opposed to the interests of the employer. It is far better that averments challenging the validity of an agreement should be inquired into at once than that they should be delayed in the option of the workman until six months have elapsed. It would also be most unjust that the workman should be deprived of having the Sheriff's decision as to the adequacy of the compensation paid to him because, forsooth, the objection was not taken by the sheriff-clerk on his own initiative but was brought under his notice by the workman himself. Mere inadequacy is not a ground for correcting the register if the memorandum has once been recorded, and it would utterly stultify this provision, which is made for the protection of the workman, if it were held that inquiry as to the adequacy could only take place when the sheriff-clerk had stated the objection in spite of the apparent satisfaction of the workman. There is no duty laid upon the sheriff-clerk to make inquiry into the facts of every agreement that is presented to him for registration, and in practice I fancy he would not feel himself called upon to act unless there appeared on the face of the agreement a manifest disproportion between the agreed-on compensation and the injuries. I am therefore clearly of opinion that the Sheriff-Substitute has erred in granting warrant to record this memorandum without inquiry as to the facts averred. The statute contemplates that the procedure of determining questions of this kind shall be simple, inexpensive, and summary, and it would defeat this very laudable purpose if we were to support the decision of the Sheriff-Substitute here.

None of the cases cited to us appear to have any very direct bearing on the question here in dispute. In the case of *Ellis* (1909 S.C. 1279) it was held that the validity of a discharge was a question arising in the proceedings as to the liability to pay compensation, and that the arbitrator was acting within his jurisdiction in determining it, but there the inquiry was held in an application to award compensation. The case of *Brown* (1910 S.C. 526) is more in point, because it was there decided that an action at common law for reduction of a registered memorandum was incompetent, as the recording was a judical act in arbitration proceedings under the statute, and that the remedies for improper registration must be sought within the statute. In *Hanley* v. *The Niddrie and Benhar Coal Co.* (1910 S.C. 875) it was held competent for the arbitrator to determine the question as to the validity of a discharge in an application to record the memorandum; and in *Macandrew* v. *Gilhooley* (1911 S.C. 448), the validity of a discharge pleaded by the employers as an objection to recording a memorandum of an agreement was held by this Division to have been properly inquired into and set aside by the arbitrator. All these cases, although decided on different sections of the Workmen's Compensation Act or its schedules, tend to support the conclusion that questions, whether of fact or law, arising with regard to disputed claims for compensation must be determined in the first instance by the arbitrator. I propose, therefore, that we should answer both the questions of law stated by the Sheriff-Substitute in the negative, and remit to him to inquire into the facts alleged in the appellant's minute.

The LORD JUSTICE-CLERK and LORD DUNDAS concurred.

LORD GUTHRIE was abs nt.

The Court answered the questions in the negative.

Counsel for the Appellant—Maconochie. Agent—Norman M. Macpherson, S.S.C.

Counsel for the Respondents — Horne, K.C.—Hon. W. Watson. Agents—W. & J. Burness, W.S.

Tuesday, December 10.

FIRST DIVISION.

[Lord Dewar, Ordinary.

MUIR'S EXECUTORS *v.* CRAIG'S TRUSTEES.

Agent and Client — Fraud of Agent — Forgery of Client's Signature to Bond — Bar — Adoption — Incidence of Loss as between Innocent Parties.

The nephew of an old lady, while acting as her agent, forged in 1904 his aunt's signature to a bond and disposition in security and embezzled the sum advanced. He paid the interest on the bond down to 1910, when his aunt, who had received a notice from the Inland Revenue demanding payment of £1 odd of tax in respect of interest—to be deducted by her from the creditor in the bond—instructed another nephew, a brother of her agent, to make inquiries about it. In the course of his inquiries this second nephew learned that the bond was a forgery, and that his brother had used his aunt's title-deeds to raise money for his own use; but he abstained from informing her of the facts, and put her off with the excuse that he had not yet found out. She did not discover the forgery till after the agent's death in September of that year.

In an action at her instance for reduction of the bond, and for delivery of the title-deeds which had been handed to the lender, *held* (1) that the pursuer was not barred by her actings from challenging the bond—she not having in any way adopted the forgery—and (2) that she was entitled to delivery of the deeds, and decree *granted* as craved.

Blackburn, Low, & Company v. *Vigors*, (1887) L.R., 12 A.C. 531, *explained.*

On 24th July 1911 Thomas Coubrough and others, the executors of the deceased Miss Elizabeth Muir, Greenlaw Avenue, Paisley,

pursuers, brought an action against Alexander Craig, joiner, Paisley, and another, testamentary trustees of the late William Craig, wine and spirit merchant, Paisley, *defenders*, for (1) reduction of a pretended bond and disposition in security for £500 bearing to be granted by her in favour of the said William Craig over certain property in Paisley belonging to her, and (2) for delivery of the title-deeds then in possession of Mr Craig's agents.

