates why the idea of privatization is absolutely necessary. It is why we need to understand privatization at a very personal level. To achieve our most important

personal objectives, we have to take control of the layers of decision-makers around us, particularly those who would decide how our estate is to be handled. The privatization idea is not going to work very well on a larger scale if we aren't imbued with it at home.

We may have the best economic tools in the world to accomplish our financial goals, but they will count little if philosophically we run amok. Put another way, if we don't market our ideas clearly, then all the accountants, attorneys, and other technicians won't be able to help us much in planning our estates. I contend that this personal kind of privatization is the toughest of all. Literally, you are on your own when you are doing it.

Just what is an estate? Everything you own, of course. But as the attorneys in this room will tell you, don't forget what that can include: like pets, for instance, and burial plots that no one would ever use, and livestock on farms, walnut trees in the back forty, and older cars you've been saving at no value for your children and grandchildren to use. You may have planned for the disposition of hundreds of thousands of dollars and hundreds of thousands of shares of stock, significant pieces of real estate, insurance policies, whole companies, antique silver and art. But if you haven't figured out where Rover is to go, look out. The dog catcher won't get him. But, believe it or not, the poor thing could wind up in limbo until his fate has been decided by a court and thousands of dollars have been spent in the process.

These are dollars which will be spent before--and sometimes totally instead of--being spent where you thought they were going to be spent. And in the meantime, your entire estate will sit and vegetate until these needless dollars are spent on endless and needless processes. It happens every day in America. Even worse, 90 percent of the people in the United States have made no will or estate plan.

Last Wednesday, my wife and I spent several hours with two long-time friends. One spent her entire career as the personal secretary to General Wood, long-time chairman of Sears. To say the least, this nice lady has benefited handsomely from all the lawn mowers, bicycles, washing machines, bench saws, and catalogs the rest of us have bought these many years.

Now retired, our friend is traveling, studying, and doing some consulting. She and her husband own considerable property, both singly and jointly. They live in suburban Chicago, surrounded by horses and prize hounds which they frequently show. They donate here and there, but not with great motivation with the exception of a few local charities. They are vaguely aware of public policy and how it works, but they can't really see much past Congress and the Executive Branch.

They have no children. He has a will. She has none.

Were she to die today, many people would get rich (or richer) needlessly. Attorneys' fees and court costs would mount. In this estate, there would be a big federal bite in estate costs. None of these expenses is necessary.

Our other friend is a mid-point octogenarian. She was widowed not long ago when her husband, the founder of a major midwestern business, died at age 94. Prior to his death, he had transferred most of his assets to her.

These nice people had worked years together defining a variety of important charitable interests. And they know how their total estate, well in excess of \$100 million, would be disposed of after their deaths. We found our octogenarian friend saying to our younger friend, "You must do something about your will as did John and I!"

Our octogenarian friend has spent the years since her husband's death combing his writings. She has discovered most of the checks he had ever written to a charity along with lists of every charitable donation they had made together. These lists include many gifts to individuals, including a great number of his own employees. This was a man who despised big government and worried constantly about the communist threat. As a matter of fact, he saw these two things as one!

In addition, he loved wildlife. When he built his new corporate headquarters a few years ago, he developed around them a wildlife preserve. He owned the last plot of original undisturbed Illinois prairie. And he helped to finance the Koster Site near Alton, Illinois where geologists during the past fifteen to twenty years have discovered an eight thousand to twelve thousand year-old prehistoric population.

He loved his land--the concept and the soil.

To his widow, all the people and organizations to whom he had contributed through the years now look of somewhat equal importance. With the help of her attorneys, all have been listed and included in codicils to her will. They include everything from the Republican National Committee to the Nature Conservancy to a Bible group at Cook County jail in Chicago and on to the Washington Legal Foundation and to the National YMCA.

The original lists that she attached to her will gave each potential recipient an equal distribution from the remainder of the estate. Now, after much thinking about it, she has begun to change the amounts and has made them all a little different. These go on for over twenty pages of codicils to her will.

