will satisfy the Court that though payment was not actually made before death, there was no revocation contemplated even if death did intervene, and of this an example may be found in Bouts v. Ellis, 17 Beav. 121, as decided on appeal in 4 DeG. M. & G. 249. But this contest is barren of any such evidence. Giving full credit to the claim made by the defendant and the documents he produces (and his claim rests entirely on his own testimony coupled with the documents), it just comes to this that the deceased drew a cheque on the Sterling Bank for $2,750 payable to the defendant, and handed him therewith the bank pass-book. This was to facilitate his getting the money, and nothing was said or done indicating expressly or implicitly that it was to be collectable only in the event of the donor's death. The essence of a gift mortis causa is, as expressed by Swinburne, Pt. 1, sec. 7, when any being "in peril of death doth give something, but not so, that it shall presently be his who receives it, but in case the giver do die." This is approved as correct by Lord Loughborough in Tate v. Hilbert, 2 Ves. 119.

Assuming the case of an ordinary pass-book being given; a case very close to the present is Re Beak's Estate, L.R. 13 Eq. 489, where it was held by Bacon, V.-C., that the delivery by a donor in his last illness of a cheque on his bankers, accompanied by a delivery of his banker's pass-book, was not a good donatio mortis causa—the cheque not having been presented till after the donor's death. It was admitted in the cited case that the delivery of a cheque by the donor, not presented till after his death, was not per se sufficient, but it was argued that the further circumstance of the delivery of the pass-book contributed what was lacking to constitute a valid donation. It was assumed by the Judge that though the pass-book was not evidence of any agreement on the part of the banker to pay a debt, yet it might amount to a representation by the intestate that there was a debt due to him out of which the cheque was to be paid. But it was held that the handing over of the pass-book was enormously different in legal effect from the delivery of a deposit note which conferred upon the donee the right to receive the money. Amis v. Witt, 33 Beav. 619, was the case of the deposit note, in which the Master of the Rolls merely gave effect to the decision of the same point at law in Witt v. Amis, 1 B. & S. 109. But in both the decision was really upon the question whether a policy of life assurance was the subject of a donatio mortis causa, and it appears to have been assumed that the deposit note for a different amount given at the same time