

specified was, notwithstanding the terms of the contract, as a penalty. The contract in question was made on the dissolution of partnership between the plaintiff and defendant which contained a provision that the defendant would not for ten years sell the whole or any part of the crops of certain estates without first offering to the plaintiff the option of buying the same, and if the defendant should commit a breach of the contract he should pay to the plaintiff £500 as liquidated damages and not as a penalty. The defendant committed a breach of the contract. The Judicial Committee of the Privy Council (Lords Macnaghten, Shaw, Mersey, and Robson), following *Clydebank Engineering Co. v. Castaneda* (1905), A.C. 6, hold that in such cases it is impossible to lay down any abstract rule, but that the facts and circumstances of each case have to be considered, and the court has to consider whether or not the amount fixed as damages is extravagant, exorbitant or unconscionable at the time when the stipulation is made, that is to say, in regard to any possible amount of damages which may be conceived to have been within the contemplation of the parties when they made the contract. In the present case their Lordships thought that at the time the contract was made it was impossible to foresee the extent of the injury which the plaintiff might sustain by the defendant's breach of the contract, and that the damages, though very substantial, might be difficult of proof; and that the amount fixed in the present case, having regard to the circumstances, could not be reasonably regarded as extravagant, or unreasonable; they, therefore, held that the amount named was recoverable as liquidated damages.

WILL—CHARITABLE BEQUEST—GIFT TO BISHOP—GIFT "FOR THE GOOD OF RELIGION"—RELIGIOUS PURPOSES.

*Dunne v. Byrne* (1912) A.C. 407 was an appeal from the High Court of Australia. The question involved was whether a residuary gift to an Archbishop and his successors "to be used and expended in whole or in part as such Archbishop may judge most conducive to the good of religion in his diocese," was a good charitable gift. The Australian court held that it was not a valid charitable gift and the Judicial Committee of the Privy Council (Lords Macnaghten, Shaw, Mersey, and Robson) affirmed the decision: their Lordships being of the opinion that a gift "for the good of religion" is not equivalent to a gift "for religious purposes."