The rental value of the farm was from $125 to $150 a year.

In the year 1905, the defendant and his wife were at the plaintiff's, and the plaintiff handed to the wife, but not in the husband's presence, the sum of $410. A year or more later, she handed to her the further sum of $200; and in the year 1907, she sent to the defendant, through Frost, the further sum of $190, making in all the sum of $800, being the money in question in this action.

The plaintiff was not indebted to the defendant, nor was he entitled to any claim upon her bounty. Working their respective farms, they resided several miles apart. As the plaintiff advanced in years, she doubtless became less able to manage her household duties, and at times sought the assistance of the defendant and his wife, who seem to have responded to her wishes, paying her frequent visits and rendering her valuable assistance. These kindly acts appear to have been appreciated by the plaintiff, who came to regard the defendant as taking a substantial interest in her welfare; and it may reasonably be assumed that she reached the conclusion that it would be more to her interest to intrust her money to a tried friend and family connection than to keep it in her own house or elsewhere. Whatever were her intentions in transferring her money to the defendant, no presumption of law arises that she intended to divest herself of her money (everything she owned, except her life interest in the farm, and the chattel property thereon), and make an absolute gift of it to the defendant. Under the circumstances of this case, the onus is on him to shew that the transaction was a gift; and that must be established by proving a clear and unmistakable intention on the part of the plaintiff to make a gift of money to the defendant.

In weighing the conflicting evidence, it is not sufficient that the preponderance of evidence may turn the scale slightly in favour of a gift. The preponderance must be such as to leave no reasonable room for doubt as to the donor's intentions. If it falls short of going that far, then the contention of a gift fails: Lehr v. Jones, 74 N.Y. App. Div. 54; In re Harcourt, Danby v. Maker, 31 W.R. 578; Morse v. Meston, 152 Mass. 157, 24 N.E. Repr. 916; Taylor v. Coriell, 57 Atl. Repr. 810; Sisenwam v. Roque, Q.R. 23, S.C. 115; Hall v. Kimball, 5 App. Cas. 475 (Dist. of Colum.); Pierce v. Giles, 93 Ill. App. 524; Marsh v. Prentiss, 48 Ill. App. 74.

On another ground, also, the onus was, I think, on the defendant to establish the gift. The plaintiff was a widow of 7