

Webb v O'Doherty and others

CHANCERY DIVISION

HOFFMANN J

1 February 1991

M Lewis for the Plaintiff; L Chudleigh for the Defendants

Ginn & Co, Cambridge; Mr M Mawle, National Union of Students

HOFFMANN J

This is a motion for an interlocutory injunction to restrain the Anglia Student Union (Cambridge) from expending money in support of a campaign against the Gulf War and from affiliating to national and local organisations carrying on such a campaign. The Student Union is an educational charity. Its purposes are wholly charitable and its funds can be devoted to charitable purposes only. Charitable educational purposes undoubtedly include discussion of political issues. As Mr Justice Scott said in *The Attorney General v Ross* [1985] 3 All ER 334, [1986] 1 WLR 252 at page 263, "there is nothing the matter with an educational charity in the furtherance of its educational purposes encouraging students to develop their political awareness or to acquire knowledge of and to debate and to form views on political issues."

There is, however, a clear distinction between the discussion of political matters, or the acquisition of information which may have a political content, and a campaign on a political issue. There is no doubt that campaigning, in the sense of seeking to influence public opinion on political matters, is not a charitable activity. It is, of course, something which students are, like the rest of the population, perfectly at liberty to do in their private capacities, but it is not a proper object of the expenditure of charitable money.

There are some cases in which it is not altogether easy to distinguish between political discussion carried on for educational purposes and political campaigning. The Amnesty International case (*McGovern v Attorney General* [1982] Ch 321, [1981] 3 All ER 943) provides illustration of how difficult that distinction may sometimes be. Campaigning against disregard of human rights by foreign governments of our own is not charitable, but research into the observance of human rights may well be, even though an incidental effect of the publication of the research is to provide material for people campaigning against human rights abuses. The law will only permit charitable money to be spent on what might be regarded as political persuasion if that is a mere incidental effect of expenditure for proper charitable educational purposes.

In this case the Student Union passed a resolution on the 22nd of January, 1991 which began by expressing various views about the Gulf War and the situation in the Middle East and then mandated the executive in the following terms: "1. To affiliate to the National Student Committee to Stop the War in the Gulf and the Cambridge Committee to stop the War in the Gulf. 2. To campaign on the above issues. 3. To support and publicise national and local demonstrations, speaker meetings and non-violent direct actions organised by CND and Committee To Stop War in the Gulf. 4. To support the teach-in on the Gulf Crisis organised by the Student Committee To Stop War this Thursday. 5. To allocate £100 from the Campaign budget to the anti-Gulf War campaign. 6. To write to the Prime Minister and Ministry of Defence outlining this policy." All those aims are, as I have said, perfectly legitimate aims for citizens of this country to espouse, but I have absolutely no doubt that there is no way in which they can be described as "charitable". The whole thrust of the resolutions is to commit the Union and the expenditure of the Union's money to what is no doubt perfectly accurately described as a "campaign against the War in the Gulf." So far from that being an education purpose with incidental political effects, it seems to me that any educational effect which it may have (and I do not dispute that it may) is incidental to the main purpose of attempting to influence public opinion.

Mr O'Doherty, who is the President of the Union, has sworn an affidavit in which he says that he undertakes to seek advice as to how the £100 authorised by the resolution should be spent so as to ensure that it is not spent on non-charitable purposes. It seems to me, however, that at present there is nothing within the mandate which has been given to him which could be described as a charitable purpose, and consequently the seeking of advice on this point would be superfluous. If the Union were minded to

authorise activities of an exclusively educational character but which nonetheless related to the War in the Gulf, the position might be different, but that would in my judgment require the passing of a wholly different resolution and would give rise to questions which obviously cannot be considered today.

A separate aspect of the application is the question of whether the Union should affiliate to the two organisations, one national and one in Cambridge, which are mentioned in the resolution. Affiliation involves a contribution to the funds of these organisations in a fairly modest amount and an indication of general support for their objectives. The fact that a body to which the Union affiliates is not itself formed for charitable purposes is not necessarily an objection to the affiliation. As Mr Justice Scott said in *AG v Ross*, there is no reason why a charitable student organisation should not affiliate to a non-charitable organisation if that enables it to further its own charitable activities for the benefit of students. That is the basis upon which the union is entitled to affiliate to the National Union of Students, a non-charitable organisation, and no doubt to other non-charitable organisations as well. It is, however, essential for this purpose that the purpose of the affiliation should be to benefit the student body in their capacity as students. What is not permitted is to affiliate to a wholly non-charitable organisation simply as a way of furthering a non-charitable purpose or of channeling funds into non-charitable activities. It is said here that one of the effects of affiliation to these two organisations is that the Union will receive materials of educational value. I am bound to say that no particulars are given in the evidence as to what such materials may be, and the only literature which has so far been exhibited is a hand bill summoning students to a demonstration in London. On the fact of it, these two organisations are of a wholly political and non-charitable character and there is no evidence before me which could provide an educational ground for the affiliation of the student union. For those reasons, it appears to me that not only do the Plaintiffs have the necessary arguable case, but there is not a seriously arguable case for the Respondents. The injunction must go.

Judgment accordingly