As a matter of course, she re-examines and amends her will on a quarterly basis. When she dies, a lot of people are going to have to go to work to unscramble what has been created.

Much of the estate is in real estate and closely held shares in the business. In addition to a large portfolio, speculative oil properties in Canada (very profitable) and a wealth of personal property, there are many significant pieces of art and antiques. Liquidating all these things will take time, and it certainly will be expensive. Then, there will be excessive costs of distributing what has been liquidated to so many recipients--after the estate tax has been paid. Unfortunately, this represents a major depletion of the potential of this large estate. She tells us that many of the organizations that have been named are planning to establish memorials, plaques, and so on. They probably do not realize how small their portion is going to be in most cases.

To be sure, this is entirely her business; it is entirely a private matter. However, in this case, intent got separated from the idea. The idea is absolutely right on target. The intent, unfortunately, is fuzzy.

How did this happen? No one has spoken up to advise her of the potential waste of funds (and intent). All her advisors are top-flight, but they are simply too nice. They think that speaking up is absolutely not their role. There are layers of technicians here--"a bureaucracy just for her"--to handle the process. But where are the people who protect and work on the idea, the intent? In our country, we pay dearly and gladly for the process. We don't know much about paying for ideas!

Now, who is better off? The Sears alumna with no will? Or, the octogenarian with a "will gone mad?"

Consider what might happen if some of the gifts in the octogenarian's estate could be made now. Among other things, that would put much more money into private use than if she waits.

The point is that, unfortunately, in our country today, it's very difficult to dispose of your estate ("put it to work" is a better phrase) and have your intent followed to the letter. **Unless you do everything in your power to spell out that intent in considerable detail before your children or anyone else fall into the position of trying to follow your interests!**

Ambassador Davis said at the opening of this conference that history shows us how short our own tours of duty on this earth really are when compared to the entire spectrum of earthly history. Provided we want to have some impact on that history, how important it is to spell out the details of our intent every step of our way.

Many people potentially are available to help up with this process. But we must rehearse how we're going to speak up and call the shots before seeing any of them: our bankers, attorneys, accountants, tax advisors, sons, daughters, and, today, even executives of eleemosynary groups that we are considering for financial support. Each of these people must hear exactly the same story. That's not easy to achieve!

Just as the children of the shareholders of privatized companies here in England have learned what privatization is all about, so must our children know that freedom of choice with your estate is, in a real sense, privatization. Keeping it out of bureaucracies and other wrong hands to preserve your intent. It is what Cecil Parkinson spoke about last night here at this same lectern.

It is with this concept--this idea--in mind that we've invited you here for the first official announcement of the Windsor Society: proponents of planned giving for The Heritage Foundation. Included in your material is a Prospectus outlining the Windsor Society. It zeroes in on some mechanics which may fit your financial situation and even may help your own estate plan.

The Prospectus also zeroes in on intent. Yours...and ours. We see the Windsor Society, those who have made provisions for Heritage, as grantors--or conservators of Heritage's intent. And we certainly see that as mutual. Heritage can be a conservator of their intent in a very real sense.

The more we can assure Heritage of continuing its philosophy and mission, the more we assure that each of our own interests will be pursued as well. They're the same.

For you to accomplish this in your own mission, you must remain in control of your assets at all times—even after you're gone to the extent that is possible. The Board and management team of The Heritage Foundation have the same job with the Foundation's assets. The going gets rougher.

Conceptually, it is somewhat easy to reduce the corpus of your estate to a point where as few estate tax dollars as possible will be paid. That keeps the government (IRS and the courts) out of it and puts the dollars they'd have gotten to use in a way that you prefer. But, the world is waiting out there to prevent you from privatizing in this sense.

One of the usual ways to reduce the corpus of an estate is through "gifting." You can "gift" appreciated property at an accelerated rate to individuals of your choice, usually children or other close relatives. The older you are, the more advantageous this is. You are allowed a \$10,000 per year maximum gift to an individual without being taxed. The \$10,000 portion of the property is increased actuarially based on your age. For example, a \$10,000 portion of midwestern farm land could turn into a \$40,000 to \$50,000 "gifted amount" for tax purposes. You can dispose of a lot of property in a hurry this way.

