

FERGUSON, J.:—The intestate was at the time of his death in his 99th year, but retained all his faculties till his last illness, which lasted only two weeks. He was taken ill on the 5th January, 1903, and died on the 19th of the same month. He was living at the time with defendant. On the morning of the 5th January he became ill and went to his room, where his daughter followed him. He had three keys in a wallet in his pocket. He had a foreboding that this would be his last illness. He took the keys from his pocket and handed them to defendant, saying, "All the money and notes I have got are yours." One key was that of his trunk which was in the room: another was the key of a cash box, which was in the trunk; and the third was the key of a chest of drawers. Defendant took the keys and examined them, and kept them. In the cash box were the promissory notes and cash in question. Defendant took possession of these and retained possession. The evidence of defendant was corroborated by that of her son, who was present at the time. There was no question as to the intestate having died of the illness that was upon him at the time of the alleged gift. There was evidence that he intended to give what property he might have to defendant. In my opinion a good *donatio mortis causa* is established. *Mustapha v. Wedlake*, 8 Times L. R. 160, followed. *McDonald v. McDonald*, 33 S. C. R. 145, referred to. Defendant counterclaimed for \$67.50, the amount of doctors' bills and funeral expenses paid by her. Judgment dismissing action with costs against plaintiffs in their representative character. Judgment for defendant for the amount of her counterclaim against plaintiffs, also in their representative character. No order as to costs of counterclaim. Plaintiffs may reasonably charge their costs against the estate in their hands or to come into their hands as administrators.

MEREDITH, C.J.

JULY 23RD, 1903.

TRIAL.

O'BRIEN v. ELLIS.

Seduction—Right of Action—Death of Father after Cause of Action Complete—Action Brought by Mother—Failure to Establish Loss of Service—Application to Amend and Proceed as Administratrix of Father's Estate—Statute of Limitations—Trustee Act—Bar.

Action for seduction brought by the mother, who based her right to recover on the alleged existence of the relation of master and servant between her and the seduced daughter. The action was begun on the 24th September, 1902, and the