passage from Chitty, and the statement of Byles, that "the death of the drawer of a cheque is a countermand of the banker's authority to pay it," says the two propositions are irreconcileable. (2) A cheque is a negotiable instrument, and as such carries the presumption that it was given to the payee for value (Dan. on Negotiable Instruments § 1,646). This being so the payee may sue the drawer, if it be not paid, or his executor if he be dead; and any person may buy the cheque, or receive it in discharge of a debt, and recover upon it against the drawer. Is it not then curious and illogical to hold that the bank, under the like circumstances, should not pay it? It has never been intimated that a third party cannot acquire a cheque without inquiry after the drawer's death. Why, then, may not the banker pay it? (3) It has been urged that the death of the drawer is "a revocation of the banker's authority to pay the cheque," as if it were an instrument to be governed by the law of agency—a mere mandate. (Thomson on Bills, 244). A cheque is more than this. If it is an authority to the banker to pay the amount,—it is also an authority to the payee or other holder to receive the amount. As a negotiable instrument it imports a valuable consideration, therefore it is presumably an authority coupled with an interest. As such it is irrevocable. Therefore we reach this paradoxical conclusion: "that an authority coupled with an interest may be practically revoked and annulled by the revocation of another authority not coupled with an interest," which, says the writer, is a *reductio ad absurdum*. (4) It is universally conceded that a cheque operates as an assignment of the fund *pro tanto*, as soon as the bank consents to it, by certification or payment. The drawer has given the holder a written instrument authorizing the latter to apply to the drawer for the assignment of certain funds. It is hard to see how the death of the party who has consented can annul the right of another to acquiesce and concur in his act. Professor Parsons evidently takes this view. (2 Parsons N. and B. 287 note.) (5) No doubt if the cheque were a gift to the payee, and the banker knew that fact, the death of the drawer would operate as a revocation of the banker's authority to pay it. But in such case the authority to donee to collect, as well as that of the banker to pay, is not coupled with such an interest as to continue them in force: *Burke* v. *Bishop*, 27 La. An. 465 (1875). But the banker is not to presume that a cheque is a donation.

Cutts v. *Perkins*, 12 Mass. 206, appears correctly to state the law; and *Billing* v. *De Vaux*, 3 Man. & G. 565, seems to be direct authority as against the inferences which have been drawn from *Tate* v. *Hilbert*. The writer sums up his conclusions thus: "Rights accrue upon the delivery of a bill or cheque to the payee. They are not varied by the subsequent death of the drawer. The drawer of the bill may accept and pay it; the drawee of the cheque may also honour it; for it is presumably given for consideration, and its payment operates for the benefit of the estate of the deceased, which, upon its dishonour, would be bound for its payment and of general assets."

NOTES OF CASES.

IN THE ONTARIO COURTS, PUBLISHED IN ADVANCE, BY ORDER OF THE LAW SOCIETY.

QUEEN'S BENCH.

SINGLE COURT.

Attempt to obtain information as to voting —R. S. O. ch. 174, sec. 162—Conviction—Costs—Amendment.

There is no general power to award costs upon a conviction under an Ontario Statute where such power is not given by the Statute itself; and therefore where, on a conviction under sec. 162, ch. 174, R. S. O., for attempting to obtain information at the polling place, as to the candidate for whom a voter was about to vote, costs were awarded against the defendant, the conviction was ordered to be quashed, the Court refusing to amend the same in this respect, as it had been brought up on certiorari.

Milligan for plaintiff.

R. M. Fleming, contra.