

Province of Nova Scotia.

SUPREME COURT.

Full Court.]

MCDONALD v. McDONALD.

[April 7.

Donatio mortis causa—Cash in bank on deposit receipt—Delivery of receipt and orders—Held good assignment—Transfer of fund held to carry interest—Costs.

M. in his life time deposited with the Union Bank of Halifax the sum of \$6,000 on deposit receipt numbered 2793, to be accounted for by said bank to said M. only upon production of the receipt. During his last illness M. signed three orders directing the bank to pay the sum of \$2,000 out of said deposit receipt to each of the three individuals named in the orders, and delivered the orders together with the deposit receipt to D. M. to be delivered to the persons named. D. M. delivered one of the orders to the wife of M., for whom it was intended, and retained the others for the other parties named. On appeal from the judgment of the learned trial judge holding that there was not a good donatio mortis causa of the deposit receipt and orders or cheques,

Held, 1. Allowing the appeal with costs and determining the issue the other way, that the evidence shewed an intention on the part of M. to give the donees the fund represented by the deposit receipt, and that the delivery of the orders with the receipt constituted an assignment of the fund.

2. The delivery to D. M. for the benefit of the three parties mentioned was sufficient.

3. The omission on the part of M. to make any provision for distribution of the interest due on the deposit was merely a matter of defective enumeration, and was not to be regarded as indicating an intention on the part of M. not to give the deposit receipt or the sum represented by it.

Russell, K.C., and *Harris*, K.C., in support of appeal. *Borden*, K.C., and *Chisholm*, contra.

Full Court.]

REX v. BEAGAN.

[April 7.

Canada Temperance Act—Conviction—Evidence to support—Restraint upon review on certiorari—Costs.

A conviction for a violation of the Canada Temperance Act was attacked on the ground that there was no evidence to support the conviction.

Held, 1. There having been an adjudication by a tribunal having jurisdiction over the subject matter, and no defect appearing on the face of the proceedings, that the Court would not on certiorari quash such judica