Another kind of "gifting" is that which goes to eleemosynary groups (charitable organizations, 501(c)(3) organizations). Here, you get a deduction for the total amount of the gift and a reduction in the corpus of your estate equal to that same amount. Just as in "gifting" appreciated property to a relative, you again lose control of the funds. In other words, the charitable gift must be irrevocable to qualify for the deductions, and it usually does not go to someone close to you or a family member.

In both these cases, the question you must ask yourself is "Will my assets be handled my way?"

Through gifting, you have put yourself in the philanthropy business for sure. Here lurks one of the influences that can confuse anyone in planning an estate: the "philanthropic climate."

In actual dollars, philanthropy in the United States is an \$85 billion per year business, and it is increasing every year. It is five times that figure if you include the voluntary time donated by Americans to charity each year at minimum hourly wage. That brings the total to \$400 billion private dollars given per year.

Unfortunately, we have no reliable studies that tell us how many dollars are given by government each year for "charitable purposes." We seem to have "national endowments for everything." I am sure the total amount the government gives away each year would be staggering. Ed Feulner mentioned the United Nations a while ago. In 1980, through the Senate Foreign Relations Committee, then headed by Senator Percy, \$80 million went in one year to the U.N. agency, UNICEF. Every bit of that money leaves the United States and filters through government officials in countries like Ethiopia, Nicaragua, and Syria.

Please do not mistake my intent here. I am as interested as any of you in the welfare of children, regardless of where they live. UNICEF claims to be one of those "clean" United Nations agencies. However, at a rate of \$80 million per year to just one agency, you can imagine how much we might be giving to a great variety of U.N. and other international agencies whose tentacles reach countless enemies of the United States. This says nothing of the hundreds of organizations in our own country who get the majority of their support from an equally high number of federal agencies and departments. And most of these are run by people whose purposes are antithetical to our own. With both our gift dollars and our tax dollars, we are fanning the flames of those who would destroy us!

Where do you fit in this picture? For starters, you and other individuals give 90 percent of the \$85 billion given to charitable organizations in this country each year. Foundations give 5 percent, as do corporations. You and other individuals give 100 percent of the contributed services.

Let's look at some other statistics.

In 1974, bequests amounted to 2 percent of the total given by individuals in America. Now, bequests are nearly 8 percent of the total dollars given by individuals.

Private foundations gave 8 1/2 percent of the total in 1974 and 5 percent of the total today. Corporations have stayed about even--about 5 percent then as well as now.

Nearly 35 million taxpayers itemized deductions last year. One-third of them fall into the \$30,000 to \$50,000 per year income bracket. They gave 30 percent of all charitable dollars given that year, for an average contribution of \$1,133.

Just over 16,000 people were in the \$1 million and over annual income bracket. They gave 5 percent of the total for an average contribution of \$139,000. Interestingly, those earning \$15,000 and below gave 2 percent of the total charitable gifts given.

In terms of where the money goes, religion gets the lion's share of all contributions each year. A decade ago, religion got 43 percent. Today it has risen to 49.3 percent. Ten years ago, health and hospitals got 2.5 percent. That has risen to 14 percent today. Education has sunk a little--15 percent ten years ago and 14 percent now. The arts and humanities have risen from 1.25 percent to 6 percent in the decade and social welfare has risen one percentage point from 9.5 percent to 10.5 percent. Civic and public affairs have sunk from 9 percent in 1974 to 2.8 percent now.

Where is public policy in this spectrum? We still haven't made a dent, unfortunately. A little bit of what we have received is included in education and a little bit is in civic and public affairs. I'm sure some of it fits very nicely into a category called "other" as well. "Other" got 9 1/2 percent in 1974 and 4 1/2 percent last year. We may be going in the wrong direction.

Some statistics compilers say that these annual "giving" amounts depend on the amount of disposable income Americans have and that the amount of disposable income someone has for charity depends on the tax laws. We have seen many studies which indicate that tax considerations are not the first consideration of a donor when giving a charitable gift.

