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HOW TO GIVE WISELY \$25,000 TO \$1,000,000

A PAPER READ IN THE
NATIONAL CONFERENCE OF SOCIAL WORK
At Milwaukee, June 23, 1921

BY
HASTINGS H. HART, LL.D.
Of the Russell Sage Foundation

WITH LETTERS OF ADVICE
FROM LEADING AUTHORITIES
WITH REFERENCE TO BEQUESTS AND ENDOWMENTS



RUSSELL SAGE FOUNDATION
130 EAST 22ND STREET
NEW YORK CITY

Price 30 cents

PREFATORY NOTE

The following paper was prepared by request, for the Division of Organization of Social Forces of the National Conference of Social Work.

The paper is intended as a handbook for donors who desire to direct their gifts in the best possible manner.

In preparation for this paper correspondence was had with lawyers experienced in dealing with public gifts, with men who have had experience in making large gifts, and with others who have had experience in administering such gifts.

Quotations have been made from these letters in the different parts of the text, but the letters themselves will pay for a careful reading. For list of letters see page 20.

Special attention is called to the letters of Messrs. Robert W. DeForest, of New York, Homer H. Johnson, of Cleveland, and Henry M. Beardsley, of Kansas City, who have had large experience in advising prospective donors. These letters contain legal advice of the greatest value.

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A Paper Read before the DIVISION OF ORGANIZATION OF SOCIAL FORCES, at Milwaukee, June 23, 1921

By HASTINGS H. HART, LL.D.
OF THE RUSSELL SAGE FOUNDATION

The writer of this paper is not a volunteer. He was drafted into the service by Chairman Otto W. Davis, who is a compelling man, and the subject was assigned to him by the Chairman. The assignment was accepted with cheerfulness, however. It is a wonderfully pleasant task to advise other people how to spend their money when you have no responsibility. It produces a sensation of virtuous philanthropy almost as great as if one were about to give away his own money.

MISTAKES OF DONORS

We social critics get a great deal of enjoyment in discovering the failures of kindly disposed millionaires in their efforts to make good use of their accumulated wealth. We recount the discouraging mistakes of Benjamin Franklin, with his loan fund for well-behaved apprentices; Mayor Bryan Mullanphy, of St. Louis, with his fund for the assistance of "emigrants coming to the city of St. Louis *bona fide* to set up a home in the west;" Carson and Ellis, of Philadelphia, with their eight millions of bequests which are being used for 125 children; Frederick Weissner, of Baltimore, whose home for children stood empty for years because of the restrictive provisions in his will; Clayton College at Denver where, through miscalculation, an investment of more than two millions is serving only about 80 boys; or of Levi Eaton, who memorialized his bitter memory of a jilting sweetheart by providing in his will for a children's Home with the stipulation that "no women shall be employed or allowed in the home."

It would be easy to fill this paper with accounts of the foolish and pathetic mistakes of will makers, but we will be content with one more illustration: that of the woman in Pennsylvania who left an estate and \$100,000 "to establish a home for superannuated Presbyterian clergymen above the age of seventy who do not use tobacco." The trustees construed the will to mean that no woman could be admitted, so that a married applicant must desert his wife in order to get in. When, at the end of twenty years the heirs asked to have the estate given to them because the

home was needless, the trustees joined them. They said: "We have been running this institution for twenty years. During that time we have had 21 inmates, of whom 15 have left, five have died, and one remains, and we respectfully ask to be relieved of the trust."

The judge said: "Not so, gentlemen. I will relieve you of the tobacco condition, which is unreasonable. I find nothing in the will to prevent you from receiving the wives of clergymen, and if you have any residue at the end of the year you may distribute it to deserving clergymen in their own homes."

A very little study of the subject tempered the cheerfulness with which this paper was undertaken, and the confidence with which the failures of testators were so freely criticized. The writer recalled a conversation with a great manufacturer in Chicago who recounted with tears his disappointments in trying to do good with his money; and he recalled the fact that Joseph Perkins, a banker in Cleveland, who was long a member of the Ohio Board of State Charities and was counted as one of the wisest philanthropists of his generation, once asked Secretary A. G. Byers: "Can you tell me how to give away \$50,000 and be sure that it is going to do good?" Dr. Byers, with thirty years of study and experience behind him, asked time to consider such a difficult question.

A very shrewd Cleveland banker once said: "I could buy a thousand horses in 15 minutes; I could not sell one in a week." That expresses pretty fairly the situation of many rich men who find it much easier to accumulate wealth than to dispose of it wisely. A St. Paul lumberman who had built up a large and prosperous business said: "When I had \$1,200 a year my church used to cost me \$100 a year. I used to tithe my income; but as my income increased I found it increasingly difficult to distribute that money in such a way as to satisfy my conscience, so I gave up the practice."

Mr. Joseph N. Babcock, Vice-President of the Equitable Trust Company of New York, said recently:

The majority of men who have been successful in their life work and have acquired a competence, have a desire at heart to make, either during their life time or after their death, some financial provision for philanthropic or community objects. There are generally, however, many obstacles in the way of their accomplishing their desires . . . lack of knowledge or interest in any specific charity; the not uncommon fear that a public gift or bequest may not be wisely or honestly administered; inability to foresee the needs of the future so as to select objects that will

permanently serve the interests of the community; all of these militate against the charitable impulse.

Rev. Ernest Bourner Allen, D.D., of Oak Park, Illinois, writes:

Thoughtful people welcome suggestions about the disposition of money. . . . There is a classic illustration in the sermon of Dr. Gunsaulus which he preached upon the Needs of Our Youth and what he would do to meet those needs. Mr. Philip Armour heard the sermon and at its close asked Dr. Gunsaulus if he would give five years of his life to carry out his suggestion. If so, he said he was willing to furnish the money, which he did. So Armour Institute came into being.

On the other hand, a prominent New York pastor writes:

I regret to say that I cannot give you any suggestions which would be helpful in preparing your paper. Such matters do not lie within my particular province, and I have never given them any serious consideration.

However, the question how to give away money must be met and is constantly being met by people in all parts of the country, wisely or unwisely. These great estates must be distributed, from whatever source they may have come. If they have been unjustly accumulated, it would be impossible in most cases for the accumulator or his heirs to turn back his gains to those from whom they were originally acquired. If, therefore, we can influence their distribution in such ways as best to serve the public weal we shall perform a legitimate service.

SPirit OF THE DONOR

The most important requisite to wise giving is the spirit of the donor. It makes a great difference whether the giver is seeking simply to serve his day and generation, or whether he is seeking to build a monument for himself or to gratify personal ambition. Many a great gift has been a failure because it has lacked the inspiration of disinterested motive.

"The gift without the giver is bare."

The smallest gift on record, that of the widow's two mites, has been an example and an inspiration to millions of givers through thousands of years, because of the largeness of spirit which prompted it. The most successful and fruitful of the great benefactions of our day are those gifts which express the devotion and goodwill of men and women who have loved their fellow-men, and those which represent at least some measure of self-forgetfulness. All of us feel an admiration for the man who gives a hundred thousand dollars for some good cause and refuses to let his name

be known. The story was told of Mrs. Leland Stanford that when, through adverse circumstances, Stanford University became embarrassed she poured into the treasury all of her private resources; and when, at last, the stress was partially relieved she said one day to President Jordan: "I think perhaps I might keep two maids now." The story may be apocryphal but it expresses something fine.

PRELIMINARY STUDY

The disposition of an estate, acquired by many years of incessant labor and self-denial, and embodying an immense potency for possible good or evil, is a matter of great importance, and a conscientious giver will apply to it all of the acumen and sagacity which he has acquired in active business. He will speedily discover his lack of knowledge in this new and technical undertaking and, if he is wise, he will seek the counsel of competent specialists.

He needs, first, a lawyer experienced in disposing of estates and genuinely sympathetic with his conscientious intention to apply his wealth to worthy purposes. Many testators have failed to accomplish their purpose for lack of competent legal advice, and many great gifts have been depleted by years of litigation because of this lack. Dr. Charles E. Burton, Secretary of the Congregational National Council, New York City, writes:

Of course you will take into account the innumerable contests of wills due to loose composition, and therefore the necessity for consulting capable lawyers in the making of wills.

