

## **Memorial by the Carnegie Dunfermline Trustees for the Opinion of Counsel regarding provision of work for the unemployed with Opinion annexed.**

(Ref. par. 116 (1933).)

By a Trust Deed executed on Eighteenth and recorded in the Books of the Lords of Council and Session on Twenty-sixth, both days of August, One Thousand nine hundred and three, Andrew Carnegie of New York, and of Skibo, in the County of Sutherland, undertook to transfer to and did thereafter transfer to and vest in the sixteen persons therein named, and in such other person or persons as they might assume to act in room of such of their number as might die or resign office, and also in six members of the Corporation of Dunfermline and three members of the School Board of Dunfermline, or other Educational Authority of the Burgh for the time being, and therein designated the Carnegie Dunfermline Trustees, certain Funds and Property, which Funds and Property he provided should be held and administered by these persons as Trustees in Trust for the purpose specified in said Trust Deed and in the letter hereinafter referred to.

The Trust was incorporated by Royal Charter in 1919. The Trust Deed and Explanatory Letter are contained in the Schedule appended to the Charter of Incorporation.

While the Trust purposes are stated in the most general terms and discretion is given to the Trustees in the matter of the particular schemes they may adopt for the carrying out of the Truster's intentions, Counsel is specially directed to the following passages in the Trust Deed :—

“ And being desirous of testing by experiment the advantages  
“ which a community may derive by having placed at its disposal,  
“ under the administration of public-spirited and intelligent men  
“ chosen from among themselves, funds dedicated to the purpose of  
“ providing the means of introducing into the daily lives of the

"masses, such privileges and enjoyments as are under present circumstances considered beyond their reach, but which if brought within their reach are calculated to carry into their homes and their conduct sweetness and light."

In a letter by Mr Carnegie to the Trustees, dated the Second day of August, One Thousand Nine hundred and Three, and which he thereby declared to be an integral part of and to be read along with and as explanatory of the said Trust Deed, and declaratory of the duties of the Trustees, Mr Carnegie indicated that the whole of the endowment was "all to be used in attempts to bring into the monotonous lives of the toiling masses of Dunfermline more of sweetness and light. . . ."

"Remember you are pioneers and do not be afraid of making mistakes; those who never make mistakes never make anything. 'Try many things freely, but discard just as freely.'"

"As conditions of life change rapidly you will not be restricted as to your plans or the scope of your activities."

When Mr Carnegie signed the above mentioned Trust Deed and Explanatory Letter he no doubt had in mind a prosperous community needing, in the main, recreational facilities and some ameliorative amenities to meet the requirements of those who had spent a long and arduous day in some form of employment. It is hardly likely that he anticipated that some 20/30 years after the institution of the Trust over 2000 of the inhabitants of Dunfermline would be without work and without any immediate prospect of securing steady employment.

Before the War there were in Dunfermline ten Linen factories. It is fairly accurately estimated that these factories employed 5000 workers. Since the War the linen industry in Dunfermline and the surrounding district has steadily declined, and factory after factory has been compelled to close down. At the present time the number of linen factories has been reduced to two, and while it is true that two Swiss firms of silk manufacturers have opened up

business in Dunfermline it is unlikely that the large number of unemployed of both sexes and of all ages will be absorbed either in the linen industry or in the manufacture of silk. The problem of unemployment is aggravated by the continued depression of the coal trade and by the position at Rosyth Dockyard.

Even with a general revival of trade it is scarcely to be expected that Dunfermline will for many years to come enjoy the same measure of prosperity as obtained when Mr Carnegie instituted the Carnegie Dunfermline Trust. The Annual Report issued by the Trustees for the year 1931, to which is appended a Statement of the Annual Accounts for that year, indicates the activities initiated and maintained by the Trustees in Dunfermline. All these activities are recreational and, broadly speaking, educational, and in themselves provide employment for a fairly large number of employees. The Trustees' Wage and Salary Bill is over £23,000 per annum.

The Trustees are naturally deeply concerned about the unemployment problem, particularly in so far as it affects the people whom Mr Carnegie desired to benefit. Existing institutions maintained by the Trustees provide fairly adequate recreational and educational facilities, and the scope of these will be adapted to meet the needs of the large numbers who are able to frequent them during the day. The Trustees feel, however, that these facilities, excellent though they are, cannot take the place of real work; while the pursuit of recreation, music, craft work, or reading do much to fill up the leisure time enforced on such a large section of the community, it is doubtful if it can be honestly said that the Trustees by providing facilities for these pursuits are fulfilling the terms of their Trust Deed and bringing within the reach of the masses privileges and enjoyments calculated to bring into their homes and their conduct sweetness and light so long as these people are deprived of the common means of livelihood.

There is a very definite limit to the amount of work which the Trustees can create to find employment for those who are now permanently idle. Any new institutions which the Trustees might decide to erect would give employment to a limited number of men

for a comparatively short time but these buildings would require to be maintained, and the annual maintenance charges would add to the annual expenditure of the Trust very considerably. There is also, for example, a limit to what might be done in such directions as forming new walks or improving what are at present unattractive areas which might be beautified and turned into public open spaces or parks. In any event such work would provide only very temporary employment and the serious problem facing the Trustees and the City is presented by the fact that in view of the state of the linen and coal industries and of the practical closing of Rosyth Dockyard, many of the inhabitants of Dunfermline are faced with unemployment of a relatively permanent character.

