

10/14

JM

Confidential filing

Works of Art charitable
Trust

ARTS
AND
AMENITIES

April 1991

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
PREM		19/36		11			



Not Apppts.
 ACC - 28/3
 Appts?
 NT - CC?

PRIVY COUNCIL OFFICE
 WHITEHALL, LONDON SW1A 2AT

27 March 1991

Dear Peter,

WORKS OF ART CHARITABLE TRUST

The Speaker wrote to the Lord President on 31 January about this. The Lord President is sending a short reply separately; this letter addresses some technical points which have arisen from our consultations at this end.

First, the Office of Arts and Libraries are not clear what the role of the House of Lords is in the proposed arrangements. Are they in a similar position to the House of Commons, in that they are being asked to set up a separate Trust; or will the Charitable Trust about which the Speaker has written hold Works of Art for the whole of the Palace of Westminster? If the latter, should not the Trustees include a representative from the House of Lords?

Secondly, the Lord President's letter mentions the question of financial liability on Trustees individually. We imagine that this will be nil; but it will be helpful to have confirmation that the Trustees are not liable either in their own persons or in respect of the offices they hold.

Thirdly, it would be helpful to have some indication of the nature of the duties of the Trustees. We imagine that they will not be particularly onerous - perhaps an annual meeting? but will there be additional queries to deal with from Members once it is clear that the Lord President as Leader of the House has an additional role in respect of Works of Art in the House? (As you will be aware, we already get occasional questions about, for example, the location of statues).

Fourthly, and perhaps most fundamentally, we think that there is a problem about the precise way in which the Trust is proposed to be established. In what follows, I am reflecting the advice of Geoffrey de Deney, Clerk to the Privy Council; no doubt if Speaker's Counsel wishes to pursue these points he can do so direct with the Clerk.

The problem relates to identifying the Leader of the House adequately for the purposes of the Trust Deed. Strictly speaking, we are not sure that this is an Office: it is not referred to in the Ministers of the Crown Act 1975 or in the Ministerial and Other Salaries Act 1975; it is not incorporated, it has no seal and it is unpaid; nor is there any identifiable formality of appointment. No such problems, of course, arise with the Offices either of Lord President of the Council or of Lord Privy Seal. But the difficulty is that there is no automatic link between either of those Offices and the job of Leader of the House of Commons (as you know, of course, the Leader of the Commons is sometimes Lord President and sometimes Lord Privy Seal).

One way round this difficulty that has occurred to us might be to appoint as Trustee the Parliamentary Secretary to the Treasury (ie the Chief Whip (Commons)), and provide for the duties of Trustee to be exercised by whomever he appoints to do so by letter. This would have the advantage of a permanently occurring and easily identifiable Office being specified in the Trust Deed, thereby removing any legal deficiency, while also providing for the duties to be discharged on a day to day basis, as you propose and we accept would be sensible, by the Leader of the House of the day.

In some ways, we accept, this is an odd way of proceeding, since it invites questions as to why we are nominating as a Trustee someone who will never actively carry out those duties. We are confident that the course just outlined would be legally adequate while also achieving the desired end. But if this course is thought awkward for presentational or other reasons, in view of the difficulty of identifying the Office of Leader of the House sufficiently for the purposes of a legal Trust Deed, there would need to be some other generic description for the Trustees - though I must confess that we cannot immediately think of a way of doing so that would avoid the need to draw up a new Trust Deed when named individuals moved on.

A commonsense approach would suggest that the Deed should refer "that Minister of the Crown who for the time being holds the position of Leader of the House of Commons"; but - although we shall be very pleased to stand corrected by Henry Knorpel - we fear that such a formulation may run into the same difficulty of identifying the Office of Leader of the House, however it is described.

As I say, we shall be delighted to hear that we are making mountains out of molehills. But we thought it right to draw the points to your attention.

I am copying this letter to Geoffrey de Deney; and also to Dominic Morris (No 10), Murdo Maclean (No 12), Martin le Jeune (OAL) and Sonia Phippard (Sir Robin Butler's office).

Yes,
T J Sutton

T J SUTTON
Principal Private Secretary

Peter Kitcatt Esq CB
Secretary to Mr Speaker
House of Commons
London
SW1A 0AA

TJS/AG



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

27 March 1991

Dear Jack,

WORKS OF ART CHARITABLE TRUST

You wrote to me on 31 January, asking if I would be willing to serve as a Trustee for this Trust.

I apologise for the delay in replying. There are a number of technical points about this which have required some discussion at this end - Tim Sutton is writing to Peter Kitcatt separately with the details of those.