He needs, second, the advice of competent experts in the fields to which he wishes to contribute: social betterment, civics, education, science, missions, Zionism, or reconstruction abroad. Such advisers should be chosen with reference to their breadth of vision and their fair-mindedness. Intense partisans or propagandists for special causes should be met with caution.

Dr. Charles E. Burton, of New York City, writes:

One of the biggest mistakes which our testators make is to feel that they must not let their proposed benefactors know of their intentions. Many serious and costly mistakes could be avoided if persons about to make their wills would have frank consultation with the officers of societies and institutions to which they wish to make bequests.

PRESENT OR FUTURE GIFTS

Is it wiser to give for immediate use, during the life of the donor, or to make all bequests by will, to be distributed after his death? It appears rational to set a portion of one's money to work

without delay and to have the pleasure, while living, of seeing buildings grow, institutions develop, and beneficent results accrue. Through experience in practical administration the donor may gain wisdom for the ultimate distribution of his remaining estate. The contrast between Andrew Carnegie's methods in his early gifts and those in the latter part of his life illustrates this proposition.

GIFTS FOR SUPPORT OF CURRENT WORK

Conscientious people with large incomes should consider whether they are carrying their fair share of the current expenses of philanthropic, social, and religious work. At different times the writer has had occasion to analyze the contributions for the support of three different churches—one in Minnesota, one in Illinois, and one in New York. The contributions of wealthy members for building enterprises and endowments were usually much larger in proportion to their means than those of people with smaller incomes; but the same thing was not true of contributions for current expenses. It appears to be manifest that, as a rule, the person with a large income can afford to devote a greater proportion of it to the public benefit than can the person of a smaller income, because he has a larger surplus. If the individual with an income of \$2,000 can afford to devote 10 per cent of that income to public uses, as many of them do, it would appear that the person with \$5,000 or \$10,000 income might be able to spare a larger proportion of his income and still have a margin for savings. This principle is recognized by the government in assessing income taxes where the percentage of the income tax increases with the size of the income.

In every case, however, it was found that the people with smaller incomes not only paid more for the support of the church in proportion to their ability, but they actually paid more in proportion to their income. Stenographers and teachers with incomes (at that time) of \$800 to \$1,200, would pay toward the support of the church perhaps two and a half or three per cent of their income; people with salaries from \$1,200 to \$2,000 would pay perhaps two to two and a half per cent; people with incomes of from \$2,000 to \$4,000 would pay perhaps one and a half to two per cent, while people with \$10,000, \$15,000, or \$20,000 incomes would pay from one-half per cent to one per cent of their income for the support of the church. Similar conditions are found in the support of the philanthropic agencies of the community.

There was in the city of Chicago a famous multi-millionaire who

was very conscientious in his gifts to philanthropic enterprises. His secretary, who was interested and sympathetic, made a careful investigation of every application of social institutions and agencies for support. If the agency was found to be reputable, useful, and well conducted he invariably made a contribution which was said to be in most cases \$100 a year. A society for placing children in homes which had about 1,600 children under its care in foster homes, received \$100 each year from this millionaire. No one would estimate the cash cost of maintaining a child at less than \$150 a year; consequently, these 1,600 foster parents, most of them people with incomes of less than \$2,500 a year, were contributing, each of them, more to this work than the annual gift of this benevolent rich man.

ONE OR SEVERAL OBJECTS

Some givers concentrate all of their money upon a single object. There is a strong temptation to do this when the monumental idea is prominent; but most givers wisely distribute their gifts to a diversity of objects. A large-minded man desires to have a share in different branches of educational, social, and religious activities. The will of Mrs. Russell Sage, which is recognized as one of great wisdom, distributed her great estate among some 50 different objects, including schools, colleges, hospitals, missionary societies, social agencies, and scientific institutions.

Mr. Robert W. Kelso, President of the National Conference of Social Work, Boston, writes:

A prospective donor should not be content with isolated charitable giving. Unless he co-ordinates his effort with that of others, the result will be waste at least, and probably a checkmate of other efforts equally sincere.

Rev. William Horace Day, D.D., of Bridgeport, Connecticut, writes:

As to distribution, I should include gifts to organized religion, gifts to education, and to social agencies; and those important enterprises abroad as well as at home . . . The easiest way to give a large sum is to give it all to a single object. . . I should counsel such a testator to give the necessary time and thought to a fairly wide distribution.

Rev. Ernest Bourner Allen, D.D., of Oak Park, Illinois, writes:

My inclination is always to emphasize the value of giving money to agencies which are preventive rather than those which are remedial. I regard the churches and their allied national

organizations and our Christian colleges as two of the most needed permanent and fruitful agencies needing endowment aid.

Mr. W. H. Bohn, Assistant to the President of Oberlin College, writes:

I should want to make sure, first of all, that the objects to be remembered were worthy in the best sense, that they concerned large, permanent, fruitful interests, touching life vitally, that they were not fads or interests of passing moment; also that the field concerned was not already covered adequately. There would seem to be a decided advantage in leaving money to permanently founded institutions, colleges, hospitals, etc.

President Ozora S. Davis, D.D., of Chicago Theological Seminary, writes:

Donors . . . ought to be sure that the purpose of the institution is sure to persist. Certain agencies for the reform of definite abuses will finally, if they succeed, extinguish the very reasons for their existence . . . Medical and educational institutions seem to be of a permanent character.

Dr. Davis adds: "An institution which is worthy of endowment ought to have behind it a supporting constituency of permanent groups or individuals."

Mr. Robert W. Kelso, of Boston, writes:

I think that money should be given to charitable uses only after convincing proof is established that a need exists; that when given it should be applied not to that use merely which is popular or tickles the vanity of the giver, but rather to that need which is greatest in the light of the whole social program for the community in which the gift is sought to be applied. . . . It follows . . . that a prospective donor should refuse to give to charitable or social service uses until he can see a true need in the meeting of which his gift will without doubt advance the community good.

Mr. Henry M. Beardsley, Ex-President of the National Congregational Council, Kansas City, writes:

I have found . . . that as an adviser, I do not have any large part in the making of a selection. The testator is already more interested in some field of philanthropic enterprises than in all others. . . . It may be the local church, . . . some of the great societies—missionary bodies of his church, . . . hospitals, . . . parks, . . . playgrounds, or art galleries . . . I would not undertake to disturb the particular conclusion of the testator. . . . It has seemed to me that it is well that there is such a diversity of purposes . . . because these many things need to be done.

About all the adviser can do under such circumstances is to make suggestions against a proposed gift to some institution

whose future is in doubt or whose work is not being properly conducted.

Rev. Charles S. Mills, D.D., Executive Secretary of the Pilgrim Memorial Fund, New York, writes:

The object should not only be one appealing to the testator but one likely to be of broad and permanent interest.

We need to emphasize the importance of a recognition of large givers of their obligations to the world at large. One of the compensations of the World War was the sense of responsibility which it awakened toward distant peoples and nations of whom we had hardly heard before; and one of the disappointments following the war is the partial subsidence of this wave of interest. Too many people today are re-echoing the cynical question of the railroad magnate of forty years ago: "What have we to do with abroad?"

Mr. W. H. Bohn, of Oberlin, Ohio, writes:

Such men as Mr. John Kennedy and the late E. C. Converse, in the wide and thoughtful distribution of their estates furnish examples of a certain degree of consciousness of indebtedness to the community at large.

RESTRICTIONS

The correspondents who have been consulted with reference to this subject sound a general alarm against the danger of imposing unnecessary restrictions upon the use of gifts and bequests for public purposes; first, because such restrictions are often intrinsically unwise, and, second, because with the lapse of time and the change of conditions, restrictions that were originally proper and reasonable subsequently become an obstacle to the realization of the purposes contemplated by the donor.

Dr. Edward R. Embree, Secretary of the Rockefeller Foundation, New York City, writes:

There has seemed to us advantage in leaving the custodians of funds as untrammelled as possible in the administration of the resources for the needs of succeeding generations, as these may develop in the future. My experience in university administration indicated to me the danger of tying with too many stipulations the uses of permanent endowments.

Mr. Robert W. DeForest, President of the New York Charity Organization Society, the Russell Sage Foundation, and the Metropolitan Museum, writes:

Frequently in drawing wills, while giving absolutely, . . . I incorporate an expressed wish as to the particular application of

money. . . . This guides the conscience of the future trustees without tying their hands Mrs. Russell Sage's will illustrates my thought in giving absolutely but expressing a wish.

