

that she had no independent advice is far stronger than in 1902, when the Judicial Committee in *Turnbull v. Duval*, 87 L.T. Rep. 154, (1902) A.C., at p. 434, expressed no decided opinion on the subject, but rather treated it as being an open question.

It may, therefore, now be taken as a matter hardly open to doubt that the doctrine of *Huguenin v. Baseley* does not apply to the relation of husband and wife. Actual proof of undue influence must therefore be given in order to avoid any specific transaction. What proof will be considered as sufficient under particular circumstances may be difficult to determine, but it may be that, in the words of Lord Macnaghten, "when there is evidence of overpowering influence, and the transaction brought about is immoderate and irrational, as it was in the present case, proof of undue influence is complete."

CHAMPERTY AND MAINTENANCE.

We notice that the Divisional Court (Falconbridge, C.J.K.B. and Britton and Riddell, J.J.) have affirmed the judgment of Mr. Justice Middleton in *Colville v. Small*, referred to ante, vol. 46, p. 713. The reasons given by the court do not indicate that their Lordships dealt with what appears to be the fundamental question, whether there can be, as a matter of law, champerty without maintenance. As we have already pointed out, the statutory definition of "a champertor" involves "maintenance" as a part of the definition, and if you cannot be a champertor without also being guilty of maintenance, how can a transaction be champertous when the party entering into it is not a champertor? That is a problem which does not appear to be solved.