

# **The Case of Morice v. The Bishop of Durham**

Researched and explained by Neil B. Maw

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Court of Chancery. The Rev William Morice and Mary Morice, Spinster, Plaintiffs  
Shute Lord Bishop of Durham, Richard Bullock, Edward Bullock, Burton Morice, Anna  
Maria Dobson, Elizabeth Dobson, Susannah Dobson and his Majesty's Attorney General,  
Defendants. Bill filed 27<sup>th</sup> January 1803

The second statement is also a Court of Chancery document and headed, to the Right  
Honourable John Lord Eldon, Barron Eldon of Eldon in the County of Durham, Lord  
High Chancellor of Great Britain.

Humbly complaining is the Rev William Morice of Gower Street in the Parish of St. Giles  
in the Fields in the County of Middlesex, Doctor of Divinity, and Mary Morice of the  
same parish, Spinster. 9<sup>th</sup> Feb 1804

A précis of the two very lengthy documents

The Rev. Clayton Mordaunt Cracherode, late of Queen's Square, (died 5<sup>th</sup> April 1799)  
within the City and Liberty of Westminster, Clerk. At the time of his death he was in  
possession of real estate at Wyndleigh and Berkhamstead in the County of Hertford  
and a freehold house in Queens Square, Westminster which were worth approximately  
£30,000. He also had personal effects and estate to the approximate value of £50,000. He  
made his Will on 9<sup>th</sup> Sept 1792. Apart from specific legacies he left the rest of his estate to  
his sister Ann Cracherode, of Queens Square, Spinster. At this time Ann was around 80  
years of age, very deaf and used an ear trumpet, and was described as weak and infirm.

Shute Bishop Barrington was a friend of Clayton Mordaunt Cracherode but his sister Ann  
did not know him. A day or so after Clayton's death, the Bishop called on Ann and  
offered her any assistance. She asked him to help her set out her new Will. It was claimed

by some people that in general, she seemed not to know just how much she had inherited which was far more than she realised.

There are numerous assertions made as to the conduct of Bishop Barrington, the main point being that he overly influenced Ann Cracherode and took advantage of her old age and weak mind. One assertion made was that the Bishop had been heard to say to Ann that there may be a little money left after her bills and expenses had been paid and the legacies distributed, and that he asked her what should become of the residue and she replied that, "*Your Lordship will take care of that.*" It was therefore agreed to make a Residuary Bequest that he would dispose of any residual money to Liberal and Benevolent purposes. But the fact was, and some suggest very plain to see that there was an enormous fortune lying within the properties, lands and the general estates of Clayton Mordaunt Cracherode and his sister Ann.

Another incident was said to have occurred whereby at a meeting with her Attorney, Ann said she had been told that a beneficiary of a Will could not be appointed as an Executor, but the Attorney pointed out that this was not the case. Bishop Barrington, who was present within the room is said to have interrupted and informed Ann that if he was not to be her sole executor then he would have no more to do with her affairs, and that he then walked off into an adjoining room. If this is true then it could well be described as coercive behaviour.

Ann died in July 1802 and Bishop Barrington proved her Will in the Prerogative Court of the Archbishop of Canterbury soon after. The Will was then contested by her cousins William and Mary Morice and consequently the case of *Morice v. The Bishop of Durham* came about.

Subsequently, the Court of Chancery heard the case. After bequests there was around £30,000 for the Executor (Bishop Barrington) to donate to such objects of benevolence and liberality at his discretion. The key legal point was that the Testator (Ann) had made a '*Trust*' within the Will for objects of benevolence and liberality (Charity). And it was this

point on which the court held that the Will could not amount to a charity. Therefore the money should be returned to the next of kin.

However, the Bishop was clearly not happy with that and took the case to the High Court of Chancery for an Appeal. Lord Eldon ruled that the Trust could not be valid as a private trust because it had no beneficiaries. This meant that the Bishop could take the property on Trust to dispose of it, not for his own benefit, nor any benefit that the court could stipulate. Therefore, the previous judgement should stand and the money must be returned to the next of kin.

The readers should decide for themselves on the behaviour and intentions of Shute Bishop Barrington?