

they have refused to do, alleging they are not authorized so to do by the terms of said settlement. The bill then prays that said trustees may be decreed to assign and transfer the said enumerated stocks by way of pledge, according to the direction of the said Jane, and for general relief.

The trustees, in their answer, admit the allegations of the bill, and aver, as the reason for their refusal to make the transfer demanded of them by Mrs. Williams, that they do not know whether by the true construction of said deed of settlement they would be justified in making such assignment and transfer; they further aver that they are willing and anxious to perform the duties of their trust in accordance with its true meaning, and they rely upon this court to direct them in the present instance, and that they will abide by and perform whatever the court may decree in the premises.

Upon this bill and answer, the Chancellor delivered the following opinion.]

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THE CHANCELLOR :

I have read, with much attention, the marriage settlement and deed of trust exhibited in this case, and have examined and carefully considered the authorities referred to by the solicitor for the complainants, and some others bearing upon the subject, and am of opinion that such a decree as this bill prays for cannot be passed.

The American doctrine upon this interesting question is at variance with that which seems now to prevail in England, and I think the former is vindicated by Chancellor Kent and Chief Justice Gibson, with a force and clearness of reasoning which cannot be shaken. *Vide The Methodist Church vs. Jaques*, 3 *Johns. Ch. Rep.* 78, and *Thomas vs. Folwell*, 2 *Wharton*, 11.

The American doctrine, as established by these cases, and others, is, that the power of a *feme covert* over her separate estate must be exercised according to the mode prescribed by the instrument under which she becomes entitled to the property, and that to confine her to that particular mode the instrument need not specially restrict her to it. That she has no power