

193. The use of means that are commonly adopted by charities is not enough to show a charitable purpose. For example, in *Molloy v. Inland Revenue Commissioner (NZ)* (1977) 8 ATR 323 the use of educational means (disseminating information to the public on the fundamental importance of human life) was not sufficient to show that the purpose was educational rather than political (preventing any change in the penal sanctions controlling the procurement of abortion).

6. Statute of Elizabeth and court decisions

Guide

The Explanations provide the purposes in the preamble to the Statute of Elizabeth. They also provide an outline of cases on charities for:

- relief of poverty – paragraphs 197-198
- relief of needs arising from old age – paragraph 199
- relief of sickness and distress – paragraphs 200-202
- advancement of education – paragraphs 203-211
- advancement of religion – paragraphs 212-217
- other charitable purposes – paragraph 218

194. A purpose is only charitable if it is within the 'spirit and intendment' of the Statute of Elizabeth (see paragraphs 36 to 42).²⁰⁰ Charitable purposes are within or analogous to purposes in the preamble to the Statute of Elizabeth or to the court cases on charities.

6.1 Statute of Elizabeth

195. The purposes in the Statute of Elizabeth are the relief of aged, impotent and poor people; the maintenance of sick and maimed soldiers and mariners, schools of learning, free schools and scholars in universities; the repair of bridges, ports, havens, causeways, churches, sea banks and highways; the education and preferment of orphans; the relief, stock or maintenance of houses of correction; marriage of poor maids; supportation, aid and help of young tradesmen, handicraftsmen and persons decayed; the relief or redemption of prisoners or captives and the aid or ease of inhabitants concerning payment of fifteens, setting out of soldiers, and other taxes.

²⁰⁰ Also, the provision of child care services on a non-profit basis is treated as a charitable purpose by virtue of the *Extension of Charitable Purpose Act 2004*. See paragraph 46. There is also, of course, the public benefit requirement (where the purpose is not solely for the relief of poverty). This Act deems the public benefit requirement to be satisfied by some self-help groups and religious orders.

6.2 Summary of court decisions

196. Court decisions on the technical legal meaning of charitable are important in deciding whether a particular purpose is charitable. The decisions can be used to draw analogies. The following discussion is not a substitute for the decisions themselves. Using general principles drawn from the cases instead of the decisions themselves can, in some situations, tend to confuse as their consistency across various decisions is not always apparent.²⁰¹ Nonetheless, the discussion below provides a feel for the range of charitable purposes and the particular issues that arise for different types of charity.

6.2.1 Relief of poverty

197. The relieving of poverty is a charitable purpose. The persons to benefit need not be destitute or on the border of destitution.²⁰² In Australia, those lacking the resources to obtain what is necessary for a modest standard of living in the Australian community may be accepted as suffering poverty.²⁰³ To relieve poverty implies that the people in question have a need attributable to their condition which requires alleviating, and which those people could not alleviate or would have difficulty in alleviating by themselves.²⁰⁴ The ways in which poverty can be relieved include providing money, accommodation,²⁰⁵ legal or medical aid. The charging of fees need not be inconsistent with a purpose of relieving poverty.²⁰⁶

198. Purposes of relieving poverty have been accepted as charitable where those to benefit were poor relatives,²⁰⁷ poor members of an association²⁰⁸ and poor employees of an employer.²⁰⁹ This is because, unlike other charitable purposes, the benefit does not need to be for the community or a section of the community: *Dingle v. Turner and others* [1972] 1 All ER 878; [1972] AC 601.²¹⁰

²⁰¹ As Lord Sterndale MR said in *In re Tetley; National Provincial and Union Bank of England Ltd v. Tetley* [1928] 1 Ch 258 at 266: 'As I have said, I, at any rate, am unable to find any principle which will guide one easily, and safely, through the tangle of the cases as to what is and what is not a charitable gift. If it is possible I hope sincerely that at some time or other a principle will be laid down.'

²⁰² *Re Gillespie (deceased)* [1965] VR 402 at 406.

²⁰³ *Ballarat Trustees Executors and Agency Company Limited v. FC of T* (1950) 80 CLR 350.

²⁰⁴ *Joseph Rowntree Memorial Trust Housing Association Ltd and others v. Attorney-General* [1983] 1 All ER 288 at 295.

²⁰⁵ *Re Niyazi's Will Trusts* [1978] 1 WLR 910; [1978] 3 All ER 785.

²⁰⁶ *Re Cottam's Will Trusts; Midland Bank Executor and Trustee Co. Ltd and another v. Huddersfield Corporation and others* [1955] 1 WLR 1299; [1955] 3 All ER 704.