The Trustees have always been conscious of the obligation laid upon them by Mr Carnegie when he stated in the before mentioned letter—"It is not intended that Dunfermline should be relieved "from keeping herself abreast of other towns, generation after "generation, according to the standards of the time. This is her "duty, and no doubt will continue to be her pride." "I can "imagine it may be your duty in the future to abandon beneficent "fields from time to time when municipalities enlarge their spheres "of action and embrace these. When they attend to any depart- "ment it is time for you to abandon it and march forward to new "triumphs. "Pioneers, always ahead," would not be a bad motto "for you."

The Trustees have endeavoured to ensure that they do not encroach upon the sphere of the Corporation of Dunfermline or relieve the Corporation of its rightful duties. It may safely be said, however, that Dunfermline Town Council have been most progressive and have kept abreast of other towns in all forms of municipal activity. While unemployment grants were available, the Town Council took full advantage of this form of assistance and carried out many public works calculated to improve the town and provide work for the unemployed, but, with the suspension of Government aid, the activities of the Town Council were seriously curbed and without adding additional burdens on the already over-taxed ratepayers they cannot be expected to engage upon any large ventures to relieve the amount of unemployment.



A question has therefore arisen amongst the Trustees as to whether they are fulfilling the terms of their Trust Deed in the light of modern requirements, and whether they would not be justified in an endeavour to create either by themselves or in co-operation with others a new industry which might permanently absorb at least a proportion of the inhabitants who are unemployed. Doubtless the wide powers of investment enjoyed by the Trustees under their Charter might be invoked by them as legalising the investment of Trust Funds in such an industry, but they would be loath to take action on such a narrow ground, and they desire to be advised whether they are entitled to utilise their funds in engaging in an industrial business with the avowed and primary purpose of providing employment in Dunfermline. Until advised on this point, the Trustees have refrained from exploring the possibilities of work on these lines and no concrete proposals with regard to any particular industry are before them. The Opinion of Counsel is respectfully requested on the following queries :—

- (1) Whether the Memorialists would be acting within the powers conferred upon them by said Trust Deed, Explanatory Letter and Charter if they were either by themselves or in co-operation with other bodies or individuals to create or assist in the creation of a new industry, specifically for the purpose of making work for as many as possible of the inhabitants of Dunfermline who are unemployed.
- (2) Whether such an industry would require to be run on a non-profit earning basis.
- (3) Whether the Memorialists would be entitled to subsidise any existing local industry or any new industry which may in the future be built up by others. If so could such subsidy take the form of an out-and-out gift or grant?
- (4) Whether, the answer to the foregoing three queries being in the negative, the Memorialists are entitled to engage upon any work for the express purpose of providing employment for the unemployed.

March 1933.

*OPINION.*

After reading the Memorial and relative documents I had an opportunity to discuss the situation with representatives of the Trustees and their Solicitor. Thereafter I reconsidered the Memorial—and did so with a desire to find the Trust Deed and relative letter capable of a wider meaning than had originally seemed to me reasonable as matter of legal interpretation. It is right to explain that that desire on my part was not due to any pressure put upon me by any of the Trustees whom I met in consultation, as suggestions were not put forward as the views of individuals but simply with the idea of assisting me to consider the Trust purposes from various angles. What did influence me to some extent in the direction of a wide rather than a narrow interpretation was the obvious desire of Mr Carnegie that the Trust funds should be used to confer real and substantial benefits on “the toiling masses” of his native town, to give them, so far as he conceived it to be possible by such means, happiness in their lives—and with those ends in view to give the Trustees as much freedom as possible. That being Mr Carnegie’s purpose, it is not difficult to believe that, if he had foreseen the economic conditions of Dunfermline which now exist and the workless and rather hopeless situation in which many of those whom he described as “the toiling masses” find themselves, he would or at least might have given the Trustees powers clearly wide enough to cover direct action in some fashion to mitigate the conditions of unemployment and poverty which in Dunfermline, as elsewhere, are causing such concern. But it seems almost certain that Mr Carnegie had no such situation in view or did not contemplate the possibility of the Trustees attempting to cope with such a situation by the provision of work. At anyrate, in my opinion, the terms of the deed and relative letter are not capable, as matter of legal interpretation, of a meaning that would justify the use of the Trust funds for any of the purposes referred to in Queries 1, 3 and 4. Accordingly the second query does not require consideration. As regards the fourth question, however, it is right to make it plain that my answer is not intended to imply that the Trustees ought not to be influenced in favour of a scheme otherwise attractive to them, or in embarking on such a scheme at a

particular time, by the fact that it would benefit Dunfermline by providing work. But a scheme embarked on or an industry started or fostered with Trust funds *with the object of providing work*, as distinguished from the provision of "privileges and enjoyments" to mitigate the monotony of work or the drabness of the lives of the workers, would be in my opinion an enlargement of the scope of the Trust purposes to an extent beyond any fair or natural interpretation. It is obvious that such schemes as the Trustees already have in operation—by the provision of valuable privileges and opportunities for recreation—have the effect in many cases of an addition to wages or its practical equivalent. Again, a scheme to provide better housing conditions would no doubt bring "sweetness and light into the homes" of workers, and I think it would be no objection to such a scheme that in a sense the Trustees might be said to be bringing "the homes" themselves within the reach of the beneficiaries. But, in my opinion, there is a rather obvious line of distinction between such a scheme as that—even if its attractiveness *now* might be enhanced by the fact that it would provide work—and such enterprises as are referred to in the questions submitted for my opinion.

The Opinion of

(Sgd.) ARTHUR P. DUFFES.

27 Abercromby Place,  
Edinburgh, 21st March 1933.