The defenders pleaded, *inter alia*—"(2) The said bond and disposition in security being the deed of the granter, the defenders are entitled to absolvitor. (3) In any event the defenders should be assoilzied in respect (1st) that the deceased Elizabeth Muir and her representatives are barred by her actings from challenging the bond in question; (2nd) that the said deceased acquiesced in and homologated said bond; and (3rd) of *mora* and taciturnity."

The *facts* are given in the opinion (*infra*) of the Lord Ordinary (DEWAR), who on 1st August 1912, after proof, granted decree as craved.

Opinion—"This action was raised on 24th July 1911 at the instance of the late Miss Muir, 11 Greenlaw Avenue, Paisley, who died on 30th September 1911, and the trustees accepting and acting under her will have sisted themselves as pursuers in the action. The question for decision is whether a bond and disposition in security—the signature to which is alleged to have been forged—now falls to be reduced, and the title-deeds delivered to the pursuers.

"Miss Muir was an old lady who owned some house property in Campbell Street, Paisley, valued at £750, and this was practically all her capital. In or about the year 1902 she transferred the title-deeds of this property to her nephew, the late William Bowie, who at that time was a solicitor of good repute in Paisley, but when he died on 2nd September 1910 his affairs were found to be hopelessly involved, and it was discovered that for a number of years prior to his death he had persistently misappropriated large sums of money belonging to his clients. Among other defalcations the pursuers allege that he forged Miss Muir's signature to the bond and disposition in security now under reduction. It is dated 11th and recorded 12th August 1904, and bears to have been granted by Miss Muir in favour of William Craig in consideration of the sum of £500 alleged to have been paid to her by William Craig's *curator bonis*. It is averred on record that Miss Muir did not sign this deed, or authorise or employ William Bowie to grant it, that she did not receive the £500 or any part thereof, that her signature and the signature of the instrumentary witness James Charters were forged, and that on learning of the existence of the bond Miss Muir at once repudiated it. The defenders deny that Miss Muir's signature was forged, and alternatively they plead that even assuming it was, Miss Muir and her representatives are barred by her actions from challenging it, and that in any event as the defenders obtained the title-deeds from the late William Bowie—while acting within the scope of his employment—as additional security, they are not bound to return them until the money advanced has been paid.

"I am of opinion that this defence has failed in all its branches.

"I have no doubt that Miss Muir's signature was forged. Miss Muir took much interest in her affairs, and largely managed them herself. She often referred to the fact—and was very proud of it—that there was no burden on her property, and she was naturally much surprised when she came to know that a bond and disposition in security had been granted over it. She stated that she had given no authority, and when she saw the deed she immediately repudiated the signature both verbally and in writing, and gave her solicitor instructions to raise this action. . . . [*After examining the evidence and holding the forgery proved his Lordship proceeded*—]

"But it is said that Miss Muir by her actings adopted the deed, and that the pursuers are barred by her negligence from now challenging it. The alleged negligence is as follows:—In June 1910 Miss Muir received an official notice from the Inland Revenue claiming £1, 1s. 10d. of tax in respect of 'interest.' No mention was made of any bond, and Miss Muir did not know what the notice referred to, but thought probably it was some of 'Mr Lloyd George's new taxes.' She consulted her nephew Thomas Bowie, and as he did not know what it meant she asked him to call at the Inland Revenue Office. He did so, and discovered that there was a bond over the property. As he had often heard his aunt say that there was no burden on her property, he had an interview with his brother William and asked him to explain. William confessed that he had obtained the money from the defenders on the security of Miss Muir's property without her knowledge or consent. He did not say that he had forged her signature, and Thomas states that he thought that the money had been obtained without any bond and on the security of the titles alone. I have some difficulty in understanding how he could think so when he admits that he had been satisfied at the Inland Revenue Office that there actually was a bond. But whether he knew the whole truth or not, he agreed at William's earnest request not to disclose the facts to Miss Muir, and accordingly when, a few days later, she asked him what the assessor had said he replied that he had not seen him. This was in June, and nothing further was said or done until after William's death, which occurred on 2nd September, when, as I have said, his affairs were found to be much involved and his estate bankrupt. On the 19th September Thomas Bowie told his sister Miss M. Bowie of William's confession, and asked her to inform Miss Muir and she did so, and Miss Muir then learned for the first time what the Inland Revenue really meant. In these circumstances the defenders argued that