²⁰⁷ *Re Scarisbrick's Will Trusts; Cockshott v. Public Trustee and others* [1951] 1 All ER 822. Compare the decision of *In Re Niven (deceased)* (unreported Kennedy J, Supreme Court of Western Australia, 1936 of 1985) where a trust for any member of the family in need of assistance and support was held not to be for the relief of poverty.

²⁰⁸ *Re Young's Will Trusts; Westminster Bank Ltd v. Sterling and others* [1955] 1 WLR 1269; [1955] 3 All ER 689.

²⁰⁹ *Dingle v. Turner and others* [1972] 1 All ER 878; [1972] AC 601.

²¹⁰ As applied in Australia by *In Re Hilditch, deceased* (1986) 39 SASR 469.

6.2.2 Relief of the needs arising from old age

199. A purpose of relieving the needs arising from old age is a charitable purpose unless there is a limitation which deprives it of that character.²¹¹ The relief can take many forms such as the provision of accommodation or nursing facilities, but it may also involve providing relief in the form of companionship, mutual activities and the security of community living to counter the effects of the isolation and loneliness of old age.²¹² This purpose must also be for the public benefit. In *Re Mills (deceased)* (1981) 27 SASR 200 the testator left part of his estate for the construction of an eventide settlement for the descendants of his great grandparents. The bequest was held not to be charitable because the public did not benefit, only those who had a blood relationship with a particular person benefited.

6.2.3 Relief of sickness and distress

200. A purpose of relieving sickness is a charitable purpose. Sickness usually connotes a disorder of health, an illness or an ailment, whether mental or physical and whether permanent or transient.

201. The following have been held to be a section of the public who are in need of relief from sickness and distress: visually impaired people,²¹³ hearing or speech impaired people,²¹⁴ people suffering mental affliction²¹⁵, people who are sick²¹⁶, underprivileged people²¹⁷ and orphaned children.²¹⁸ The types of institutions that are charitable because they provide relief to the sick public include hospitals,²¹⁹ convalescent homes²²⁰ and sanatoria.²²¹

²¹¹ *Hilder v. Church of England Deaconess' Institution Sydney Ltd and others* [1973] 1 NSWLR 506 at 511.

²¹² *D V Bryant Trust Board v. Hamilton City Council* [1997] 3 NZLR 342.

²¹³ *Re Inman (deceased)* [1965] VR 238.

²¹⁴ *The President, Councillors and Ratepayers of the Shire of Nunawading v. The Adult Deaf and Dumb Society of Victoria* (1921) 29 CLR 98.

²¹⁵ *The Diocesan Trustees of Church of England in Western Australia v. The Solicitor-General; The Home of Peace for the Dying and Incurable v. The Solicitor-General* (1909) 9 CLR 757.

²¹⁶ *Taylor and another v. Taylor and others* (1910) 10 CLR 218.

²¹⁷ *Salvation Army (Victoria) Property Trust v. Fern Tree Gully Corporation* (1952) 85 CLR 159.

²¹⁸ *The Attorney General for New South Wales v. The Perpetual Trustee Company Limited and others* (1940) 63 CLR 209.

²¹⁹ *Le Cras v. Perpetual Trustee Co Ltd and others; Far West Children's Health Scheme and others v. Perpetual Trustee Co. Ltd and others* [1967] 3 All ER 915.

²²⁰ *Inland Revenue Commissioners v. Trustees of Roberts Marine Mansions* (1927) 43 TLR 270.

²²¹ *Kytherian Association of Queensland and another v. Sklavos* (1958) 101 CLR 56.

202. It is necessary that any purpose of relieving sickness or distress must be for the benefit of the public. In *Waterson and others v. Hendon Borough Council* [1959] 2 All ER 760 a friendly society operated a hospital and other clinics for the benefit of its members. It was held by Salmon J not to be charitable because its purposes were not altruistic; 'the object of the members of the society is not to do good to others but to themselves.'²²²

6.2.4 Advancement of education

203. An institution or fund whose purpose is the advancement of education for the public benefit is charitable. The conducting of schools, colleges and universities for general learning are well-known ways of advancing education. Schooling is not limited to the general education of the young and need not be academic. More specialised schooling has been treated as valid for the advancement of education. Examples include a farming training school,²²³ training in aviation,²²⁴ technical education,²²⁵ training in the construction industry,²²⁶ commercial education,²²⁷ economic and sanitary science,²²⁸ the arts of social intercourse,²²⁹ the study of law,²³⁰ a school of archaeology,²³¹ study of natural history,²³² scientific study of obstetrics and gynaecology²³³ and a kindergarten.²³⁴

204. The support of the educational activities of charitable schools and colleges has also been accepted as charitable. Examples include providing scholarships²³⁵ and professorships.²³⁶

²²² *Waterson and others v. Hendon Borough Council* [1959] 2 All ER 760 at 764.

