

LATCHFORD, J.

FEBRUARY 19TH, 1914.

RE DOYLE.

*Will—Bequest towards Establishment and Maintenance of Temperance Hotel—Charitable Bequest—Conditions of Gift—Uncertainty of Fulfilment—Vagueness—Invalidity.*

Motion by the executors of Michael Patrick Doyle, deceased, for an order determining a question arising upon the will of the deceased as to the validity of a bequest of a fund of \$1,000.

G. C. Campbell, for the executors.

J. A. Mowat, for the residuary devisees.

P. Kerwin, for the trustees of the fund.

LATCHFORD, J.:—The testator bequeathed \$1,000 to his trustees and executors to be invested by them until a hotel where no intoxicating liquor is kept or sold should be established in the city of Guelph. Then the interest is to be added to the principal, and "the interest of the accumulated sum shall be paid towards the establishment and maintenance of said hotel so long as it remains a hotel where no intoxicating liquors are kept or sold, and no longer." If this hotel is closed, the fund is "to remain at interest and accumulate until a hotel as I have described herein shall be established. The said hotel shall in all respects be required to have accommodation for the public equal to requirements in this respect of a licensed hotel under the law. No payment of money shall be made by the said trustees for the purpose of the said hotel until the approval of the Roman Catholic Bishop of the Diocese of Hamilton shall first have been obtained."

It was conceded upon the argument that, if the purpose of the bequest was not generally charitable, the gift must fail as offending against the rule regarding perpetuities.

It seems to me that the promotion of temperance is more truly a charitable public purpose than many which have been so considered by the Courts, such as teaching shooting, encouraging good domestic servants, preventing cruelty to animals, or promoting vegetarianism. See Halsbury's Laws of England, vol. 4, p. 116, where cases in which many similar purposes were held charitable are cited.

A gift to promote the adoption by Parliament of legislation prohibiting the manufacture or sale of intoxicating liquor has