

the decisions going to the effect that, where both the objects and subject are certain, words importing confidence or recommendation will be held to create a trust (*Pierson v. Garnett* (1787) 2 B.C., c. 38, 226. The rule was laid down by Pepper Arden, M.R., in *Malim v. Keighley* (1794) 2 Ves. Jr. 333, 335 as follows: "Wherever any person gives property, and points out the object, the property, and the way it shall go, that does create a trust, unless he shews clearly that his desire expressed is to be controlled by the party, and that he shall have an option to defeat it." This expression of the rule is approved by Lords Lyndhurst and Cottenham, in *Knight v. Boughton* (1844) 11 Cl. & F. 513, pp. 548, 551. And see *Briggs v. Penny* (1851) 3 Macn. & G. 456, *Bernard v. Minshull* (1859) Johns 276, 5 Jur. (N.S.) 931.

The approved modern doctrine is that, unless looking at the whole instrument it is apparent that the donor has intended to impose an obligation on the donee to carry his wishes into effect, not leaving the donee any discretion in the matter, no trust is created (b).

The modern doctrine is further elucidated by the words of Lindley, L.J., in *In re Williams, Williams v. Williams* supra, at p. 18, "There is also abundant authority for saying that if property is left to a person in confidence that he will dispose of it in a particular way, as to which there is no ambiguity, such words are amply sufficient to impose an obligation. Nothing can be plainer than Lord Eldon's statement to this effect in *Wright v. Atkins*, T. & R. 157. The books are full of cases decided in accordance with this doctrine. See *Shovelton v. Shovelton* (1863) 32 Beav. 143; *Curnick v. Tucker* (1874) L.R. 17 Eq. 320; *Le Marchant v. Le Marchant* (1874) L.R. 18 Eq. 414, in all of which

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(b) *Meredith v. Heneage* (1824) 1 Sim. 542 (H.L.). *Williams v. Williams* (1851) 1 Sim. (N.S.) 358. *Lambe v. Eames* (1871) L.R. 6 Ch. 597; *Stead v. Mellor* (1877) 5 Ch. D. 225; *In re Hutchins and Tennant* (1878) 8 Ch. D. 540; *Muscorie Bank v. Waynor* (1882) 7 App. Cas. 321, 330; *In re Adams and Kensington Vestry* (1884) 27 Ch. D. 394; *In re Hamilton* (1895) 2 Ch. 370; *Hill v. Hill* (1897) 1 Q.B. 483; *In re Williams* (1897) 2 Ch. 12; *In re Oldfield, Oldfield v. Oldfield* (1904) 1 Ch. 540 and see the judgments of Vaughan, Williams, L.J., and Stirling, L.J., in *re Hanbury, Hanbury v. Fisher* in 1 Ch. (1904) supra, at p. 414.