Studies and our own experiences tell us that the majority of donors give because they care, and they often give before putting money into investments or even paying their bills.

The charitable impulse is extremely strong in the United States, stronger than anywhere else in the world. No other country can come close to us. If charitable giving is affected by the new tax laws in a negative way, I believe that effect will be temporary. The point of all this is that individuals are responsible for charity in America. Even private foundations largely stem from the estates and fortunes of individuals. So individuals do most of the job.

We have a long way to go, those of us interested in the things you and I believe in. We have no handle on how much money is given annually to the causes which preserve freedom or public policy.

Here is some good news. My company is just completing a 1 1/2 year study for a major New York private foundation. They have given us permission to discuss the results of the study here.

The purpose of the study was to first evaluate the foundation and then to determine:

- ◆◆ the problems and issues leaders now believe will require the most of our future resources;
- ◆◆ the role philanthropy can play to assist in providing those resources.

What we have found about the national climate we philanthropists will operate in may even be surprising and excellent "for our side."

Let me first tell you that we interviewed 234 individuals in a scientific sampling of people involved in health care, public policy, grantmaking, and youth activities. When asked what they think are the long-term problems affecting our nation's leaders today, two-thirds of the survey's respondents said they think problems of the country's economy, including things that could jeopardize the free enterprise system itself, will be the most urgent in the next several years. Another 51 percent added that issues of foreign policy and defense are practically as important.

In other words, according to the cross-section, all other work going on in the country today should take a lower priority than these two general concerns: the economy and foreign policy.

Several of you were with us for our Public Policy Seminar in Pinehurst last June. You'll recall that all our speakers spoke on their perception of the country's priorities into the 1990s. Those who rated the economy highest included:

Governor Du Pont, who said

- ◆◆ "Improve our education system--eliminate the last great monopoly in the U.S.
- ◆◆ Improve our relations with Mexico, and indeed improve Mexico.

◆◆ Strengthen the American family.

◆◆ Contain costs.

◆◆ The goal is to make the American economy so strong that every entrepreneur in the world wants to build his business in the United States."

Jack Kemp

◆◆ "Economics is politics (Americans don't want socialism unless you tell them they can't get rich)."

Burt Pines

◆◆ "Keep free enterprise healthy, and never again allow our leadership to tell us that our children would live with less than we have lived with and that our resources will have run out by the year 2000!"

Stuart Butler

◆◆ "Privatization is the only device available to divert the government's inclination to provide services!"

Elizabeth Dole

◆◆ "Sell Conrail!"

Alexander Haig

◆◆ "International economics are the most important element of international foreign policy; and

◆◆ We cannot afford to ignore who is generating terrorism!"

And under defense:

General Abrahamson

◆◆ "Soviet disinformation will do more to destroy SDI than anything else. We have some of the technology and the ability to go all the way!"

Dick Allen

◆◆ "Recognize the enemy! And also stand with our friends!"

The results: five put the economy first, two rated defense and foreign policy first, and one--Alexander Haig--equal significance to both.

If these opinions are true, both in the Foundation's survey and at the Heritage conference at Pinehurst in June 1986, then American philanthropic dollars are in large measure going to purposes today which are aimed far away from these priorities.

The survey went on to show that a particular leadership community, primarily government officials and servants, is looked to by almost everyone for the solutions to these problems. These are the people who either by choice or by mandate are trying to shrink government services and involvement. They should be scouring the private sector for help. Philanthropy can and should support (and practice) privatization.

Throughout the survey, respondents (many deemed national leaders in their own rights) were critical of both education and American business, two of the primary systems which traditionally have worked with government to discover and implement solutions to national problems.

As we all know, there is a growing segment of individuals and groups devoted to bringing these issues and players into focus and into a common forum. This is the "public policy community." In many ways, the "public policy community" functions as private brokers to enable those in government to do a more effective job.

And here comes the most important finding in the study. It is the most important fact for what we are discussing today relative to intent and to control and to the future after we're gone.

