

Copyright (c) 1997 New York Law School Law Review  
New York Law School Law Review

1997

*41 N.Y.L. Sch. L. Rev. 789*

**LENGTH:** 14517 words

SYMPOSIUM: CORPORATE PHILANTHROPY: LAW, CULTURE, EDUCATION, AND POLITICS: ARTICLE:  
BUSINESS GIVING AND SOCIAL INVESTMENT IN THE UNITED STATES, 1790-1995

Peter Dobkin Hall \*

\* Research Scientist and Acting Director, Program on Non-Profit Organizations, Yale University. The research on which this paper is based has been generously supported by the AAFRC Trust for Philanthropy, the American Can Company Foundation, the Aspen Institute's Nonprofit Sector Research Fund, the AT&T Foundation, the Exxon Education Foundation, the General Electric Foundation, the Lilly Endowment, Inc., the Walter W. Teagle Foundation, and the Program on Non-Profit Organizations, Yale University.

**SUMMARY:**

... Efforts to demonstrate linkages between corporate citizenship and profitability have never been convincing. ... Why Give? The Missing Rationale for Corporate Citizenship ... Viewing business from a civil society perspective has important implications for understanding corporate citizenship. ... A major theme of the "reconstruction" of the defeated South was the creation of a New England-type civil society - complete with free public schools and voluntary associations - which was viewed as a pre-condition for a vital economy based on free labor. In the North, the emergence of the modern research university - an initiative almost wholly underwritten by Boston's industrial elite - was based on a clear understanding of the interrelationships between expertise, technology, and economic growth. ... This effort, which extolled voluntary cooperation within the community as the best means of perfecting the social organizations, caring for those in distress, advancing knowledge, scientific research, education, and, most importantly, economic life. ... Thus, in places like Cleveland, Kansas City, and Allentown, businessmen fostered the growth of civil society and the accumulation of social capital, working through chambers of commerce, trade associations, service clubs, organized charities, and local institutions of higher education. ...

**TEXT:**

[\*789]

"The dealings of my trade were but a drop of water  
in the comprehensive ocean of my business!" n1

I.

Introduction

For half a century, liberal policymakers, scholars, and nonprofit leaders have promoted corporate citizenship, giving, and social investment through litigation, research, jaw-boning, and tax policy, characterizing corporate social responsibility - whether as charitable giving, participation in community affairs, employee relations, marketplace ethics, or product integrity - as a form of enlightened self-interest that would yield financial, social, and political benefits both to stockholders and to the public. n2

The validity of these propositions has always been questionable. Efforts to demonstrate linkages between corporate citizenship and profitability have never been convincing. Even when tax rates were steeply progressive, few companies

took advantage of available tax breaks. As Hayden Smith's important 1983 study for the Council for Financial Aid to Education (CFAE) suggested, non-economic factors such as industry norms, corporate cultures, and locational variables influenced charitable giving more strongly than any potential tax benefits. n3

The political triumph of the New Right has transformed both our understanding and the practice of corporate citizenship. The Reagan era [\*790] began with a top-level effort - launched with the expectation that individual and corporate giving could make up for projected reductions in federal spending to stimulate corporate giving and social investment. n4 The efforts of the President's Task Force on Private Sector Initiatives led to impressive increases in the amount of giving - which in the mid-eighties surpassed foundation support of the nonprofit sector n5 - but did not seriously challenge the rationale, existing incentives, or the practices of corporate involvement.

The later phases of the "Reagan Revolution" witnessed the emergence of a broad critique of organized philanthropy by conservative advocacy groups which not only questioned the liberal priorities of grantmakers, but the institutional character of giving practices. n6 Conservatives argued that focusing on large-scale initiatives involving government agencies' institutional grantmaking not only promoted the welfare mentality which kept the poor dependent, but lacked the flexibility needed to respond to their particular circumstances. They argued that individuals and communities rather than institutions and governments, should be the major philanthropic actors.

In the Bush administration, the conservative critique took on institutional flesh with the announcement of the President's "Points of Light" initiative. "At the bright center is the individual," Bush announced in accepting the 1988 presidential nomination.

And radiating out from him or her is the family, the essential unit of closeness and of love. For it's the family that communicates to our children - to the 21st century - our culture, our religious faith, our traditions and history.

From the individual to the family to the community, and then on out to the town, to the church and school and, still echoing [\*791] out, to the county, the state, and the nation - each doing only what it does well, and no more. And I believe that power must always be kept close to the individual, close to the hands that raise the family and run the home.

...

And there is another tradition. And that's the idea of community - a beautiful word with a big meaning, though liberal Democrats have an odd view of it. They see "community" as a limited cluster of interest groups, locked in odd conformity. And in this view, the country waits passive while Washington sets the rules.

But that's not what community means, not to me. For we are a nation of communities, of thousands and tens of thousands of ethnic, religious, social, business, labor union, neighborhood, regional and other organizations, all of them varied, voluntary and unique.

This is America: the Knights of Columbus, the Grange, Hadassah, the Disabled American Veterans, the Order of Ahepa, the Business and Professional Women of America, the union hall, the Bible study group, LULAC, Holy Name - a brilliant diversity spread like stars, like a thousand points of light in a broad and peaceful sky.

Does government have a place? Yes. Government is part of the nation of communities - not the whole, just a part. n7

Having recast the relationship of government, individuals, and community, Bush moved on to the heart of the matter - the linkage between economic prosperity and social ideals. "The fact is," he declared,

Prosperity has a purpose. It's to allow us to pursue "the better angels," to give us time to think and grow. Prosperity with a purpose means taking your idealism and making it concrete by certain acts of goodness. It means helping a child from an unhappy home learn how to read... It means teaching troubled children through your presence that there's ... such a thing as reliable love. Some would say it's soft and insufficiently tough to care about these things. But where is it written that we [\*792] must act [as] if we did not care, as if we're not moved? Well I am moved. I want a kinder, gentler nation.

...

I will keep America moving forward, always forward - for a better America, for an endless, enduring dream and a thousand points of light. n8

The new conservative vision had particular implications for corporate philanthropy. Neo-conservative economist Milton Friedman argued that corporations have no money to give anyone because a corporation's money belongs to their workers, their employees, and their shareholders. n9 Yale economist Paul MacAvoy and tax lawyer Ira Millstein elaborated on Friedman's dictum:

The correct strategy for the corporation is not to internalize social responsibilities. This is because the corporate form does not allow it, and because corporations should not do what is better done by the political system. The corporation is structured to produce goods and services efficiently and to maximize the return on investment to shareholders. It is undemocratic in its decision-making, and legally protected from most judicial second-guessing of its business judgment. n10

American corporations took these ideas seriously: corporate contributions declined after 1986; n11 major companies, like ARCO and Exxon, dismantled or drastically scaled back their giving programs; n12 many effectively "outsourced" community activities by shifting from company giving to matching employee donations, while others stressed mentoring and employee volunteerism instead of cash contributions. At the same time, many firms abandoned long-established commitments to employee [\*793] and community welfare, while massively laying off workers and boosting executive compensation to unprecedented levels. n13

The new ethos of corporate social responsibility was summed up in a recent speech by Edward M. Liddy, CEO of Allstate Insurance. n14 Although conceding a twenty percent decline in corporate contributions in the previous decade, Liddy denied that the 1990s were "a decade of philanthropic stagnation." n15 Declaring that "simply throwing money at social problems isn't going to make them go away," Liddy argued that "although companies may be giving less today, they are accomplishing more. The business community has taken its results-oriented thinking into the philanthropic arena, with increasing use of employee volunteer programs as a means of supplementing and enhancing contributions." n16

The reasons for promoting volunteerism are readily apparent. Volunteerism creates a direct, personal, one-on-one commitment between the giver and recipient. Plus, a volunteer sees the immediate benefit of what he or she is doing. The most precious commodity we have is time, not money. And the time volunteers spend in helping others is given back a thousand-fold in the knowledge that they have made a difference in people's lives. n17

Citing a Conference Board survey which showed that ninety-two percent of American corporations had established employee volunteerism programs, Liddy argued that volunteering had become "woven into the fabric" of doing business - a "part of a corporation's culture." n18 "Helping Hands," Allstate's umbrella program for volunteering has involved employees in more than 10,000 community projects. "More than half our employees volunteer each year," he declared, "renovating and rehabilitating homes, working in soup kitchens, organizing food and clothing drives, tutoring children and advising on disaster preparedness. [\*794] We are challenging each of our employees and their families to volunteer twenty hours of their personal time this year." n19

When referring to the traditional rationale for corporate social commitment - the efforts which "help create the kind of community goodwill that is essential to a company's ability to survive and prosper" - Liddy argued that volunteerism's primary benefit to the firm is in enhancing employee "morale." n20 On the value of volunteering, he quoted an employee: "I can assure you that the company doesn't have enough money to equal the great feeling I have about myself and my company as a result of participating in this project." n21

This shift in corporate practices plays an interesting variation on Friedman's dictum. One is struck by the extent to which the now dominant neo-conservative rationale for corporate citizenship is driven not by economic or political calculation, but by a peculiarly spiritualized therapeutic ideology, "doing well by doing good." Thus, the historic rationale for corporate social responsibility has, in the 1990s, been replaced in many companies by a rationale of doing well by feeling good. This represents a dramatic departure from the sensibilities of the early Reagan era, when executives were calling for a "new" corporate involvement which proposed to treat charity as a form of investment, applying to corporate social involvement, "the economic logic and goal orientation of business activities." n22

The wholesale abandonment of the traditional ethos of corporate citizenship, stagnant levels of corporate contributions, and the evident ineffectiveness of efforts to increase corporate giving through the tax code, point to the need to rethink and rearticulate the relationship of business to society.