²²³ *Re Tyrie (deceased)* [1970] VR 264.

²²⁴ *In re Lambert (deceased)* [1967] SASR 19.

²²⁵ *The Royal North Shore Hospital of Sydney v. Attorney-General for New South Wales and others* (1938) 60 CLR 396.

²²⁶ *Barclay & ors v. Treasurer of Queensland* 95 ATC 4496; (1995) 31 ATR 123.

²²⁷ *Re Koettgen (deceased); Westminster Bank Ltd and another v. Family Welfare Association Trustees, Ltd and others* [1954] 1 All ER 581.

²²⁸ *Re Berridge; Berridge v. Tune* (1890) 90 LT 55.

²²⁹ *Re Shaw's Will Trusts; National Provincial Bank Ltd v. National City Bank Ltd and others* [1952] 1 All ER 49.

²³⁰ *College of Law (Properties) Pty Ltd v. Willoughby Municipal Council* (1978) 38 LGRA 81; *Smith v. Kerr* [1902] 1 Ch 774.

²³¹ *Re British School of Egyptian Archaeology; Murray and others v. Public Trustee and others* [1954] 1 All ER 887.

²³² *In re Benham* [1939] SASR 450.

²³³ *McGregor v. Commissioner of Stamp Duties* [1942] NZLR 164.

²³⁴ *Hixon v. Campbell and others* (1924) 24 SR (NSW) 436 and *Kindergarten Union of NSW Incorporated v. Waverley Municipal Council* (1960) 5 LGRA 365.

²³⁵ *Re Weaver; Trumble v. Animal Welfare League of Victoria* [1963] VR 257; *Wilson v. Toronto General Trusts Corporation et al* [1954] 3 DLR 136.

²³⁶ *Dorothea Yates v. University College, London and C.T.D'Eyncourt* (1874-5) 7 AC 438.

205. Purposes that, when viewed separately might not be educational, may be charitable where they are incidental to or integrated with a school or college's educational purposes and activities. Examples are a school or university's sporting programs²³⁷ and facilities,²³⁸ school excursions,²³⁹ the students union set up by a medical college,²⁴⁰ the setting up of a rose garden in a university,²⁴¹ a student loan fund²⁴² and a fund to help students on the death of a parent.²⁴³

206. However, it is not sufficient that purposes are related in some way to the activities of the school or college; they must be integrated with the educational purposes. For example, in *Rex v. The Special Commissioners of Income Tax; (ex parte The Headmasters' Conference); Rex v. The Special Commissioners of Income Tax (ex parte the Incorporated Association of Preparatory Schools)* (1925) 10 TC 73 a professional association for headmasters was not accepted as being established for educational purposes only.

207. Enjoyment for the students is not inconsistent with a charitable purpose of education. Organisations for the young that have been accepted as educational include the boy scouts,²⁴⁴ a police citizens boys club,²⁴⁵ and a sea cadets branch.²⁴⁶ While the education they provided was not for education's sake, instruction and training were central to their purposes and activities. The modes of such training were consistent with their particular educational purposes of forming the young according to modern ideas of education aimed at the development of both the mind and body.²⁴⁷

²³⁷ *Inland Revenue Commissioners v. McMullen and others* [1980] 1 All ER 884; *Kearins v. Kearins* (1957) SR (NSW) 286.

²³⁸ *Re Mariette; Mariette v. Aldenham School Governing Body* [1914-15] All ER Rep 794.

²³⁹ *Re Mellody; Brandwood v. Haden* [1916-17] All ER Rep 324.

²⁴⁰ *London Hospital Medical College v. Inland Revenue Commissioners and another* [1976] 2 All ER 113. See also *Attorney-General v. Ross and others* [1985] 3 All ER 334.

²⁴¹ *McGrath and another v. Cohen and others* [1978] 1 NSWLR 621.

²⁴² *Guaranty Trust Company of Canada v. The Minister of National Revenue* [1967] SCR 133.

²⁴³ *Educational Fees Protection Society Inc v. Commissioner of Inland Revenue* [1992] 2 NZLR 115.

²⁴⁴ *The Boy Scouts Association, NSW Branch v. Sydney City Council* (1959) 4 LGRA 260; *Re Webber (deceased); Barclays Bank Ltd v. Webber and others* [1954] 3 All ER 712.

