



Law in 101 words

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

A contract is a contract is a contract

In 2008 Allianz agreed to sell Dresdner Bank to Commerzbank. The services of Fox and others would not be needed, and Dresdner made termination agreements with them including provisions for severance payments and bonuses on condition that they continued until the termination date to work for Dresdner in its best interests. The new managements claimed that, following the financial crisis and its effect on Dresdner, the employees' best interest duty required them to relinquish the agreed severance and other payments and accept lower payments. The court held that the changed circumstances did not require the employees to relinquish their contractual rights.

Knitting yarn—deregulation of

With effect on 26 May 2015, the Deregulation Act 2015 revoked the Weights and Measures (Knitting Yarns) Order 1988, by which knitting yarns made up in advance ready for retail sale in a securely closed container had to be sold only by net weight in grams, and knitting yarns not so made up had to be pre-packed only in one of the following quantities by net weight in grams, that is to say 25, 50, 100, 150, 200, 250, 300, 350, 400, 450, 500 and 1,000. The prescribed quantities had to be the sum of the anhydrous mass of the yarn.

Membership of a club

The British Transport Commission Sports and Social Club, which was an unincorporated association, sold the

property at which the social part of its activities was carried on. The rules required the trustees to distribute the proceeds amongst members satisfying certain conditions (length of membership and payment of subscriptions). The rules gave rise to many questions, and the trustees sought the court's guidance. In the matter of *Harper, Hopper and Purkess* (2009) the court's answers to the questions can be summarised to say that, in the absence of evidence to the contrary, the club's membership records could be assumed to be correct.

Order of clauses

"The general rule is that, if there be a repugnancy, the first words in a deed, and the last words in a will shall prevail": *Doe d Leicester v Biggs* (1809). This rule is used only in the last resort. Documents must be construed as a whole and each clause must, if possible, be interpreted to bring it into harmony with the rest of the document. "To pronounce on the meaning of a detached part or extract from an instrument, if relating to the same subject, is contrary to every principle of correct interpretation": *Marquis of Cholmondeley v Lord Clinton* (1820).

Permanent employment

The concept "permanent" employment was introduced by the Trade Union Reform and Employment Rights Act 1993, re-enacted in s 1(4)(g) of Employment Rights Act 1996, which says: "Where the employment is

not intended to be permanent, the period for which it is expected to continue or, if it is for a fixed term, the date when it is to end." In conventional legal language it is employment for an indefinite period terminable by notice. With exceptions, an employee with two or more fixed terms cumulatively for four years or more will be treated as a permanent: Fixed-term Employees [etc] Regulations 2002.

Permanent endowment

The Charities Act 2011, s353(3) says that permanent endowment "means, in relation to any charity, property held subject to a restriction on its being expended for the purposes of the charity". The Charities Statement of Recommended Practice (FRS 102), which (except in the eyes of professional accountants) has little or no legal force but was issued by the Charity Commission effective 1/1/2015, defines it in more clearly in para 2.16: "A gift of endowment, where there is no power to convert the capital into income, is known as a permanent endowment fund. A permanent endowment fund must normally be held indefinitely."

Perverse decisions

The extent to which domestic tribunals and other bodies are subject to control by the courts was discussed in *Lee v Showmen's Guild of GB* (1952). *Harris v Shuttleworth* (1993), adopting in particular the principles in *Lee*, set out the test for perversity in relation to trustees, which is that the decision maker must ask itself the correct questions, direct itself correctly in law and adopt a correct construction of the pension scheme's rules, and not arrive at a perverse decision, that is, one which no reasonable body could reach, and must take into account all relevant but no irrelevant factors.

Subject to contract

ProForce supplied temporary workers to Rugby Cement since 1997. In 2001 they made an agreement for ProForce to supply cleaning services saying that in addition their existing terms "it is also agreed that, subject to contract", ProForce would buy cleaning equipment from Rugby and provide personnel. Part of Rugby's defence in proceedings by ProForce was that the agreement was not enforceable because of the words "subject to contract". In *ProForce v Rugby* (2005) it was held that the defence failed as the parties had done the things that it was contemplated that each would do for the benefit of the other.

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