Mr. Henry M. Beardsley, of Kansas City, writes:

No one can look far enough ahead and be quite sure that a suggestion he makes will work out well. I have thought that to make too many restrictions is bad just because one cannot know the future. It is easy to see that restrictions made a quarter or half a century ago would be unwise now. In giving advice to my clients along this line I have always suggested to them that it would be better to trust to the judgment of those who are to handle the estate in the future than to try to anticipate the conditions which will arise. . . .

There are many lines of philanthropic endeavor being now carried on under individual effort which in their general character are public purposes. . . . It is altogether probable that in time the public will care for them. In that event the gift of the individual might properly better have gone in some other direction I have found it wise to present this aspect to many testators.

Dr. Ozora S. Davis, of Chicago, writes:

Appeal for gifts that are not tied by too great restrictions. . . . The power of the "dead hand" is felt in scores of institutions in ways that the donors of foundations never would have allowed. . . . If the trustees are what they ought to be, the gift will never be misused.

Dr. Charles S. Mills, of New York, writes:

I have known of many instances where the effort on the part of the testator to tie up his gift to a certain specific object proved to be very unfortunate, and in the process of time the conditions attached to the gift sadly limited or even frustrated its objective. . . . The gift should be left in such a fashion that if circumstances change the administration would have reasonable freedom in carrying out the spirit rather than the letter of the bequest. On the other hand a testator should be assured that his gift would be used in perpetuity to carry forward its fundamental purpose.

Mr. W. H. Bohn, of Oberlin, Ohio, writes:

The question of elasticity in carrying out one's fundamental wishes [involves] the whole problem of restrictions. . . . The thoughtful donor would certainly want to provide for a degree of elasticity so that under radically different circumstances it would be possible to use the money available effectively. For example, it would be very wise to avoid the establishment of

such funds as the one existing in a certain institution to be devoted to lectures against Roman Catholicism.

Mr. Robert W. Kelso, of Boston, writes:

It does not lie within the mind of any one man to determine what is for the public good, and having so determined declare that it shall continue so to be for all time. A proper charitable use today becomes an element of danger in the community by tomorrow. I call your attention to the ancient charitable uses in the fishing ports of Massachusetts, like Gloucester and Newburyport, where funds for the relief of the families of sailors have so far failed of a field for their application that the trustees no longer spend their income, but add it to the capital, and for such sums as they do put out are compelled to search the community for persons who might by some stretch of interpretation be considered eligible for the gift. Donors should put their trust in those who will live after them, and should give them discretion in varying the method of applying the gift.

Mr. Homer Folks, Secretary of the State Charities Aid Association, New York City, says:

A few years ago two separate bequests became available in Philadelphia, amounting to over \$8,000,000. Each bequest was for the establishment of a home for orphan girls with rather narrow restrictions in various particulars as to the class of girls who might be admitted. Close analysis of the situation showed that there are not enough orphan girls, even if they should be removed from all existing institutions, to require for their maintenance the income from the sum available. Furthermore, it is very generally agreed by competent authorities that orphans, and especially orphan girls, can be much better cared for in families, and at very much less expense. Thus, through lack of acquaintance with the subject, and through an effort to foresee the social needs of the future in detail, a very large sum of money has been tied up to a very doubtful and in fact an almost impossible use.

Miss Florence L. Lattimore, of New York City, related the following incident some time ago:

Mr. John Frederick Weissner of Baltimore made a will some 10 or 12 years ago creating an institution for children. So restricted is this will that "although the neat little beds have stood ready, and the aproned matron has been at hand for a number of years, the institution has never had a single inmate." The purpose of the will was "establishing and maintaining an asylum for white orphan children whose parents shall die and leave them unprovided for in the twelfth and fourteenth districts of Baltimore County as now constituted and bound." Either there are no orphans in the twelfth and fourteenth districts, or they have been too well off to utilize Mr. Weissner's provisions.

course dependent and greatly indebted to the region around them and there is no propriety in my judgment, in putting the whole resources of a city simply into its own needs, however real.

THE UNIFORM TRUST FOR PUBLIC USES

In view of the widespread feeling indicated in the foregoing communications, Mr. Daniel S. Remsen, of the New York Bar, has worked out a plan for a system of "Uniform Trusts for Public Uses" in a form designed to extend to all national, international, and religious charities the full benefit now accorded to local secular charities by the numerous community trusts and foundations already established in 39 of the principal cities of the United States.

Mr. Remsen indicates the scope of his plan as follows:

The appointment of certain charitable corporations having powers to hold property in trust for their own purposes is often very appropriate. This is particularly true where such a corporation has large endowments under its care and suitable machinery for management of the same, such, for example, as certain large religious, missionary, educational and philanthropic boards. Consequently there should be no effort to divert from such corporations funds which would ordinarily come to them for the advancement of their respective purposes.

For general charitable trusteeships, however, the trust company or bank having general trust powers is the logical trustee.

. . . The cause of litigation . . . has not in general been the legality of such trusts, but rather the lack of skill with which particular trusts have been prepared. . . .

To meet this difficulty the plan of the Uniform Trust for Public Uses has been devised. It is an instrument in writing known as a declaration of trust suitable for general use throughout the United States and Canada. It consists of a resolution which may be passed by the governing board of any trust company or bank having trust powers. It is in terms a proposition . . . to accept gifts for charitable purposes and to administer the same according to the terms of the resolution. Such public offer may then be accepted by any one simply by making a gift and stating its charitable purpose. . . .

If the giver shall wisely select and clearly state his charitable purpose it will be carried out. If on the other hand he shall unwisely select or badly state his charitable purpose, powers will exist in the trustees, enforceable by court, to correct such faults and to so apply available funds as most nearly to fulfill his wishes.

Dr. Edward T. Devine discussed the Uniform Trust for Public Uses in a recent issue of the *Survey*. He says, after commenting favorably on the community trust idea:

But community trusts have developed their own problem, and

ADMINISTRATION

The administration of such gifts may be conducted by the donor himself, during his lifetime, or by a board of trustees, or a Foundation created by him.

Mr. Homer H. Johnson, lawyer and philanthropist, of Cleveland, Ohio, writes:

What I have said may serve to indicate some . . . trend on my part to the belief that as a whole the property of the community ought to be kept in living hands, and that . . . educational and benevolent institutions of a private character ought in the main to be supported by this property through the devotion of its income to those persons by the living person. But in many cases, for one reason or another, this is not feasible, and to that extent it is desirable that endowments should be created.

The gift may be administered by a bank or a trust company under such conditions as the donor may prescribe.

Mr. B. H. Fancher, Vice-President of the Fifth Avenue Bank, New York City, and treasurer of several large benevolent funds, writes:

I imagine the establishing of trusts will appeal more and more to people of means, and in this way they can easily name their banking institution as their trustee. This I think is a desirable form, if an institution is carefully selected.

Mr. Robert W. Kelso, of Boston, writes:

The gift . . . should be given into the fiduciary care of a dependable trustee who should have large discretion to vary the conditions of its application in accordance with changing needs due to lapse of time or unforeseen causes. . . The trustee should be a corporation rather than a person or group of persons, and should have hedged about it all of the safeguards which law and government afford to ensure its stability as a competent fiduciary.

The gift may be administered by the trustees of the benefited institution, either under prescribed conditions or at their discretion. Mr. Robert W. DeForest, of New York, writes:

An intelligent testator who wishes to leave any considerable sum for public purposes will first ask himself whether any existing institution which he trusts can carry out his intent. If so, he will leave his money to that institution, and unless he clearly wishes to restrict the use of that money either as to principal or interest to some particular use, will leave it to be applied by the trustees of that institution in their discretion. We must trust somebody to carry out our general intent, and as we cannot foresee future changes should give discretion to those we trust to use their best judgment.

Mrs. Sage's will, and also Mr. Kennedy's, both of which I drew, illustrate their judgment and also mine as to giving existing trusted institutions as distinguished from founding any new institutions. It is probably only under very exceptional conditions and respecting very large testamentary gifts that it is necessary to call any new institution into being to carry out a testator's desire. . . . If the testator wishes for reasons of his own to found a new institution he should in my judgment organize it previous to his death by the selection of persons in whose judgment he has confidence, as trustees, with a small self-perpetuating board.