²⁴⁵ *Greater Wollongong City Council v. Federation of New South Wales Police Citizens Boys' Club* (1957) 2 LGRA 54.

²⁴⁶ *Lloyd and another v. FC of T* (1955) 93 CLR 645.

²⁴⁷ *Minahan and another v. Commissioner of Stamp Duties (NSW)* (1926) 26 SR (NSW) 480.

208. Education can also extend to the improvement of a useful branch of knowledge and its dissemination. Purposes that fall into this category may also be charitable as other purposes beneficial to the community. For example a geographical society,²⁴⁸ a college of surgeons,²⁴⁹ a zoological society,²⁵⁰ an institute of civil engineers,²⁵¹ museums,²⁵² art galleries,²⁵³ a national trust for places of historic interest and national beauty²⁵⁴ and a conference promoting international cooperation.²⁵⁵

209. An educative purpose has been contrasted with purely studious occupation, the former being charitable, the latter not.²⁵⁶ Also, the charitable advancement of education does not encompass education in the sense that all experience is educative.²⁵⁷

210. A purpose is not charitable for the advancement of education if it tends merely to increase the store of knowledge in society in ways that are not integrated with education. For example, in *Re Shaw (deceased); Public Trustee v. Day and others* [1957] 1 All ER 745 the playwright GB Shaw had left funds to investigate a proposed 40 letter alphabet including its economic consequences, and to publish works using it so as to advance its adoption. In holding that there was no charity Harman J said at 753:

The research and propaganda enjoined by the testator seem to me merely to tend to the increase of public knowledge in a certain respect, namely, the saving of time and money by the use of the proposed alphabet. There is no element of teaching or education combined with this, nor does the propaganda element in the trusts tend to more than to persuade the public that the adoption of the new script would be 'a good thing', and that, in my view, is not education.

211. The advancement of education does not include indoctrination with the merits of a cause.²⁵⁸ Where a purpose is political, lobbying or promotional in nature it is not for the advancement of education even if educational means are used or educational activities are involved (see paragraphs 102 to 127).

²⁴⁸ *Beaumont v. Oliveira* (1868-9) 4 LR Ch App 309.

²⁴⁹ *Royal College of Surgeons of England v. National Provincial Bank Ltd and others* [1952] 1 All ER 984.

²⁵⁰ *Re Lopes; Bence Jones v. Zoological Society of London* [1930] All ER Rep 45.

²⁵¹ *Institution of Civil Engineers v. Commissioners of Inland Revenue* [1932] 1 KB 149.

²⁵² *In Re Allsop (deceased); Gell v. Carver* (1884) 1 TLR 4.

²⁵³ *J.C. Abbott, J. Cowan and F. Torrance v. J. Fraser and others* (1874) LR 6 PC 96.

²⁵⁴ *Re Verrall; National Trust for Places of Historic Interest or National Beauty v. Attorney-General* [1914-15] All ER Rep 546.

²⁵⁵ *Re Koeppler's Will Trusts; Barclays Bank Trust Co plc v. Slack and others* [1985] 2 All ER 869.

²⁵⁶ *Whicker v. Hume* [1843-60] All ER Rep 450.

²⁵⁷ *Inland Revenue Commissioners v. Baddeley and others* [1955] 1 All ER 525 at 529.

²⁵⁸ *Molloy v. Inland Revenue Commissioner (NZ)* (1977) 8 ATR 323.

6.2.5 Advancement of religion

212. The advancement of religion is a charitable purpose.²⁵⁹ In this context religion involves belief in a supernatural being, thing or principle and acceptance of canons of conduct which give effect to that belief.²⁶⁰ Religion covers major religions such as Christianity, Islam, Judaism, Buddhism and Taoism, and also Jehovah Witnesses,²⁶¹ the Free Daist Communion of Australia,²⁶² Scientology,²⁶³ and indigenous religions. The categories of religion are not closed.²⁶⁴

213. To advance religion has been described in the following terms:

The promotion of religion means the promotion of spiritual teaching in a wide sense, and the maintenance of the doctrine on which it rests, and the observances that serve to promote and manifest it.²⁶⁵

To advance religion means to promote it, to spread its message ever wider amongst mankind; to take some positive steps to sustain and increase religious belief; and these things are done in a variety of ways which may be comprehensively described as pastoral and missionary.²⁶⁶

²⁵⁹ *The Roman Catholic Archbishop of Melbourne v. Lawlor and others; His Holiness the Pope v. National Trustees, Executors and Agency Company of Australasia and others* (1934) 51 CLR 1 at 32-33.

