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No. 17

APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

DECEMBER 30TH, 1920.

*KENDRICK v. DOMINION BANK AND BOWNAS.

Gift—Cheque Drawn by Customer on Savings-bank Account for Full Amount to Credit of Drawer—Delivery of Pass-book with Cheque—Deposit-receipt—Presentation for Payment after Death of Drawer—Bank not Notified of Death—Revocation of Authority of Bank to Pay Cheque—Bills of Exchange Act, sec. 167—Donatio Mortis Causa or inter Vivos—Evidence—Corroboration—Ontario Evidence Act, sec. 12.

Appeal by the plaintiff from the judgment of LATCHFORD, J., 47 O.L.R. 372, 18 O.W.N. 138.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, J.J.A.

R. B. Henderson, for the appellant.

W. Mulock, for the defendants the Dominion Bank.

James Haverson, K.C., for the defendant Irene Bownas, respondent.

MEREDITH, J.C.O., read a judgment in which he said that the question for decision was, whether or not there was a donatio mortis causa to the respondent Bownas by the deceased, whose personal representative the appellant was, of \$803.20 which was at the credit of the deceased in the savings department of the Dominion Bank.

It was contended by counsel for the appellant: (1) that there was not that clear and satisfactory proof of the gift that was necessary to establish a donatio mortis causa; (2) that the gift was of a cheque on the bank which was not presented for payment until after the death of the deceased, and that the authority to the bank to pay was revoked by the death, and the gift was,

* This case and all others so marked to be reported in the Ontario Law Reports.