

MIDDLETON, J.

DECEMBER 4TH, 1914.

RE LEBLOND.

*Will—Construction—Gift of Property to Trustee and Executrix
—Failure to Name Beneficiary—Blank Left in Will—Wills
Act, sec. 58—Trust as in Case of Intestacy.*

Motion by Eliza Davis, the executrix and trustee under the will of Edith Rose Leblond, deceased, for an order declaring the proper construction of her will.

G. N. Shaver, for the applicant.

C. B. Henderson, for Thomas Leblond, the husband of the testatrix.

MIDDLETON, J.:—This is another of the rapidly growing list of cases in which the filling up of a printed will form by one unskilled in work of that kind defeats the intention of the testator. In this case the printed form itself is one in which phraseology is used that is entirely foreign to our law, it being probably an adaptation from some Scotch form.

Stripped of technical and meaningless verbiage, the testatrix gives her property to her mother as trustee, and she appoints her her executrix, and directs her to pay her debts. Then follow the words: “(2) I give devise and bequeath unto” Following this is a blank in which it is intended that the whole operative part of the will should be written. It is intended in this space to name the beneficiary and the property disposed of; but, unfortunately, all that is written is, “everything I have clothes money etc.” and no beneficiary is named.

The mother asks that I should read into the will some word or words which would indicate that she takes the property not only as trustee but as beneficiary. I find myself unable to yield to this, notwithstanding the very capable argument presented by Mr. Shaver on her behalf.

The rule which governs is, I think, very clearly expressed in the case of *In re Harrison* (1885), 30 Ch. D. 390. There, Lord Esher, after determining that the original will may be looked at, says (p. 393): “Looking at the will in the present case, it is impossible not to take notice of the fact that part of it is a common form, not drawn up for the purpose of this particular will. The blank spaces were not left by the testatrix herself, but were