²⁶⁰ *The Church of the New Faith v. The Commissioner of Pay-roll Tax (Victoria)* (1983) 154 CLR 120.

²⁶¹ *Appeal of Frank Gundy* (1944) 61 WN (NSW) 102.

²⁶² *The Free Daist Communion of Australia Limited v. Comptroller of Stamps (Vic)* 88 ATC 2001.

²⁶³ *The Church of the New Faith v. The Commissioner of Pay-roll Tax (Victoria)* (1983) 154 CLR 120.

²⁶⁴ Murphy J in *The Church of the New Faith v. The Commissioner of Pay-roll Tax (Victoria)* (1983) 154 CLR 120 at 151.

²⁶⁵ *Keren Kayemeth Le Jisroel Limited v. Commissioners of Inland Revenue* [1931] 2 KB 465 at 477.

²⁶⁶ Lush J in *Association of Franciscan Order of Friars Minor v. City of Kew* [1967] VR 732 at 733 quoting *United Grand Lodge of Free and Accepted Masons of England v. Holborn Borough Council* [1957] 3 All ER 281 at 285.

214. The purpose must be directly and immediately religious.²⁶⁷ It may involve various ways of advancing religion:

The purpose may be executed by gifts for the support, aid or relief of clergy and ministers or teachers of religion, the performance of whose duties will tend to the spiritual advantage of others by instruction and edification; by gifts for ecclesiastical buildings, furnishings, ornaments and the like; by gifts to provide for religious services, for sermons, for music, choristers and organists, and so forth; by gifts to religious bodies, orders or societies, if they have in view the welfare of others.²⁶⁸

215. Examples from the cases where a charitable purpose of advancing religion has been found include:

- *providing and maintaining facilities for worship:* building a church,²⁶⁹ a gallery, organ seating and a bell in a church,²⁷⁰ a window in a cathedral,²⁷¹ the erection of a tomb in a churchyard,²⁷² monuments in a church,²⁷³ a church choir²⁷⁴ and seating accommodation;²⁷⁵
- *supporting religious clergy:* maintaining sick and infirm priests,²⁷⁶ assisting candidates for holy orders²⁷⁷ and a fund to provide retirement annuities for pastors, evangelists and missionaries;²⁷⁸
- *missionary bodies:* the missionary establishment of a Christian body among heathen nations²⁷⁹ and a church missionary society;²⁸⁰ and

²⁶⁷ *The Roman Catholic Archbishop of Melbourne v. Lawlor and others; His Holiness the Pope v. National Trustees, Executors and Agency Company of Australasia and others* (1934) 51 CLR 1 at 32-33 per Dixon J.

²⁶⁸ *The Roman Catholic Archbishop of Melbourne v. Lawlor and others; His Holiness the Pope v. National Trustees, Executors and Agency Company of Australasia and others* (1934) 51 CLR 1 at 32 per Dixon J. The examples provided are not an exhaustive list. Other ways religious charities might advance religion include publishing and selling their religious books and periodicals, providing aids to pastors to help carry out their pastoral missions, and operating conference centres to facilitate training, retreats and seminars for their religious projects.

²⁶⁹ *In re Maclachlan; Maclachlan v. Campbell and others* (1900) 26 VLR 548.

²⁷⁰ *Re Mitchner (deceased); Union Trustee Company of Australia and another v. Attorney-General for the Commonwealth of Australia and others* [1922] St R Qd 39.

²⁷¹ *Muir v. Archdall* (1918) 19 SR (NSW) 10.

²⁷² *Re Pardoe; McLaughlin v. Attorney-General* [1906] 2 Ch 184.

²⁷³ *In re Sussanah D. Barker (deceased); Sherrington v. Dean and Chapter of St Paul's Cathedral and others* (1909) 25 TLR 753.

²⁷⁴ *Re Royce; Turner v. Wormald and others* [1940] 2 All ER 291.

²⁷⁵ *Re Raine (deceased); Walton v. Attorney-General and another* [1956] 1 All ER 355.

²⁷⁶ *In Re Forster; Gellatly v. Palmer* [1939] 1 Ch 22.

²⁷⁷ *In Re Williams; Public Trustee v. Williams* [1927] 2 Ch 283.

²⁷⁸ *Baptist Union of Ireland (Northern) Corporation Limited v. The Commissioners of Inland Revenue* [1945] NILR 99.

²⁷⁹ *The Commissioners for Special Purposes of the Income Tax v. Pemsel* [1891] AC 531; [1891-4] All ER Rep 28.

