

# How to leave your models and archives to the TLRS

**Geoffrey Claydon suggests how to make donations to the Society by will, with an explanation of some of the considerations involved**

Questions are frequently asked concerning the leaving of money or specific items to the Society by means of a will and, in particular, the form of words needed to achieve this. The following article is intended to offer guidance on these matters, but it should be emphasised that since much may depend upon individual circumstances, and will-making in any case has its technicalities, it is highly desirable to consult a solicitor before making one.

## **Inheritance tax**

It is convenient to consider this aspect first. This is a tax levied on the estates of deceased persons which are over a certain value. Currently, but of course the law may change (Chancellors tend to index the amount at annual Budgets) it becomes payable only when the entire value of the estate amounts to £325,000 (2009 onwards) or more. Above that figure, the rate of tax is 40 pence in the pound, but this may vary according to individual circumstances and again it is desirable to seek legal advice if this is a relevant consideration. A surviving spouse or registered civil partner can inherit the undisposed balance of their partner's estate.

All gifts to charities are free of inheritance tax, so that if you donate a sum of cash to the Society (which is, of course, a charity) this gift will be deducted from the value of the estate before it is assessed for tax purposes. In this way, even if your estate is over the tax threshold initially, if you leave a sum to the Society which, when deducted, results in the value of the estate falling below the threshold, then your estate will not

have to pay any inheritance tax. From April 2012, if a person leaves a legacy of 10% or more of his estate to charity, the remainder of the estate will bear inheritance tax of 34% instead of 40%. Please check for the very latest allowances.

## **The Society**

We all know the name of the Society to quote in the will, but it is also necessary to give its address. For a society such as ours, which has no central fixed administrative office and which operates from the homes of officers for the time being, this is a problem. It has to be remembered that a will made today may not take effect (i.e. on the death of the person making the will) for many years, by which time the officers and their addresses are very likely to have changed.

To overcome this problem, the Charity Commission (which oversees charities) has confirmed that its address may be used on our behalf for this purpose. Thus the Commission's address is given below. That address may also change of course, but it will be far easier for executors and their solicitors to discover the current address of the Commission than those of individuals.

To be certain that the Society is adequately identified by the Commission, not only the name of the Society should be quoted, but also its charity registration number. The suggested form of words is as follows:

(1) *THE TRAMWAY AND LIGHT RAILWAY SOCIETY (Registered Charity Number 272961) care of the Charity Commission for England and Wales of PO Box 1227, Liverpool L69 3UG.*

## Monetary bequests

If the intention is to make a cash donation to the Society, then it is necessary to decide whether this is to be a precise sum or else the whole or a proportion of the residue of the estate. Precise sums have their advantages for a charity because they are unlikely to give rise to any dispute or difficulty, but in an inflationary world what may have been a significant sum when the will is made could by the time it takes effect (ie on death) turn out to be of far more modest value, so if this option is taken the figure ought to be kept under review. A form of words for a bequest of a precise sum could take the following form:

*(2) I give free of tax the sum of £xx to [then as in (1)] for the general purposes of the Society.*

If a gift is to be made of the whole, or a share, of the estate, then provision needs to be made for the prior payment of debts and other expenses. It will also be necessary, if it is not intended to bequeath the whole of the estate, to indicate the proportion intended. The wording could be as follows:

*(3) I direct that my estate be converted into money and that subject to the payment of my debts, funeral and testamentary expenses, I give the whole/x% of my estate not otherwise disposed of by this my will to [then as in (1)].*

## Specific bequests

If the intention is to give property other than money to the Society - items such as archive material or models - then it is necessary to identify the items individually or by means of an adequate general description (eg “my complete set of *Tramfare*” or “my collection of tramcar models”). It is desirable to be as precise as possible, especially if your estate is to be administered by an executor who may not be expert in the field. The wording for specific gifts of this kind might be:

*(4) I give to [then as in (1)] the following items:*

*(i) [list of books, papers, etc., identified as closely as possible]*

*(ii) [list of models, individually identified].*

If the property donated is to take the form of photographs, films, tapes or DVDs, special provision may be necessary to define these terms and to deal not only with ownership of them but also the copyright in them. To ensure that not only negatives, prints and transparencies are included but also, for example, digital images, it may be desirable in the will to define “photograph” as meaning “any product of photography or of any process akin to photography, other than a part of a film”. The term “film” may be defined to mean “any recording on any medium from which a moving image may by any means be produced”. This would include videotapes and DVDs, for example.

With the duration of copyright fixed since 1 January 1996 as 70 years from the end of the calendar year in which the photographer dies, if the Society is to act as more than a mere depository of the material, it is highly desirable for the copyright in it also to be made over. The following is a suggested form of words:

*(5) I give to [then as in (1)] all my photographs and films [limit as necessary] together with all copyrights and any other rights and privileges which may exist in or over them.*

It is always worth contacting an officer of the Society (Secretary, Archivist, Treasurer or Chairman) to discuss your bequest beforehand. They will be able to give advice on the suitability of your proposed bequest.

## Receipt clause

Finally, it is useful to provide a receipt clause to avoid the expense and trouble of executors having to work out the constitution of the Society and check on the application of the gift. This generally takes the following form:

*(6) I declare that the written receipt of the Treasurer of the Tramway and Light Railway Society shall be sufficient receipt to my executors who shall not be required to see to the application of the money or property concerned.*

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