

The testator by his will dated in 1908 bequeathed a legacy of £300 to the defendant Dales, who was his housekeeper and nurse. On 15 April, 1909, he wrote a letter addressed to her enclosing a cheque for £300, which he requested her to tell his executors was instead of the legacy. The contents of this letter were not, however, communicated to her; but the letter with the cheque were in her presence sealed up and placed in a drawer by the testator, who told her to open the envelope on his death. In December, 1910, he opened the envelope in the defendant's presence, took out the cheque and put the letter without the cheque into another envelope which he sealed up and told her to open it on his death. He subsequently sent the cheque or another for a similar amount to his bankers with instructions to place the amount to the joint credit of himself and the defendant with power to either party to draw against it, which was accordingly done. The letter was opened and read by the defendant for the first time on the testator's death. Warrington, J., who tried the action, held that there was nothing in the transaction to affect the conscience of the defendant, or to preclude her from claiming both the gift and the legacy. He also held that the letter of the 15 April, not having been communicated to the defendant before the testator's death, was inadmissible to prove that the testator intended that the gift should be in substitution for the legacy. He, therefore, held that the defendant was entitled both to the gift and the legacy.

VENDOR AND PURCHASER—OPEN CONTRACT FOR SALE OF LAND—
“LEASEHOLD HOUSE”—TITLE OF VENDOR THAT OF UNDER
LESSEE—PROPERTY SOLD PART ONLY OF PROPERTY COMPRISED
IN HEAD LEASE—DEPOSIT.

In re Lloyd's Bank and Illington (1912) 1 Ch. 601. This was an application under the Vendors and Purchasers' Act. The contract in question was an open contract and the property offered for sale was described as a “leasehold house.” A deposit was paid by the purchaser. On the delivery of the abstract it appeared thereby that the vendor's title was that of an under-lessee, and that the property sold was only a part of the property comprised in the head lease. The purchaser objected to the title on the ground that she would be liable to eviction for breaches of covenant in respect of property not comprised in the under lease of the vendor. Warrington, J., held this to be a valid objection, and that the purchaser was entitled to a return