

Held, that the gift was not established.

Held, as to the alleged gift to a son of the testator, that the burden of proof was upon him to show that what was admittedly a payment by the testator to him on account of the share coming to him from the testator's estate, was afterwards, by arrangement between him and the testator, turned to a gift. The facts that he tried to get the testator's daughter to use her influence with her father to get the receipt which he had given for the money, that he made her promise to say nothing about his trying to obtain it, and that he offered to share with her in case he was successful in obtaining it, showed that his evidence ought not to be believed.

Appeals from report of Master at Orangeville, allowed.

W. L. Walsh, for the plaintiffs.

A. A. Hughson, for the defendant, William Connor.

J. N. Fish, for the defendant, Mary Ann Donaldson.

DuVernet, for the defendant, Benjamin Connor.

FERGUSON, J., }
ROBERTSON, J. }

[June 8.]

DILL v. DOMINION BANK.

Discovery—Examination of officers of corporation—Rule 487.

In an action to recover moneys alleged to have been deposited with the defendants, a banking corporation, at a branch, the plaintiff examined for discovery as officers the persons who were respectively manager and ledger-keeper at the branch at the time the alleged deposits were made. They then sought to examine the general manager.

Held, that the plaintiff had the right under Rule 487 to examine the general manager as an officer of the corporation, and the regular means of procuring his attendance having been taken, there was no excuse for his non-attendance.

Shepley, Q.C., for the plaintiff.

J. D. Montgomery, for the defendants.

MOSS, J.A.]

[June 14.]

IN RE BENNETT INFANTS.

Infants: Sale of land—R.S.O. c. 137, s. 3—Dispensing with examination.

An order was made under R.S.O. c. 137, s. 3, for a sale of infants' lands at a named price, such of the infants as were over fourteen having been examined before a referee and having given their consent, and the remaining infant, who was under fourteen, having been produced before the referee, who certified with regard to her in the manner directed by the Rules, but the sale was not carried out.

A subsequent offer for the lands at a lower price having been received, an order was made for a sale at that price, the circumstances being such as to show that it was in the interest of the infants; and their further examination was dispensed with upon its being shown that they were out of the Province, and that they were satisfied to accept the price offered.

Stowey, for the applicants.

F. W. Harcourt, for the official guardian.