²⁸⁰ *In the matter of the Clergy Society* (1856) 2 K & J 615.

- *religious associations*: the YMCA,²⁸¹ a religious retreat house open to the public,²⁸² a Sunday school association,²⁸³ a Protestant alliance,²⁸⁴ a religious community house²⁸⁵ and a religious faith-healing movement.²⁸⁶

216. It is not enough that a purpose arises out of or has a connection with a faith, a church or a denomination. If the purpose is not directly and immediately religious it is not charitable. Social and sporting entities are not charitable even if membership is limited to believers in a particular religion (see paragraphs 93 to 99). Examples from the cases where a purpose involving religion was found to not be charitable include:

- a gift for a private chapel in a house,²⁸⁷
- a gift of the residue of an estate for a member of the clergy to use in ways that are not necessarily charitable,²⁸⁸
- founding a Catholic daily newspaper;²⁸⁹ and
- a company purchasing land and property for a Jewish homeland.²⁹⁰

217. A purpose involving religion is not charitable if the public benefit is absent.²⁹¹ For example, a scriptural college was not charitable where it was for the descendants of particular persons.²⁹² For communities that are established for religious purposes, it is necessary they bring some spiritual benefit to the community by a propagation or promotion of religion.²⁹³ If spiritual benefits are restricted to family members or friends the necessary public benefit

²⁸¹ *City of South Melbourne v. Young Men's Christian Association of Melbourne* [1960] VR 709; *The Young Men's Christian Association of Melbourne v. FC of T* (1926) 37 CLR 351.

²⁸² *Association of Franciscan Order of Friars Minor v. City of Kew* [1967] VR 732.

²⁸³ *The King v. Special Commissioners of Income Tax; ex parte Essex Hall* [1911] 2 KB 434.

²⁸⁴ *In re Delmar Charitable Trust* [1897] 2 Ch 163.

²⁸⁵ *Re Banfield (deceased); Lloyd's Bank Ltd v. Smith and others* [1968] 2 All ER 276.

²⁸⁶ *Re Le Cren Clarke (deceased); Funnell and another v. Stewart and others* [1996] 1 All ER 715.

²⁸⁷ *Hoare v. Hoare* [1886-90] All ER Rep 553.

²⁸⁸ *Dunne v. Byrne* [1911-13] All ER Rep 1105.

²⁸⁹ *The Roman Catholic Archbishop of Melbourne v. Lawlor and others; His Holiness the Pope v. National Trustees, Executors and Agency Company of Australasia and others* (1934) 51 CLR 1. This was not to say, of course, that no newspaper could be religious and charitable. Rather, in the case there was no evidence that the proposed newspaper was to advance religion.

²⁹⁰ *Keren Kayemeth Le Jisroel Limited v. Commissioners of Inland Revenue* [1932] AC 650.

²⁹¹ Legislation deems some religious orders to be for the public benefit; see paragraph 62.

²⁹² *Beatrice Alexandra Victoria Davies v. Perpetual Trustee Co. (Ltd) and others* (1959) 59 SR (NSW) 112.

²⁹³ *Gilmour v. Coats and others* [1949] 1 All ER 848; [1949] AC 426.

does not arise as there is not an advancement of religion beyond this closed group.²⁹⁴

There is, in truth, no 'charity' in attempting to improve one's own mind or save one's own soul. Charity is necessarily altruistic and involves the idea of aid or benefit to others ...²⁹⁵

6.2.6 Other charitable purposes

218. Many other purposes have been accepted by the courts as charitable. The following are groups of those decisions. In each case the public benefit requirement had also been satisfied. The list is not exhaustive:

- *public works and utilities*: a library,²⁹⁶ a museum,²⁹⁷ a public hall,²⁹⁸ a showground,²⁹⁹ a botanical garden,³⁰⁰ a cremation service,³⁰¹ a concert hall³⁰² and a recreation area for the public,³⁰³
- *disaster relief*: relief for flood victims,³⁰⁴ relief of distress caused by war³⁰⁵ and a lifeboat institution;³⁰⁶
- *culture*: drama and acting,³⁰⁷ music,³⁰⁸ choral singing,³⁰⁹ portrait painting,³¹⁰ organ music³¹¹ and an orchestra endowment fund;³¹²

²⁹⁴ *Yeap Cheah Neo and others v. Ong Cheng Neo* (1875) LR 6 PC 381;

Ip Cheung-Kwok v. Sin Hua Bank Trustee Ltd and others [1990] 2 HKLR 499.

