

Weir Vs. Crum Brown

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Court : House of Lords

Decided On : Feb-06-1908

Judge : Lord Chancellor, Lord Macnaghten, Lord Robertson, Lord Atkinson

Appeal No. : [1908] UKHL 2

Appellant : Weir

Respondent : Crum Brown

Judgement :

Lord Chancellor.

The question in this case is whether a charitable bequest is to be treated as void for uncertainty. The bequest was of an unusual kind. Its object, according to the will, was to benefit persons who had shewn practical sympathy in the pursuits of science. A number of conditions were prescribed. The recipients of this bounty were, among other things, to be widowers or bachelors of fifty-five years of age or upwards, whose lives had been characterised by sobriety and other specified virtues. They were to be indigent, a provision which stamps the bequest as charitable. These conditions were not really canvassed in argument and need not be further considered, for no one of them is such as to impart to the bequest an uncertainty which will vitiate it in law.

The only point seriously made against this clause in the will is that the recipients of this charity were to be persons who had “shewed practical sympathy in the

pursuits of science.” These words have been subjected to a rigorous criticism. What is science, it was asked, and how are we to know its bounds? What is sympathy in the pursuits of science, and when and how does it become practical? What are pursuits of science in the plural as distinguished from pursuit in the singular? The thought underlying this current of observation seems to be that, if a bequest is to a class of persons, the class must be capable of being defined, and be defined so precisely that there can rarely be a doubt who does or who does not fall within it.

Now, there is no better rule than that a benignant construction will be placed upon charitable bequests. It is difficult to imagine a construction less benignant than that suggested by criticisms such as those to which I have alluded. Few indeed are the charitable bequests that could survive such an ordeal. The fact is that whenever any one wishes to describe a class of people otherwise than by referring to their age, sex, birthplace, or similar facts capable of precise ascertainment, the language used must of necessity be general, and there must always be numerous cases on the border line. Deserving literary men who have not been successful, poor members of a particular trade, reduced gentlewomen, are examples of classes of persons who may certainly be benefited; but in each case exactly the same reasoning might be used as was used in the present case to destroy the validity of the will. There is no law requiring that kind and degree of certainty. All that can be required is that the description of the class to be benefited shall be sufficiently certain to enable men of common sense to carry out the expressed wishes of the testator. I have no doubt that this can be done here. Persons who have shewn practical sympathy in an object obviously are persons who have given time or money or made some sort of sacrifice to further it. I am satisfied that the trustees or, failing them, the Court, would find no difficulty in giving effect to the bequest. Accordingly I think that this appeal ought to be dismissed. The parties have agreed that the appellants are to have their judicial expenses of appeal out of the trust funds, the expenses as awarded in the Court of Session to remain unaltered. I think your Lordships may properly act upon this agreement.

Lord Macnaghten.

To my mind the difficulty in this appeal-and it is, I think, a real difficulty-is to discover any substance in the appellants' case.

The gift is a gift in perpetuity, to be administered by trustees, for the benefit of bachelors and widowers, poor and aged, whose lives have been characterised by sobriety, morality, and industry, "and who have shewn practical sympathy in the pursuits of science in any of its branches." This gift, it is said, is void for uncertainty. Why? The relief of those who suffer from the ills of poverty and the weight of advancing years is, by common consent, the peculiar province of charity in its popular as well as in its legal sense. Unhappily it is only too easy to recognise the aged and the poor, who are always with us. Then, I suppose, it has happened to most men to have formed an opinion satisfactory at least to themselves as to the moral and the general character of some applicant for some employment or other. Notwithstanding the ingenious argument of the learned counsel who spoke second, I cannot think that the task is really beyond the capacity of any ordinary individual.

There remains one other qualification to be considered. What is science? and what is "practical sympathy in the pursuits of science?"

Science, it was said, is so vague and comprehensive a term as to be unmeaning. In the view of the Lord Ordinary, "'Science' is a term of no definite or 'particular' meaning." That is certainly not the view of the Legislature. There are, for instance, many enactments in favour of institutions formed for the advancement of "science." The generality of the word has never prevented the Court from applying to the particular case before it the provisions of the Act under its consideration. But what "practical sympathy"? "An altogether nebulous phrase," says the Lord Ordinary. It is not, perhaps, a happy expression. But if you follow the directions of the testator with a willing mind it is, I think, perfectly intelligible. The wish of the testator was to help those who are in need of help, and who may have done something, much or little, in the way of promoting some branch of science. Within the realms of science the field of choice is wide. But the testator has taken pains to provide competent judges. It is for the trustees to consider and determine the value of the service on which a candidate may rest his claim to participate in the

testator's bounty.

I think that the case is much too clear for argument, and that the appeal must be dismissed.

Lord Robertson.

I must own that I think this a perfectly clear case. If it is said of any one that he has shewn practical sympathy in the pursuits of science, this is merely a roundabout way of saying that he has helped the pursuits of science; just as to shew practical sympathy with A B means to help A B. Again, the word "science" embraces a wide but perfectly ascertainable range of subjects. Accordingly I consider the meaning of this testator to be plain and intelligible.

Lord Atkinson.

I concur.

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