a mere covenant of indemnity and no action lay in the absence of any evidence that the plaintiff had been damnified, and (2), that the erection in question was not a dwelling house. Eve, J., who tried the action, upheld the first contention and held that, in the absence of any proceedings taken or threatened by the plaintiff's vendor to enforce the restrictive covenant, the plaintiff had no cause of action; but on the second point he held that the erection in question was "a dwelling house" within the meaning of the covenant.

GIFT COUPLED WITH PROVISO THAT THE DONEE SHALL ASSUME NAME AND ARMS OF DONOR—NO GIFT OVER ON NON-COMPLIANCE WITH PROVISO—COMMON LAW CONDITION.

*In re Evans* (1920) 2 Ch. 469. This was a proceeding under the Vendors and Purchasers Act, and the question to be determined was the effect of a devise of land subject to a proviso that each devisee as he or she became entitled should within twelve calendar months thereafter assume the surname and arms of the testator. There was no gift over on non-compliance with the proviso. The vendor, who was a devisee, and became entitled in 1913, had failed to take the name and arms of the testator as provided. Peterson, J., held that if the proviso amounted to a common law condition the vendor was entitled as tenant for life under the Settled Land Act, as the testator's heir alone could take advantage by entry, which he had not done; and that there being no gift over in the event of non-compliance there was nothing to convert the proviso into a conditional limitation. The learned Judge therefore held that the vendor could make a good title notwithstanding her non-compliance with the proviso.

WILL—CONSTRUCTION—GIFT OVER ON ABSOLUTE DONEE DYING MENTALLY INCAPABLE—REPUGNANCY.

*In re Ashton, Ballard* v. *Ashton* (1920) 2 Ch. 481. By the will in question in this case the testator made an absolute gift to his sister but annexed thereto a clause providing that if at the time of her death she should be mentally incapable of managing her affairs the property so devised should go to the testator's brother. This attempted gift over Sargant, J., held to be repugnant and void on the ground that it was an attempt to contravene the law as to the devolution of property in the event of intestacy. And it may be observed that it also was an attempt to prevent the donee from alienating the property by deed or will, which she might well do, though subsequently becoming and dying lunatic.