defendant, at one time a nurse in the asylum, who claims to be entitled to certain personal property of Hales under a *donatio mortis causa*.

W. J. McWhinney, K.C., for plaintiff.

L. F. Heyd, K.C., for defendant.

HON. MR. JUSTICE LATCHFORD:—The property in question is mainly in the custody of the Court, with the exception of a trifling sum of money and the proceeds of Hales' last monthly pay cheque, $30, which are in the possession of the defendant; and consists mainly of two bank books, representing about $200, and $1,000, the proceeds of a life assurance policy held by the deceased.

Hales was probably *filius nullius*. He had some memory of a mother and grandfather; and had, previous to coming to this country, been in a Barnardo Home from his childhood. So far as appears, he had no living relatives.

The defendant, when Hales met her, was about twenty-seven years of age. She was living separate from her husband, to whom she had been married while under age. He had, after the separation, gone through the form of marriage with another woman, after giving notice to the defendant of an application which he had made for a divorce in one of the United States.

The defendant, though not quite certain she was free, became in August, 1911, engaged to marry Hales. This was clearly established. Hales gave her a ring and spoke of the new relationship to at least one of his associates, many of whom knew of the mutual attachment of the pair, though perhaps not of their actual engagement.

About the end of September Hales was stricken with typhoid fever. He sent for the defendant. Nurses were not permitted to visit at cottages occupied by male attendants at the asylum. One of the Superintendents, Mr. Whitehead, out of sympathy, doubtless, with the lovers, accompanied Mrs. Page to Hales' room and left them together for a few minutes. What passed between the two can be known only from the defendant. Mr. McWhinney has strongly urged that the discrepancies in her statement of what took place indicate that her relation is not truthful. But there is no substantial variance in the accounts she has given upon her examination for discovery, her examination in chief, and her