

UNDUE INFLUENCE—CONFIDENTIAL RELATIONSHIP—GIFT INTER VIVOS—FRAUD—
LIABILITY OF THIRD PERSONS TO REFUND MONEY WHICH HAS BEEN OBTAINED
BY FRAUD.

Morley v. Loughnan, (1893) 1 Ch. 736, is one of those cases which exhibits in a marked way a bad phase of humanity. The action was brought by the executors of a deceased person to recover about £140,000, which the principal defendant, Loughnan, had managed to procure from the deceased during his lifetime by gifts from time to time. The deceased was a person of a weak constitution, and subject to epileptic fits. He was of a morbid temperament, and easily influenced. He was entitled to a fortune of £170,000, nearly the whole of which found its way into the hands of Loughnan. Loughnan had been at first engaged as a travelling companion to the deceased, and in the course of the intimacy thus formed managed to acquire great ascendancy over the mind of the deceased. Loughnan was a man of no means, and was said to belong to a sect of religionists, "one of whose main tenets is to give everything to the Lord." Henry Morley, the deceased, became a convert to the sect and went to reside with Loughnan, and, as the evidence showed, submitted himself to Loughnan's control, and from time to time drew from the business in which his fortune was invested large sums from the capital of his fortune, which almost immediately afterwards were transferred to Loughnan's bank account. On the last occasion, when he drew about £50,000, he (Morley) wrote that it was for the purpose of "helping in a substantial way such objects as I am led to consider need support, and thus in a feeble way be enabled to realize that I am doing the will of Him that 'loved me, and gave himself for me' (Luke. 18: 29, 30). Neither my friend with whom I am living, nor my relations, have need of money, and I am, therefore, all the more happy in taking this step": but no sooner had the money been received by Morley than it was paid over to the friend with whom he was living, who had "no need of money." There were various other elements in the case which indicated a clear effort on the part of Loughnan to "cover up his tracks," and prevent evidence being forthcoming whereby the destination of the money could be traced. It further appeared that, with the exception of some trifling sums spent on charity, and £20,000 which he had given to two of his brothers and £4,700 he had given to his brother-in-law, the whole of the