MIDDLETON, J., in a written judgment, said that the testator died in 1912, leaving a will by which he gave his sister, Mary Ann Watson, all his property "absolutely and forever, but it is my wish and desire that my said sister shall from time to time give such proportion or proportions of my said estate as she in her judgment may think proper to my brother Adam Clark."

Adam Clark was an incapable man, 52 years old. Mary Ann Watson was, at the time of the application, 73 years old. The estate, originally over $4,000, now amounted to only $2,000, and Mary Ann Watson said that she needed this for her own maintenance, and thought that her brother, who had worked for a living hitherto, could continue to do so for some time. She intended to aid him in the case of illness or real necessity, and had paid some small amounts.

Adam took the position that the money was held in trust for him, and must be used for his maintenance, and that his sister ought to be maintained by her children, who were said to be well off.

The law as to "precatory trusts" has developed in recent years. The term has been called by Lord Justice Rigby awkward and incorrect and a "misleading nickname." The trust, if established, is a real trust, and has all the incidents of a trust, and is no vague creation based upon some supposed equitable considerations. In the more recent cases the doctrine has been placed upon a firm foundation. Where there is an absolute gift, it is not to be cut down to a mere trust unless it is clearly shewn to be the testator's intention. The earlier cases had gone too far in implying a trust form the use of particular words or from expressions merely assigning a motive for a gift intended to be absolute.

Reference to Lambe v. Eames (1871), L.R. 6 Ch. 597, 599.

Here there was an absolute gift and not enough to cut it down. The use of the word "absolutely" was of importance, but it was not conclusive. What was of greater importance was the fact that there was no definite benefit given to Adam or contemplated by the testator. He was to have such maintenance as his sister in her judgment thought fit and proper. If a trust in favour of Adam was to be inferred, what was the subject of the trust? Counsel for Adam said that the whole fund was the subject; but the testator had said nothing to indicate that. Even under the earlier cases this would have been fatal.

In re Hamilton, [1895] 2 Ch. 370, and In re Williams, [1897] 2 Ch. 12, may be regarded as indicating the starting point for the consideration of these cases, and earlier cases must be read in the light of what is there said.

See In re Hanbury, [1904] 1 Ch. 415; In re Oldfield, [1904] 1 Ch. 549; In re Conolly, [1910] 1 Ch. 219. The reversal of In