

THE HIGH COURT

IN THE MATTER OF THE LICENSING ACTS 1833 TO 1977

AND IN THE MATTER OF THE INTOXICATING LIQUOR ACT 1962

APPLICATION BY WILLIAM BARRETT PURSUANT TO SECTION 11 OF THE INTOXICATING LIQUOR ACT 1962

CASE STATED

JUDGMENT of Gannon J. delivered the 8th of May, 1984.

This Case Stated has been submitted by District Justice Patrick J. Brennan of District Court Area Number 3 for the opinion of this Court on a point of law arising upon an application before him by William Barrett of Ballycastle in County Mayo for an occasional licence pursuant to Section 11 of the Intoxicating Liquor Act 1962. The question of law submitted by the District Justice is one requiring the interpretation, in the circumstances of the facts as found by him, of the expression "a special event" as used in Section 11 of that Act of 1962.

Sub-section (1) of Section 11 of the Intoxicating Liquor Act 1962 is as follows

"Subject to the provisions of this section, on application to a Justice of the District Court by the holder of an on-licence,

"the Court may, if it so thinks fit, and is satisfied that a special event is being held at any place to which no licence for the sale of intoxicating liquor is attached grant to the applicant a licence (in this section referred to as an occasional licence) authorising him to sell at that place during such times and on such days (not exceeding three), as may be specified in the licence such intoxicating liquor as he is authorised to sell by the on-licence aforesaid."

Sub-section 8 of the same section is as follows:

"(8) An occasional licence shall operate to exempt the person to whom it is granted ( if and so long as he complies with the conditions subject to which it is granted and the special event for which the licence is granted is held in compliance with the relevant provisions of sub-sections (2) and (10) of this section), from the provisions of the licencing Acts relating to the sale and supply of intoxicating liquor at the place and during the time for which the licence is granted

The other sub-sections of section 11 set out conditions and limitations upon the granting of such a licence.

The circumstances giving rise to the application and the facts as

proved or admitted are set out in paragraph 2 of the Case Stated.

Paragraph is as follows:-

2. It was proved or admitted (a) that the Applicant had complied with Section 11 (7) of the said Act and that he had made no other application for an occasional licence during the past twelve months and that he was the holder of an on-licence in Ballycastle County Mayo, (b) that the said community hall has no licence for the sale of intoxicating liquor and that the said hall had sufficient facilities to enable an occasional licence to operate there, (c) that one Margaret Kelly of Ballycastle and one Brendan McGuire of Ballina had arranged to be married in the local church on the 26th December, 1983 and had arranged for a wedding reception to be held in the said community centre to which they had or would invite a number of persons."

The question upon which the opinion of this Court is sought by the District Justice is set out in the Case Stated in the following terms

"The question upon which the opinion of the High Court is sought is: does the wedding reception of the said parties constitute a special event within the meaning of section 11 of the

Intoxicating Liquor Act 1962?".

On the hearing in this Court the applicant William Barrett was not represented although he had been informed of the hearing. As appears from the Case Stated his submissions before the District Court were that the wedding reception was a special event within the meaning of section 11 of the Act because it is a social event limited in character, special either in itself or because of where it is held - it normally being once in a lifetime event and a civil and religious act with legal importance enshrined in the Constitution and the laws of the State. The officer in charge of the Garda Siochana for the locality to which the application relates and upon whom due notice of the application was served was represented on the hearing in this Court by Mr. Seamus Quigley. In the course of his concise and well reasoned argument that the question of law be answered in the negative Mr. Quigley referred the Court to the decision of the Supreme Court in Rahill and Goode .v. Brady 1971 I.R. 69 which had not been opened to the District Justice on the application before him. In that case Butler J. had held that cattle and pig fairs at a cattle mart were not a special event to qualify for an occasional licence under section 11 of the Intoxicating Liquor Act of 1962. The Supreme Court affirmed

the decision of Butler J. In the course of his judgment the Chief

Justice Ó Dalaigh at page 82 of the report says as follows:-

"The Act of 1962 does not define the expression "special event"; nor do the specific provisions contained in sub-section 2 of Section 11 with regard to dinners and dances, throw any great light upon the subject. It may, however, be noted that both in the case of a dinner and of a dance it must be organised as a "special function" for a particular group, save in the case of a dance where it is held wholly or partly on a day that is a day of "special festivity" generally or in the locality. Section 12 of the Act of 1962 (amending Section 5 of the Act of 1927 as already amended) provides a definition of "special occasion" but, in doing so, it introduces the terms "special event" and "day of special festivity". Section 10 of the Act of 1962 should be mentioned. It also deals with exemptions for special events, not for places but for licensed premises. The majority of licensees in the locality must move the Court. The special event may be one continuing over a number of days but where the period exceeds nine days the exemption must be limited to not more than three periods comprising in all not more than nine

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days. See also, again without any light being vouchsafed,  
the provision in section 14 of the Act of 1962 for exempting  
sports clubs "on the occasion of a special event in the club."