This "public policy community" has begun to include a great variety of working relationships all around the country, not just in Washington. It includes many people employed in policy and policy-related work. It also includes organizations and associations of academics, professionals, volunteers, press and media, students in colleges and universities, professional societies and associations, think tanks, service organizations and businesses. And, it includes a small but mighty cadre of philanthropists.

But few seem to realize that this network even exists and the positive impact it's capable of.

It is through (not necessarily within) this community that the answers to the priority problems posed here--the economy and foreign policy and defense--can most likely be found, if they are to be found at all.

The dominant attitudes of the current "public policy community" would deflect efforts to federalize systems for services which can be carried out successfully by the private sector. That "public policy community" at the same time probably knows more about the networks for every service and business in the country than any other identifiable group.

The study showed also that major systems in America are more and more perceived to be in trouble, for example, education, law and justice, medical research and education, immigration, welfare, the family, church and religion, community government and services. If they are in trouble, there is greater danger that the old networks supporting them will only look inward and possibly become inert or collapse altogether.

Thus, the "public policy community" is the one "super network" in the country whose work naturally reaches all these fields. At the same time, it is growing, vibrant, and optimistic about its future. It is also extremely private and independent!

Interestingly, public policy people have long been thought to be lacking in human caring. When asked on the survey who they personally support financially each year to the greatest extent, public policy people said, "church, social welfare, and public policy," in that order.

Each of the other segments of respondents (those in health care, grantmaking, and so on) said they give to the area of their own work first, then to church and other things.

To put icing on this cake, I would like to quote from the Tuesday, December 31, 1985, issue of the Washington Post, "Bob Levey's Washington" column reporting on holiday donations to a Washington, D.C. children's hospital:

Wonderful isn't a bad word to describe the group donations to our annual campaign that have floated through the mail slot over the last few days. Here they are:

And then followed a listing of twenty to thirty group contributions from organizations all over the Washington, D.C. area. When Levey got to The Heritage Foundation's listing, he said, "The staff of The Heritage Foundation (has given \$2,647), which runs this group's total for the last five years over the \$10,000 mark--wonderful!"

Much discussion was devoted in the survey to the fact that "government is reducing its support far beyond what we can absorb." Also, many interviewees seemed worried about the general dilemma of simply "not having enough to go around." No reliable quantification of these worries seems to exist.

Because of the general American "economic squeeze," the danger exists that those seeking charitable donations will intentionally and unintentionally inflate the amount of dollar needs and otherwise create unrealistic pictures of the work they are trying to accomplish. The more the "grapevine" pumps "not enough to go around-ism," the more fuel will be added to this flame.

Reading between the lines of many of the answers in this study, the following questions were gleaned for use by the smart philanthropist:

- ◆◆ Are some not-for-profit operations better off becoming a for-profit corporation?
- ◆◆ Can some operations become even more successful as for-profit enterprises?

◆◆ Is anything wrong with a non-profit group making it possible for philanthropists to make "investments" to receive some kind of financial return when they truly believe in the mission and people of the organization supported by their investment?

◆◆ Why in a survey of this type was there so little overt expression of gratitude for philanthropy received? (And, there really wasn't very much!) And why is it true that there is much expression of what is expected of philanthropy?

◆◆ In a free enterprise system, why do so many Trustees and managers of well-meaning not-for-profit organizations attempt to construct systems to prevent duplication of services and to share services to the point that often only one provider operates in a given area with little or no direct competition?

Simply by asking these questions, perhaps you as philanthropists can be a major catalyst for change and for finding solutions for significant problems even before investing a single dollar. The answers to these questions will lead us to the ideas, individuals, and institutions which will probably be the most durable in the future. The same answers may lead more philanthropists to support the things that will preserve freedom, free enterprise, and traditional values.

I think there are many durable institutions. Heritage, for one, passes that test in spades. Heritages intends durability. It thus far answers completely the important questions posed by the study. But durability can also be fragile. Heritage's primary mission is one that many believe in deeply. It will assume the lead only to the extent that those who believe in it are the ones who come on board. They will be the ones who will keep it independent and keep its focus on limited government, traditional values, and a strong national defense.

