

cross-examination. The discrepancies are slight, and only such as might naturally be expected from a truthful witness of her limited intellectual capacity. I give full credit to her statement 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' 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' 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. Her 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' death, when it was found to contain his deeds and insurance policies. On the next day Hales sent her by Whitehead his monthly pay check.

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