UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT

drafted by the

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ON UNIFORM STATE LAWS

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IN ALL THE STATES

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WITH PREFATORY NOTE AND COMMENTS

UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT

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UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT

TABLE OF CONTENTS

UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT

PREFATORY NOTE

Over the past several years the governing boards of eleemosynary institutions, particularly colleges and universities, have sought to make more effective use of endowment and other investment funds. They and their counsel have wrestled with questions as to permissible investments, delegation of investment authority, and use of the total return concept in investing endowment funds. Studies of the legal authority and responsibility for the management of the funds of an institution have pointed up the uncertain state of the law in most jurisdictions. There is virtually no statutory law regarding trustees or governing boards of eleemosynary institutions, and case law is sparse. In the late 1960's the Ford Foundation commissioned Professor William L. Cary and Craig B. Bright, Esq., to examine the legal restrictions on the powers of trustees and managers of colleges and universities to invest endowment funds to achieve growth, to maintain purchasing power, and to expend a prudent portion of appreciation in endowment funds. They concluded that there was little developed law but that legal impediments which have been thought to deprive managers of their freedom of action appear on analysis to be more legendary than real. Cary and Bright, *The Law and the Lore of Endowment Funds*, 66 (1969).

Nonetheless it appears that counsel for some colleges and universities have advised to the contrary, basing such advice upon analogy to the law of private trusts. Not all counsel, of course, suggest that private trust laws control the governing boards of eleemosynary institutions.

There is, however, substantial concern about the potential liability of the managers of the institutional funds even though cases of actual liability are virtually nil. As deliberations of the Special Committee, the Advisory Committee and the Reporters responsible for the preparation of this Act have progressed, it became clear that the problems were not unique to educational institutions but were faced by any charitable, religious or any other eleemosynary institution which owned a fund to be invested.

One further problem regularly intruded upon the discussion of efforts to free trustees and managers from the alleged limitations on their powers to invest for growth and meet the financial needs of their institutions. Some gifts and grants contained restrictions on use of funds or selection of investments which imperiled the effective management of the fund. An expeditious means to modify obsolete restrictions seemed necessary.

The Uniform Act offers a rational solution to these problems by providing:

(1) a standard of prudent use of appreciation in invested funds;

(2) specific investment authority;

(3) authority to delegate investment decisions;

(4) a standard of business care and prudence to guide governing boards in the exercise of their duties under the Act; and

(5) a method of releasing restrictions on use of funds or selection of investments by donor acquiescence or court action.

USE OF APPRECIATION

The argument for allowing prudent use of appreciation of endowment funds has been stated in Cary and Bright, *The Law and The Lore of Endowment Funds* 5-6 (1969):

> [T]oo often the desperate need of some institutions for funds to meet current operating expenses has led their managers, contrary to their best long-term judgment, to forego investments with favorable growth prospects if they have a low current yield.
>
> [I]t would be far wiser to take capital gains as well as dividends and interest into account in investing for the highest overall return consistent with the safety and preservation of the funds invested. If the current return is insufficient for the institution's needs, the difference between that return and what it would have been under a more restrictive policy can be made up by the use of a prudent portion of capital gains.

The Uniform Act authorizes expenditure of appreciation subject to a standard of business care and prudence. It seems unwise to fix more exact standards in a statute. To impose a greater constriction would hamper adaptation by different institutions to their particular needs.

The standard of care is that of a reasonable and prudent director of a nonprofit corporation-similar to that of a director of a business corporation-which seems more appropriate than the traditional Prudent Man Rule applicable to private trustees. The approach has been used elsewhere. A New York statute allows inclusion in income of "so much of the realized appreciation as the board may deem prudent." New York Not-for-Profit Corporation Law § 513(d) (1970). Recent enactments in New Jersey, California, and Rhode Island follow the same pattern. N.J.S.A. § 15:18-8; West's Anno. Corp. Code § 10251(c) (Calif.); Gen. Laws of R.I. § 18-12-2.

The Act authorizes the appropriation of net appreciation. "Realization" of gains and losses is an artificial, meaningless concept in the context of a nontaxable eleemosynary institution. If gains and losses had to be realized before being taken into account, a major objective of the Act, to avoid distortion of sound investment policies, would be frustrated. If only realized capital gains could be taken into account, trustees or managers might be forced to sell their best assets, appreciated property, in order to produce spendable gains and conceivably might spend realized gains even when, because of unrealized losses, the fund has no net appreciation.

