

"When those relations exist by means of which a person is able to exercise a dominion over another, the court will annul a transaction under which a person possessing that power takes a benefit, unless he can shew that the transaction was a righteous one That relation exists in every case in which two persons are so situated that one may obtain considerable influence over the other. The rule of the court, however, is *not* confined to such cases. Lord Cottenham considered that it extended to every case in which a person obtains by donation a benefit from another to the prejudice of that other person, and to his own advantage; and that it is essential in every such case, if the transaction should be afterwards questioned, that he should prove that the donor voluntarily and deliberately performed the act, knowing its nature and effect."

In *Billage v. Souther*, (d) Vice-Chancellor Turner says: "The jurisdiction is founded on the principle of correcting abuses of confidence, and I shall have no hesitation in saying it ought to be applied whatever may be the nature of the confidence reposed, or the relation of the parties between whom it has subsisted. I take the principle to be one of universal application, and the cases in which the jurisdiction has been exercised . . . to be merely instances of the application of the principle."

Smith v. Hay (e) determined that the principle applied to "every case where influence is acquired and abused or where confidence is reposed and betrayed."

In the cases the relations that are most frequently mentioned are those of solicitor and client, parent and child, trustee and cestui-que trust, and guardian and ward, but, as stated by the Master of the Rolls (f), the rule is not confined to those cases; the reason of the relation of husband and wife not being referred to oftener being, no doubt, on account of the merger, at common law, of the existence of the wife in the husband.

In *Corbett v. Brock* (g), which was the case of an engaged couple, Sir John Romilly said: "I fully adhere to what I expressed in the cases of *Cooke v. Lamothe* and *Hoghton v. Hoghton*. If this were

(d) (1852) 9 Hare at p. 540.

(e) (1859) 7 H. L. C. 751.

(f) Sir John Romilly, in *Cooke v. Lamothe*, supra.

(g) (1855) 20 Beav. 524.