But this letter is just to confirm that, subject to the resolution of such technical difficulties, I will be very happy to become a Trustee. (I assume that there will be no financial liability on the Trustees personally - some of the Works of Art in the House which the Trust will look after are, no doubt, pretty valuable!).

Yours ever,

JM

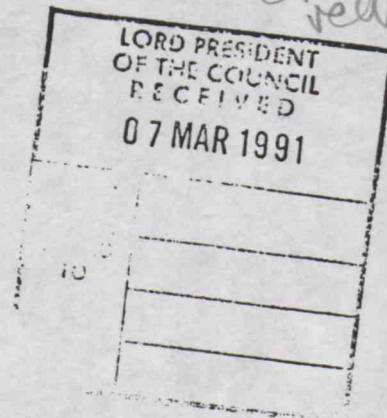
JOHN MACGREGOR

Mr Speaker
House of Commons
London
SW1A 0AA



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary



6 March 1991

Dear Tim

WORKS OF ART CHARITABLE TRUST

Thank you for your letter of 4 March to Andrew Turnbull. We have not troubled the Prime Minister with this, but I am sure he would see no difficulty in the Lord President taking on the position of Trustee for the purposes set out in your letter.

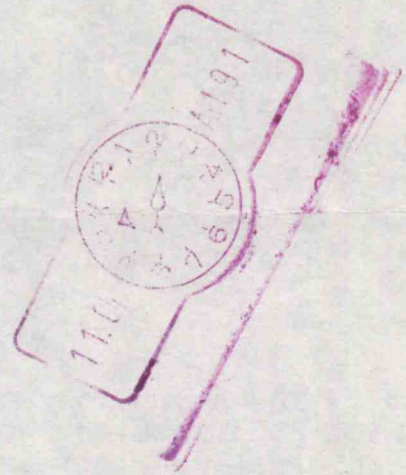
I appreciate that the draft reply to the Speaker reflects the advice of the Privy Council Office. We do just wonder whether it is right to nominate someone as a trustee (i.e. the Chief Whip) when the intention from the outset is that that person will never actively carry out those duties and will always nominate someone else to discharge them on his behalf. Would it not be possible for the trustee to be "that Minister of the Crown who for the time being holds the position of Leader of the House of Commons"?

Yours ever

Dominic

DOMINIC MORRIS

Tim Sutton, Esq.,
Lord President's Office.





PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

4 March 1991

Dear Andrew,

WORKS OF ART CHARITABLE TRUST

The Speaker has asked the Lord President, as Leader of the House of Commons, to serve as a Trustee of a Charitable Trust that the House needs to set up for works of art.

The requirement of the Trust arises from the conditions laid on the National Heritage Memorial Fund Trustees under the National Heritage Act, which prevent them from owning property in their own right. What the NHMF want is a suitably empowered Body to own or be responsible for Heritage property in the Palace of Westminster. The Lord President has no objection to serving as a Trustee for this purpose. There is a technical difficulty in the elusiveness of legal or constitutional definition of the Office of Leader of the House of Commons; but we have identified a possible way round that.

The details are set out in the Speaker's letter of 31 January, and the letter of 28 June 1990 from the NHMF which it enclosed; ... and the draft reply from the Lord President (copies of all letters attached).

The purpose of drawing all this to your attention is simply that we would not normally make a practice of taking on additional responsibilities or appointments unless they came from No 10, or at any rate had the Prime Minister's approval. I am not sure that the Prime Minister needs to be troubled with this personally; but I should be grateful to know that you are content for the Lord President to take this on.

... I am copying this to Geoffrey de Deney, Murdo Maclean, Martin le Jeune and Sonia Phippard.

TJS
T. Sutton

T J SUTTON
Principal Private Secretary

Andrew Turnbull
PS/Prime Minister
10 Downing Street



LORD PRESIDENT OF THE COUNCIL RECEIVED -1 FEB 1991	
NUMBER OF COPIES TO	

Speaker's House Westminster London SW1A 0AA

31 January 1991

L.P.
 Any thoughts
 on this?
JL.

URGENT

A quill and rill

L.L. 2
 1/2

Dear John.

Works of Art Charitable Trust

I am writing to ask whether you would be willing to serve as a trustee for a Charitable Trust which the House of Commons is proposing to set up for Works of Art?

The enclosed letter from the National Heritage Memorial Fund to Patrick Cormack explains why we need to set up this Trust. The other proposed trustees are myself, Patrick Cormack and the Librarian, Dr David Menhennet. Consideration is being given as to whether the Clerk of the House, Sir Clifford Boulton, should not also be a trustee. If the Trust is set up, we will also need to appoint a Secretary.

