

that not satisfied with her promise not to marry while he lived, he, in order to prevent the marriage after his death, contrived the deed of trust—and when, after his death, she did marry, his son made the appointment just as his father intended that he should make it in that event. And in this case, as well as in the other cases cited, there was no difficulty as to the law—it was taken for granted.* The only trouble was as to the facts, because in every case, except the present one, where human motive is the unknown quantity, and the thing after which a court is groping, it is difficult to discover what particular springs of action have produced the result. Our learned opponents, in their statement of this case, have said, “Nothing appears to have been said by the late Duke, before the creation of the power, as to the manner of its exercise,” from which they would seem to have us infer that the deed of trust was a harmless creation of his own for no ulterior object, and that his children were equally simple-minded. Why, the only point on which the whole case hinged was the hatred of the Duke to the match, and the descent of his hatred upon his son and other daughter, filially adopted and made their own hatred. Of course, the family dissension must have been something terrible. Lady Mary, who, the Peerage tells us, was born in 1809, became engaged to Col. Topham in 1843, and for eleven years after, her filial obedience mastered her love. But her father died in 1854, and instantly she married, and, as instantly, her brother fired the piece which his father had loaded in 1848.†

* The case was argued by the very ablest men at the bar, among others, the present Chancellor (then Sir Roundell Palmer), Lord (then Sir Hugh) Cairns, Mr. Rolt, Q. C., Mr. F. Philipse Morris, Mr. Giffard, and Sir Selwyn-Ibbotson (then Mr. Selwyn).

† The mild way in which our opponents have tried to state this cause makes the reasoning of all the judges who decided it almost idiotic. Thus we are told:

“The old Duke of Portland conveyed certain property by deed of trust to his son, the present duke, and authorized him to appoint it between two of his daughters, Harriet and Mary, or to appoint it to one in exclusion of the other, and subject to such restrictions as the donee of the power might think fit. Before this, *it had come to the knowledge* of the duke that his youngest daughter (Lady Mary) had entertained proposals of marriage from Col. Topham. He did not think fit to approve of the match, and strongly expressed his opinion, threatening that he would, so far as he had the power, leave away everything from her. She promised not to marry in his lifetime. Nothing appears to have been said by the late duke,