COMMUNITY TRUSTS

The administration of gifts may be committed to a general "community trust" like the Cleveland Foundation, the New York Community Trust, and some 40 similar community trusts which have been established within the past seven years.

THE CLEVELAND FOUNDATION

The Cleveland Foundation was established on January 2, 1914, by a resolution passed by the Board of Directors of the Cleveland Trust Company—which states its object as follows:

Without limiting in any way the charitable purposes for which such income may be used, it shall be available for assisting charitable and educational institutions, whether supported by private donations or public taxation, for promoting education, scientific research, for care of the sick, aged or helpless, to improve living conditions or to provide recreation for all classes, and for such other charitable purposes as will best make for the mental, moral and physical improvement of the inhabitants of the City of Cleveland.

Mr. Frank J. Parsons, of the New York Community Trust, states that:

In Boston, the Trust Company existing there, after three years' operation has accumulated a fund of between \$4,000,000 and \$5,000,000 and for the year ending June 30, 1920, disbursed some \$207,000 in supplementing the work of 91 existing worthy charities of the city. . . . Ninety per cent of this amount was divided almost equally between various agencies for the sick and for social welfare, and the balance for miscellaneous charitable purposes.

In Cleveland, under wills and living trusts, more than \$100,000,000 will eventually be available for the Cleveland Foundation, largely for undesignated purposes. The income from special gifts . . . has been devoted to preparatory work and investigation along the lines of education, recreation, delinquency, etc.

of these the first and most important is the danger of excessive localism, provincialism in the use of wealth. . . . There are purposes for which gifts and bequests are needed which are not local, but are national or even international, or which are not to be defined by any geographical or political boundaries . . . the colleges . . . the churches . . . the foreign missionary societies. The Bible Society, the Y. M. C. A., the Vatican, the Zionist movement, and the International Red Cross might fare badly if all bequests came to be made to community trusts. . . .

An equal danger lurks in the discrimination which would almost certainly result from having all endowments allocated by any one committee or group, influenced as it would naturally be by its chairman or executive or dominating personality. . . . No safeguard in the original composition of a distributing agency could prevent the development of such tendencies, and the device of inviting all sorts of public and civic and professional bodies to appoint members of a body to discharge this function would probably only intensify the difficulty, and would at best create a very inexpert, cumbrous, and haphazard assembly.

Considerations like these have induced a member of the New York Bar, Daniel S. Remsen, to devise a broader plan, which he calls the Uniform Trust for Public Uses. . . . Any number of [trust] institutions in a city may adopt it, independently, or in concert, thus obviating the situation which has arisen from any one trust company's preëmpting the field as *the* community trustee. It is in terms a public offer to accept gifts for charitable purposes and to administer them according to the terms of the resolution. Any one may then, by simply referring to the instrument, effect a binding contract with the trustee who comes thereby under legal obligation to administer the gift according to the terms of the declaration of trust and for the uses and purposes specified by the giver. . . .

The Uniform Trust for Public Uses is an instrument which has been prepared with infinite care and has passed through many competent hands for criticism and suggestions. The author invites correspondence with a view to any further possible improvement. Its purpose is to hold the scale even as among the various beneficent purposes—local and general; religious, educational and civic; specific and general—to which gifts may be made. It aims to combine in one document the advantages of freedom to the donor to express his individuality in his gifts, and freedom to the public, acting through court and trustee, to modify the application of such gifts when conditions change. . . .

If a uniform trust for public uses can be devised, which the courts sustain and the trust companies actually adopt, it will give the most complete security, without expense, to small donors. Mr. Remsen seems to have made the necessary start for such a very desirable reform.

The two charts which follow, furnished through the courtesy of Mr. Remsen, exhibit in graphic form his proposition.

In this manner the foundations are being laid for a wise use in the years to come in this splendid aggregate of gifts.

A Committee of Distribution to be selected . . . one member each by the President of Commerce of the City of New York, the President of the New York Academy of Medicine, the President of the Association of the Bar of the City of New York, the President of the Board of Trustees of the Brooklyn Institute of Arts and Sciences, the Senior Circuit Judge of the United States Circuit Court of Appeals for the Second Circuit, the Mayor of the City of New York, and five members by the trustees.

CRITICISMS OF THE COMMUNITY TRUST PLAN

The popularity of this new plan is sufficiently attested by its rapid extension in seven years' time from Cleveland to 40 other cities; but on the other hand, questions are being raised and criticisms offered by many people experienced in the distribution of benevolent gifts, chiefly for two reasons: first, the tendency to be too strongly influenced by economic considerations and, second, the danger that the community trust may concentrate its resources upon local enterprises to the neglect of the great interests of the community at large, both at home and abroad.

Mr. Henry M. Beardsley, of Kansas City, writes:

There are many corporations now and trust companies authorized to act as trustees. There is not the difficulty here which arises in the case of the death of a trustee, but these are public corporations. If the matter were one of making investments merely, then the corporation would probably be the best trustee. It is probable that the development and carrying out of the purpose of the testator would be best accomplished under a body of individual trustees because of their probable longer interest in the working out of the purposes of the trust.

Mr. Homer H. Johnson, of Cleveland, the home of the original community trust, writes:

For myself I have been inclined to doubt the expediency of foundations or endowed trusteeships, charged with the general administration of funds for benevolent purposes, and leaving the application of the income from such funds to the various causes in general defined in the New York Trust agreement. The difficulty I see is the almost certain lack of discrimination on the part of financial officers in applying intelligently the income to these purposes. . . . In general and for the ordinary amount, I should say that endowments would be more wisely placed in the institutions directly carrying on the work. I confess you would lose somewhat in financial acumen perhaps, but you would gain in intensity of interest in the enterprise, and in the devotion of minds trained in a direction of the best use of money for the purposes outlined.

Rev. Alfred W. Anthony, D.D., Secretary of the Home Missionary Council, New York City, writes:

The Community Trust attempts to show people how to do good in their own environment, and undertakes to safeguard donations and bequests from uncertainty and waste in the future, when conditions have arisen which the donor or testator did not foresee. . . . These objects are good but there is also a very real danger that the term "community" may be employed in a too narrow sense, and men be induced to overlook and neglect the greater needs of humanity which may not be just at hand.

The term "community," if restricted to the idea of the immediate locality (village, or town, or city) in which a man lives, is too limited an idea to supply adequate objectives and channels for the most widely considered benevolences. This will appear from two distinct considerations:

(1) Because the wealthy tend to live together in communities, suburban or otherwise, the concentration of their wealth upon those communities brings to the least needy community the largest benefaction, and tends to deprive the more needy community, in which few wealthy persons reside, altogether of donations and bequests which they need.

