

MILTON S. HERSHEY
“HIS DEEDS ARE HIS MONUMENT, HIS LIFE IS OUR INSPIRATION”

APPENDIX XIX: 1933 PAUL REED MEMO

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November 10, 1933

To: Mr. W. v. Tresckow, Assistant Vice President
From: Mr. Paul Reed

re: Suggestions to Mr. Hershey and Associates

Mr. Hershey and his associates have been most cooperative in providing information on the Industrial School and the philanthropic projects at Hershey. We promised, you will recall, in the light of our study of other foundations and orphanages, to suggest such changes as we believe might be advantageous to Mr. Hershey in the perpetuation of his philanthropic activities. For your consideration, the following suggestions are made.

I

More freedom of action with respect to detail should be left to the future Managers of the Hershey Industrial School.

Analysis of experience leads to one conclusion - that the philanthropist who binds his gift with too great finality frequently succeeds only in defeating his major purpose. The one universal law of our society is change. Any institution established to meet needs in society should, accordingly, be designed to meet and adjust itself to change.

We may illustrate in another field. No business man with vision and experience would attempt to bind in detail the operation and management of his company to perpetuity. Similarly no business man should attempt to bind in detail the operation and management of his philanthropic trust to perpetuity.

We know in business that a few years' time may make inadequate methods which are today considered efficient and progressive. To a lesser degree perhaps, but none the less certain, is the knowledge that in philanthropy a few years may bring changes in the needs of society, orphans, and in the ideal methods of meeting the needs.

Since changes are inevitable, the question naturally arises as to the best method of providing for them. Only two exist - the doctrine of cy pres, or the leaving of discretionary power to the Board of Trustees or Managers.

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Advocates of the doctrine of cy pres maintain in essence that the courts are likely to do a better job of safeguarding the donor's original intentions than would the Board of Trustees. At first glance this might seem probable.

Analysis of a number of cases reveals that such is not the case. While there are instances where excellent decisions have been made by the courts, the records point inevitably to the fact that the legal system of the United States permits and frequently makes necessary needless inefficiency and waste. As a business man would not wish to be forced to obtain approval of the courts for every change in the detailed operation of his organization, so the business man in philanthropy has frequently found such a necessity devastatingly wasteful and destructive.

Experience indicates furthermore that the second method is more practical and more successful. In this the donor states his wishes with respect to his institution, but does not make detailed methods mandatory upon his future trustees.

In the final analysis, a donor must leave and does leave discretionary power. Is it not logical to believe that the trustees, who because of an interest in public welfare are contributing their services as trustees of his philanthropic institution without remuneration, will be better informed and in a better position to make decisions with respect to the School than the courts - which, even in such a progressive state as Pennsylvania, are frequently more concerned with technicalities of law than with the human values involved.

The Deed of Trust of the Hershey Industrial School has been admirably drawn in many ways. There are, however, certain changes which we believe should be considered to insure against future failures.

1. The age limit requirements for both admission and graduation are perhaps excellent for the present but should not be left in the form of legal mandates on the Managers for all time.

In Girard's day it was perhaps advisable, as he prescribed, that orphans be admitted to his school only between the ages of six and ten. Such is not the case today, and Mr. Girard would doubtless be the first to recognize that fact were he alive.

In the case of the Hershey Industrial School, it was evidently not possible in 1909 to foresee the advisability of permitting students to enter beyond the age of eight. Similarly it may not be possible to foresee today the desirability twenty years from now of permitting students to enter the Industrial School at the age of sixteen.

The doctrine of cy pres has not taken care of the situation of Girard College. Similarly it might be impossible for it to take care of the restrictions of the Hershey Industrial School if changes should become desirable.

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Likewise in respect to the age at which the boy must leave the School - it is utterly impossible for anyone living today to prophesy adequately what may be the preparation required or the age at which young men will start employment fifty years from today. If the present trend towards increasing the length of schooling of the boys of the nation continues at even half the pace of the last century, it's entirely possible that the boy forced out of a protective educational system at the age of eighteen might be totally unequipped either to earn his support or to make his way adequately in life.

Under such conditions, the age requirements should be stated as wishes rather than being made legally mandatory.

2. The present Deed of Trust does not authorize any expenditures by the Hershey fund for the continued support of Mr. Hershey's primarily community philanthropic projects - such as the Community Building and Girls Club.

If it is Mr. Hershey's intention that the Community Building and similar non self-supporting phases of his program should be supported from income of the Industrial School, would it not be advisable to authorize this by definite inclusion in the Deed of Trust?

3. The Deed of Trust makes it impossible for the Managers either under stress of need or any other circumstances to expend any of the principal of the trust or the proceeds from the sale of any land except in the purchase of additional land for the purposes of the School.

The experience of the past depression has illustrated conclusively that an institution may be tremendously wealthy in principal funds and yet may be poverty-stricken and disabled in its service program by the temporary failing of income. It is not beyond the realm of possibility that dividends might be passed on the securities held by the Board of Managers sometime during the next hundred years. If at the time the reserve income account were inadequate, the Board of Managers would perhaps have no choice but to turn out of house and home the thousand orphan boys entrusted to their care.

While Mr. Hershey is active, there is no question in our minds that, in the event of such a possible emergency, he would authorize temporary use of principal funds. Yet Mr. Hershey is not permitting exercise of such discretion by those whom he is entrusting with the responsibility of carrying out his wishes. In fact he is making it legally impossible for them to do so.

