

Law in 101 words

Snippets from *The Reduced Law Dictionary* by Roderick Ramage



Best endeavours

A covenant to use “best endeavours” does not mean “move heaven and earth”. It is generally understood that best endeavours imposes a greater obligation than reasonable endeavours, all reasonable endeavours falls between the two and utmost endeavours is a higher level than best. The best endeavours obligation as explained by the CA in *IBM* (1980) is not to be measured by reference to somebody who is under a contractual obligation but to someone who is acting in his own interest. In *Jet2 v Blackpool Airport, CA*, 2012, the parties agreed that best endeavours and all reasonable endeavours meant the same thing.

Container in medical trial

The Medicines for Human Use (Clinical Trials) Regulations 2004, implements Directive 2001/20/EC about good clinical practice in the conduct of clinical trials, states “container”, in relation to an investigational medicinal product, means the bottle, jar, box, packet or other receptacle which contains or is to contain it, not being a capsule, cachet or other article in which the product is or is to be administered, and where any such receptacle is or is to be contained in another such receptacle, includes the former but does not include the latter receptacle. “Container” is a component of the definition of the verb “assemble”.

Corporate vicars

Archbishops, vicars and other ecclesiastics are corporations sole. Unlike corporations aggregates and some corporations sole, such as the Public Trustee and some ministers of the Crown, which are known and can act by their corporate names, an ecclesiastic corporation sole is known and acts by his baptismal name. An ecclesiastic benefice is a freeholder office, and a vicar (or rector or priest) who holds the benefice has a freehold in the emoluments of the benefice for life and on his death or earlier vacation of office, his successor in office. A priest in charge during a vacancy is an office holder.

Ex turpi auditors

S used a company to perpetrate frauds against banks, which, when the fraud was discovered, sued them. They could not discharge the debt, so the liquidator, sued the auditors for breach of duty. The auditors, admitting breach of duty, applied successfully to have the claim struck out, relying on the defence *ex turpi causa non oritur actio*. In *Stone & Rolls v Moore Stephens* (2009) the SC held that as S was the sole shareholder and controlling mind of the company, his fraudulent conduct was the conduct of the company, but it might be otherwise if the company had independent shareholders.

Holiday damages

Mr Jackson booked an holiday for himself and family, but the hotel fell short of its description. The travel agency admitted

liability, but in *Jackson v Horizon Holidays* (1974) the CA dismissed its appeal against quantum. Damages may include not only the difference in value between what was promised and what was obtained, but also damages for mental distress, inconvenience, upset, disappointment and frustration. Although Mr Jackson was the only contracting party, the amount can include the loss suffered by his family. It is difficult to assess disappointment in terms of money, but the judges must do the best they can.

Nuisance by cricket

The cricket club in *Miller v Jackson* (1997) had existed since 1905. In 1972 cricket season Mr and Mrs Miller bought a newly built house on the edge of the cricket ground and, despite a high protective fence, cricket balls landed on or struck the Millers’ property. They obtained an injunction preventing balls being struck onto their property. The CA held the club liable for negligence and nuisance, that “coming to the nuisance” was no defence against nuisance, but an injunction was not appropriate, because the interests of the public in preserving the cricket ground outweighed the interests of the Millers.

Sunday trading

The restriction in the Shops Act 1950 and other legislation were abolished by the Sunday Trading Act 1994. With a few exceptions, such as farm shops and shops at railway and service stations, shops with a floor area over 280 square metres (“large shops”) may open on Sunday, but not Christmas day, for up to six hours between 1000 and 1800. The restrictions do not apply if a person of the Jewish religion, who is the occupier of a large shop notifies the local authority of his religion and that he intends to keep the shop closes on the Jewish Sabbath.

Treasure trove

The common law doctrine that concealed gold or silver, whose owner was unknown, belonged to the Crown has been replaced by the Treasure Act 1996. Treasure found on or after 24 September 1997 vests in the franchisee or, if none, the Crown. The finder of treasure has a duty to notify the coroner, failure to do which is punishable by up to three months’ imprisonment or a fine not exceeding level five or both. The Secretary of State determines whether a reward is payable to the finder or persons occupying or with an interest in the land where it was found.

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