

which ought to be done, it gives effect to the equitable right as if it had been effectuated by a legal deed, and in the present case the majority of the Court of Appeal (Buckley, and Kennedy, L.JJ.) held that, having regard to the equitable rights of the plaintiff, he was entitled to recover the damages awarded. This case, therefore, establishes as law that when a man pays for a seat at a public entertainment so long as he behaves himself properly he has a legal right to stay and see the performance, and cannot be lawfully ejected by the owner of the premises so long as the entertainment lasts. *Wood v. Leadbitter* is by the majority of the Court regarded merely as the decision of a legal principle, but equitable principles, the Court holds, must also now be taken into consideration even in deciding a purely common law cause of action. Phillimore, L.J., dissented, because he considered that the cases in equity only applied where it was really intended to give an interest in land, but here he thought there could be said to be no intention to give any interest in land, but at the utmost a mere license which, whether it were made by deed or parol, was in its nature revocable according to *Wood v. Leadbitter*, which he regards as still good law applicable to like cases. The only remedy this learned Judge considers the plaintiff was entitled to was one for breach of contract; but he holds that in remaining after he was told to leave he became a trespasser, and therefore in his opinion had no right of action for being ejected.

CHEQUE—UNCONDITIONAL ORDER TO PAY—"TO BE RETAINED"
WRITTEN BY DRAWER ON FACE OF CHEQUE—BILLS OF EX-
CHANGE ACT (45-46 VICT. c. 61), ss. 3, 73—(R.S.C. c. 119,
ss. 17, 165).

Roberts v. Marsh (1915) 1 K.B. 42. In this case the validity of an instrument as a cheque was in question, the peculiarity being that the drawer had written across its face, "to be retained." The cheque was written on ordinary paper, and at the time it was given the drawer promised to send a cheque on one of his banker's printed forms in substitution for it, which he failed to do. The cheque was presented and dishonoured, and the action was brought to recover the amount. The defence was that the instrument was not an unconditional order to pay, and therefore not a cheque within the meaning of the Bills of Exchange Act (45-46 Vict. c. 61), ss. 3, 73 (see R.S.C. c. 119, ss. 17, 165). The Court of Appeal (Buckley, Kennedy and Phillimore, L.JJ.) held that the words "to be retained" merely imported a condition between the drawer and drawee, and did not bind the bankers,