although the notice did not make any reference to a bond on Miss Muir's property, yet it was sufficient, if she had been reasonably diligent, to enable her to discover that the bond in point of fact existed and that her signature had been forged; and they maintained that the knowledge which she might by the exercise of reasonable diligence have acquired must be imputed to her, and that, having allowed the matter to lie over until after William's death when the circumstances were altered for the worse, she must be held to have adopted the deed, and that her representatives were accordingly barred from pleading forgery. In support of this argument I was referred to a number of English cases, but so far as I can see they have no application to the facts of this case. I quite understand that if a man knows that another is relying upon his forged signature he may incur liability unless he divulges the fact before the position alters for the worse, and wilful ignorance may amount to actual knowledge. Thus, for example, a person must not deliberately abstain from inquiry where inquiry ought to be made; and if the defenders had proved that Miss Muir knew—or even in the absence of actual knowledge—that she had good reason to believe that William Bowie had forged her signature, and that she had deliberately refrained from making inquiry in order to screen him—the case would have been different. But they have not proved anything of that kind, and as I understand their argument that is not the case they present. Their case is that the Inland Revenue notice was sufficient to put her on her inquiry, that she ought to have inquired, and if she had the forgery would have been disclosed. Briefly put the argument, I think, comes to this—the notice ought to have awakened Miss Muir's suspicion, and she must be held liable because it did not. But there is no legal obligation on a person to be suspicious, and even if there were I see nothing in the notice to excite suspicion—of forgery. I think it was much more natural for an old lady to suspect that it conveyed an intimation of a new tax, and I do not think that she displayed any negligence in taking that view. I have no doubt that a great many people pay their taxes without any inquiry at all, and I do not think that it would be reasonable to hold that in doing so they are guilty of such negligence in the management of their own affairs as may render them liable to their neighbours; and further, Miss Muir stood in no special relation to the defenders, and I am quite unable to see on what legal principle it can be maintained that she was bound to make special inquiry into her affairs in their interests. It is not said that the forgery was caused by her negligence, but only that she negligently failed to discover it. She did nothing to deceive or mislead the defenders or to prevent them discovering it for themselves. She did not know of the existence of the bond until after William Bowie's death, and all she then knew was that her signature was forged. In these circumstances I do not think that it can in any reasonable sense be said that she adopted the deed. Her knowledge is the only possible basis for adoption, and it is proved that she had no knowledge at all.

"Finally, the defenders argued that they were not in any event bound to deliver the title-deeds, because they had stipulated that the titles should be handed over to them as additional security, and in handing them over William Bowie was acting within the scope of his authority. But I do not think he was. He had no more authority to pledge the titles than he had to forge Miss Muir's signature, and the title-deeds without the bond afforded no security at all. I think the forgery and the handing over of the titles was one dishonest transaction to which Miss Muir was in no way a party and which she was powerless to prevent. The source of all the trouble was, I think, simply this—the defenders permitted themselves to be duped by William Bowie. They trusted him and handed over their money to him, and discovered when too late that they had made a mistake. Instead of seeing Miss Muir sign the deed or asking her to acknowledge the signature, they accepted Bowie's assurance that it was hers. This, as events have proved, was a fatal error, but it was an error which they themselves made, and they cannot in my opinion hold Miss Muir's estate liable for it.

"I am accordingly of opinion on the whole matter that the pursuers are entitled to decree in terms of the conclusions of the summons, with expenses."

The defenders reclaimed, and argued—*Esto* that Miss Muir's signature had been forged, she was barred from repudiating it, for the knowledge of her agent was her knowledge. Where, as here, that agent was employed for the express purpose of ascertaining whether the bond existed or not, he was "an agent to know," and the knowledge of such an agent bound the principal—*Blackburn, Low, & Company* v. *Vigors*, (1887) L.R., 12 A.C. 531, *per* Halsbury, L.C., at p. 537. Where one of two innocent parties had to suffer for the fraud of a third party—the agent of one of them—that one ought to suffer who trusted the person who knew the truth, and who had been put on his inquiry but had taken no steps to ascertain the facts—*Ogilvie* v. *West Australian Mortgage and Agency Corporation, Ltd.*, [1896] A.C. 257, *per* Lord Watson at p. 270. [Counsel for the reclaimers stated that after their Lordships' decision in *Bowie's Trustees* v. *Watson*, *ante*, p. 202, he could no longer maintain that the defenders were not bound to return the titles until the money advanced had been repaid.]

Counsel for respondents were not called upon.

LORD PRESIDENT—This is an action which was raised by the deceased Miss Elizabeth Muir, and is now insisted in by her executors, to reduce a bond for £500 over her property in Campbell Street,

Paisley. The ground of reduction is the very simple one that no such bond in truth exists, the signatures to the so-called bond which has been registered being forgeries. The action is resisted by the bondholder.

