

truthful witness of her limited intellectual capacity. I give full credit to her statements of what occurred.

Her evidence is uncontradicted except upon one point, and on that only by the bursar's clerk, Murray, who says that the red bank-book was in Hales's trunk, and not, as she states, in her suit-case, when he made the inventory. But his memorandum made at the time indicates that both the bank-books were in the suit-case. Murray also states that, "according to memory," he saw the red bank-book—perhaps both bank-books—in Hales's trunk on the night Hales left the trunk in the room he occupied at the time. Murray's opportunity for observing what was in the trunk was very limited; but, even were it better, I should not be inclined to credit his evidence as against Mrs. Page's. I am satisfied that both the bank-books were handed to Mrs. Page when Hales delivered to her his other little treasures. It is in the highest degree improbable that he would have removed—as he did undoubtedly remove—his deeds and insurance policies, with the almost worthless watch and watch-case, from the trunk, and not at the same time take away the bank-books, which represented his savings of \$201.65.

There could, of course, be no valid gift of his real estate. But as to the personalty the only question is, whether what took place between Hales and the defendant amounted to a good *donatio mortis causa*.

Hales was not a strong man, and he was smitten with a dangerous and often fatal disease. He had no relatives. He entertained for Mrs. Page an affection so sincere that, although acquainted with her unfortunate past, he had decided to make her his wife. His intention was to benefit his affianced should he not recover. He delivered to her his purse, containing the key of the trunk, which, by his order—a significant circumstance—was later delivered to her, a watch and a watch-case, the bank-books and the bundle of papers, the contents of which were unknown to Mrs. Page until after Hales's death, when it was found to contain his deeds and insurance policies. On the next day, Hales sent her by Whitehead his monthly pay-cheque.

In delivering the articles in question, Hales said: "I am very ill. Take these papers, and in case anything happens they are yours. If not, it will be all right anyway." or "you keep them safe anyway." He also said, "You will find the key of my trunk in the purse."

The requisites of an effective *donatio mortis causa* are stated in Halsbury's *Laws of England*, vol. 15, p. 431. It must be