Through the ages, laws have provided for durability on a personal level. At least, laws through time have focused on your ability to pass your estate on to your selected heirs. Hammurabi, in his famous code written 2,700 years before Windsor Castle was started (that would be in 1700 B.C.), was the first to outline the protection by law of one's estate as it passed on to one's heirs. Magna Carta, one hundred fifty years after the Castle was started (1215 A.D.), had a similar provision.

Through the Middle Ages, almost all bequests went to widows, children, or the Church. As the Middle Ages came to a close, the pious bequests included in wills became more secular. Around the year 1362, William Langland wrote a poem entitled "The Vision of Piers, The Plow Man." In one of the episodes of the poem, "Truth" sends a letter to wealthy merchants advising them that in order to save their souls they should take their fortunes,

and therewith repair hospitals,
help sick people,
mend bad roads,
build up bridges that had been broken down,
help maidens marry or to make them nuns,
find food for prisoners and poor people,
put scholars to school or to some other crafts,
help religious orders, and
ameliorate rents or taxes.

Then, in 1601, began the development of the legal definition of charity in England with the writing of the English Statute of Charitable Uses. This definition of charity is set forth in the preamble of the Statute which reads (in modern spelling):

Whereas lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money, and stocks of money have been heretofore given, limited, appointed, and assigned as well by the Queen's most excellent Majesty and her most noble progenitors and by sundry other well-disposed persons; some for relief of aged, impotent, and poor people; some for maintenance of sick and maimed soldiers and mariners, schools of learning, free schools, and scholars in universities; some for repair of bridges, ports, havens, causeways, churches, sea-banks and highways; some for education and preferment of orphans; some for or towards relief, stock, or maintenance of houses of correction; some for marriages of poor maids; some for supportation, aid and help of young tradesmen, handicraftsmen, and persons decayed; and other for relief or redemption of prisoners or captives and for aide or ease of any poor inhabitants concerned payments of fifteens, setting out of soldiers, and other taxes....

From that time on, more and more definitions of charity have had to be created. The trust, used for almost all charitable donations back then, began to take on different shapes including being the primary corporate form of a charitable organization in England to this day.

The "cy pres doctrine" dates back to these early days as well. It means having the privilege of having the trust's original purposes changed by court order if the purposes laid down in the original trust deed could no longer be carried out.

The "cy pres doctrine" is very important today. It is another one of those things potentially lurking in the shadows to sidetrack the intent of your philanthropy and your estate.

The planned giving program for The Heritage Foundation which we have developed includes listing most of the common forms of charitable trusts used for giving, some revocable and some irrevocable. These are outlined in the Winsor Society Prospectus.

Can a trust be broken today through the "cy pres doctrine?" Certainly it can! Probably the most famous case in our time is that of Gerrard College in Philadelphia, originally founded for white Christian males. The trust was broken to include all races and a coeducational mix of students over twenty-five years ago.

However, a much greater landmark case came to a final decision this past summer, the Buck case.

Miss Beryl Buck died over ten years ago in California at the age of 75, leaving about \$12 million in oil stocks to the San Francisco Foundation. The San Francisco Foundation is a community trust handling many such estate bequests in perpetuity. She had left her bequest for use "solely for charitable and religious purposes in Marin County, California."

Today that \$12 million corpus is work well over \$400 million.

A few years ago, when the corpus began to grow like "Topsy," the Trustees of the San Francisco Foundation went to the California State Attorney General, saying that giving the proceeds of such a large corpus would more than saturate the charitable needs of Marin County, both now and in the future. The case ultimately went to court in a grand attempt to break the trust. Soon after the Foundation Trustees filed their brief, a young lawyer, Beryl Buck's nephew, decided this wasn't right and that he would fight.

At that point, the Trustees of the San Francisco Foundation brought in "world experts" to testify in their behalf. These included Professor John Simon at the Center for Social and Policy Study at Yale University. He testified against the Buck Trust and in behalf of the Foundation on the basis of "efficient philanthropy" and the "cy pres doctrine."

