

Hearst was a witness at the trial on behalf of plaintiff. No application was made to join Mr. Hearst as a party plaintiff, or to add him as a party defendant, and no claim was put forward by Mr. Hearst for damages.

As the matter stands the plaintiff is personally entitled to only one half of above amount, namely, \$1,608.75 with interest at 5% from 1st July, 1911. There will be judgment for plaintiff for that amount with costs and without prejudice to any claim Mr. Hearst may make or to any action he may bring by reason of any interest he had in the said east half of 35, north side of Queen street, in the city of Sault Ste. Marie.

Thirty days' stay.

HON. MR. JUSTICE BRITTON.

NOVEMBER 6TH, 1912.

TRIAL.

MUNN v. KEYES ET AL.

4 O. W. N. 250.

Executors and Administrators — Alleged Gift by Deceased — Too Vague to be Given Effect to—Transfer of Moneys in Bank.

Action by administrator of an estate to recover \$530.95, then in a chartered bank to the credit of defendants. Defendant Keyes, the sister of deceased, claimed that the money in question had been transferred to her credit in the bank, and deceased had intended to make a gift of the same to her.

BRITTON, J., *held*, that the evidence had not established a gift *inter vivos* or *mortis causa*, and that the deceased's testamentary intentions had not been carried to completion.

Action dismissed without costs.

Action by plaintiff as administrator of the estate of his late brother, Charles Wm. Munn, to recover \$530.95, being the amount put to the credit of defendants, in the Bowmanville branch of the Bank of Montreal, on the 5th day of October, 1911.

Tried at Cobourg, without a jury.

F. L. Webb, for the plaintiff.

D. B. Simpson, K.C., for the defendant Keyes.

E. V. McLean, for the defendant Hillyer.