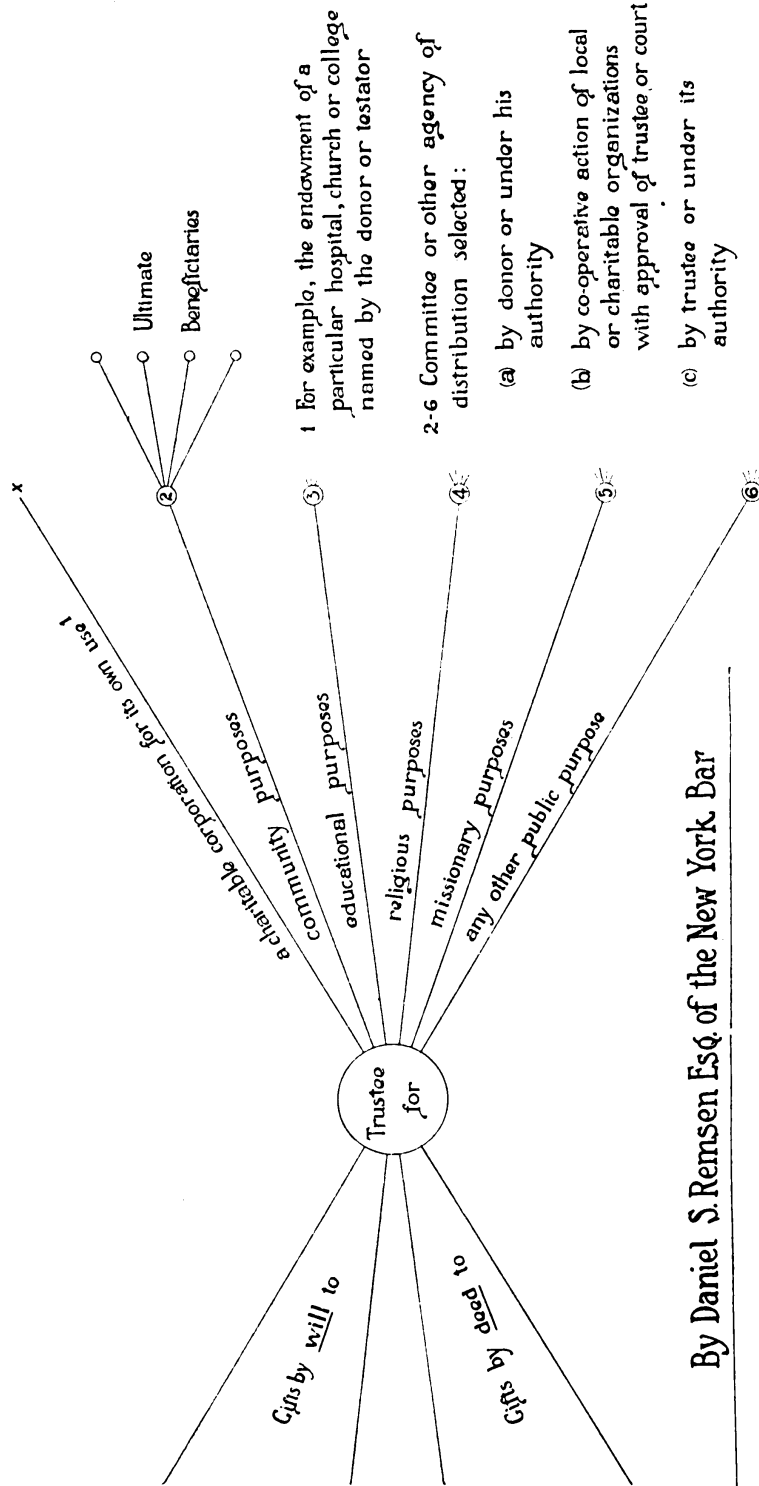
(2) In a similar way community trusts, narrowly administered, fail to reach the *classes* which are the most needy. The rich, as a rule, do not live in the same community with the industrial plants from which they gather their riches, consequently their gifts, if limited to the communities in which they live, do not benefit the industrial and working classes. Nor do they reach to other classes, such as the Negroes, the Indians . . . the needs of people in distant and isolated areas who suffer and need the hospitals, sanatoriums, schools, colleges, and missionary enterprises, are all neglected if the term "community" is limited to the narrow area in which the well-to-do make their homes. . . .

The largest good to the largest number should be the object of the benevolently minded. We are the citizens of the world and brothers of mankind more than ever before.

President Henry C. King, of Oberlin College, writes:

It is perhaps worth emphasizing the serious question that seems to be raised by foundations like the Cleveland Foundation. . . . Soon after the Foundation was founded I went to Mr. Goff at Cleveland, who had been chiefly instrumental in starting it, to protest against what seemed to me to be the pretty selfish limitations of the Foundation, for it practically confined bequests to Cleveland itself. I asked him what the West would have done in education if New England cities had taken that point of view in the years past. He did not seem to be inclined to quite defend the principle, but thought it might be changed later. However, . . . the Cleveland Foundation has not been changed, and this self-centered method of the Foundation is spreading widely. . . . The cities do not make all their own wealth; they are of

UNIFORM TRUST FOR PUBLIC USES IN OPERATION



By Daniel S. Remsen Esq. of the New York Bar

CHART FOR THE SELECTION

By Daniel S. Remsen, Esq.,

A GIFT FOR PUBLIC USE

<div>a</div> <div>General Charitable Purpose</div> <div>such as</div>	education	<div>or a</div> <div>Particular Charitable Purpose</div> <div>such as</div>	primary, higher professional, manual, etc., education
	religion		Jewish, Episcopalian, Catholic, Presbyterian, etc., religion
	relief of needy		relief from poverty, disease, accidents, etc.
	health and public morals		care of children, living conditions, suppression of vice, etc.
	art		sculpture, music, painting, etc.
	science		astronomy, biology, chemistry, etc.
	research		medicine, biology, chemistry, etc.
	invention		mechanics, power, aëronautics, etc.
	statesmanship, good government		respect for law, good citizenship, efficiency in office, etc.
	etc.		etc.

Any of the above purposes may be accomplished either by gift absolute depends upon circumstances and the plans of the person making the benefactor should consider the advantages of the "Uniform Trust for

OF CHARITABLE PURPOSES

of the New York Bar

MAY BE TO PROMOTE

<p>for the benefit of a</p> <p>Class of Beneficiaries,</p> <p>such as</p>	children, students, youths, etc.	<p>through a</p> <p>Means of</p> <p>Benefaction,</p> <p>such as</p>	schools, scholarships, buildings, etc.	<p>home</p> <p>and</p> <p>foreign</p> <p>missions</p>
	persons of various faiths, etc.		pensions, religious agencies, etc.	
	aged, sick, crippled, poor, etc.		hospitals, dispensaries, homes, etc.	
	youths, students, workers, etc.		parks, gymnasiums, lectures, etc.	
	sculptors, musicians, etc.		pensions, prizes, patronage, etc.	
	astronomers, chemists, etc.		schools, laboratories, observatories, etc.	
	physicians, biologists, etc.		annuities, laboratories, funds for experiment, prizes, etc.	
	mechanics, inventors, etc.		honors, monuments, prizes, annuities, Boy Scouts, etc.	
	statesmen, students, writers, etc.			
	etc.		etc.	

or by a gift in trust to apply or pay over income. Which is better gift. In any case before deciding upon the form of the gift the public Public Uses."

endowment for maintenance and upkeep. . . . There are advantages adhering in the giving of funds rather than buildings, because of their greater permanence and also because of the greater elasticity possible. . . .

3. The administration of one's bequest, whether it may best be administered by a trust company or directly by an existing institution. . . . Funds should be put in the hands of those who because of the constitution of the organization, shall make it certain that broad general vital interests shall hold in the administration of the fund rather than personal preferences and idiosyncrasies. . . . Personally I deprecate the narrow limitations of certain trust organizations like the Cleveland Foundation, just as an example, where the wording of the charter practically precludes assistance to any interest not within the local geographic bounds of the city.

4. The question of "elasticity" in carrying out one's fundamental wishes, that is the whole problem of restrictions. . . .

The thoughtful donor would certainly want to provide for a degree of elasticity in carrying out his fundamental wishes, so that under radically different circumstances it would be possible to use the money available effectively, . . . to avoid the establishment of such funds as the one which exists in an eastern institution to be devoted to lectures against Roman Catholicism.

. . . . The whole general question of returning large wealth to the community uses should perhaps be touched upon. After making adequate provision for one's family and dependents, it would seem reasonable to present the claims of the community in general for some benefit from large accumulated wealth.

. . . . On the other hand, good use may be made . . . of the example of such men as Mr. John Kennedy and the late E. C. Converse, in the wide and thoughtful distribution of their estates, touching a variety of human interests and needs, and furnishing an example of a certain degree of consciousness of indebtedness to the community at large.

From Rev. Charles E. Burton, D.D., General Secretary, Congregational Home Missionary Society, New York City.

. . . . One of the biggest mistakes which our testators make is to feel that they must not let their proposed benefactors know of their intentions. . . . Many serious and costly mistakes could be avoided if persons about to make their wills would have frank consultation with the officers of societies and institutions to which they wish to make bequests.

Of course you will take into account the innumerable contests of wills due to loose composition, and therefore the necessity for consulting capable lawyers in the making of wills. . . .

Especially for those who wish to bequeath the smaller amounts I am a great believer in what we call the conditional gift plan.

. . . .

LETTERS RESPECTING ENDOWMENTS, BEQUESTS, AND GIFTS

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From Rev. Ernest Bourner Allen, D.D., of Oak Park, Illinois.

