

Banks and Banking--Joint Savings Accounts-- Statutory Presumption of Gift (Marrow v. Moskowitz, 255 N.Y. 219 (1931))

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RECENT DECISIONS

Editor—JULIA M. COOK

BANKS AND BANKING—JOINT SAVINGS ACCOUNTS—STATUTORY PRESUMPTION OF GIFT.—Defendant's testatrix had opened a savings bank account in the joint names of herself and the plaintiff, "payable to either or survivor." Later she closed the account and deposited the money withdrawn in a new account in her own name. Shortly before her death, desiring to reinstate the joint account, she delivered the passbook for the individual account to plaintiff and directed her to take the necessary steps for the re-establishment of the account in the joint form. Owing to the reluctance of the bank to make the change, the money was still in the individual account when the depositor died. The Appellate Division had sustained a verdict for the plaintiff on the ground that the statute, section 249, subdivision 3 of the Banking Law¹ created a conclusive presumption of gift in her favor on the death of the depositor.² On appeal, *Held*, the death of the depositor merely opened the door to competent testimony of the intent with which the account was opened. However, the testimony offered being incompetent the result reached by the lower court must be affirmed. *Marrow v. Moskowitz*, 255 N. Y. 219, 174 N. E. 460 (1931).

The decision is important in that it completes the judicial interpretation of section 249 of the Banking Law so far as it relates to the presumptions created by the making of a joint savings deposit in the statutory form. During the joint lives of the parties there exists a presumption of joint tenancy, rebuttable by proof of a contrary intent. On the death of either one that presumption becomes conclusive as to any money remaining in the account.³ As to moneys previously withdrawn the presumption of joint tenancy continues rebuttable.

J. V. M.

CONFLICT OF LAWS—APPLICATION OF MERCHANT MARINE ACT TO STEVEDORES WORKING ON BOARD FOREIGN VESSELS.—Plaintiff's intestate, an American citizen employed as a stevedore by a Delaware corporation, was killed while unloading a vessel flying the German flag in the harbor of New York. In an action brought to

¹ Laws of 1914, Ch. 369.

² *Marrow v. Moskowitz*, 230 App. Div. 1, 242 N. Y. Supp. 523 (1st Dept. 1930); (1930) 5 St. John's L. Rev. 116.

³ *Moskowitz v. Marrow*, 251 N. Y. 380, 167 N. E. 506 (1929); (1929) 4 St. John's L. Rev. 120.