²⁹⁵ *In re Delaney; Conoley v. Quick* [1902] 2 Ch 642 at 648-649; cf the arrangement in *Rowston v. Commissioner of Land Tax* (1984) 15 ATR 366.

²⁹⁶ *J. C. Abbott, J. Cowan and F. Torrance v. J. Fraser and others* (1874) LR 6 PC 96.

²⁹⁷ *Re Gwilym, deceased* [1952] VLR 282.

²⁹⁸ *Monds v. Stackhouse and others* (1948) 77 CLR 232.

²⁹⁹ *Brisbane City Council and another v. Attorney-General of Queensland* [1978] 3 All ER 30.

³⁰⁰ *Townley v. Bedwell* (1801) 6 Ves 195.

³⁰¹ *Scottish Burial Reform and Cremation Society, Ltd v. Glasgow City Corporation* [1967] 3 All ER 215.

³⁰² *In re The Henry Wood National Memorial Trust; Armstrong and others v. Moiseiwitsch and others* [1966] 1 WLR 1601.

³⁰³ *Burnside City Council v. Attorney-General of South Australia* (1992) 75 LGRA 145.

³⁰⁴ *Re North Devon and West Somerset Relief Fund Trusts; Hylton (Baron) and another v. Wright and another* [1953] 2 All ER 1032.

³⁰⁵ *Re Pieper (deceased); The Trustees Executors & Agency Co. Ltd v. Attorney-General (Vic.)* [1951] VLR 42.

³⁰⁶ *Re Clarke (deceased); Bracey v. Royal National Lifeboat Institution* [1923] All ER Rep 607.

³⁰⁷ *Re Shakespeare Memorial Trust; Earl of Lytton v. Attorney-General* [1923] All ER Rep 106.

³⁰⁸ *Commissioners of Inland Revenue v. The Glasgow Musical Festival Association* [1926] SC 920.

³⁰⁹ *Royal Choral Society v. Commissioners of Inland Revenue* [1943] 2 All ER 101.

³¹⁰ *Perpetual Trustee Co. Ltd v. Groth and others* [1985] 2 NSWLR 278.

³¹¹ *Re Levien (deceased); Lloyds Bank Ltd v. Worshipful Company of Musicians and others* [1955] 3 All ER 35.

³¹² *Re Municipal Orchestra Endowment Fund* [1999] QSC 200.

- *scientific and scholarly research*: the advancement of scientific research generally,³¹³ the improving of natural knowledge and improvement and diffusing of geographical knowledge,³¹⁴ research in Egyptology and archaeology,³¹⁵ research into finding the 'Bacon-Shakespeare' manuscripts,³¹⁶ and research into the theory of education;³¹⁷
- *promoting industry, commerce and agriculture*: horticulture,³¹⁸ agriculture,³¹⁹ craftsmanship,³²⁰ research into wheat,³²¹ prevention of disease in cattle or sheep,³²² adoption of electronic commerce,³²³ and promotion of a culture of innovation and entrepreneurship;³²⁴
- *defence and public order*: promoting efficiency in the armed forces³²⁵ and police forces,³²⁶ caring for dependants of veterans,³²⁷ promoting defence of the country from hostile aircraft³²⁸ and a repatriation fund for the benefit of returned soldiers;³²⁹

³¹³ *Taylor and another v. Taylor and others* (1910) 10 CLR 218.

³¹⁴ *Beaumont v. Oliveira* (1868-9) 4 LR Ch App 309.

³¹⁵ *Re British School of Egyptian Archaeology; Murray and others v. Public Trustee and others* [1954] 1 All ER 887.

³¹⁶ *Re Hopkins' Will Trusts; Naish and another v. Francis Bacon Society Incorporated and others* [1964] 3 All ER 46.

³¹⁷ *In the Estate of Schultz; Playford v. University of Adelaide and others* [1961] SASR 377.

³¹⁸ *In re Pleasants; Pleasants v. Attorney-General* (1923) 39 TLR 675.

³¹⁹ *Commissioners of Inland Revenue v. Yorkshire Agricultural Society* [1928] 1 KB 611.

³²⁰ *Commissioners of Inland Revenue v. White and others and Attorney-General* (1980) 55 TC 651.

³²¹ *Freeman and others v. Attorney-General for New South Wales* [1973] 1 NSWLR 729.

³²² *McGarvie Smith Institute v. Campbelltown Municipal Council* (1965) 11 LGRA 321.

³²³ *Tasmanian Electronic Commerce Centre Pty Ltd v. FC of T* (2005) 142 FCR 371; 2005 ATC 4219; (2005) 59 ATR 10.

