HON. MR. JUSTICE BRITTON:—The money in question in this action was the property of the deceased, and it is unnecessary for the determination of this action to go into family matters in an endeavour to ascertain how the deceased had obtained and saved so large a sum. The deceased was a sickly man, and resided at Bowmanville. The defendants did, and do reside there, and the plaintiff resides at Colborne. The plaintiff occasionally visited the deceased, and on one of these visits, the deceased told plaintiff that he (deceased) had money on deposit in the Bank of Montreal. The deceased had in fact a savings bank account in the Bank of Montreal, running as is shewn by book No. 1926, from 12th October, 1906. On or about the 12th May, 1911, the plaintiff and deceased came to an understanding about the care of deceased, and about money matters. The money was to be placed to the joint credit of plaintiff and deceased. The deceased was to be cared for, by his sister, the defendant Mrs. Keyes, for which she was to be paid $1 per day. Nothing was to be paid without a receipt, and other details were arranged.

The defendant Dr. Hillyer, as a good friend of the family, was as plaintiff says, consulted about this, and said he thought it a good plan. The money then, the amount being $525.70, was checked out by deceased, and a new account opened in same bank in the joint names of plaintiff and deceased. The bank manager for his own protection had each sign a document that the money could be drawn by either.

The deceased continued to grow worse. The plaintiff's visits were not frequent, and it is in evidence that on more than one occasion on such a visit the plaintiff was not in a perfectly sober condition. I pass on to Sunday, the 1st October, 1911, as the determination of this case depends upon what occurred between that day and the date of death of Charles.

Thos. H. Spry, an ex-mayor of Bowmanville, was an intimate friend of deceased, and was in the habit of visiting him. On Sunday the 1st October, 1911, the deceased and witness Spry had a conversation. Mr. Spry in his evidence introduced that part of the conversation relating to money rather abruptly—but here it is. In answer to Mr. Simpson —"Yes—on this 1st October, I was visiting him, and he said then that he wished to make the change at once.