Law in 101 words

Snippets from *The Reduced Law Dictionary* by **Roderick Ramage**

Adjustments for disability, duty (exemption)

If an employer claims to be exempt under s 4A(3)(b) of the Disability Discrimination Act 1995 from its duty to make adjustments, it must, according to the EAT in *Eastern & Coastal Kent PCT v Jocelyn Grey* (2009) satisfy all and not just any of the four conditions set out in that sub-section, namely:

(first) the employer "did not know";

(secondly) and "could not reasonably be expected to know";

(thirdly) that the applicant or potential applicant "has a disability"; and

(fourthly) is "likely to be affected" so as to be placed at a disadvantage in comparison with persons who are not disabled".

Decimal currency

By s 10 of the Decimal Currency Act 1969, amounts of money expressed as shillings and pence in enactments and subordinate instruments are to be read from the appointed day (15 February 1971) as references to the corresponding amounts in the new currency. Cheques and other instruments for the payment of money are treated similarly by s 3. On 22 March 1971 Brightman J, in *re Harris & Sheldon Group Ltd*, held that a company did not need to comply with the statutory requirements for a change of its memorandum in order to change the description of its shares from 5s to 25p.

Honest but mistaken belief

Royal Mail closed a number of branches and transferred their activities to franchisees. It thought that the automatic transfer of affected employees TUPE r 4 did not apply, because it gave them the option of redeployment elsewhere or voluntary redundancy. Therefore it did not inform its employees' representative, CWU, that automatic transfers of employment would take place; and CWU complained to an ET, which found that r 4 applied to at least some of the employees. In *Royal Mail Group Ltd v CWU* (2009), the CA dismissed CWU's appeal from EAT's decision that the employer had fulfilled its duty to inform under r 13(2)(b).

Justifying dismissals

In *Boston Deep Sea Fishing v Ansell* CA (1888), Mr Ansell claimed that he had been dismissed wrongfully, and his counsel accepted that: "if there was any circumstance which, though unknown to the company at the time they dismissed Mr Ansell from his position, would justify them in so doing, it was immaterial whether it was known at that time, and … the company could justify the dismissal by proof of that fact." However a dismissal can be fair only if the employer shows the reason for it (ERA 1996, s 96(1)(a)), which must necessarily be known at the time of dismissal.

Privileged wills

By the Wills Act 1837 s 11 a soldier on actual military service or a mariner or seaman at sea may dispose of his property after his death without formalities. Being at sea includes being under orders to join his ship: *Re Wilson* (Deceased) (1952). Mr Servoz-Gavin, a ship's radio officer, had told his cousin that if anything happened to him he wanted everything to go to his aunt. Another relative obtained a grant of administration on the assumption that he had died intestate, but subsequently, in *Re Estate of Servoz-Gavin* (2009), the grant was revoked in favour of his privileged will.

Self-intoxication and guilt

"If a man, while sane and sober, forms an intention to kill and makes preparation for it, knowing it is a wrong thing to do, and then gets himself drunk so as to give himself Dutch courage to do the killing, and whilst drunk carries out his intention, he cannot rely on this self-induced drunkenness as a defence to a charge of murder, nor even as reducing it to manslaughter. He cannot say that he got himself into such a stupid state that he was incapable of an intent to kill." Lord Denning in *A-G for Northern Ireland v Gallagher (*1961).

Thellusson's will case

The rule against excessive accumulations, currently in s 164 of the Law of Property Act 1925 and s 13 of the Perpetuities and Accumulations Act 1964, both prospectively repealed by the 2009 Act, originated in the Accumulations Act 1800, which in turn was a response to the case of *Thellusson v Woodford* (1799, affd HL 1805). The legislature feared that an unrestricted period of accumulation would concentrate too much money in too few hands and compromise the country's economic independence. In the end the lawyers took much of the accumulated fund in a string of litigation ending with *Thellusson v Lord Rendlesham* (1859). NLJ

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Mobile phones and the church tower

A parishioner objected to a petition for a faculty to install a mobile phone base station and antennae in the church tower. The Chancellor concluded that some of the material to be transmitted through the antennae was not consistent with the Christian use of the church and dismissed the petition. In re St Peter and St Paul's Church, Chingford (2008) the Arches Court of Canterbury allowed an appeal to it against the Chancellor's decision. A balance must be struck between the public benefit (better reception for mobiles) and the risk of unlawful communications being transmitted. against which blocking techniques were available.