Ó Daluigh C.J. then proceeds in the course of his judgment to  
show that in circumstances of interpretation of statutes it may be  
necessary on occasion to have reference to dictionaries and he refers  
to the shorter Oxford Dictionary with reference to the definition of  
the word "special", and then goes on to say at page 83 -

"A special event then is one which is not usual or common, but  
which is singular. In determining whether an event is special or  
not it is therefore necessary to enquire:- "is it usual or common  
or is it singular? This inquiry brings into view as one element  
the frequency of the event. Events that are usual or common are  
not special events; while a singular event is a special event.  
It should be repeated: the frequency of the event becomes a  
factor when we are considering whether the event is a "special  
event", but not by reason of the designation "occasional licence"  
to which I attach no particular importance."

The course of his Judgment Budd J. at page 86 of the same report  
says as follows:-

"The term "special event" is not defined in the statute and it must, therefore, be interpreted according to the ordinary rules for the construction of a statute. In the absence of some special technical or acquired meaning, the language of a statute should be construed according to its ordinary meaning and in accordance with the rules of grammar. While the literal construction generally has prima facie preference, there is also the further rule that in seeking the true construction of a section of an Act the whole Act must be looked at in order to see what the objects and intention of the legislature were; but the ordinary meaning of words should not be departed from unless adequate grounds can be found in the context in which the words are used to indicate that a literal interpretation would not give the real intention of the legislature. Lord Coleridge observed in R. v. Peters 1886 16 Q.B.D. 636 that dictionaries are not to be taken as authoritative exponents of the meaning of words used in Acts of Parliament; but he also added at page 641 of the report that "it is a well known rule of Courts of Law that words should be taken to be used in their ordinary sense, and we are therefore sent for instruction to these books"."

Budd J. proceeds then to show that by reference to the dictionary meaning of the words he concludes that the word "special" in its ordinary meaning is something unusual or out of the ordinary as distinct from something generally prevalent or common. He proceeds further to show from other indications within the Act itself of 1962 and the terms of section 11 the basis for arriving at the conclusion which he expresses at page 88 in the following way

"Having regard, therefore, to what I believe is the ordinary meaning of the word "special", to what is to be gleaned from the Act as a whole as to the meaning of the term "special event", to what is to be deduced from the nature and user of this mart premises and what the term would seem to mean from the viewpoint of the owners and those attending the premises, it would seem to me that the combined force of all these considerations leads to the view that the term "special event" has the meaning of something of a peculiar or restricted kind which is not generally prevalent."

In seeking to find the true construction of terms used in a statute in accordance with the intention of the legislature the Courts also have regard to the objects of the statute under construction and of other



enactments declared by the legislature to be read and construed together with it. In section 36 (2) of the Intoxicating Liquor Act of 1962 it is provided

"This Act, insofar as it amends and extends the Licensing Acts, shall be construed as one therewith and may be cited together therewith as the Licensing Acts 1833 to 1962 and, insofar as it amends and extends the Registration of Clubs Acts shall be construed as one therewith and may be cited together therewith as the Registration of Clubs Acts 1904 to 1962."

These statutes relate to the orderly regulation and control by licences from the Revenue Commissioners issued upon certification by the Courts of the sale and distribution for consumption of intoxicating liquor to the public. They do not purport to deal with the consumption or distribution privately of personal property in intoxicating liquor. The judgments of the Supreme Court in Rahill and Cooke .v. Brady point out that the provisions of the 1962 Act which afford exemption to a licence-holder from the overall licensing provisions must be construed strictly within the limitations expressed. It seems to me from consideration of these judgments of the Supreme Court that the interpretation of whether an event is special or not must be considered in relation to the persons for whose benefit the licensee would carry on his trade as well as in

relation to the place at which that trade may be conducted. As the effect of the granting of an occasional licence as provided for in section 11 of the 1962 Act is to authorise the holder of a on-licence to sell at an otherwise unlicensed place "such intoxicating liquor as he is authorised to sell by the on-licene aforesaid" the persons for whose benefit his trade is conducted are the public at large.

Accordingly the event to be special in the sense of "being something unusual or out of the ordinary or distinct from something generally prevalant or common" must be considered as it might affect not merely the intended guests of the wedding, nor even the people of the locality, but the public at large including travellers if such there be.

The facts as proved or admitted do not indicate that the wedding on the 26th of December, 1983 of Miss Margaret Kelly with Mr. Brendan McGuire is in any sense, so far as the public are concerned, unusual or out of the ordinary or distinctive from other weddings. The fact that the event is clearly special in the sense of being uncommon and extraordinary in relation to the user of the place, namely the community hall, is not sufficient to support the grant of an occasional licence under Section 11 of the 1962 Act. The effect of the grant of such a licence under Section 11 as I have indicated, namely the authorisation

of the sale of intoxicating liquor in the manner and to the persons for which the on-licence is held must be shown to be a necessary consequence of such user of the unlicensed place namely that community hall. The facts as proved or admitted do not give any indication that the uncommon or extraordinary user to which the community hall was to be put, namely as a place for a wedding reception, affords the circumstances constituting the objective of the Licensing Acts of 1833 to 1962 or within the exemptions in these statutes.

My advice to the District Justice upon this Case Stated lead to the conclusion that the answer to the question submitted is: No.

S.G.  
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