## II.

## Why Give? The Missing Rationale for Corporate Citizenship

All CEOs understand the public relations value of giving. Most also appreciate the tax savings that can come from the deductibility of contributions. However, few regard giving to be in any way related to profitmaking, and fewer still view their firms - or their contributions [\*795] programs - as having any significant role in shaping American society. n23 This constricted view is at a striking variance with the broad vision of some of the business leaders of half a century ago, as evidenced by the testimony in a landmark case on the legality of corporate charitable contributions:

Mr. Frank W. Abrams, chairman of the board of the Standard Oil Company of New Jersey, testified that corporations are expected to acknowledge their public responsibilities in support of the essential elements of our free enterprise system. He indicated that it was not "good business" to disappoint "this reasonable and justified public expectation," nor was it good business for corporations "to take substantial benefits from their membership in the economic community while avoiding the normally accepted obligations of citizenship in the social community." Mr. Irving S. Olds, former chairman of the board of the United States Steel Corporation, pointed out that corporations have a self-interest in the maintenance of liberal education as the bulwark of good government. He stated that "Capitalism and free enterprise owe their survival in no small degree to the existence of our private, independent universities" and that if American business does not aid in their maintenance it is not "properly protecting the long-range interest of its stockholders, its employees and its customers." Similarly, Dr. Harold W. Dodds, President of Princeton University, suggested that if private institutions of higher learning were replaced by governmental institutions our society would be vastly different and private enterprise in other fields would fade out rather promptly. Further on he stated that "democratic society will not long endure if it does not nourish within itself strong centers of non-governmental fountains of knowledge, opinions of all sorts not governmentally or politically originated. If the time comes when all these centers are absorbed into government, then freedom as we know it, I submit, is at an end." n24

The absence today of either a coherent rationale for or deeply held convictions about corporate citizenship is not surprising. Although there is substantial literature on business and society, corporate social responsibility had not been the subject of interest within the established [\*796] academic disciplines nor, more importantly, is it significantly represented in business school curricula. Surveys of academic research-in-progress in the nonprofits field show almost no serious study of corporate responsibility issues. A recent compilation of research in progress on philanthropy, volunteerism, and nonprofit organizations n25 shows that of 606 studies, 24 focused on corporate philanthropy; of these, only 11 could reasonably be considered to deal with the larger conceptual, contextual, and motivational issues of corporate giving. n26 The rest were either management studies (in the cookbook genre), statistical reports, or surveys of managerial attitudes about giving and contributions management. A decade of work by Yale's Program on Nonprofit Organizations, the most ambitious of the research projects in the nonprofit sector, has yielded similarly scanty returns on the charitable role of business: of its 230 working papers, only 3 deal with corporate philanthropy.

Scholarly unwillingness to engage the subject of corporate philanthropy is a symptom of a more general failure to take business seriously. Writing in 1959, Robert Dahl noted that during the past half century, only eleven articles dealing with business had appeared in the five major political science journals; of the thousands of dissertations written in the field during the same period, only seventy-five dealt with business. n27 Business has fared no better at the hands of historians: Despite the important work of Harvard's Alfred D. Chandler (most notably his 1977 Pulitzer Prize-winner, *The Visible Hand* n28 ), the level of scholarly interest in business remains low. Business history as a subject occupies a shadowy place in university curricula: Few universities have business historians and, when they do, they seldom teach in history departments.

More seriously, business history seldom strays beyond conventional rationalistic explanatory models or crude technological determinism. For example, Alfred Chandler's account of the emergence of modern business enterprise ignores both the growth of similar organizations in government, society, and culture, and the extent to which the rise of Big Business depended on cadres of skilled managers and the advanced technologies produced by universities governed and funded by industrial and financial leaders. [\*797]

Four decades ago, when Chandler first began to explore the emergence of modern firms and management, such parochialism was understandable and, given the state of historical scholarship, perhaps unavoidable. But by the time *The Visible Hand* appeared in the late 1970s, an impressive body of work by historians of government, politics, educational and social institutions, as well as business and technology, had already begun to powerfully suggest a

"managerial revolution" in every domain of American life. n29 As Chandler's colleague, Louis Galambos, wrote in 1983, "a new interpretational framework, a context that [features] large-scale organizations," has emerged as "the centerpiece of recent U.S. history." "Restructured along these lines," Galambos continued,

our history no longer [stresses] liberal-conservative political struggles leading to pulses of progressive reform; instead, the primary processes of change [involve] organization building, both public and private, and the creation of new and elaborate networks of formal, hierarchical structures of authority that gradually came to dominate our economy, polity, and culture. America's rendezvous was not with the liberal's good society. It was with bureaucracy. n30

Galambos's "organizational synthesis" invites exploration of the institutional infrastructures which made economic activity possible and, in doing so, it lays the groundwork for more convincing accounts of the bases of modern economic life. More importantly, for the purposes of this paper, it creates a conceptual framework for a new and more credible rationale for corporate citizenship. [\*798]

### III.

#### Business and Civil Society

"Facts do not speak for themselves," Stephen Jay Gould observed, they "are read in the light of theory." n31 Because conventional theories have treated modern economic life as driven by rationality and efficiency - and, hence, necessarily - as a process of secularization, they have selectively ignored not only the complex motives, values, and beliefs which drive human action, but also the settings which frame the activities of individuals and organizations.

Over the past thirty years, this reductionist view has been challenged with increasing force. Historians have questioned the modernization theory's facile assumptions with studies of communities, institutions, and social movements that suggest the extraordinary extent to which non-rational factors - including traditional religious values - have remained powerful forces in urbanizing and industrializing societies. n32 Sociologists, psychologists, and economists studying complex organizations have both questioned the pervasiveness of rationality and stressed the centrality of cognitive factors - including religious beliefs - in shaping organizational structures and processes. n33 Nonprofits researchers, in examining the organizational dimensions of culture, education, health, human services, and other eleemosynary activities, have suggested the extent to which the development of economic life has been inextricably linked to values and service infrastructures which produced the skills, values, and services essential to orderly market exchange and ordered public life. n34 In recent years, these critiques of conventional economic rationalism created a richer and more comprehensive understanding of the interrelationships between economic, political, and social domains. These domains all exist under the encompassing concept of civil society, which Francis Fukuyama has described as "a complex welter of intermediate institutions, including businesses, voluntary associations, educational institutions, clubs, unions, media, charities, and churches" which build "on the family, the primary [\*799] instrument by which people are socialized into their culture and given the skills that allow them to live in broader society and through which values and knowledge of that society are transmitted across the generations." n35

The emergence of civil society as an analytical construct is of more than academic interest. The collapse of world communism and the effort to promote capitalism and democracy in the Second World has forced policymakers to confront the interdependency of economic, political, and social systems: Markets depend not only on legal and government infrastructures which sanctioned individual ownership of property and free exchanges of goods and services, but also upon mechanisms of social control based on compliance and choice, rather than coercion. n36 This has fostered the understanding that social and political institutions are not merely epiphenomena of economic life, but may be of equal or greater importance, both as causes and consequences. Grasping the full extent of interdependency has important pragmatic implications for public policy because it greatly enlarges the capacity of decision-makers to project and envision both the outcomes of their actions, providing them with a wide range of tools for shaping societies, polities, and economies.

The effort to create modern societies in the Second and Third Worlds has led, inevitably, to a reexamination of our own public culture. Although this effort has focused largely on social issues - the nature and quality of community life and civic participation - it clearly needs to be extended to a wider range of phenomena, since social and political behaviors are inextricably entwined with economic life. n37

### IV.

## Civil Society and Corporate Citizenship

Viewing business from a civil society perspective has important implications for understanding corporate citizenship. First and foremost, it requires attention not to the trajectory of particular firms, but to the market. This attention must focus both on "the larger interactive system composed of competing firms, consumers, and sets of organizations that, on the one hand, provide the resources necessary for production and, on [\*800] the other, absorb what a firm produces" n38 - and on the system of social and political institutions which produce the values, skills, and rules essential to orderly exchanges of goods and services. Viewed from this perspective, the vitality of the system consists not in the profitability of particular firms, but in the capacity of the system to continuously give rise to new firms, new products, and new economic relationships. Another source of vitality is the ability of the system to sustain a host of non-economic institutions - those governmental and legal infrastructures and formal and informal sources of human and social capital which make possible both ordered economic activity and orderly public life, and the capacity of economic institutions themselves to become producers of social capital.

