

11-1-1988

Poetry

North Carolina Law Review

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Recommended Citation

North Carolina Law Review, *Poetry*, 67 N.C. L. REV. 171 (1988).Available at: <http://scholarship.law.unc.edu/nclr/vol67/iss1/14>

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POETRY

FUTURE INTEREST HAIKU

LOUIS J. SIRICO, JR.†

The English-speaking haiku joins its Japanese counterpart in using few words to capture the essence of a keenly perceived moment. The law of future interests lends itself to an arid logic. The minimalist poetry of haiku can enable the reader to experience the underlying themes of life and death.

† Professor of Law, Villanova University School of Law. B.A. Yale University, 1967; J.D., University of Texas, 1972; author of *Supreme Court Haiku*, 61 N.Y.U. L. REV. 1224 (1986).

DE DONIS CONDITIONALIBUS

13 Edw. I, ch.1 (1285)

The eldest,
walking quietly around
his grandchild's manor

The statute authorized the fee tail. An estate in fee tail passes to the holder's lineal descendants generation after generation. Under the statute, the holder could not transfer the estate in any way that would destroy a descendant's right of succession.

SHELLEY'S CASE

76 Eng. Rep. 206 (1581)

Widow
contracting

The court held that when an individual's freehold estate is limited to his heirs or the heirs of his body, the heirs take by descent and not by purchase. The ruling enabled a son to gain property in fee tail even though he was born after his father's death.

DUKE OF NORFOLK'S CASE

22 Eng. Rep. 931 (1681)

Clutching the parchment
with shaking hands.
a sigh.

The court held that an executory interest limiting a trust was not invalid as a perpetuity when it would vest within a life in being. In laying the foundation for the Rule Against Perpetuities, the court upheld part of the Earl of Arundel's plan to provide for his family's future in light of his eldest son's mental incompetence. The litigation arose when the eldest son died, and the second son attempted to deprive the third son of a barony that was part of late Earl's plan.

JEE v. AUDLEY

29 Eng. Rep. 1186 (1787)

Sarah laughing at eighty.
morning nausea

The court found that the Rule Against Perpetuities invalidated a bequest. The pivotal factor was the court's assumption that a couple in their seventies still could have children. The decision established the "fertile octogenarian rule."

PROPRIETORS OF THE CHURCH OF BRATTLE SQUARE v. GRANT

69 Mass. (3 Gray) 142 (1855)

Mowing the grass.
Hollows in the family plot

The court held a devise to be sufficiently remote to violate the Rule Against Perpetuities. In a will dated 1765, Lydia Hancock devised a house and lot to a church on the condition that if the property ceased to be used as the residence of the church's eldest minister, it should "revert to my estate and I give the same to my nephew John Hancock, Esquire, and to his heirs forever." John Hancock died in 1793.

IN RE VILLAR

1 Ch. 243 (1929)

Dulled scissors
clipping obituaries

The court found that the Rule Against Perpetuities did not invalidate bequests that were to vest "twenty years from the day of the death of the last survivor of all the lineal descendants of Her Late Majesty Queen Victoria who shall be living at the time of my death." At the testator's death, Victoria's descendants probably numbered in excess of 120. In *In re Warren's Will Trusts*, 105 Sol. J. 511 (1961), the court upheld use of the same formula for determining measuring lives. At the death of the testatrix, Queen Victoria had 194 legitimate issue, and three others who arguably could claim the same status.

