

the estimated gross hire is due to Leopold Walford on signing the charterparty (ship lost or not lost)." The action was brought against the ship owners on behalf of Walford who was their broker in negotiating the charterparty for the recovery of the commission. The defendants set up as a defence the existence of a custom whereby no commission is payable unless freight is actually earned. The Court of Appeal held that such custom could not override the express terms of a contract, and gave judgment in favour of the plaintiff, and this judgment their Lordships affirmed.

BEQUEST OF MASSES FOR SOUL OF TESTATOR—SUPERSTITIOUS USES
—STATUTE OF CHANTRIES (1 Edw. VI. c. 14)—ROMAN
CATHOLIC RELIEF ACT, 1829 (10 GEO. IV. c. 7), ss. 28, 29.

Bourne v. Keane (1919) A.C. 815. Ever since the Chancies Act (1 Edw. VI. c. 14) whereby property vested in chantries for the saying of masses for the dead were confiscated to the Crown, it had been held in England that a bequest for masses was illegal as being a gift to superstitious uses by reason of a supposed implied prohibition thereof by the Chancies Act. This course of decision, which has been taken to be the law for about 300 years, has now been declared to be erroneous by the House of Lords (Lord Birkenhead, L.C., and Lords Buckmaster, Atkinson, Parmoor and Wrenbury), Lord Wrenbury dissenting. Lord Wrenbury was of the opinion that the law was settled, and could only be properly altered now by Act of Parliament. The majority of their Lordships however thought that the Chancies Act only applied to past gifts and did not impliedly prohibit future gifts for the like purpose, and therefore that the original decision to the contrary was erroneous. —We may observe that for some time past in Ontario such bequests have been held to be valid, so long as they do not infringe on the rule against perpetuities, the last Ontario case on the subject being: *Re Zeagman*, 37 O.L.R. 536. According to the report, the bequest in this case was of so much money for masses, no specific amount being mentioned. What is the duty of an executor in regard to such a bequest? How is he to determine how many masses should be said for the amount of the legacy? In the event of a dispute on what basis could a Court of law decide such a question? From one point of view a single mass is of absolutely inestimable value— from another point of view it may as a matter of practical experience be obtainable for a comparatively small *honorarium*. Ordinarily if a bequest is made upon a condition, it is the duty of an executor when paying the legacy to see that the condition is fulfilled, a bequest for masses is in effect a bequest upon condition. It is not intended that the legatee shall put the money in his