

therefore, ineffective; (3) that there was not the corroboration of the evidence of the respondent Bownas which was required by sec. 12 of the Evidence Act, R.S.O. 1914 ch. 76.

The learned Chief Justice said that none of these objections was, in his opinion, entitled to prevail.

To constitute a gift mortis causa, it is not necessary that the donor should, in terms, say that his gift was to be effective only in the event of his death: Gardner v. Parker (1818), 3 Madd. 184, and other cases.

It is sufficient that the gift is made in contemplation, though not necessarily in expectation, of death.

The pass-book handed to the respondent Bownas contained an acknowledgment of the indebtedness of the bank to the deceased and a regulation as to the mode in which money at his credit was to be withdrawn, and was in substance and effect an acknowledgment of indebtedness and an undertaking to pay in accordance with the regulations. It was in effect a deposit-receipt, and was a good subject, apart from the cheque, of a gift donatio mortis causa or even inter vivos.

Reference to In re Andrews, [1902] 2 Ch. 394; In re Lee, [1918] 2 Ch. 320, 323; In re Dillon (1890), 40 Ch.D. 76; McDonald v. McDonald (1903), 33 Can. S.C.R. 145; In re Weston, [1902] 1 Ch. 680; In re Westerton, [1919] 2 Ch. 104.

The attendant facts and circumstances and the possession by the respondent Bownas of the two pass-books and the two cheques afforded the corroboration which the statute requires: McDonald v. McDonald, supra.

The learned Chief Justice shared the doubt of Latchford, J., having regard to the provisions of the Bills of Exchange Act, as to the direction to the banker being revoked by the death of the drawer before payment of the cheque, and agreed with that learned Judge that it is at least open to serious question whether the revocation occurs until the banker has notice of the death of his customer.

The appeal should be dismissed with costs.

MACLAREN, J.A., read a judgment in which he gave reasons for the same result.

MAGEE and FERGUSON, J.J.A., agreed with MEREDITH, C.J.O.

HODGINS, J.A., read a dissenting judgment.

*Appeal dismissed (HODGINS, J.A., dissenting).*