Historian Martin Sklar, in his masterful interpretation of institutional transformation at the end of the nineteenth century, framed the complexity and breadth of the issue by pointing out that economic activity:

Presupposes, and is permeated by, a complex mode of consciousness, that is, by ideas and ideals about deliberate calculation of ends and means with respect to other persons; about the shape of society, its approved goals and moral standards; and about the law and jurisprudence, party politics, and the range and limits of government authority. Business activity presupposes, and is permeated by, expectations about one's own and other persons' character structure, values, and normal behavior, particularly as they relate to broader social relations in which some persons are taken to be superiors, some equals, and some subordinates - as they relate, that is, to social hierarchy. Singly and together, these expectations, ideas, and values are integral to activity pursued for pecuniary gain - for making profit and accumulating capital through private discretionary investment - and, in more general terms, pursued with a view to growth and development of firm and nation. n39

Although it is usually beyond the capacity of any individual or group of individuals to control the overall character of the aggregate of economic, political, and social activity in market democracies, this does not mean that individuals and groups do not seek to do so or do not frame their specialized endeavors in terms of larger goals. As this paper will suggest, there is persuasive evidence that non-economic motives are as [\*801] likely as acquisitiveness to drive economic activity: that governmental and legal infrastructures and the formal and informal sources of human and social capital which make ordered economic activity possible developed not as incidental by-products of or superstructures on the economic order, but emerged at the same time and often under the same auspices. The co-existence and convergence of economic and non-economic institutions is not an artifact of retrospection. The historical actors themselves were explicit and articulate in setting forth the interdependency of business and civil society.

V.

## American Business and the Creation of Civil Society

When reading the writings of the Founding Fathers, one is struck by the clarity and breadth of their understanding of public life. The Federalist Papers project in almost prescient detail the consequences of governmental arrangements. n40 Hamilton's writings on the creation of a national economy n41 (and Jefferson's critiques of those proposals) n43 display a similarly sophisticated grasp of the interrelationship between economic policy and political and social outcomes.

The Founders not only understood that our hard-won independence from England would be short-lived unless we created political and economic institutions that could place the new nation on a firm and free-standing foundation, but also that the unprecedented effort to establish and maintain republican government required the establishment of political, legal, economic, and cultural institutions which embodied republican - not feudal or monarchical - ideals. n43 Nowhere is this understanding more clear than in the efforts of certain states, most notably Virginia, to expunge embedded feudal values through a "revisal" of their laws. n44

Though less well-known, the pronouncements of the Founding Fathers of American culture and economic life show a similar quality of understanding. In the 1780s, Noah Webster, pioneer lexicographer and author of schoolbooks, defined his cultural task in terms of its political consequences: "America must be as independent in literature as she is in

[\*802] politics, as famous for arts as for arms." n45 "The author wishes to promote the honour and prosperity of the confederate republics of America," he wrote in the introduction to his 1783 "Blue-Backed Speller." n46

This country must in some future time, be as distinguished by the superiority of her literary improvements, as she is already by the liberality of her civil and ecclesiastical constitutions. Europe is grown old in folly, corruption, and tyranny - in other countries laws are perverted, manners are licentious, literature is declining and human nature debased. For America in her infancy to adopt the present maxims of the old world, would be to stamp the wrinkles of decrepid age upon the bloom of youth and to plant the seeds of decay in a vigorous constitution. American glory begins to dawn at a favourable period, and under flattering circumstances. We have the experience of the whole world before our eyes; but to receive indiscriminately the maxims of government, the manners and the literary taste of Europe and make them the ground on which to build our systems in America, must soon convince us that a durable and stately edifice can never be erected upon the mouldering pillars of antiquity. It is the business of Americans to select the wisdom of all nations, as the basis of her contributions - to avoid their errors - to prevent the introduction of foreign vices and corruptions and check the career of her own, - to promote virtue and patriotism, - to embellish and improve the sciences, - to diffuse an uniformity and purity of language, - to add superior dignity to this infant Empire and to human nature. n47

Webster, Hamilton, Jefferson, and the other Founders understood that republican governmental institutions required supportive legal, political, social, and economic institutions. n48 This understanding of the need to actively mold the larger setting in which business operated was evident in Whitney's activities - which, with the American economy in its infancy in the 1790s, involved not only raising capital, inventing machinery, and finding a market for what he produced, but also creating a workforce. "The fact is," Whitney wrote to the Secretary of War, "I have not only [\*803] the Arms but a large portion of the Armorers to make." n49 Whitney understood financial and technological initiatives were not enough; his enterprise also required human and social capital.

When Whitney built his factory, few states outside of New England required towns to maintain schools. n50 The result of this public indifference to education was that industrial pioneers like Whitney, if they wanted a workforce, had to create it. Farm boys and apprentices - many of them illiterate, few of them familiar with machines, none of them accustomed either to following instructions or to taking responsibility for themselves - had to be taught not only to read, write, and count, but also the rudiments of self-discipline and dependability. To do this, Whitney established a school in his factory village and, among his many other responsibilities, took a personal hand in educating his workforce. n51

Whitney's efforts had a multiplier effect; he not only educated his workers, he empowered them. n52 The young men he trained, possessing unique skills and knowledge, were ardently courted by other employers. n53 Many of Whitney's workers went on to start their own ventures and became employers themselves. In this sense, they helped to spread both the new industrial technology and ideas about the public responsibilities of business. n54

Eli Whitney's educational efforts were hardly unique. By the 1840s, many American manufacturers took on broad responsibilities for the welfare of their employees. n55 The great mills of Massachusetts were as notable for the quantity and quality of textiles they produced as for the educational and recreational opportunities they provided for their workers. n56 But business's public commitment went beyond educating [\*804] employees. Because their wealth and economic influence propelled them to leadership in their communities, businessmen were extraordinarily active not only in founding and supporting private institutions, but in promoting a variety of public causes including education, libraries, and charities reform. n57 By the 1850s, Massachusetts and Connecticut - the leading industrial states - had also become the nation's educational leaders, pioneering the establishment of publicly-supported secondary schools that would serve as models for the rest of the country. n58

In the years after the Civil War, the linkage between civil society and economic development were especially salient to business leaders. A major theme of the "reconstruction" of the defeated South was the creation of a New England-type civil society - complete with free public schools and voluntary associations - which was viewed as a precondition for a vital economy based on free labor. n59 In the North, the emergence of the modern research university - an initiative almost wholly underwritten by Boston's industrial elite - was based on a clear understanding of the interrelationships between expertise, technology, and economic growth. n60

As tycoons like Rockefeller, Morgan, and Carnegie were creating a national economy, they were all keenly aware that the task required far more than economic action. Andrew Carnegie's influential rationale for philanthropy, Wealth, was based on a thoughtful analysis of the conditions necessary for continuing economic progress. n61 Carnegie recognized that [\*805] large scale industry, in altering the fundamental character of economic life, had also transformed political and social relationships. n62

The concentration of wealth and power in the hands of a few was, in Carnegie's view, the inevitable consequence of advanced industrial development. n63 This process, which advanced to the forefront men "with a genius for affairs," was not a bad thing as long as the process did not become "clogged by layers of prescription." If capitalism were to be self-renewing, means must be created to ensure that traditional equality of condition, which was no longer possible in the industrial setting, be replaced by equality of opportunity. n64

This shift required not only progressive taxation - to ensure the circulation of capital - but also proactive social investments which would ensure the continuation of the competitive processes essential to continuing economic progress. n65 "The best means of benefiting the community," Carnegie urged his fellow millionaires, "is to place within its reach the ladders upon which the aspiring can rise." n66 In Carnegie's view, the responsibility for remedying the evils of the industrial economy lay with those who had created it - the "men with a genius for affairs" who, if the system were to survive, had to be willing to wisely administer their wealth, devoting it to "institutions of various kinds, which will improve the general condition of the people; in this manner returning their surplus wealth to the mass of their fellows in the forms best calculated to do them lasting good." n67

Neither Carnegie nor his contemporaries restricted their benevolence to money giving. Their use of new cost-accounting techniques led them to understand the relationships between working conditions and productivity. n68 This insight not only led many employers to provide working conditions and benefits calculated to improve employee morale and productivity (welfare capitalism), n69 but also to the development of systematic scientific management based on the empirical analysis of the dynamic relationships between men and machines. The most notable advocate of scientific management, Frederick W. Taylor, explicitly linked [\*806] industrial efficiency to a wide range of social and political goals. Efficient workers, Taylor believed, not only made corporations more prosperous, but, in raising wages and lowering the cost of production, benefitted society as a whole. n70

The activities of businessmen-reformers went well beyond the firm and the marketplace. They also fundamentally transformed public life. According to Peter Drucker, Cleveland businessman Mark Hanna, who took control of the Republican Party in the 1890s, "invented a new political integration in which major economic interests" were "held together by their common interest in what we would now call economic development." n71

Stressing cooperative relationships between labor and capital, Hanna's new public order averted the class politics which typified political life in other industrialized countries - and did so not merely through political and governmental means but through the creation of a new public and private infrastructure of interrelated social, political, and economic institutions. n72

## VI.

### The Corporate Reconstruction of American Life

By the 1920s, most businessmen had come to believe that long-term profitability required a stable, self-sustaining and self-renewing economy; and that this, in turn, required sustained and generous investment in human capital. n73

The rationale for these extraordinary initiatives required more than a mere desire to "do good." Instead, using techniques of statistical analysis and market research drawn from the social and sanitary survey activities of the Progressive reform movement, forward-looking business managers were able to demonstrate that high volume sales of low-priced items to the mass of consumers would yield greater profits than low-volume sales of high-priced products to other corporations. Mass production, mass [\*807] distribution, mass education through advertising, and the creation of credit machinery which made possible a middle-class lifestyle for the majority of Americans would not only yield greater profits, but would, at the same time, make it possible to improve the lives of millions of Americans. n74 Empowering employees economically through higher wages, educating them through corporation-sponsored school curricula and public service advertising were the basis of the consumer economy. Initiatives of this kind made possible the attainment of central Progressive goals in the fields of public health and nutrition. They not only taught consumers how to purchase, prepare, and preserve healthy food and to develop good habits of personal hygiene, but also to purchase at reasonable prices the appliances - the stoves, refrigerators, tubs, and sinks - needed to realize these ideals.

