but not to the extent apparent on the face of the three cheques. I think the plan hit upon, as understood by the testator, was that there should be a sort of administration of part of his estate, committed to the hands of the defendant, which would reduce the part left for the executors and yet would leave enough for one brother, the plaintiff, to administer without feeling that he had been slighted by the testator.

[The learned Chancellor illustrates this position by setting forth the scheme of the will known to both, the letter written by both, and the arrangement made by both, as traced in the evidence and proceeds]:

It thus appears suggestively, if not clearly, that the three accounts were to be consolidated in the name of the deceased, or it may be in the name of the defendant at the Sterling Bank, and to be dealt with for the purposes of the estate; funeral and preliminary expenses, some distribution among the brothers, and a defined portion held for the purpose of contributing to the maintenance of the mother, and to this extent in ease and aid of the son Homer who was expressly charged with that duty by the will. The scheme which was, I think, in the mind of the testator was to divide his estate in this manner, reduce the outlay for fees and succession duties, and provide for a dual system of administration; one part of which would be regulated by the law under the probate and the other conducted out of Court by the hands of the defendant. Of course this was all nugatory so far as escaping legal payments to the Government or the executors, or so far as it contemplated a nuncupative as distinguished from a legally authorised administration.

The law seems to be that property may be given by way of donatio mortis causa although the gift be made for a special purpose and coupled with a trust. There are not many cases and no recent ones; one of the latest is Hills v. Hills, 8 M. & W. 401, holding that the gift of money was valid though coupled with a trust that the donee should provide the funeral of the donor. That was a gift after payment of the expenses of the funeral, and there would still be something of beneficial balance to the donee. In this case as to trust for the mother it would all have to go to her, or for her benefit, and to personal representatives if there was any surplus at her death. But Parke, B., pointed out at pp. 403, 404, that the circumstance afforded a strong argument to the jury as to the construction to be put upon the expressions used by the deceased, and that a mere nuncupative will was meant of which the defendant was to be the executor . . . and he ends by saying: "I agree that