The Act excludes interests held for private beneficiaries, even though a charity is the ultimate beneficiary, e.g., an individual life interest followed by a charitable remainder. Also excluded is any trust managed by a professional trustee even though a charitable organization is

the sole beneficiary.

The Uniform Act has been drafted to meet the objection that there will be a decline in gifts to charity because donors cannot rely on their wishes being enforced if appreciation can be expended. The drafters were convinced that donors seldom give any indication of how they want the growth in their gifts to be treated. If, however, a donor does indicate that he wishes to limit expenditures to ordinary yield, under the Act his wishes will be respected.

A statute such as this can be constitutionally applied to gifts received prior to its enactment. There is no substantial authority to be found in law or reason for denying retroactive application.

When the Uniform Principal and Income Act was adopted it changed the apportionment of some items of revenue between principal and income. It was argued that the retroactive application of the statute to existing trusts would deprive either the income beneficiaries or the remaindermen of their property without due process of law. Professor Scott spoke for the overwhelming majority of commentators when he said:

> [T]here should be no constitutional objection to making the Act retroactive. The rules as to allocation should not be treated as absolute rules of property law, but rather as rules as to the administration of the trust. The purpose is to make allocations which are fair and impartial as between the successive beneficiaries. Scott, Principal or Income?, 100 Trusts & Est. 180, 251 (1961).

Professor Bogert reached the same conclusion. Bogert, *The Law of Trusts and Trustees* § 847, pp. 505-6 (2d ed. 1962). The courts which considered the matter reached the same conclusion.

There is even less reason to deny retroactive application to an apportionment statute which deals only with the endowment funds of eleemosynary institutions, because the statute does not deprive any beneficiary of vested property rights. In a broad sense, the public is the real beneficiary of an endowment fund. The only argument which can be made against retroactivity is that it might violate the intent of the donor. Such an argument was also made in respect of the Uniform Principal and Income Act, but it was uniformly rejected by the courts. The language of a Minnesota case is typical:

> [I]t is doubtful whether testatrix had any clear intention in mind at the time the will was executed. It is equally plausible that if she had thought about it at all she would have desired to have the dividends go where the law required them to go at the time they were received by the trustee .... *In re Gardner's Trust!*, 266 Minn. 127, 132, 123 N.W. 2d 69, 73 (1963).

In any event, the Act does not raise a problem of retroactive application because the rule of construction of Section 3 is declaratory of existing law in that it interprets the presumed intent of the donor in the absence of a clear statement of the donor's intention.

Other similar acts follow the same pattern. The New York Not-for-Profit Corporation

Law Section 513 (e) (1970) authorizing the expenditure of appreciation applies to assets "held at the time when this chapter takes effect" as well as to "assets hereafter received." Similar language appears in the New Jersey, California, and Rhode Island acts authorizing expenditure of appreciation by eleemosynary institutions.

SPECIFIC INVESTMENT AUTHORITY

It seems reasonably clear that investment managers of endowment funds are not limited to investments authorized to trustees. The broad grant of investment authority contained in Section 4 of the Act expressly so provides.

AUTHORITY TO DELEGATE

In the absence of clear law relating to the powers of governing boards of eleemosynary institutions, some boards have been advised that they are subject to the nondelegation strictures of professional private trustees. The board of an eleemosynary institution should be able to delegate day-to-day investment management to committees or employees and to purchase investment advisory or management services. The Act so provides.

STANDARD OF CARE

Fear of liability of a private trustee may have a debilitating effect upon members of a governing board, who are often uncompensated public -spirited citizens. They are managers of nonprofit corporations, guiding a unique and perhaps very large institution. The proper standard of responsibility is more analogous to that of a director of a business corporation than that of a professional private trustee. The Act establishes a standard of business care and prudence in the context of the operation of a nonprofit institution.

RELEASE OF RESTRICTIONS

It is established law that the donor may place restrictions on his largesse which the donee institution must honor. Too often, the restrictions on use or investment become outmoded or wasteful or unworkable. There is a need for review of obsolete restrictions and a way of modifying or adjusting them. The Act authorizes the governing board to obtain the acquiescence of the donor to a release of restrictions and, in the absence of the donor, to petition the appropriate court for relief in appropriate cases.

CONCLUSION

Over a decade ago, Professor Kenneth Karst in an article in the Harvard Law Review stated the need for the Uniform Act:

> [T]he managers of corporate charity are still, at this late date, without adequate guides for conduct. The development of these standards is of some urgency. The Efficiency of the Charitable Dollar: An Unfilled State Responsibility, 73 *Harv. L. Rev*. 433, 435 (1960).

UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT

An Act to establish guidelines for the management and use of investments held by eleemosynary institutions and funds.

[Be it enacted .....]

§ 1. [DEFINITIONS]

In this Act:

(1) "institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes;

(2) "institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include (i) a fund held for an institution by a trustee that is not an institution or (ii) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund;

(3) "endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument;

(4) "governing board" means the body responsible for the management of an institution or of an institutional fund;

(5) "historic dollar value" means the aggregate fair value in dollars of (i) an endowment fund at the time it became an endowment fund, (ii) each subsequent donation to the fund at the time it is made, and (iii) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

(6) "gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from

which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.

COMMENT

The Uniform Act applies generally to colleges, universities, hospitals, religious organizations and other institutions of an eleemosynary nature. It applies to a governmental organization to the extent that the organization holds funds for the listed purposes, e.g., a public school which has an endowment fund.

[Subsec. (1)] A non-governmental institution which is not "charitable" in the classic sense is not within the Act, even though it may hold funds for such purpose. If the fund is separate and distinct from the noncharitable organization, the fund itself may be an institution, to which the Act applies.

[Subsec. (2)] An institutional fund is any fund held by an institution which it may invest for a long or short term. Excluded from the Act is any fund held by a trustee which is not an institution as defined in this Act, e.g., a bank or trust company, for the benefit of an institution even though the institution is the sole beneficiary.

A fund held by an institution for the benefit of any noninstitutional beneficiary is also excluded. The exclusion would apply to any fund with an individual beneficiary such as an annuity trust or a unitrust. When the interest of a noninstitutional beneficiary is terminated, the fund may then become an institutional fund.

The "use, benefit, or purposes" of an institution broadly encompasses all of the activities permitted by its charter or other source of authority. A fund to provide scholarships for students or medical care for indigent patients is held by the school or hospital for the institution's purposes. Such a fund is not deemed to be held for the benefit of a particular student or patient as distinct from the use, benefit, or purposes of the institution, nor does the student or patient have an interest in the fund as a "beneficiary which is not an institution."

The particular recipient of the aid of a charitable organization is not a "beneficiary" in the sense of a beneficiary of a private trust; only the Attorney General or similar public authority may enforce a charitable trust. 4 Scott, *Law of Trusts* § 348 pp. 2768-9 (3d ed. 1967); Bogert, *The Law of Trusts and Trustees* §§ 411-15 pp. 317-348 (2d ed. 1962).

[Subsec. (3)] An endowment fund is an institutional fund, or any part thereof, which is held in perpetuity or for a term and which is not wholly expendable by the institution. Implicit in the definition is the continued maintenance of all or a specified portion of the original gift. "Endowment fund" is specially defined because it is subject to the appropriation rules of Section 2.

A restriction on use that makes a fund an endowment fund arises only from the applicable gift instrument. If a governing board has the power to spend all of a fund but, in its discretion,

decides to invest the fund and spend only the yield or appreciation therefrom, the fund does not become an endowment fund under this definition, but it may be described as a "quasi-endowment fund" or a "fund functioning as endowment."

A fund which is not an institutional fund originally and therefore not an endowment fund may become an endowment fund at a later time. For example, a fund given to an institution to pay the grantor's widow a life income, with the remainder to the institution, would become an institutional fund on the widow's death, and, if the fund were not then wholly expendable, it would become an endowment fund at that time.

If a gift instrument provided that the institution could use the income from the fund for ten years and thereafter spend the entire principal, the fund would be an endowment fund for the ten-year period and would cease to be an endowment fund at the time it became wholly expendable.

[Subsec. (4)] The definition is meant to designate the policy making or management group which has the responsibility for the affairs of the institution or the fund.

[Subsec. (5)] "Historic dollar value" is simply the value of the fund expressed in dollars at the time of the original contribution to the fund plus the dollar value of any subsequent gifts to the fund. Accounting entries recording realization of gains or losses to the fund have no effect upon historic dollar value. No increase or decrease in historic dollar value of the fund results from the sale of an asset held by the fund and the reinvestment of the proceeds in another asset.

If the gift instrument directs accumulation, the historic dollar value will increase with each accumulation. For example, if a donor gives an institution $300,000 and directs that the fund is to be accumulated until its value reaches $500,000, the historic dollar value will be the aggregate value of $500,000 at the time the fund becomes available for use by the institution.