The clearest articulation of the scope and scale of this new order can be found in Herbert Hoover's 1922 book, *American Individualism*. n75 A university-trained, millionaire engineer and businessman-turned public servant, Hoover was in many ways typical of the new generation of public managers which emerged after the turn of the century. Beginning with a candid acknowledgement of the great inequalities and injustices caused by modern industry, Hoover sought to frame a new conception of progressive individualism which would reconcile traditional democratic

and Christian values to the realities of advanced capitalism. n76 Recognizing, like Carnegie, that inequality was the inevitable consequence of industrialism, Hoover believed that equality of opportunity, combined with an ethos of service and cooperation which acknowledged the interdependence of all Americans, would lead to a new social and economic order. n77

While there was little new in these ideas - many of which could be found in the writings of other business reformers forty years earlier n78 - the real difference lay, as Hoover pointed out, in the fact that this new order was already taking form - and that business itself was the most powerful force behind its emergence. n79 [\*808]

Hoover believed that the separation of ownership and management was bringing economic enterprise increasingly under the control of managers "more sensitive to the moral opinions of the people" n80 and who recognized the "right of property not as an object in itself." n81 These managers, he argued, "themselves employees of ... great groups of individual stockholders, or policy holders, reflect a spirit of community responsibility." n82 This was not mere idealism, but a pragmatic recognition of the fact that the success of an economy based on mass production and distribution required economic empowerment of the masses. n83 This depended on

organizations for advancement of ideas in the community for mutual cooperation and economic objectives - the chambers of commerce, trade associations, labor unions, bankers, farmers, propaganda associations, and what not.

...

Each group is a realization of greater mutuality of interest, each contains some element of public service and each is a school of public responsibility. n84

Organizations promoting economic cooperation worked in connection with other kinds of voluntary organizations for altruistic purposes - associations for advancement of public welfare, improvement, morals, charity, public opinion, health, clubs and societies for recreation and intellectual advancement - to combine self-interested pursuits with higher values of cooperation and public service. n85

A self-made man himself, Hoover repeatedly stressed that society "must stimulate leadership from its own mass." n86 "Leadership cannot," he wrote, "be replenished by selection like queen bees, by divine right or bureaucracies, but by the free rise of ability, character, and intelligence." n87 Nonetheless, leaders, once in place, had to be free to make decisions on the basis of "intellect and progress." n88 "Popular desires," Hoover urged, [\*809] "are no criteria to the real need; they can be determined only by deliberative consideration, by education, by constructive leadership." n89

Accepting the post of Secretary of Commerce from President Harding, n90 Hoover strove through the 1920s to implement his vision of self-government by people outside of government. n91 This effort, which extolled voluntary cooperation within the community as the best means of perfecting the social organizations, caring for those in distress, advancing knowledge, scientific research, education, and, most importantly, economic life. n92 "It is in the further development of this co-operation and a sense of its responsibility," he would later write,

that we should find a solution for many of our complex problems, and not by the extension of government into our economic and social life. The greatest function of government is to build up that cooperation, and its most resolute action should be to deny the extension of bureaucracy. We have developed great agencies of co-operation by the assistance of the Government which promote and protect the interests of individuals and smaller units of business. The Federal Reserve System, in its strengthening and support of the smaller banks; the Home Loan banks, in mobilizing of building and loan associations and savings banks; the Federal land banks, in giving independence and strength to land mortgage associations; the great mobilization of relief to distress, the mobilization of business and industry in measures of recovery, and a score of other activities are not socialism... The primary conception of this whole American system is not the regimentation of men but the cooperation of free men. It is founded upon the conception of responsibility of the individual to the community, of the responsibility of local government to the State, of the State to the national Government. n93

In this "associative state" government would act as umpire and nexus for the exchange of information, using "promotional conferences, expert enquiries, and cooperating committees" rather than "legal coercion, or arbitrary controls." n94 "Like the private groupings to which it would be tied," government agencies would be "staffed by men of talent, vision, [\*810] and expertise, and committed to nourishing individualism and local initiative rather than

supplanting them." n95 Ellis Hawley provides a particularly illuminating example of how Hoover enacted his vision of public-private partnership:

Hoover's efforts in the housing field epitomized his vision of public-private partnership. With the goal of relieving the national housing shortage, the Building and Housing Division of the Department of Commerce strove to stabilize the construction industry, to overcome resistance to mass production and standardization, to foster city planning and zoning activities, and to promote the "spiritual values" inherent in widespread home ownership. To do this, the Division worked through an organization known as Better Homes in America. Although originally a promotional activity initiated by a household magazine, the *Deliniator*, Better Homes was reorganized as a public service corporation in 1923. Operating as a "collateral arm" of the Commerce Department, Better Homes "secured operating funds from private foundations, persuaded James Ford, a professor of social ethics at Harvard, to serve as executive director, and tied the whole apparatus to the Housing Division by having directors of that agency serve as officers in the new corporation." Working through some 3,600 local committees and a host of affiliated businesses, trade associations, and schools, Better Homes carried on a massive educational campaign, one that reached through some 3,600 local committees and a host of affiliated groups "to provide exhibits of model homes, foster better 'household management,' promote research in the housing field, and generate a greater, steadier, and more discriminating demand for 'improved dwellings,' especially for families with 'small incomes.'" By 1932, Hoover boasted that these initiatives had led to the construction of 15 million "new and better homes." n96

The impressive number of businessmen who participated in "New Era" boards and commissions, both public and private, suggests the broad appeal of Hoover's vision of the possibility of a private sector alternative to socialism that could promote the efficiencies of centralized planning without stifling individual initiative. n97 [\*811]

Associational and welfare capitalist activity was not restricted to top management in national firms like GE and AT&T. Hoover's associational network of trade associations and government agencies viewed voluntary associations operating on the community level as the primary instruments of social and economic progress. During the 1920s, businesses and their managers made impressive investments of concern, energy, and resources, restructuring the public schools, building parks and playgrounds, and fostering the growth of "character-building" activities like scouting. n98 They devoted a particular commitment to public education - which they viewed as part of a constellation of community-building institutions. Throughout the country, school systems were reorganized and became closely tied to serving the needs of the economy through new curricula which promulgated not only the values and skills needed to sustain the new consumer-oriented economy, but which, through home economics, shop, personal hygiene and other offerings, actually taught young people how to consume. n99 At the same time, a rich extra-curriculum of athletic teams, clubs, and special activities helped to transmit values, impart social discipline, and integrate young people into the economic and social life of the community. n100 These efforts, which interfaced with public-private partnerships to promote city planning, organized recreation, and character-building initiatives, were key elements in the building of social capital in the pre-World War II decades. n101

Businessmen, serving on municipal boards and mustering public support through voluntary organizations, played leading roles in the transformation of community life in the years leading up to the Great Depression. n102 In an age when little support from state or federal [\*812] governments was available, municipalities were especially dependent on business leaders to finance and muster public support for these expensive initiatives. n103 With business taking the lead, a doubting public was persuaded to pass compulsory school attendance laws and to finance new schools and programs through taxes and borrowing. n104 At the same time they and their firms played key roles in changing and improving American living standards. All proceeded from the recognition that economic growth depended on a variety of non-economic "quality of life" factors: the availability and cost of housing, a skilled and contented workforce, up-to-date public utilities, recreation, and freedom from political corruption. n105

Thus, in places like Cleveland, Kansas City, and Allentown, businessmen fostered the growth of civil society and the accumulation of social capital, working through chambers of commerce, trade associations, service clubs, organized charities, and local institutions of higher education. They sponsored surveys of the local economic and social problems. n106 These in turn became the bases for proactive policies which involved not only business activity, but also public-private partnerships and philanthropic initiatives in such fundamental areas of public life as education, recreation, and city planning. n107 Corporate giving and volunteering, as well as independent and community foundations, federations of charities, and other eleemosynary ventures underwritten by business, played an important role in these cooperative initiatives. n108

We have no clear idea of the scale and scope of either business giving or corporate contributions before 1936, when charitable donations became tax-deductible. n109 However, the fragmentary data that exist are highly suggestive. The first systematic study of charitable giving was undertaken by the Cleveland Chamber of Commerce's Committee on Benevolent Associations in 1909. The study revealed that of the 3,537 largest donors to the city's charities, 800 (23%) were business firms. n110 A 1930 study conducted for the National Bureau of Economic Research, entitled [\*813] Corporation Contributions to Organized Community Welfare Services, shows that corporations gave over \$ 300 million to community chests between 1920 and 1929. n111 Analysis of business contributions to Harvard in the mid-1920s shows that, through a combination of gifts by individual businessmen, their firms, the trade associations to which their firms belonged, and the charitable foundations on whose boards they sat, over 35% of gifts came from the business community. n112 The value of corporate contributions, however, hardly encompasses the full range of business social action. As noted, businesses also initiated education, recreation, health-care, and retirement plans. In-kind giving was common, especially making company facilities available for community events. And service clubs - the Rotary, Kiwanis, and the Lions - pooled the energies and resources of smaller businessmen into the civic task.