. . . I find that thoughtful people welcome suggestions about the disposition of money. . . There is classic illustration in the sermon by Dr. Gunsaulus which he preached upon the needs of our youth and what he would do to meet those needs. Mr. Philip Armour heard the sermon and at its close asked Dr. Gunsaulus if he would give five years of his life to carry out his suggestion. If so, he said he was willing to furnish the money, which he did. So Armour Institute came into being.

There are four objects of bequest which ought not to be overlooked:

1. *Our Churches.* They represent considerable elements of life in the community and their work can be perpetuated and enlarged by endowment funds. . . Hundreds of our churches are now the administrators of such funds.

2. *Our Christian Colleges.* . . Most of the colleges keep their endowment funds in the hands of some Trust Company and this Trust Company pays only the income to the college. . .

3. . . . *Denominational Benevolent Organizations.* . . Large sums of money have been entrusted to them. . .

4. There are also various philanthropic and charitable organizations, too numerous to mention, but incorporated and using their funds for the uplift or alleviation of humanity.

My inclination is always to emphasize the value of giving money to agencies which are preventive rather more than to those which are remedial. . . Doubtless you will take account in your paper of the plan for conditional gifts . . . to be paid on the death of the testator. Meanwhile the organization or agency agrees to pay the giver a stated income varying from two to five per cent upon the gift which is turned over to the organization. . .

From Rev. A. W. Anthony, D.D., Secretary of Home Missions Council of New York City.

One effect of the war has been to strengthen and accelerate a movement toward a more compact sense of community interests and the creation of a community consciousness. We made ac-

quaintances, removed many social barriers, and obliterated many social distinctions under the pressure of great national needs and services. Some of these gains have already been lost. Some are permanent. In some of them there is an admixture of peril. . . .

It is a common opinion that the Community Trust, if advocated, established, and maintained in a too narrow spirit, may become a real menace to the largest interests of the country, and of our people. The term "community," if restricted to the idea of the immediate locality (village, or town, or city) in which a man lives, is too limited an idea to supply adequate objectives and channels for the most wisely considered benevolences. This will appear from two distinct considerations:

1. Because the wealthy tend to live together in communities, suburban and otherwise, the concentration of their wealth upon those communities brings to the least needy community the largest benefactions, and tends to deprive the more needy communities, in which few wealthy persons reside, altogether of donations and bequests which they need. In other words Community Trusts which serve only their communities are trusts which do not benefit the neediest parts of the world. There is, therefore, a serious defect, if not indeed a peril, which arises in this geographical sense.

2. In a similar way Community Trusts, narrowly administered, fail to reach the *classes* which are the most needy. The rich as a rule do not live in the same communities with the industrial plants from which they gather their riches. Consequently their gifts, if limited to the communities in which they live, do not benefit the industrial and working classes. Nor do they reach to other classes, such as the Negroes, the Indians, or all of the many foreigners who have come to this country as New Americans. The needs of people in distant and isolated areas, who suffer and need hospitals and sanatoriums; or need schools and colleges and missionary enterprises, are all neglected, if the term "community" is limited to the narrow area in which the well-to-do make their homes.

We have a fear, and doubtless it is well grounded, that the tendency of the Community Trust may be to divert benefactions from the more distinct, and perhaps the greater needs and burdens under which the world suffers. We do not believe it is for the interest of the nation, nor of mankind, to have benevolences restricted to the areas in which the rich may happen to live. . . . The largest good to the largest number should be the object of the benevolently minded. We are the citizens of the world and brothers of mankind more than ever before.

From Mr. Henry M. Beardsley, of Kansas City, Lawyer, former President of the National Congregational Council.

. . . The first question which you ask is, "How conscientious testators may qualify for the important but neglected art of selecting testamentary objects?" I have found in my experience, that as an adviser, I do not have any large part in the making of a

From Rev. Ozora S. Davis, D.D., of Chicago.

. . . I have known quite a group of cases where, late in life and acting on the spur of sudden sentiment, wealthy persons, especially women, have given large sums without either vision or provision. Certain facts seem rather apparent to me.

1. Donors ought to be clear concerning the definite purpose and the careful administrative organization of institutions to which they give money. The charter, the corporation, the directorate ought to be of the best order.

2. Of course the purpose will be one that appeals to the donor's especial interest, whatever that may be; but it ought to be so clearly defined and so serve an essential need that there will be no doubt as to the wisdom of the donation.

3. It seems to me that an institution which is worthy of endowment ought to have behind it a supporting constituency of permanent groups or individuals. . . .

4. I hope you will appeal for gifts that are not tied by too great restrictions. To give to a particular object always gratifies a donor; but institutional needs change beyond the foresight of the most wise trustees; and the power of the "dead hand" is felt in scores of institutions in ways that the donors of foundations never would have allowed; but a trust fund is a sacred matter and cannot be lightly set aside. If donors of endowment funds would give without restrictions it would be the most acceptable form of gift. If the trustees are what they ought to be the gift will never be misused.

5. . . . Donors of endowments ought to be sure that the purpose of the institution is sure to persist. Certain agencies for the reform of definite abuses will finally, if they succeed, extinguish the very reasons for their existing. . . . Medical and educational institutions seem to be of a permanent character. . . .

From Rev. William Horace Day, D.D., Bridgeport, Connecticut.

. . . The easiest way to give a large sum is to give it all to a single object that appeals to the imagination and to the judgment. . . . I should counsel such a testator to give the necessary time and thought to a fairly wide distribution.

I should want to give a sum large enough to afford the maximum of encouragement, and the minimum of relief to others who ought to feel responsibility.

. . . Distribution should include gifts to organized religion, gifts to education, and to social agencies; and those important enterprises abroad as well as at home. . . .

From Mr. Robert W. DeForest, Lawyer, New York City.

An intelligent testator who wishes to leave any considerable sum for public purposes will first ask himself whether any existing institution which he trusts can carry out his intent. If so he will leave his money to that institution, and unless he clearly wishes

selection. The testator is already more interested in some field of philanthropic enterprises than in all others. To one, it is his church. It may be the local church; it may be some of the great societies—missionary bodies of his church. Another person is interested in hospitals, another in the development of parks or playgrounds or art galleries or something of the kind within his own city. These things and others like them are good. The reason the individual has his thought directed in a particular way is ordinarily because he has either been giving money and time during his life in that particular direction or has had it impressed upon him in his reading and thought. I would not undertake to disturb the particular conclusion of the testator under such circumstances. It has seemed to me that it was well that there is such a diversity of purposes among those who have come to me, because these many things need to be done. About all the adviser can do under such circumstances is to make suggestions against a proposed gift to some institution whose future is in doubt or whose work is not being properly conducted, or possibly to suggest some other particular application of the fund along the testator's proposed general line. It sometimes happens that the testator has no set purpose. In that event, I have always felt it the duty of the adviser to suggest a number of different directions in which the money might be effective, that the testator may feel, when the will has been written, that the thing determined upon is his own in fact and represents his own deepest wish.

There is another angle from which this matter now being discussed should be considered. There are many lines of philanthropic endeavor being now carried on under individual effort which in their general character are public purposes and which should be financed and carried on by the public. It is altogether probable that in time the public will care for them. In that event, the gift of the individual might probably better have gone in some other direction. There is a tendency clearly marked in our time for the city and state to take over many of these lines of work. I have found it wise to present this aspect to many testators who are desirous, as nearly all are, that their own gift shall go into a channel where otherwise there would be need. This I count quite an important matter.

The next question which you ask is, as to what restrictions or conditions should be attached to such bequests and to what kind of boards of trustees the administration of such funds should be committed. That is a matter about which there is considerable difficulty. No one can look far enough ahead and be quite sure that a suggestion he makes will work out well. I have thought that to make too many restrictions is bad just because one cannot know the future. It is easy to see that restrictions made a quarter or half a century ago would be unwise now. In giving advice to my clients along this line, I have always suggested to them that it would be better to trust to the judgment of those who are to handle the estate from time to time in the future than to try to anticipate the conditions which will arise. There are many

corporations now and trust companies authorized to act as trustees. There is not the difficulty here which arises in the case of the death of a trustee, but these are public corporations. If the matter were one of the making of investments merely, then the corporation would probably be the best trustee. It is probable that the development and carrying out of the purpose of the testator would be best accomplished under a body of individual trustees because of their probable longer interest in the working out of the purposes of the trust. Whether or not they should be incorporated will be determined upon by the character of the trust and upon the laws of the state under which they are to act. Often these boards are made self-perpetuating, the survivors being permitted to fill in any vacancies in the board. Sometimes the vacancies are filled by many other methods. A very notable will recently made here in my city provides for the naming of trustees by the presidents of two or three great universities, the testator feeling quite sure that the heads of these great universities would be fitted to choose such trustees. He had an idea, I take it, that if the survivors on the board of trustees were to fill vacancies, they might select those who would have the same ideas as themselves in carrying out the trust and that a larger and broader view of things would be secured by the method suggested in his will. This would seem to me to be a very wise suggestion.