If under the terms of the gift instrument a portion of an endowment fund, after passage of time or upon the happening of some event, becomes currently wholly expendable, such portion should be treated as a separate fund and the historic dollar value of the remaining endowment fund should be reduced proportionately.

[Subsec. (6)] A gift instrument establishes the terms of the gift. It may be a writing of any form, or it may result from the institution's solicitation activities, or the by-laws, or other rules of an existing fund.

§ 2. [APPROPRIATION OF APPRECIATION]

The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of

the fund as is prudent under the standard established by Section 6. This Section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

COMMENT

This section authorizes a governing board to expend for the purposes of the fund the increase in value of an endowment fund over the fund's historic dollar value, within the limitations of Section 6 which establishes a standard of business care and prudence.

The section does not apply to funds which are wholly expendable by the institution such as so-called "quasi-endowment funds" or "funds functioning as endowment," nor does the section limit or reduce any spending power granted by a gift instrument or otherwise held by the institution.

Unrealized gains and losses must be combined with realized gains and losses to insure that the historic dollar value is not impaired.

§ 3. [RULE OF CONSTRUCTION]

Section 2 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this Act.

COMMENT

If a gift instrument expresses or otherwise indicates the donor's intention that the governing board may not appropriate the appreciation in the value of the fund, his wishes will govern.

The rule of construction of this section is based upon the assumption that a grantor who makes an outright gift to an educational, religious, charitable or other eleemosynary institution seldom makes a full statement of his intentions and that his unstated intention is usually quite different from the intention of a grantor who makes a gift to a trust for private beneficiaries. The

assumption is that the grantor of a gift to an institution: (1) means to devote to the institution any return or benefit that the institution can obtain from the gift, (2) acknowledges the responsibility of the institutional management to determine the prudent use of the return or benefit over time and (3) usually regards the "amount" of the gift as the dollars given or the dollar value of the property transferred to the institution at the time of the gift. Thus, in the case of a gift instrument which states no clear intention or merely echoes the rubrics of a private trust, the statutory rule of interpretation should apply.

Some advisers to institutions, aware of the body of private trust law, have interpreted references to "income" or "principal" in a gift instrument to evidence a grantor's intent that the private trust rules developed to insure equity between an income beneficiary and a remainderman should be applied to an outright gift to an institutional donee. Neither the facts of donor's intentions nor the law of trusts support such an interpretation of the meaning of gift instruments where an institution is the sole beneficiary.

This section does not purport to change existing law or rights; it simply codifies a rule of construction or interpretation or administration by articulating the presumed intent of a donor in the absence of a statement of the donor's actual intent.

§ 4. [INVESTMENT AUTHORITY]

In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

(1) invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

COMMENT

Institutional investment managers suggest that a general grant of investment powers will clarify the authority of a governing board to select investments. Subsection (1) provides broad powers of investment and states that a governing board is not restricted to investments authorized to trustees.

Two other matters of investment policy have been troublesome to boards because of the absence of specific authority. Subsections (2) and (3) provide authority to hold property given by a donor even though it may not be the best investment (ordinarily in the hope of obtaining additional contributions) and to invest in common or pooled investment funds such as the Common Fund for Non-Profit Organizations. See 4 Scott, *Law of Trusts,* § 389 pp. 2997-3000 (3d ed. 1967).

The absence of specific reference to investment for return by an institution in its own facilities does not limit the power of a governing board to make such investments under the general clause of Section 4(1), or other law or the gift instrument.

Section 6 establishes the standard of care and prudence under which the investment authority is exercised.

§ 5. [DELEGATION OF INVESTMENT MANAGEMENT]

Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may (1) delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds, (2) contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act, and (3) authorize the payment of compensation for investment advisory or management services.

COMMENT

Questions have arisen about the power of a governing board to delegate investment decisions. In the absence of authority, some boards have tried to follow the nondelegation principles applicable to trustees. Governing boards do, in fact, delegate investment authority, sometimes with rather cumbersome procedures to produce a record of apparent decisions by the boards.

This section clarifies the authority to delegate investment management and to purchase investment advisory and management services. Responsibility for investment policy and selection of competent agents remains with the board under the Section 6 standard of business care and prudence.

§ 6. [STANDARD OF CONDUCT]

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

COMMENT

The section establishes a standard of care and prudence for a member of a governing board. The standard is generally comparable to that of a director of a business corporation rather than that of a private trustee, but it is cast in terms of the duties and responsibilities of a manager of a nonprofit institution.