At that point, young Bob Buck wrote everyone he could think of across the United States asking for support letters. He got hundreds in return. Many of them came from people he didn't even contact in the first place.

The long and short of the story is that he won the case in behalf of the original trust last July. Indeed, this is a form of privatization from the bureaucratic organization and mind-set of the San Francisco Foundation.

It is a landmark decision for each of us as private philanthropists. It is a precedent for independence and firm assurance that our wishes that our estates and our own control of our estates can, with careful planning, live on past our lifetime.

Various ideas for controlling your assets both during your lifetime and afterwards are listed in our planned giving Prospectus. Two, however, are not. Both are worth mention here.

The first of these is called a Supporting Trust, and the second is called a Letter of Intent.

In effect, the Supporting Trust is the creation of a private foundation whose trustees will include someone--like Ed Feulner--from Heritage and you, the donor. Heritage, of course, does not claim ownership to the assets of the foundation. That could or could not be laid out in the legal description of the trust. That is, ownership of the assets could be placed in Heritage's hands upon the death of the owner, if the owner would so desire.

A Letter of Intent is a non-legal document, but one you take great pains in creating. You write it in your own language to your spouse or to the heir or heirs closest to you. In it you spell out every detail you can think of regarding the way things are to be handled when you die. I think most attorneys will tell you that they would pay close attention to such a letter. It is in this letter you can spell out particularly the disposition of pets and other unusual "assets." And in this letter you describe in detail your intent!

So, while we recognize that many confusing forces can get us off track, there are ways to stay on the track as well!

◆◆ You know what you want and need to do to meet the needs of your loved ones.

◆◆ Advisors you trust can help you decide if--and how--charitable giving will most help you achieve these needs to your maximum capability.

◆◆ Then, you can decide what real work you want to have an impact in the long term--and whether or not you want to tackle the things most important to our country (and therefore to you and your loved ones)--or to "go with the charitable flow"--where, unfortunately, the left thrives!

◆◆ If Ed's definition is right, then look for the Ideas, Individuals, and Institutions.

◆◆ Finally, you and I can be in a new vanguard of philanthropy. This is because we have been in the vanguard of change in public policy and indeed in the thinking processes of our nation in these last few years. We can affect man's freedom with our philanthropy. If it's privatized!

This has been a global discussion to say the least.

Certainly, one point should be clear: this subjects affects each one of us quite differently on the technical side...but quite similarly, on the philosophical side.

Perhaps the following memo puts all of this into the right perspective:

I return without my approval House Bill No. 10203 entitled "An act to enable the Commissioner of Agriculture to make a special distribution of seeds in the drought-stricken counties of Texas and making an appropriation (of \$10,000) therefore."

It is represented that long-continued and extensive drought has existed in certain portions of the State of Texas, resulting in a failure of crops and consequent distress and destitution.

Though there has been some difference in statements concerning the extent of the people's needs in the localities thus affected, there seems to be no doubt that there has existed a condition calling for relief; and I am willing to believe that notwithstanding the aid already furnished, a donation of seed grain to the farmers located in this region, to enable them to put in new crops, would serve to avert a continuance or return of an unfortunate plight.

And yet, I feel obliged to withhold my approval of the plan as proposed by this bill, the ensure a benevolent and charitable

sentiment through the appropriation of public funds for that purpose.

I can find no warrant for such an appropriation in the Constitution, and I do not believe that the power and duty of the General Government ought to be extended to the relief of the individual suffering which is in no manner properly related to the public service or benefit. A prevalent tendency to disregard the limited mission of this power and its duties should, I think, be steadfastly resisted, to the end that the lesson should be constantly enforced that **though the people support the Government, the Government should not support the people.** (Emphasis added)

The friendliness and the charity of our countrymen can always be relied upon to relieve their fellow citizens in misfortune. This has been repeatedly and quite lately demonstrated. Federal aid in such cases encourages the expectation of paternal care on the part of the Government and weakens the sturdiness of our national character, while it prevents the indulgence among our people of that kindly sentiment and conduct which strengthens the bonds of a common brotherhood.

Grover Cleveland
February 16, 1887

