

dorsed over to her by defendants. That the placing of the money in the names of the three defendants with the result that they, and they alone, would be entitled to receive payment of interest as well as principal from the trusts corporation, was intended and well understood by Mrs. Phelan, is made manifest by a letter which she wrote on 8th June, 1906, to one of the trusts corporation officials, in which she says: "I didn't expect that you could do anything without each one of us signing our cheques."

After the death of Mrs. Phelan, and before they had received notice of any adverse claim to these moneys, the trusts corporation on 1st January, 1907, issued and forwarded 3 cheques for \$20 each to the 3 defendants. These cheques were paid in due course to defendants, and the trusts corporation obtained receipts for such payments. On 4th February, 1907, the trusts corporation were first notified on behalf of Mr. John Phelan, the husband of the late Johanna Phelan, that he asserted that the moneys represented by the 3 investment receipts in question constituted part of his late wife's estate. John Phelan is the residuary legatee under the will of his late wife. Upon receiving notice of this claim, the trusts corporation instituted these proceedings in order to have the title to these moneys determined.

The retention by Mrs. Phelan in her possession of the receipts themselves, and the fact that the income was applied for her benefit, though made available by the indorsement of defendants upon the cheques made payable to them by the trusts corporation, are relied upon to support the propositions that the gift of these moneys was imperfect, and that, being in favour of volunteers, it cannot be made complete by the aid of a court of equity. Most of the authorities cited for plaintiffs turn upon this point, others are instances of attempted testamentary dispositions.

For defendants it is contended that the action of Mrs. Phelan amounted to a complete gift to them of the moneys in question, or to a creation by her of a trust of such moneys in their favour and enforceable by them.

"There may be difficulty in reconciling with each other all the cases which have been cited. Perhaps they are to be reconciled and explained upon the principle that a declaration of trust purports to be, and is in form and substance, a complete transaction, and the Court need not look