

State of Tasmania v Leighton Constructions Pty Ltd [2005] TASSC 133

<http://lawcasesummaries.com/knowledge-base/state-of-tasmania-v-leighton-constructions-pty-ltd-2005-tassc-133/>

Facts

- Leighton Construction entered into a contract with the State of Tasmania to build a new stretch of highway. The estimated cost of the contract was \$30,000,000
- There was a liquidated damages clause in the contract which made Leighton liable for \$8,000 for each day it was over the deadline.
- Leighton was significantly over the deadline, and when Tasmania tried to enforce the LD clause, they sued, saying it was actually a penalty clause.

Held

- It was a penalty clause (at first instance) but it was NOT a penalty clause at second instance in the supreme court.
- It was not a penalty clause because it was not an “exorbitant”, “unconscionable” etc
- It was comparable to the actual costs which is a key fact
- Aside from the actual cost of hire, you have to look at other factors like how much it costs for the state to keep the roads open (‘notional interest’)
- Public utility is also a consideration

Law case summary from www.lawcasesummaries.com