From Mr. W. F. Bohn, Assistant to the President of Oberlin College.

. . . If I were asked to advise one who had a generous sum of money to leave by will, I should want to make sure first of all, that the objects to be remembered were worthy in the best sense, that they concerned large permanent, fruitful interests touching life vitally, that they were not "fads" nor interests of passing moment, . . . also to make sure that the field concerned was not already covered adequately. . .

. . . A number of factors must be taken into consideration. . .

1. Serviceableness—one would have to decide at once whether to contribute to the amelioration of human ills, the research along medical lines, cancer, hookworm, etc., that sort of thing in fields not covered, or for research into such problems as the causes of poverty, unemployment, etc., etc., or whether the donor preferred to make a contribution to . . . the betterment of the race in furnishing trained leadership, to colleges and similar institutions. There would seem to be decided advantages in leaving money to permanently founded institutions, colleges, hospitals, etc. . .

2. Permanence, involving the whole question of safety and security, and at this point perhaps one would consider the relative merits of building projects and endowment funds. Buildings have a natural attraction as external and visible memorials, but they should, in practically every case, be accompanied by sufficient

to restrict the use of that money either as to principal or interest to some particular use, will leave it to be applied by the trustees of that institution in their discretion. We must trust somebody to carry out our general intent, and as we cannot foresee future changes should give discretion to those we trust to use their best judgment.

Frequently in drawing wills, while giving absolutely for the above reason, I incorporate an expressed wish as to the particular application of money, be it principal or interest, making it perfectly plain that it is expressed as a wish and not as a legal obligation. This guides the conscience of future trustees without tying their hands. If the principal is a gift which is to be kept intact and the income used, there is every reason why this intention be expressed and made a legal obligation.

Mrs. Sage's will, copy of which I enclose, illustrates my thought in giving absolutely but expressing a wish. If a bequest at all takes a memorial aspect, of course, principal should be kept intact. Our art museum has received various bequests, some with an absolute obligation to keep principal intact and only use interest. Others an absolute gift as to both principal and interest, and others, of which Mrs. Sage's will furnishes an illustration, making an absolute bequest but expressing a wish.

Mrs. Sage's will and also Mr. Kennedy's, both of which I drew, illustrate their judgment and also mine as to giving to existing trusted institutions as distinguished from founding any new institution. It is probably only under very exceptional conditions and respecting very large testamentary gifts that it is necessary to call any new institution into being to carry out a testator's desire. The duplication of institutions and their multiplicity is not for the public interest. Nor is it for the public interest to create an institution, the resources of which may even now seem adequate but in the future may be insufficient.

If the testator wishes, for reasons of his own, to found a new institution he should in my judgment organize it previous to his death by the selection of persons in whose judgment he has confidence, as trustees, with a small self-perpetuating board. This in my judgment is the wisest form of organization.

But no useful institution can be created and no fitting memorial made permanent unless there be adequate endowment, for the public cannot be expected to contribute generously to an institution which bears an individual name and is in a sense a personal or family memorial. I can illustrate our Metropolitan Museum of Art. There is no one's name. It is by its title and history a public institution. Giving to it (and it has received many gifts) is clearly giving to the public. The Corcoran Gallery at Washington, the Field Museum in Chicago and the Telfair Institute at Savannah, bear individual names or are intended to perpetuate particular families, and on that account are at a disadvantage in securing public support. Time may remove this disadvantage, but it takes a long time to do it.

Yale and Harvard both bear individual names, but for many

generations no one has thought of either Elihu Yale or John Harvard as individual or family names.

The Astor Library commemorates the Astor family, and for a long time was the only public library in New York of any importance, but to make it a public institution and secure public support it was clearly essential to merge it in the present New York Public Library. . . .

From Mr. Edwin R. Embree, Secretary of the Rockefeller Foundation.

. . . There has seemed to us advantage in leaving the custodians of funds as untrammelled as possible in the administration of the resources for the needs of succeeding generations. . . . My experience in university administration indicated to me the dangers of tying with too minute stipulations the uses of permanent endowments.

From Mr. B. H. Fancher, Vice-President of the Fifth Avenue Bank of New York.

. . . The boards which are charged with the duty of investing and reinvesting such funds should be selected with the greatest care.

It would of course be desirable, were it possible, to select men from different sections, especially where the fund is national in scope. There are, however, practical difficulties in the way of such a plan, especially if frequent meetings of the finance committee are to be held. . . .

I believe that for the care and investment of such funds, men who are actively engaged in successful business enterprises should be selected, and that while they should be conservative, they should be broad enough to invest in securities that will bring to the fund a fair and reasonable return. I consider that such a trust is very sacred and the first thing to be concerned about is safeguarding the principal, and then obtaining as large a return as can reasonably be expected from such investments. The tendency is to criticize conservative boards for the low return which some funds produce, but I feel that in the long run funds conservatively invested yield better results. It has been stated to me that boards could better afford to take some risks and lose quite a large amount of money occasionally rather than invest so conservatively, but I believe this is the wrong principle. I certainly would not want to contribute to such a fund or leave an endowment to a board constituted of men sharing this opinion and I think it would result most unfortunately if this were a common practice.

On the whole I think it is better to restrict such investments to legal ones and by no means is it true that a board should feel satisfied or safe to invest in all securities that are termed legal.

The question of establishing foundations is a large one and

unless the fund is a very substantial one I should not suppose it would be possible or wise to establish one. It would be too expensive.

I imagine the establishing of trusts will appeal more and more to people of means and in this way they can easily name their banking institution as their trustee, arranging for a trust during their lifetime and also a number of trusts under their will. This I think is a desirable form if an institution is carefully selected.

From Mr. Homer H. Johnson, Lawyer, Cleveland, Ohio.

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For myself, and speaking from a very limited experience, and more limited study of the questions involved, I have been inclined to doubt the expediency of foundations or endowed trusteeships charged with the general administration of funds for benevolent purposes, and leaving the application of the income from such funds to the various causes in general defined in the New York Trust Agreement. The difficulty I see in it is the almost certain lack of discrimination on the part of financial officers in applying intelligently the income to these purposes. I say this with reference to your amount of \$25,000 to \$1,000,000. It is quite possible that the General Education Board and the Russell Sage Foundation would not be so limited, but in general and for the ordinary amount I should say that endowments would be more wisely placed in the institutions directly carrying on the work. I confess you would lose somewhat in financial acumen perhaps, but you would gain in intensity of interest in the enterprise and in the devotion of minds trained in the direction of the best use of the money for the purposes outlined. I say this, too, quite apart from the probable trend of legislation in the limiting of the life of trusts for the benefit of such general purposes.

It is doubtful, too, how far endowments should grow in any enterprise that needs the supporting devotion of active minds for its carrying on. The necessity of raising money from the community or even of accounting to a legislative body is, I think, a salutary element in the situation. I am not at all sure but that most all benevolences which partake of the relief character should in the main be supported by voluntary gifts. Education I would say, is an exception, or at least is subject to a different rule, largely for the reason that it has a student body who are in themselves a critical and perpetuating force behind the professional management of a given institution. Whether the public as a whole watch the enterprise or not, the student body are pretty sure to give it attention enough to prevent abuses and often to make the administration very keen and competent.

You have probably noticed in the New York Community Trust that power is given to the Trustees to distribute the principal not exceeding 2% a year. If they took advantage of this permission it would clean up the trust in fifty years. It is perhaps questionable in the ordinary trust whether this oughtn't to be made

compulsory, at least that the distribution should be made some time during the fifty years.