On the national level, Hoover's vision of the central role of the private sectors in shaping the nation's future appears to have been widely accepted both in the business and professional communities. This acceptance was reflected in the emergence of a remarkably coordinated network of private organizations that included progressively managed corporations, corporate and independent foundations, policy institutes, private universities, and intermediary bodies including trade associations and scholarly bodies like the National Bureau of Economic Research, the American Council of Learned Societies, and the Social Science Research Council. Among the more important efforts of these linked organizations were the National Research Fund, which involved a \$ 10 million commitment from major corporations to underwrite basic scientific research in the universities, n113 and the President's Research Committee on Social Trends, which was a comprehensive attempt, using scholarly teamwork, to accurately assess the present and future direction of American life in the twentieth century. n114 Though a federally sponsored effort, the Committee's work was funded by the Rockefeller Foundation and staffed by the Social Science Research Council. n115

The Great Depression posed a severe test for civil society, business, and ties between the two - though the impact of the catastrophe varied significantly from place to place. The resiliency of communities seems to [\*814] have been profoundly shaped by the strength of businesses' willingness to cooperate with one another and work with voluntary associations and informal institutions. In Allentown, Pennsylvania, for example, businesses, voluntary associations, and neighborhoods worked together to keep the city's banks solvent and to provide jobs and assistance to the unemployed. Families took care of their own, often taking unemployed relatives into their homes and providing jobs in family businesses. Children delayed marriage, staying at home and, if employed, contributing to the support of their families. Neighbors helped one another, both through informal charity and by participating in such programs as "Man-a-Block" campaigns (through which the jobless were hired by neighbors to do odd jobs) and by making vacant lots available for gardens. Clubs and fraternal organizations provided jobs and material assistance for their members. Many employees helped keep their employers solvent by voluntarily accepting pay reductions and longer hours and by sharing jobs with colleagues who would otherwise have had to be laid off. n116 Trade associations played a crucial role in keeping businesses afloat: the Chamber of Commerce stepped up its efforts to attract new enterprises to the city and encouraged citizens to spend money locally, arranging special sales, window shopping nights, trade shows, and free street car rides to the center city shopping district. The efforts of the Allentown Clearing House Association, the banking trade group, facilitated the merger of weaker and stronger institutions with such effectiveness that no major bank in the city failed. n117 Allentown actually rounded out the 1930s with more companies in business than it had in 1929.

Ultimately, however, the scale of the economic catastrophe overwhelmed many communities. n118 Even in places like Allentown, federal programs to a significant extent took the place of business in providing jobs, emergency assistance, and other resources to the community. Nonetheless, the constellation of informal and voluntary associations created during Hoover's New Era remained intact and continued to play central roles in community life into the 1960s.

Nationally, the Depression and the rise of organized labor forced many firms to abandon their social commitments. Corporations like GE, Eastman Kodak, Ford, US Rubber, US Steel, and others that had demonstrated serious social concerns responded to the Depression by attempting to sustain their social commitments. Many set up loan and unemployment benefit funds, while pledging to maintain wage levels and, where possible, to share tasks among their workers. Corporate [\*815] contributions to community chests reached record levels in 1932. n119 However, it became increasingly clear, as Charles Schwab of Bethlehem Steel admitted in the spring of 1932, that "none of us can escape the

inexorable law of the balance sheet." n120 In the deepening economic crisis, the resources of corporations could no longer be devoted to purposes not essential to their survival.

Franklin Delano Roosevelt's first efforts to promote recovery attempted to salvage Hoover's associational system. The creation of the National Recovery Administration ("NRA") in 1933 was in many ways less a departure from the business thinking of the 1920s than a fulfillment of it. To be sure, many of the pillars of the New Era, including Hoover himself, disavowed Roosevelt's system of government-fostered cooperation, just as they decried direct federal aid to the unemployed. n121 But many business leaders, like Gerard Swope of General Electric, were enthusiastic backers of the plan. n122 The most important aspect of the NRA from the standpoint of business social investment was its emphasis on the preeminence of the role of the private sector in the provision of welfare services. n123

The Supreme Court's 1935 decision declaring the NRA unconstitutional, n124 combined with rising challenges to the New Deal from the left (especially from Huey Long's populist "share-our-wealth" campaign) n125 and deepening hostility to the New Deal in the business community, n126 led the Roosevelt administration to shift its rhetoric and policy. In 1935, Roosevelt spearheaded a major tax reform which featured steeply progressive rates for the wealthy and for business corporations. n127 Intense lobbying from the Community Chest persuaded the President to include in the reform incentives to stimulate corporate charitable contributions. n128 The deductibility of corporate charitable contributions did [\*816] not produce a flood of benevolence, not only because few corporations were prosperous enough to engage in large-scale philanthropy, but also because they were constrained by law from doing so. n129

The second World War, which generated huge profits for American corporations, and post-war concerns about the growth of big government, stimulated new interest in giving and social investment. n130 In the early 1950s, a group of major corporate leaders brought a suit which eliminated legal obstacles of corporate philanthropy. n131 These efforts were driven by a range of motives, chief among them a desire to expand the political influence of business and to maintain the free enterprise system - though such self-interested concerns were generally cloaked in a philanthropic rhetoric which stressed ties between philanthropy and profitability. After the war, many companies set up grant-making foundations and, by the 1960s, corporations were giving more than a billion dollars a year to charity - chiefly to education. n132

By the late 1960s, in response to rising public concern about environment, poverty, and race, some firms went beyond giving, permitting social concerns to influence personnel, plant location and marketing decisions. These were seldom proactive initiatives, they were responses to public demand. However well-intentioned, they often lacked any demonstrable connection to productivity, profitability, or the other core purposes of business firms. And, as political liberalism came under attack in the 1970s, the weakly reasoned rationale for corporate social responsibility became ever harder to defend. As noted, liberal corporate policies came under further attack with the rise of the New Right, the increasing acceptability of the ideas of extreme conservative economists like Milton Friedman, n133 and the growing influence of right-wing religious groups which rabidly opposed institutional charity. n134

## VII.

### Conclusion

The decline of corporate social responsibility policies and practices after the mid-1980s can be attributed not only to the failure of political [\*817] liberalism, but to the inability of the proponents of business giving and social investment to articulate persuasive rationales for such activities. Tax incentives proved insufficient to fuel large-scale corporate commitments (as Hayden Smith's 1983 study shows, companies with deep commitments to social responsibility often contributed at levels greater than could be justified by tax savings, while companies lacking such commitments did not bother to take advantage of potential savings n135 ).

Proponents of corporate responsibility never succeeded in demonstrating linkages between profitability and benevolence (the performance of ethically-invested mutual funds, for example, could never be shown to be superior to the performance of those without ethical concerns). n136

It would be a mistake, however, to consider the failure of these conventional rationales as an exhaustion of the possibilities for constructing new and more credible arguments in favor of corporate responsibility. As this paper has tried to suggest, more searching and historically-informed examinations of the fundamental character of capitalism - not merely as an economic system, but as a culture - offers a wealth of understandings about the interrelationships of economic, social, political, and governmental institutions. These have considerable promise as foundations for new and more powerful arguments in favor of business activism.

**FOOTNOTES:**

n1. Charles Dickens, *A Christmas Carol* 23 (Tor ed. 1990) (1843).

n2. See generally F. Emerson Andrews, *Corporation Giving* (1952); Council on Founds., *Corporate Philanthropy: Philosophy, Management, Trends, Future, Background* (1982); Council on Founds., *The Corporate Contributions Handbook: Devoting Private Means to Public Needs* (James P. Shannon ed., 1991); Frank Koch, *The New Corporate Philanthropy: How Society and Business Can Profit* (1979); National Planning Ass'n, *The Manual of Corporate Giving* (Beardsley Ruml ed., 1952).

n3. See Hayden W. Smith, Council for Financial Aid to Education, *A Profile of Corporate Contributions* (1983).

n4. See The President's Task Force on Private Sector Initiatives, *Building Partnerships* (1982).

n5. See Kathleen Teltsch, *Survey Says Companies Gave Record Amount to Charities*, N.Y. Times, Nov. 21, 1983, at B16. But cf. Tamar Lewin, *Corporate Giving Fails to Offset Cuts by U.S.*, N.Y. Times, Feb. 15, 1985, at A1 (reflecting that despite an increase in corporate giving to charities, most corporations still believe that basic social welfare is not their responsibility).

n6. See generally John M. Hood, *The Heroic Enterprise: Business and the Common Good* (1996); Marvin Olasky, *The Tragedy of American Compassion* (1992); Leslie Lenkowsky, *My View: Does Philanthropy Need a New Gospel of Wealth or Should It Heed the Old One More Faithfully?*, Chron. Philanthropy, Dec. 12, 1989, at 36; N. Craig Smith, *Viewpoint: Corporate Citizens and Their Critics*, N.Y. Times, Sept. 8, 1996, at F11; Herbert Stein, *Corporate America, Mind Your Own Business*, Wall St. J., July 15, 1996, at A12.

n7. George Bush, *Transcript of Speech Accepting Republican Nomination for President*, in N.Y. Times, Aug. 19, 1988, at A14.

n8. Id.

n9. See Milton Friedman, *A Friedman Doctrine - The Social Responsibility of Business Is to Increase Its Profits*, N.Y. Times, Sept. 13, 1970, 6 (Magazine), at 32.