Officers of a corporation owe a duty of care and loyalty to the corporation, and the more intimate the knowledge of the affairs of the corporation the higher the standard of care. Directors are obligated to act in the utmost good faith and to exercise ordinary business care and prudence in all matters affecting the management of the corporation. This is a proper standard for the managers of a nonprofit institution, whether or not it is incorporated.

The standard of Section 6 was derived in part from Proposed Treasury Regulations § 53.4944-1(a)(2) dealing with the investment responsibility of managers of private foundations.

The standard requires a member of a governing board to weigh the needs of today against

those of the future.

§ 7. [RELEASE OF RESTRICTIONS ON USE OR INVESTMENT]

(a) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

(b) If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the [appropriate] court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The [Attorney General] shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.

(c) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(d) This section does not limit the application of the doctrine of *cy pres.*

COMMENT

One of the difficult problems of fund management involves gifts restricted to uses which cannot be feasibly administered or to investments which are no longer available or productive. There should be an expeditious way to make necessary adjustments when the restrictions no longer serve the original purpose. *Cy pres* has not been a satisfactory answer and is reluctantly applied in some states. See *Restatement of Trusts* (2d), §§ 381, 399; 4 Scott, *Law of Trusts* § 399, p. 3084, § 399.4 pp. 3119 et seq. (3d ed. 1967).

This section permits a release of limitations that imperil efficient administration of a fund or prevent sound investment management if the governing board can secure the approval of the donor or the appropriate court.

Although the donor has no property interest in a fund after the gift, nonetheless if it is the

donor's limitation that controls the governing board and he or she agrees that the restriction need not apply, the board should be free of the burden. See *Restatement of Trusts* (2d) § 367. Scott suggests that in minor matters, the consent of the settlor may be effective to remove restrictions upon the trustees in the administration of a charitable trust. 4 Scott, § 367.3 p. 2846 (3d ed. 1967).

If the donor is unable to consent or cannot be identified, the appropriate court may upon application of a governing board release a limitation which is shown to be obsolete, inappropriate or impracticable.

This section authorizes only a release of a limitation. Thus, if a fund were established to provide scholarships for students named Brown from Brown County, Iowa, a donor might acquiesce in a reduction of the limitation to enable the institution to offer scholarships to students from Brown County who are not named Brown, or to students from other counties in Iowa or to students from other states, or he could acquiesce in the release of the restriction to scholarships so that the fund could be used for the general educational purposes of the school.

Subsection (d) makes it clear that the Act does not purport to limit the established doctrine of *cy pres*. A liberalization of addition to, or substitute for *cy pres* is not without respectable support. Professor Kenneth Karst in "The Efficiency of the Charitable Dollar: An Unfilled State Responsibility," 73 *Harv. L. Rev.* 433 (1960) suggested that the doctrine of *cy pres* be expanded to permit the courts to redirect charitable grants if the purpose had become "obsolete, or useless, or prejudicial to the public welfare, or are insignificant in comparison with the magnitude of the endowment . . ." quoting from the Nathan Report (of the British Committee on the Law and Practice Relating to Charitable Trusts, Cmd. 8710, 1952) quoting the Scotland Education Act 1946, 9-10 Geo. 6, ch. 72 § 119(b). The Uniform Act provision is far less broad; it applies only to the release of restrictions on the gift under limited circumstances.

New England courts apply a rather strict doctrine of separation of powers to deny legislative encroachment on judicial *cy pres.* The Act is compatible with the New England cases because the final decision is in the courts. See *City of Hartford v. Larrabee Fund Association,* 161 Conn. 312, 288 A.2d 71 (1971); Opinion of Justices, 101 N.H. 531, 133 A.2d 792 (1957).

No federal tax problems for the donor are anticipated by permitting release of a restriction. The donor has no right to enforce the restriction, no interest in the fund and no power to change the eleemosynary beneficiary of the fund. He may only acquiesce in a lessening of a restriction already in effect.

§ 8. [SEVERABILITY]

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this

Act are declared severable.

§ 9. [UNIFORMITY OF APPLICATION AND CONSTRUCTION]

This Act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among those states which enact it.

§ 10. [SHORT TITLE]

This Act may be cited as the "Uniform Management of Institutional Funds Act."

§ 11. [REPEAL]

The following acts and parts of acts are repealed:

(1)

(2)

(3)