However, perhaps you could let me know, in principle, whether you would be willing to serve as a trustee and whether you are happy with the enclosed draft Trust deed? My Speaker's Counsel, Henry Knorpel, has been involved in drawing up the Trust deed and, if you have any points on the draft, or would like to discuss it, Mr Knorpel is at your disposal.

Yours ever

Jack

Speaker

The Rt Hon John MacGregor OBE MP
 Lord President of the Council
 The Privy Council Office
 Whitehall
 London SW1A 2AT

Enclosures

National Heritage Memorial Fund

10 ST JAMES'S STREET LONDON SW1A 1EF

Tel: ⁰⁷¹ 01-930 0963

Fax: ⁰⁷¹ 01-930 0968

From the Director

28 June 1990

Dear Patrick,

As we discussed when we met on Monday of this week, the National Heritage Memorial Fund Trustees are most anxious that an eligible body should be set up within the Palace of Westminster which can both own property which has been purchased by the National Heritage Memorial Fund, and receive grants from the Trustees. It was, in fact, made a condition that such a body was set up before the NHMF Trustees purchased the portrait of William Huskisson.

Although it may seem a mere administrative detail, the National Heritage Act makes it quite clear that the NHMF Trustees should not own any heritage property themselves unless there are exceptional circumstances. It does seem faintly ridiculous that there is no eligible recipient of NHMF grant-aid within the Palace of Westminster. I should perhaps also emphasise that the National Heritage Memorial Fund Trustees actually own outright the Speaker's Bed, the Herbert painting "The Acquittal of the Seven Bishops", Prince Albert's Chair of State and the Huskisson portrait. Although there is no question of this at the moment, it is entirely possible that some future board of Trustees may decide that the Palace of Westminster is not the most suitable place to display these objects to members of the public. They would, therefore, be entirely within their rights to remove these objects from the Palace, and transfer them to a suitable museum. It is therefore for your own safety and protection that we are recommending that a body is set up which can own all these objects.

I think it is highly unlikely that the Trustees would be willing to make any further assistance available to the Palace of Westminster, unless we can resolve this problem.

Yours ever
Georgina

GEORGINA NAYLER

Patrick Cormack Esq FSA MP
House of Commons
London
SW1A 0AA

Handed to the Speaker
by Mr. Cormack on 1 July.

D R A F T letter from Lord President to Mr Speaker

WORKS OF ART CHARITABLE TRUST

Thank you for your letter of 31 January inviting me to be a Trustee for the Charitable Trust which the House of Commons needs to set up to look after works of art in the Palace of Westminster.

I have, of course, no objections whatever to serving as a Trustee. I imagine that the duties will not be particularly onerous, and, perhaps more importantly that the Trust will be arranged in such a way that the Trustees are not personally liable in financial terms, individually or in respect of their offices.

I do, however, have some thoughts about the precise way in which we set this up. In what follows I reflect the advice of the Clerk to the Privy Council, and I am sure that if there are further points of detail Speaker's Counsel wishes to pursue he could do so direct with the Clerk.

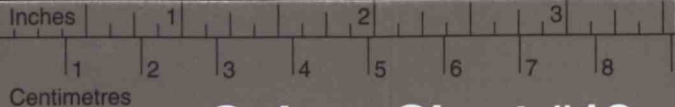
There is a difficulty in identifying the Leader of the House adequately for the purposes of the Trust Deed. Strictly speaking, we are not sure that this is an Office: it is not referred to in the Ministers of the Crown Act 1975 or in the Ministerial and Other Salaries Act 1975; it is not incorporated, it has no seal and it is unpaid; nor is there any identifiable formality of appointment. No such problems, of course, arise with the Offices either of Lord President of the Council or of Lord Privy Seal. But the problem is that there is no automatic link between either of those Offices and the job of Leader of the House of Commons. As you know, the Leader of the Commons is sometimes Lord Privy Seal.

One way round this difficulty might be to appoint as Trustee the Parliamentary Secretary to the Treasury (ie, the Chief Whip (Commons)), and provide for the duties of Trustee to be exercised by whoever he appoints to do so by letter. This would have the advantage of a permanently occurring and easily identifiable office being specified in the Trust Deed, and providing for the duties to be discharged, as we wish, by the Leader of the House of the day.

Grey Scale #13



A 1 2 3 4 5 6 **M** 8 9 10 11 12 13 14 15 **B** 17 18 19



Colour Chart #13

Blue Cyan Green Yellow