n10. See Paul W. MacAvoy & Ira M. Millstein, *Corporate Philanthropy vs. Corporate Purpose*, in Council on Founds., *Corporate Philanthropy: Philosophy, Management, Trends, Future, Background* 25, 27 (1982).

n11. See Deborah L. Jacobs, *Managing: Corporate Donations Under Attack*, N.Y. Times, Sept. 30, 1990, 3 (Business), at 23; Kathleen Teltsch, *Corporate Pressures Slowing Gifts to Charity*, N.Y. Times, July 8, 1987, at A1.

n12. See Jacobs, *supra* note 11; Teltsch, *supra* note 11.

n13. See Michael Winerip, *An American Place - A Legion of Volunteers: Town Cheers Football and Its Volunteerism*, N.Y. Times, July 29, 1996, at A8; Michael Winerip, *An American Place - Tale of Town and Company: Model Corporate Citizen Finds Its Trust in Doubt over a Zoning Issue*, N.Y. Times, Apr. 27, 1996, at L9; Michael Winerip, *An American Place - Worries over Wages, Canton's Economic Seesaw: Managers' Fortunes Rise as Workers Get Bumpy Ride*, N.Y. Times, July 7, 1996, at L10.

n14. See Edward M. Liddy, *Dollars Do Good, But Volunteers Do Better*, Chi. Trib., Apr. 18, 1996, at 27.

n15. Id.

n16. Id.

n17. Id.

n18. Id.

n19. Id.

n20. Id.

n21. Id.

n22. Adam Stern & Mark Vermilion, *Corporate Social Investment*, Found. News, Nov./Dec. 1986, at 38.

n23. See Arthur H. White & John S. Bartolomeo, *The Attitudes and Motivations of Chief Executive Officers*, in Council on Founds., *Corporate Philanthropy: Philosophy, Management, Trends, Future, Background* 102 (1982).

n24. *A. P. Smith Mfg. Co. v. Barlow*, 98 A.2d 581, 583 (N.J. 1953).

n25. See Independent Sector, *Research-in-Progress, 1987-88: A National Compilation of Research Projects on Philanthropy, Voluntary Action, and Not-for-Profit Activity* (1990).

n26. See id.

n27. See Robert A. Dahl et al., *Social Science Research on Business: Product and Potential* 3-4 (1959).

n28. See Alfred D. Chandler, Jr., *The Visible Hand: The Managerial Revolution in American Business* (1977).

n29. See generally Burton J. Bledstein, *The Culture of Professionalism: The Middle Class and the Development of Higher Education in America* (1976); Robert D. Cuff, *The War Industries Board: Business-Government Relations During World War I* (1973); Laurence R. Veysey, *The Emergence of the American University* (1965); Robert H. Wiebe, *The Search for Order: 1877-1920* (David Donald ed., 1967); Ellis W. Hawley, Herbert Hoover, The Commerce Secretariat, and the Vision of an "Associative State," 1921-1928, *J. Am. Hist.*, June 1974, at 61, reprinted in *Men and Organizations: The American Economy in the Twentieth Century* 131 (Edwin J. Perkins ed., 1977); Louis Galambos, *The Emerging Organizational Synthesis in Modern American History*, 44 *Bus. Hist. Rev.* 279 (1970).

n30. Louis Galambos, *Technology, Political Economy, and Professionalization: Central Themes of the Organizational Synthesis*, 57 *Bus. Hist. Rev.* 471, 471 (1983).

n31. Stephen J. Gould, *Ever Since Darwin: Reflections in Natural History* 10 (1977).

n32. See generally Thomas Bender, *Community and Social Change in America* (1978).

n33. See generally *The New Institutionalism in Organizational Analysis* (Walter W. Powell & Paul J. DiMaggio eds., 1991); Paul J. DiMaggio, *Constructing an Organizational Field as a Professional Project: U.S. Art Museums, 1920-1940*, in *The New Institutionalism in Organizational Analysis* 267 (Walter W. Powell & Paul J. DiMaggio eds., 1991); Lynne G. Zucker, *Production of Trust: Institutional Sources of Economic Structure*, 8 *Res. Organizational Behav.* 53 (1986).

n34. See generally *The New Institutionalism in Organizational Analysis*, supra note 33; DiMaggio, supra note 33; Zucker, supra note 33.

n35. Francis Fukuyama, *Trust: The Social Virtues & the Creation of Prosperity* 4-5 (1995).

n36. See generally Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (1993) [hereinafter Putnam, *Making Democracy Work*]; Robert D. Putnam, *Bowling Alone: America's Declining Social Capital*, 6 *J. Democracy* 65 (1995) [hereinafter Putnam, *Bowling Alone*].

n37. See generally Putnam, *Making Democracy Work*, supra note 36; Putnam, *Bowling Alone*, supra note 36.

n38. Carl Milofsky, *Neighborhood-Based Organizations: A Market Analogy*, in *The Non-Profit Sector: A Research Handbook* 277 (Walter W. Powell ed., 1987).

n39. Martin J. Sklar, *The Corporate Reconstruction of American Capitalism, 1890-1916: The Market, the Law, and Politics* 8 (1988).

n40. See generally *The Debate on the Constitution: Federalist and Antifederalist Speeches, Articles, and Letters During the Struggle over Ratification* (Bernard Bailyn ed., 1993) [hereinafter *The Debate on the Constitution*].

n41. See generally *id.*

n42. See generally 11-12 *The Papers of Thomas Jefferson* (Julian P. Boyd et al. eds., 1950).

n43. See generally *The Debate on the Constitution*, *supra* note 40.

n44. See generally 1 *The Papers of Thomas Jefferson*, *supra* note 42, at 329-65.

n45. *The Autobiographies of Noah Webster: From the Letters and Essays, Memoir, and Diary* (Richard M. Rollins ed., 1989).

n46. *Id.* at 78.

n47. *Id.* at 78-79.

n48. See generally *The Debate on the Constitution*, *supra* note 40.

n49. Letter from Eli Whitney to Oliver Wolcott (July 12, 1798), *Eli Whitney Papers* (on file with the Yale University Library).

n50. See Carolyn Cooper & Karyl Lee Hall, *Windows on the Works: Industry on the Eli Whitney Site, 1798-1979* (1984).

n51. See *id.*

n52. See *id.*

n53. See *id.*

n54. See *id.*

n55. See *id.*

n56. See generally John Coolidge, *Mill and Mansion: A Study of Architecture and Society in Lowell, Massachusetts, 1820-1865* (Russell & Russell 1967) (1942); Robert F. Dalzell, Jr., *Enterprising Elite: The*

Boston Associates and the World They Made (1987); Thomas Dublin, *Women at Work: The Transformation of Work and Community in Lowell, Massachusetts, 1826-1860* (1979); Hannah Josephson, *The Golden Threads: New England's Mill Girls and Magnates* (1949); Caroline F. Ware, *The Early New England Cotton Manufacture: A Study in Industrial Beginnings* (Russell & Russell 1966) (1931).

n57. See generally Coolidge, *supra* note 56; Dalzell, *supra* note 56; Dublin, *supra* note 56; Josephson, *supra* note 56; Ware, *supra* note 56.

n58. See generally Lawrence A. Cremin, *American Education: The National Experience, 1783-1876* (1980); Michael B. Katz, *The Irony of Early School Reform: Educational Innovation in Mid-Nineteenth Century Massachusetts* (1968); David Tyack & Elisabeth Hansot, *Managers of Virtue: Public School Leadership in America, 1820-1980* (1982).

n59. See generally Ronald E. Butchart, *Northern Schools, Southern Blacks, and Reconstruction, Freedmen's Education 1862-1875* (1980); J.L.M. Curry, *A Brief Sketch of George Peabody and a History of the Peabody Education Fund Through Thirty Years* (Greenwood Publ'g Corp. 1969) (1898); *Documentary History of Reconstruction: Political, Military, Social, Religious, Educational & Industrial, 1865 to the Present Time* (Walter L. Fleming, Ph.D. ed., Peter Smith 1960) (1906); Henry Lee Swint, *The Northern Teacher in the South, 1862-1870* (Octagon Books, Inc. 1967) (1941).

n60. See generally *A Turning Point in Higher Education: The Inaugural Address of Charles William Eliot as President of Harvard College, October 19, 1869*; C.W. Eliot, *The New Education*, 23 *Atlantic Monthly* 203 (1869).

n61. See Andrew Carnegie, *Wealth*, 148 *N. Am. Rev.* 653 (1889).

n62. See *id.*

n63. See *id.*

n64. See *id.*

n65. See *id.*

n66. *Id.* at 663.

n67. *Id.*

n68. See *The Lehigh Valley - An Illustrated History* 101 (Pamela Taylor ed., 1982).

n69. See generally Stuart D. Brandes, *American Welfare Capitalism, 1880-1940* (1976).

n70. See Frederick Winslow Taylor, *The Principles of Scientific Management* (W.W. Norton & Co. 1967) (1911).

n71. Peter F. Drucker, *The New Realities* 19 (1989).

n72. See *id.* at 19-26.

