

"If he, on the contrary, has not any such intention, but has executed the instruments with the intent that Lady Harriet, having the sole control of the fund, should abstain from dealing with it as her own, and should accumulate one moiety of it in order (according to events) either to dispose of it for her sister's benefit, or to let it fall back according to the limitations in default of appointment, then I think the distinction taken by Lord Justice Turner between intent and motive would apply.

"The case before us is certainly subject to very considerable difficulty. I give implicit credence, as I have before said, to the statements of the appellants in their answers. I think that nothing has passed between them beyond what is there stated. But in order to appreciate the exact position of the parties, we must, I think, have regard to all that passed before.

*"It would be difficult, also, to hold that she had placed herself in such a position as to incapacitate her from accepting, under any circumstances, a gift of the whole fund. I think a valid appointment might have been made to her of that fund; but the real point for consideration is, whether or not, though now conscious of her strict right at law to dispose of the fund, the pressure of a moral obligation not to appropriate more than one half of it to her own use, and to hold the other half subject to the Duke's intentions, and for his purposes, did not at the date of the last appointment, and does not now weigh on her mind with such force as to convert her into a mere passive instrument of the Duke's intentions, and whether such her sense of moral obligation is not well known to the Duke; and if so, whether he has taken any step whatever to discharge her from it, and restore her to complete freedom of action?"*

"He does not say he has done so, and let us therefore look to her own statements as to what her view of the case is, and whether such view was not known to the Duke whilst making the appointment; (His Lordship here read several of the passages in Lady H. Bentinck's answer and cross-examination set out in the statement above.)

"Can it be reasonably said that this lady stands in any different position from that of Lord Henry, who, in one branch of the case before the Lords Justices, had declared himself to be a 'dummy' in the transactions in which he was there concerned? Does not Lady Harriet describe herself as a mere instrument to carry into effect the will of the Duke, whom she believes to be the depositary of her late father's wishes on the subject? Is this difficulty removed by the Duke's statement that there is no agreement, that he has no hope or expectation on the subject of his sister's dealing