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Mr. Hershey's desire that the endowment and School continue forever is not lost sight of here. Rather it is all the more fully recognized.

After the passing of the emergency it is possible that the Board of Managers might repay from future income the money taken from principal, and thereby maintain the funds unimpaired. Certainly, it is far from Mr. Hershey's mind to place the preservation of money above the welfare of "his boys."

Accordingly, the Board of Managers should be permitted to use some proportion of the principal should conditions at some future time make such advisable or imperative.

4. Permission should be left in the Deed of Trust for the Managers to use excess funds - beyond the needs of the School and immediate community - for other philanthropic work.

When Mr. Girard left his estate for the founding of an orphanage it might have been valued at the highest at \$7,000,000. Today the value of Mr. Girard's original gift is over \$84,000,000. Should Mr. Hershey's contribution to philanthropy increase in but similar proportion during the next century it would represent an investment of over \$500,000,000. Allowing for the possible contribution of others towards the care of orphans (including perhaps those made by future alumni of the Hershey Industrial School) it is possible that in a hundred years' time such an enormous sum of money would be entirely too large for the needs of even a greatly enlarged School.

Rather than side-step this possibility, which is very definite, would it not be advisable to face it? It is our belief here again, that the Board of Managers should be given some discretionary power in the matter.

5. In addition to the specific suggestions which have been made, we would recommend that a clause be added to the Deed of Trust directing the Board of Managers to consider certain other parts as statements of wishes which may be changed should they prove injurious at some future time to the true purposes of the School.

Andrew Carnegie, in example, made the following statement in his letter of gift:

“Conditions upon the earth inevitably change; hence no wise man will bind trustees forever to certain paths, causes or institutions. I disclaim any intention of doing so. On the contrary, I give my trustees full authority to change policy or causes hitherto aided, from time to time,

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when this in their opinion has become necessary or desirable. They shall best conform to my wishes by using their own judgment.”

II

Whether or not Mr. Hershey amplifies the discretionary power left to his Board of Managers, the success of his philanthropic projects will be dependent, in the final analysis, upon the quality of the future members of the Board of Managers. It is of utmost importance that these be men of ability, wisdom and unquestioned integrity. It is our belief that it would be possible for Mr. Hershey to plan the selection of this Board of Managers in such a way as to give greater assurance of the adequacy of the future members of this most important group.

Under the present arrangement no one, however well qualified in other respects, may become a member of the Board of Managers of the Industrial School unless he is a Trustee of the Hershey Trust Company. While such an arrangement is doubtless excellent today in view of the present personnel, the plan should also be considered from the point of view of posterity.

We do not believe that the required interrelation of these two boards in the future is wise. It means that a man whose training and interests are primarily philanthropic, if he is to accept a position on the Board of Managers, is also required to accept a position as Trustee of the Trust Company. We see no reason why a man so trained and willing to contribute his services as a Manager of the School should be required to accept the responsibilities which go with Trusteeship of a Trust Company.

Nor do we believe it fair to the Trust Company. It is likely to lead to the building of too large a Board of Trustees or to the inclusion of men on the Board who know nothing of the responsibilities and functions of the organization over which they have control. The Trustee of a philanthropic school is not always a good man to hold the responsibility of Trustee of a Trust Company. The Trustee of a Trust Company similarly is not always the type of man who should be on the Board of Managers of a philanthropic institution. Although the Trust Company's activities are somewhat limited today, there is no reason to believe that such will inevitably be the case a century from today.

The present conditions under which the Board of Trustees of the Trust Company is composed of men thoroughly informed with regard to philanthropic management is extremely unique. This very uniqueness makes it seem inadvisable to rely too much on its continued existence.

If Mr. Hershey so desires, it should be possible to work out a plan for the future selection of Managers of the Industrial School which might be expected to insure a greater degree of security for both his philanthropic projects and for the Trust Company. It may be reiterated that stress is being placed not upon the inadequacy of the present situation where men are available who carry the combined qualifications, but upon the possible inadequacy of the plan at some future period.

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III

Three other suggestions of perhaps lesser importance are included herewith:

1. There are a large number of rumors to the effect that there exist today too many orphanages in the State of Pennsylvania. To dispel these rumors and to insure the wisely directed expansion over a period of years of the Hershey Industrial School might it not be advisable to have a survey made similar to that used in the study of chocolate markets?
2. Under the present plan a parent is not permitted to contribute in any way specifically towards the care and education of his boy. Where a parent does become able at some time in the future to make some contribution, might it not be an excellent means of binding the boy closer to his parent and educating the parent with respect to parental responsibility by permitting or requiring that such contribution be made? If inadvisable to adopt such a policy today, might it not be advisable to permit its adoption should conditions at some future time warrant?
3. We would be failing in our responsibility if we did not call to Mr. Hershey's attention the fact that in a very high percentage of cases a philanthropist's will, particularly where a sizeable fortune is involved, is contested. Frequently this is done by relatives so distant that their very existence was unknown to the donor.

In order to prevent the possibility of the breaking of a will, or a prolonged legal battle, it seems to us advisable that all provisions of the will should be studied in the light of records on previously contested philanthropic wills.

The major objective of the above suggestions is to the end that Mr. Hershey's desires may be carried on to perpetuity with that same co-mingling of humanity and achievement which is so evident in all of Mr. Hershey's philanthropies today.