n73. See generally Guy Alchon, *The Invisible Hand of Planning: Capitalism, Social Science, and the State in the 1920s* (1985); Raymond E. Callahan, *Education and the Cult of Efficiency: A Study of the Social Forces That Have Shaped the Administration of the Public Schools* (1962); Herbert Hoover as Secretary of Commerce: *Studies in New Era Thought and Practice* (Ellis W. Hawley ed., 1981); Barry D. Karl, *Philanthropy, Policy Planning, and the Bureaucratization of the Democratic Ideal*, *Daedalus*, Fall 1976, at 129; Barry D. Karl & Stanley N. Katz, *The American Private Philanthropic Foundation and the Public Sphere: 1890-1930*, 19 *Minerva* 236 (1981).

n74. See generally Morrell Heald, *The Social Responsibilities of Business: Company and Community, 1900-1960* (1970); David Loth, *Swope of G.E.: The Story of Gerald Swope and General Electric in American Business* (1958); Peter Dobkin Hall, *Business Giving and Social Investment in the United States*, in *Philanthropic Giving: Studies in Varieties and Goals* 221 (Richard Magat ed., 1989).

n75. See Herbert Hoover, *American Individualism* (1922).

n76. See *id.*

n77. See *id.*

n78. See generally Carnegie, *supra* note 61.

n79. See Hoover, *supra* note 75.

n80. *Id.* at 40.

n81. *Id.* at 38.

n82. *Id.* at 40.

n83. See *id.* at 40-41.

n84. *Id.* at 41-43.

n85. See *id.* at 44-47.

n86. *Id.* at 24.

n87. *Id.*

n88. *Id.* at 25.

n89. *Id.*

n90. See Hawley, *supra* note 29, at 134.

n91. See generally *id.*; see also Hoover, *supra* note 75.

n92. See Hawley, *supra* note 29, at 134.

n93. Hoover, *supra* note 75, at 4-5.

n94. Hawley, *supra* note 29, at 133.

n95. *Id.*

n96. *Id.* at 143.

n97. See generally Alchon, *supra* note 73; David F. Noble, *America by Design: Science, Technology, and the Rise of Corporate Capitalism* (1977).

n98. See generally Dominick Cavallo, *Muscles and Morals: Organized Playgrounds and Urban Reform, 1880-1920* (1981); Lawrence K. Frank, *Childhood and Youth*, in *Recent Social Trends in the United States*, Report of the President's Research Committee on Social Trends, 751-800 (1933); J.F. Steiner, *Recreation and Leisure Time Activities*, in *Recent Social Trends in the United States*, Report of the President's Research Committee on Social Trends, 912-57 (1933).

n99. See generally Stuart Ewen, *Captains of Consciousness: Advertising and the Social Roots of the Consumer Culture* (1976).

n100. See generally Cavallo, *supra* note 98; Frank, *supra* note 98; Steiner, *supra* note 98.

n101. See generally Thomas M. Deam & Olive M. Bear, *Socializing the Pupil Through Extra-Curricular Activities* (1928); Robert S. Lynd & Helen Merrell Lynd, *Middletown: A Study in Contemporary American Culture* (1929); David I. Macleod, *Building Character in the American Boy: The Boy Scouts, YMCA, and Their Forerunners, 1870-1920* (1983).

n102. See generally Brandes, *supra* note 69; Heald, *supra* note 74.

n103. See generally Brandes, *supra* note 69; Heald, *supra* note 74.

n104. See generally Brandes, *supra* note 69; Heald, *supra* note 74.

n105. See generally Brandes, *supra* note 69; Heald, *supra* note 74.

n106. See generally *The Lehigh Valley - An Illustrated History*, *supra* note 68; Peter Dobkin Hall, *Philanthropy as Investment*, 1982 *Hist. Educ. Q.* 185.

n107. See generally *The Lehigh Valley - An Illustrated History*, *supra* note 68; Hall, *supra* note 74.

n108. See generally *The Lehigh Valley - An Illustrated History*, *supra* note 68; Hall, *supra* note 74.

n109. See *Smith*, *supra* note 3, at 7.

n110. See Hall, *supra* note 74, at 231.

n111. See Pierce Williams & Frederick E. Croxton, *Nat'l Bureau of Econ. Research, Inc., Corporation Contributions to Organized Community Welfare Services* (1930).

n112. See Hall, *supra* note 74, at 231.

n113. See Lance E. Davis & Daniel J. Kevles, *The National Research Fund: A Case Study in the Industrial Support of Academic Science*, 12 *Minerva* 207 (1974).

n114. See *Recent Social Trends in the United States*, Report of the President's Research Committee on Social Trends (1933).

n115. See *id.*

n116. See generally *The Lehigh Valley - An Illustrative History*, *supra* note 68.

n117. See generally *id.*

n118. See generally *id.*

n119. See Hall, *supra* note 74, at 232.

n120. *Id.*

n121. See *id.*

n122. See *id.*; see also Loth, *supra* note 74.

n123. See Hall, *supra* note 74, at 232.

n124. See *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 551 (1935); see also *Panama Ref. Co. v. Ryan*, 293 U.S. 388 (1935).

n125. See Seymour Martin Lipset, Symposium: The New Deal and Its Legacy: Roosevelt and the Protest of the 1930s, 68 *Minn. L. Rev.* 273, 277 (1983).

n126. See Hall, *supra* note 74, at 232.

n127. See *id.* See also Nancy J. Knauer, The Paradox of Corporate Giving: Tax Expenditures, the Nature of the Corporation, and the Social Construction of Charity, 44 *DePaul L. Rev.* 1, 19.

n128. See Hall, *supra* note 74, at 233.

n129. See generally Scott M. Cutlip, Fund Raising in the United States: Its Role in America's Philanthropy (Transaction Publishers 1990) (1965).

n130. See *id.*

n131. See *A.P. Smith Mfg. Co. v. Barlow*, 98 A.2d 581 (N.J. 1953).

n132. See Hall, *supra* note 74, at 236.

n133. See Friedman, *supra* note 9.

n134. See generally Megan Rosenfeld, Faith, Politics and Charity; They All Call Themselves Christians, But in the Battle over Welfare Reform They're Preaching Two Gospels, Wash. Post, Aug. 9. 1995, at D1.

n135. See *Smith*, *supra* note 3.

n136. See Francis Flaherty, Investing: Nice Profits, Hard Ethics for Political Correctness, N.Y. Times, Nov. 27, 1993, at 33 (explaining that social investing has long been dogged by fears that do-good investors will do poorly in terms of profit). But see Robert W. Casey, "Do-Gooder" Funds That Make Money, N.Y. Times, Jan. 7, 1990 3 (Business), at 14 (indicating that ethical mutual funds sometimes can be profitable).

Copyright (c) 1997 New York Law School Law Review  
New York Law School Law Review

1997

41 N.Y.L. Sch. L. Rev. 819

**LENGTH:** 2211 words

**SYMPOSIUM:** CORPORATE PHILANTHROPY: LAW, CULTURE, EDUCATION, AND POLITICS: REMARK:  
THE DEALINGS OF YOUR TRADE ARE BUT A DROP OF WATER

Peter Dobkin Hall \*

\* Research Scientist and Acting Director, Program on Non-Profit Organizations, Yale University.

**SUMMARY:**

... When I hear Hayden Smith giving us the gospel of corporate giving according to Emerson Andrews, in which a corporate social investment began with minor investments in YMCAs in the 1870s, and when I hear David Morgan's much more elaborate presentation of the numbers on corporate giving in the recent past, my response is very much the response I find myself giving to philanthropists and philanthropoids when they start patting themselves on the back and trotting out numbers and tables. ... For example, speaking as a board member of an organization in a locality where the for-profit economy has largely disappeared and where the largest firms are nonprofit firms - and I think this is true for a good many places in the Northeast - I know corporate contributions do not really matter very much when you are fundraising, because there are not many corporations to go to. ... They are products of investments in human capital, in values and skills - produced by institutions like schools, churches, and universities - that are supported by business people and that create business people with the right kinds of values. ...

**TEXT:**

[\*819]

When I hear Hayden Smith giving us the gospel of corporate giving according to Emerson Andrews, n1 in which a corporate social investment began with minor investments in YMCAs in the 1870s, n2 and when I hear David Morgan's much more elaborate presentation of the numbers on corporate giving in the recent past, n3 my response is very much the response I find myself giving to philanthropists and philanthropoids when they start patting themselves on the back and trotting out numbers and tables. I ask: Where are our Carnegies? Where are our Rockefellers? It is easy to talk about growing dollar amounts, n4 but where are the bold gestures that create and recreate the fundamental institutions of our culture?

If the corporate charitable deduction n5 - a corporate tax policy designed to influence corporate giving - and the academic response to it is to be criticized, it is primarily because it has so tragically narrowed our understanding of the role the corporation plays, not only in American life, but in the life of civilization. If we only look at corporate contributions, if we only look at the dollars given to the nonprofit sector, important as they are, we get a very distorted idea of what business's role has been historically, and what it should be in the future.

I am particularly troubled when I see aggregate figures on corporate contributions being trotted out at a time when what is happening on the [\*820] national level really means less and less. The fact of the matter is that regions have changed, the centers of giving have changed, as have the centers of service delivery to the regions and localities. We know very well, from the work of people like Hayden Smith n6 and Julian Wolpert, n7 that there is enormous variation between regions. n8 There are stingy regions, there are generous regions, there are regions that still have not tapped manufacturing bases, just to give a few examples. Therefore, talking about large, aggregate national figures tells us very little.