³²⁴ *FC of T v. The Triton Foundation* 2005 ATC 4891; (2005) 60 ATR 451.

³²⁵ *Re Good; Harrington v. Watts* [1904-7] All ER Rep 476.

³²⁶ *Chesterman v. Mitchell* (1924) 24 SR (NSW) 108.

³²⁷ *Downing v. FC of T* (1971) 125 CLR 185.

³²⁸ *In Re Driffill (deceased); Harvey and another v. Chamberlain and others* [1950] 1 Ch 92.

³²⁹ *Verge v. Somerville and others* [1924] AC 496.

- *protecting animals*: a home for lost dogs,³³⁰ an institution providing a home for starving cats,³³¹ and the Royal Society for the Prevention of Cruelty to Animals.³³² The purpose must either help animals that are useful to the community or promote humane feelings in people by either caring for or preventing cruelty towards animals.³³³
- *environment*: preservation of native wild life both flora and fauna,³³⁴ the improvement and protection of a river,³³⁵ and the Australian Conservation Foundation.³³⁶ The purpose, however, must not be to lobby or be political in nature,³³⁷ as explained from paragraph 102;
- *indigenous persons*: aiding disadvantaged Aboriginals or Islanders,³³⁸ developing radio and television programs relevant to native people and training native people as communication workers;³³⁹
- *moral improvement*: the study and dissemination of ethical principles,³⁴⁰ promotion of temperance,³⁴¹ and an anthroposophical society;³⁴²
- *peace and human rights*: research into the observance of human rights,³⁴³ and working for the elimination of war.³⁴⁴ The purpose, however, must not be to lobby or be political in nature, as explained from paragraph 102;

³³⁰ *Re Douglas; Obert and others v. Barrow* [1886-90] All ER Rep 228.

³³¹ *Swifte v. Attorney-General* [1912] 1 IR 133.

³³² *Re Inman (deceased)* [1965] VR 238.

³³³ *Murdoch v. Attorney-General* (1992) 1 Tas SR 117. In *Perpetual Trustees Tasmania Ltd v. The State of Tasmania* [2000] TASSC 68 Slicer J made obiter comments that 'The rationale that in order to be charitable the terms of a trust must be of benefit to humankind can be accepted when the prevention of cruelty to animals, the prevention of the destruction of species, imbalance within the environment with the attendant harm to animals, are matters which enhance the life of humans.'

³³⁴ *Attorney-General (NSW) v. Sawtell and another* [1978] 2 NSWLR 200.

³³⁵ *Kaikoura County v. Boyd* [1949] NZLR 233.

³³⁶ Note that this is a decision of the Victorian Civil and Administrative Tribunal in *Australian Conservation Foundation Inc v. Commissioner of State Revenue* [2002] VCAT 1491.

³³⁷ *Re Boning* [1997] 2 Qd R 12.

³³⁸ *Aboriginal Hostels Ltd v. Darwin City Council* (1985) 75 FLR 197; *Flynn and others v. Mamarika and others* (1996) 130 FLR 218.

³³⁹ *Native Communications Society of BC v. Minister of National Revenue* [1986] 3 FC 471.

³⁴⁰ *Barralet and others v. Attorney-General and others* [1980] 3 All ER 918.

³⁴¹ *Re Hood; Public Trustee v. Hood* [1930] All ER Rep 215.

³⁴² *Re Price; Midland Bank, Executor and Trustee Co Ltd v. Harwood and others* [1943] 2 All ER 505.

³⁴³ Obiter comments in *Webb v. O'Doherty* [1991] TLR 68.

³⁴⁴ *Re Blyth* [1997] 2 Qd R 567 at 579-581.

- *a locality or neighbourhood*: for the benefit of a city, town or district, for example, the beautification and advancement of a township.³⁴⁵ However, a non-charitable purpose does not become charitable by limiting it to a locality. For example, a social club for the inhabitants of a particular town would not be charitable;³⁴⁶ and
- *the whole community*: for the benefit of Australia.³⁴⁷

Examples of cases where purposes have not been accepted as charitable are included in the discussion from paragraph 74.

Detailed contents list

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³⁴⁵ *Schellenberger v. The Trustees Executors and Agency Company Limited and another* (1952) 86 CLR 454.

³⁴⁶ *Trustees of Sir Howell Jones Williams' Trusts v. Inland Revenue Commissioners* [1947] 1 All ER 513.

³⁴⁷ *The Commissioner of Stamp Duties (New South Wales) v. Way and others* (1951) 83 CLR 570.