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## Personal Property

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## PERSONAL PROPERTY

J. FRED BUZHARDT, JR.\*

The personal property cases decided by the Supreme Court during the past year were few and established no new precedents.

In *Hawkins v. Thackston*,<sup>1</sup> the Court was faced with the question of title to a deposit in a savings and loan association. The deposit was made with funds of one W. C. Hawkins, the account being listed in the pass-book, "W. C. Hawkins or Miss Susan Hawkins", the latter being a niece of the former. Upon the death of W. C. Hawkins, this action was brought seeking a declaratory judgment that the deposit belonged to the niece. The Court, drawing support from the joint deposit statutes,<sup>2</sup> found that the niece had title to the deposit because of the third party beneficiary contract with the association, although the same result could not be justified as a gift *inter vivos* nor *causa mortis*.

The subject of *inter vivos* gifts was before the Court in *Smith v. Johnson*,<sup>3</sup> and, as in the majority of the decisions on gifts, the controversy centered around the essential element of delivery. Two chattels were the subjects of the alleged gift, one of which, it appeared, was delivered by the donor to the donee several months subsequent to the words of donation, and the other was retained in possession of the donor until his death. The latter, the Court held, had not been the subject of a gift as a matter of law for lack of delivery, but that there was sufficient evidence to go to the jury as to title of the former, since it is not essential to a gift *inter vivos* that the delivery of the chattel be simultaneous with the words of donation.

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1. 224 S.C. 445, 79 S.E. 2d 714 (1954).

2. CODE OF LAWS OF SOUTH CAROLINA, 1952 §§ 8-171, 8-602.

3. 223 S.C. 64, 74 S.E. 2d 419 (1953).