For example, speaking as a board member of an organization in a locality where the for-profit economy has largely disappeared and where the largest firms are nonprofit firms - and I think this is true for a good many places in the Northeast - I know corporate contributions do not really matter very much when you are fund-raising, because there are not many corporations to go to. You can go to Fleet Bank and get five thousand dollars, but that is now considered a large contribution. Donors like to give smaller amounts to a larger number of organizations, and that cannot compare to Eli Whitney's providing education for his employees. n9 It does not involve the bold gestures which historically have been associated not with corporate dollars, but with a broader conception of the corporate role in society. n10

I think the definition of giving is very important. I have always agreed with Hayden's characterization of "corporate philanthropy" as an oxymoron n11 and I was pleased to hear David Morgan say that corporate contributions are only a little piece of the picture. n12 Granted, it is the only one we are going to talk about today, but I think we must bear in mind that corporate social investment includes not only corporate contributions but other bolder investments as well. [\*821]

Workplace practices have social costs. Do businesses externalize that cost or do they take the cost onto themselves? This is not a hazy, humanistic matter. This is a dollars-and-cents matter. If the corporation is not responsible, society pays.

Community Involvement: What do I mean when I say community involvement? Does it matter that corporate people serve on boards? I believe it matters. How were urban school systems paid for in the early twentieth century? The majority of the financing of these school systems were not paid for out of tax dollars, they were paid for in the private capital markets through bonding. n13 Who bought those bonds? Who gave those bonds credibility? The presence of business people on those boards of education and municipal boards of finance made all the difference. n14 If they had not been there, the bonds would not have been marketable.

Product Integrity: Once again, the question is do you internalize or externalize the cost? Again, this is a dollars-and-cents matter, not a hazy matter of ethics. However, there are deeper issues. Markets do not just happen, markets are created. They are products of investments in human capital, in values and skills - produced by institutions like schools, churches, and universities - that are supported by business people and that create business people with the right kinds of values. It was a very conscious, intentional product of invested time and energy in the creation of institutions that could in turn create the social capital necessary to sustain orderly systems of economic exchange. n15

People tend to think of turn-of-the-century Progressivism as a political movement. n16 While it was political, the movement that really mattered was the shift in the economy from one based on heavy industry, in which large companies sold products like locomotives and huge quantities of steel to one another, to an economy based on mass production and mass consumption of products like automobiles, home furnishings, and electrical [\*822] appliances. n17 The people who effected that revolution were not legislators in Washington. They were business people in offices and boardrooms who made strategic decisions about their long-term interest. They effected that revolution not just by creating new products, but by making heavy investments in the development of public schools which were perceived to be engines for marketing their products.

Among the fundamental concerns of the Progressive movement were issues like nutrition, hygiene, and housing. n18 Progressive academics and professionals may have defined the problems, but business supplied the solutions in the form of reasonably-priced refrigerators, stoves, cook-ware, and plumbing fixtures. Business also subsidized the new

home economics curricula which taught people how to use these new technologies and paid its employees enough to purchase them.

Conventional accountings of corporate contributions barely begin to capture the scale or the imaginativeness of their investments in human and social capital. For example, if you count only direct corporate gifts to Harvard in the mid-1920s, the dollar amounts are unimpressive, amounting to less than ten percent of annual gifts received by the university. However, if you combined those with contributions made by officers of the corporations that made gifts, they account for nearly forty percent of the contributions Harvard received. If you add in grants from foundations with which these individuals were associated, the totals are even more impressive. n19

What were they investing in? They were investing in a school of public health, industrial safety education, and industrial relations. All of these were self-interested investments, not hazy, ethical investments, but investments that were absolutely central to the success of their strategy of transforming an economy from being one based on the production of large products for consumption by other large corporations to an economy based on the empowerment of the consumer. Empowerment, not simply in an economic sense, but also in the sense of being able to partake of the [\*823] benefits of a healthy, well-nourished society. n20 Once again, this illustrates why we need to look more broadly at business giving than we have. n21

Recent events call attention to the need for the broader view. When Communism collapsed, we assumed that capitalist economies would spring up overnight. What we discovered was that market economies require democratic polities - and that these, in turn, require intermediary institutions that can generate and effectively transmit civic skills and values. We now know that this crucial intersection of polity, economy, and society - the elements of "civil society" - are not accidents. They are created by investments as careful and thoughtful as those which give rise to new technologies and material prosperity. n22

Therefore, having abandoned my text, I want to stress, underline, and call attention to the urgency with which we must get beyond these narrow, tax-driven views of what the corporate stake is and what the scope and scale of corporate investment ought to be. When I say this, I am not saying give more money. What I am saying is give more strategically, give more thoughtfully, and give with an awareness that the dealings of your trade are but a drop of water in the comprehensive ocean of your business.

#### FOOTNOTES:

n1. See F. Emerson Andrews, *Corporation Giving* 18 (1952) (identifying corporations' desires to increase business through improving customer relations, to aid research that will benefit the corporation in the future, and to help in the education of future employees, as reasons for contributing to various philanthropic causes).

n2. See *id.* at 24 (stating that the YMCA movement in North America began in 1851 and that by 1890 there were 82 associations, all of which were supported financially by railroad corporations).

n3. See David R. Morgan, *Trends in Corporate Charitable Contributions*, 41 *N.Y.L. Sch. L. Rev.* 771, 774-75 (1997) (stating that in 1995, there were approximately \$ 8 billion in charitable contributions).

n4. See Hayden W. Smith, *If Not Corporate Philanthropy, Then What?*, 41 *N.Y.L. Sch. L. Rev.* 757, 758-60 (1997) (stating that corporate giving has increased from \$ 30 million in 1936 to approximately \$ 8 billion today).

n5. See *I.R.C. 170(a)* (1994) (allowing a charitable deduction for both individuals and corporations).

n6. See Smith, *supra* note 4, at 765 (stating that corporations generally prefer to give to local charities and therefore areas with few major industries receive little in corporate contributions).

n7. See Julian Wolpert, *Scrooges Among Us*, Wash. Post, June 29, 1995, at A21.

n8. See generally Charles T. Clotfelter, *Tax-Induced Distortions in the Voluntary Sector*, 39 *Case W. Res. L. Rev.* 663, 689 (1989) (stating that "charitable giving varies with geographic region").

n9. See Peter Dobkin Hall, *Business Giving and Social Investment in the United States, 1790-1995: "The Dealings of My Trade Were but a Drop of Water in the Comprehensive Ocean of My Business!"*, 41 *N.Y.L. Sch. L. Rev.* 789, 803 (1997) (describing how Eli Whitney established a school in his village in order to create a workforce that could read and write).

n10. See *id.* at 803 (stating that Whitney's charity was not unique and that many companies "took on broad responsibilities for the welfare of their employees").

n11. See Smith, *supra* note 4, at 762.

n12. See Morgan, *supra* note 3, at 786.

n13. See generally William E. Sparkman, *The Legal Foundation of Public School Finance*, 35 *B.C. L. Rev.* 569, 581-86.

n14. See generally Michael B. Katz, *The Irony of Early School Reform: Educational Innovation in Mid-Nineteenth Century Massachusetts* (1968).

n15. See generally John Coolidge, *Mill and Mansion: A Study of Architecture and Society in Lowell, Massachusetts, 1820-1865* (Russell & Russell ed. 1967) (1942); Robert F. Dalzell, Jr., *Enterprising Elite: The Boston Associates and the World They Made* (1987); Thomas Dublin, *Women at Work: The Transformation of Work and Community in Lowell, Massachusetts, 1826-1860* (1979); Hannah Josephson, *The Golden Threads: New England's Mill Girls and Magnates* (1949); Caroline F. Ware, *The Early New England Cotton Manufacture: A Study in Industrial Beginnings* (1931).

n16. See generally John Buell, *Democracy by Other Means: The Politics of Work, Leisure, and Environment* 72, 120-23 (1995) (discussing the Progressive Era and the changes in corporate values and capitalism during the early part of the century).

n17. See *id.*

n18. See generally William J. Stuntz, *The Substantive Origins of Criminal Procedure*, 105 *Yale L.J.* 393, 431 (1995) (stating that during the Progressive era, Congress enacted the Food and Drug Law and states passed workers' compensation and other regulatory statutes).

n19. Based on annual listings of gifts from individuals, foundations, and corporations in Harvard's annual Treasurer's Report and biographies of Harvard graduates in class reunion books.

n20. See generally Dalzell, *supra* note 15.

n21. See Guy Alchon, *The Invisible Hand of Planning: Capitalism, Social Science, and the State in the 1920s* (1985); Louis Galambos & Joseph Pratt, *The Rise of the Corporate Commonwealth: United States Business and Public Policy in the 20th Century* (1988); Morrill Heald, *The Social Responsibilities of Business: Company and Community, 1900-1960* (1970); David F. Noble, *America by Design: Science, Technology, and Corporate Capitalism* (1977); Martin J. Sklar, *The Corporate Reconstruction of American Capitalism, 1890-1916: The Market, the Law, and Politics* (1988).

n22. See Francis Fukuyama, *Trust: The Social Virtues & the Creation of Prosperity* (1995); Peter Dobkin Hall, *The Managerial Revolution, the Institutional Infrastructure, and the Problem of Human Capital*, in *Voluntas* 7, at 3-16 (1996); Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (1993); *Civil Society: Theory, History, Comparison* (John A. Hall ed., 1994).