Having the opportunity, I should perhaps also say that the custom of some Boards making Trust Companies or financial institutions agents and custodians for the handling and care of their funds, with the power of making reinvestment with the approval of a committee of the donee, may cure the lack of business experience which I have mentioned as sometimes inhering in such boards of trustees. This gives them the benefit of the highest skill in handling the investments, and technical skill in handling the application of the income of distributable principal in the prosecution of the enterprise.

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Of course in all cases the right of the Attorney General or other supervisory official to overlook the administration of such funds should be supplemented by provisions in the testament or trust document permitting the application of the fund to other similar enterprises more consonant with the demands of the age into which the administration has been projected.

I suppose we are on the threshold of a struggle between public and private operation of benevolent and educational utilities. The line between those supported by the State or some of its political divisions and private initiative has, of course, all the time moved in the direction of larger governmental activity. It has not lessened the participation of private means, but rather greatly augmented the variety of causes to which private funds have been devoted. Where this line will eventually wind up, or to what extent all this work may be socialized, certainly I would not attempt to guess, but I am sure that there will be an increasing effort to limit the application of incomes to purposes not thought to be of the most usefulness to the community and that larger and larger powers on the part of legislatures will be assumed to this end.

All of which . . . may serve to indicate some superficial trend on my part to the belief that as a whole the property of the community ought to be kept in living hands, and that . . . educational and benevolent institutions of a private character ought in the main to be supported by this property through the devotion of its income to those purposes by the living person. But in many cases, for one reason or another, this is not feasible, and to that extent it is desirable that endowments should be created first, in my judgment, to the boards of trustees managing the institutions . . . with authority to apply the income, or perhaps the principal, to some other object in the event that the particular charity failed of its purpose or was superseded by the State, or if any other reason made it undesirable to continue the work as outlined in the trust. Second, in the case of very large assets, the possible creation of a foundation or other artificial person to distribute the income to enterprises of a general benevolent nature, but with the full right of the State to supervise and terminate at will the gifts of the trusts. I believe we are in for

very large developments of the participation of the public in the handling of this line of surplus funds, and we may as well make it as easy and as safe as possible. There will be abuses either way, but it is only by experience that individuals or collections of individuals may grow. There is no such thing as the State apart from the individuals composing it. These individuals must learn through experience in these matters as they have in the administration of their political functions. .

From Mr. Robert W. Kelso, President of the National Conference of Social Work, Boston, Massachusetts.

I think that money should be given to charitable uses only after convincing proof is established that a need exists; that when given it should be applied not to that use merely which is popular or tickles the vanity of the giver, but rather to that need which is greatest in the light of the whole social program for the community in which the gift is sought to be applied; and finally that it should be given into the fiduciary care of a dependable trustee who should have large discretion to vary the conditions of its application in accordance with changing needs due to lapse of time or unforeseen causes. It follows from these limitations that a prospective donor should refuse to give to charitable or social service uses until he can see a true need in the meeting of which his gift will without doubt advance the community good. And he should insist that something in the way of a social program for his community be in evidence, so that when he does make his gift he can see its application in the light of the whole field of social needs and the means which all the donors of his community put together are providing to meet them. He should not be content with isolated charitable giving. Unless he coordinates his effort with that of others, the result will be waste at least, and probably a checkmate of other efforts equally sincere.

Finally it does not lie within the mind of any one man to determine what is for the public good, and having so determined declare that it shall continue so to be for all time. A proper charitable use today becomes an element of danger in the community by tomorrow. I call your attention to the ancient charitable uses in the fishing ports of Massachusetts, like Gloucester and Newburyport, where funds for the relief of the families of sailors have so far failed of a field for their application that the trustees no longer spend their income, but add it to the capital, and for such sums as they do put out are compelled to search the community for persons who might by some stretch of interpretation be considered eligible for the gift. Donors should put their trust in those who will live after them, and should give them discretion in varying the method of applying the gift. For this purpose the trustee should be a corporation rather than a person or group of persons, and should have hedged about it all of the safeguards which law and government afford to ensure its stability as a competent fiduciary.

From President Henry C. King, Oberlin College.

I asked my assistant, Mr. Bohn, to write out any suggestions that he might have upon this matter of endowments and bequests. . . . *

I do not know that there is very much that I need to say in addition to what he has said. It is perhaps worth emphasizing, however, the serious question that seems to me to be raised by Foundations like the Cleveland Foundation, which I understand has been copied now in about forty other cities.

Soon after the Foundation was founded I went to Mr. Goff, . . . who had been chiefly instrumental in starting it, to protest against what seemed to me to be the pretty selfish limitation of the Foundation, for it practically confines bequests to Cleveland itself. I asked him what the West would have done in education if New England cities had taken that point of view in the years past. He did not seem to be inclined to quite defend the principle, but thought it might be changed later. However, . . . the Cleveland Foundation has not been changed, and this self-centered method of the Foundation is spreading widely. . . . The cities do not make all their own wealth; they are of course dependent and greatly indebted to the region around them, and there is no propriety, in my judgment, in putting the whole resources of a city simply into its own needs, however real.

From Rev. Charles S. Mills, D.D., Executive Secretary of the Pilgrim Memorial Fund, New York City.

. . . I have known of many instances where the effort on the part of the testator to tie up his gift to a certain specific object proved to be very unfortunate and, in the process of time, the conditions attached to the gift sadly limited, or even frustrated its objective. The object should be one . . . likely to be of broad and permanent interest. . . . The administration should have reasonable freedom in carrying out the spirit rather than the letter of the bequest.

. . . A testator should be assured that his gift would be used in perpetuity to carry forward his fundamental purpose. Our Pilgrim Memorial Fund of the Congregational Church is an illustration of a somewhat carefully guarded trust, on the following points:

1. It is provided that it shall be held in trust by a board other than the Board of Trustees which is concerned with the expenditure of its income. The holding board has no power except to invest it and reinvest it. . . .
2. The Trustees of the Annuity Fund, in turn, are charged to use the income as turned over to them, less reasonable expenses of administration, to aid in providing old age annuities and disability annuities. . . .

* See letter of Mr. W. F. Bohn, p. 23.

3. While the income is distributed according to a plan which is set forth in detail in the booklet: "The Trustees of the Annuity Fund may, from time to time, apply the distributable income from the Pilgrim Memorial Fund in a different manner, though similar to that specified, should coming days bring such changes as to render this necessary in their judgment, to produce the best results possible for the ministers and their families."

This clause was inserted as a suggestion from the actuaries of the Carnegie Foundation, growing out of their experience and providing the necessary elasticity in the administration in case, for instance, a hundred years from now the circumstances were so altered that the exact literal rules of the Fund set forth in the booklet were less advantageous than some changes therefrom would be, but, at the same time, the Trustees are held to the general object stated in the Pilgrim Memorial Fund. . . .

From Lucien C. Warner, M.D., New York City.

. . . Endowments play an important part in much of the educational and philanthropic work of our country. . . . There are, however, some cases where too much endowment really interferes with the highest efficiency of what might be a worthy object. I am satisfied that, for the most part, universities, colleges and philanthropic enterprises are better managed and do better work on a partial endowment rather than complete. It is well that those who receive the benefits of service should pay something towards the cost. It is also desirable that those who have the management of such work should feel a responsibility to the general public for the management of their trust and if they are dependent upon this public for a part of the support they are surer to feel that responsibility than if they are financially independent.

In the case of departments of research and some other worthy objects, this does not usually apply as such enterprises cannot easily appeal to the general public for support. . . .

This same general principle also applies to the method of selecting trustees. Where it is possible to select at least a part of the trustees from a general constituency it is better than that the board of trustees should be entirely self-perpetuating. In the case of our universities and colleges I feel confident better men and better management are secured by the alumni selecting a part of the trustees. In the case of close corporations the same broad principle sometimes is carried out by having . . . the Chamber of Commerce appoint one or more of the directors. . . .

The fewer conditions that are attached to a bequest the more useful the money is likely to be. It is better that the giver specify a preference for the way the money should be used rather than a command, for conditions may so change in fifty or one hundred years that the original request cannot be carried out literally. It is therefore better to trust to the judgment of the trustees as they are almost certain to try to carry out the spirit of the giver where they cannot carry out the letter.