The facts out of which the matter arose stand thus—Miss Muir had a nephew called William Bowie, who was a law agent. He has since died, and after his death it was found out that he had embezzled a great deal of clients' money, and in more ways than one brought himself within the reach of the criminal law, and it is said that he was the forger. It is quite certain that the £500 which was paid to Bowie never reached Miss Muir, and, consequently, Bowie must have made away with it.

Now the first ground of defence was a denial that the writing was forged. Miss Muir, owing to her death, was not examined, the action had not gone far enough to allow of her examination. She had, as a matter of fact, repudiated her signature, we have secondary evidence of that. But upon the whole matter, having read the evidence in the case, I have not a shade of doubt that the Lord Ordinary, who is also perfectly confident in his opinion, has arrived at the right result, and that there is no doubt whatsoever that the signatures here are forgeries.

That being so, the next defence is that Miss Muir by her actings adopted the forgery, or at least is barred from saying that she did not adopt it. The facts upon which that plea is based are these—Miss Muir had another nephew, a brother of William Bowie, and Miss Muir received from the Inland Revenue a demand for payment of £1, 1s. 10d. for income tax. She never had such a demand before, and she did not understand it, and as this nephew happened to be calling, she asked him to go and make inquiries as to why she was due this £1, 1s. 10d. The nephew went to the Inland Revenue, and was told by them that it was in respect of a bond over her property, whereupon the nephew said to the representative of the Inland Revenue that he did not think it could be that, because he knew that his aunt had no bond over the property, because she had said so. The representative of the Inland Revenue then communicated with Edinburgh, and produced to this nephew evidence which made him come to the conclusion that after all there must be a bond over the property, and, understanding no more, he then sent for his brother William Bowie, who, upon being asked the question, at once broke down and confessed that he had used his aunt's title-deeds in order to raise money. William begged his brother not to say anything about it at present, as he would be able to replace the money, to which request the brother acceded, and consequently never communicated the result of his investigations to Miss Muir at all, but simply put her off with some excuse that he had not yet found out. Then William Bowie died. These are the circumstances which, it is said, constitute the adoption of the forgery by Miss Muir.

The law of adoption of forgery was long ago authoritatively stated in the case of *Mackenzie* v. *British Linen Company* in the House of Lords (1881, 8 R. (H.L.) 8), and there is nothing more to be said about it. I need scarcely remind your Lordships that adoption is the basis of the doctrine, and that adoption *prima facie* means something positive. But it was recognised in *Mackenzie* v. *British Linen Company* that you might be in a position to be what is called "estopped" in England or "barred" in Scotland—you might be in such a position that you would not be heard to say that the signature is not yours. In particular, the dictum of Baron Parke in the well-known case of *Freeman* v. *Cook* (2 Ex. 654) was adopted in the *British Linen Company* case, and therefore I may take it that it is good Scots law as well as good English law. The point of the doctrine is that when you know there is a forgery, and when you know that the person relying upon that forgery is putting himself in a worse position or losing some remedy which he would otherwise have, you are not entitled to keep silence and then to tell him at the end of the day, after his position has been made worse by the delay, that the signature is forged. But while that is perfectly true where there is knowledge of the forgery, it seems to me that in order to reach the result here the defenders have got to make some very extraordinary leaps from one position to another.

In the first place, I very much doubt whether this doctrine of adoption by "bar" or "estoppel" could ever be applied not to real knowledge but to constructive knowledge, which is all of course that Miss Muir ever had here. Nobody says that she ever had any real knowledge. She could only have constructive knowledge through her nephew. That is the first chasm that the defenders here have to bridge, but it is not the last. The next one is even more formidable. It is, Did she have any constructive knowledge? Now the whole argument there, as stated by Mr MacRobert, was based on a dictum of Lord Halsbury in the case of *Blackburn, Low, & Company* v. *Vigors* (1887, 12 A.C. 531). I had, while I was at the Bar, an opportunity of learning many a lesson in law from Lord Halsbury in the House of Lords, and if I remember once I remember twenty times that noble and learned Lord protesting with all the vigour of which he is a perfect master against his dicta being taken away from the *subjecta materies* and used as a definition, and I think Lord Halsbury would be the very last person to use the dictum which I am just going to read in a general sense. The particular dictum was this (p. 537)—"When a person is the agent to know, his knowledge does bind the principal." Now that was a perfectly good proposition, and only just a little abbreviated in expression. The circumstances in *Blackburn* were these—"The plaintiffs

instructed a broker to re-insure an overdue ship. Whilst acting for the plaintiffs the broker received information material to the risk, but did not communicate it to them, and the plaintiffs effected a re-insurance for £800 through the broker's London agents. Afterwards the plaintiffs effected a re-insurance for £700, lost or not lost, through another broker. The ship had in fact been lost some days before the plaintiffs tried to re-insure, but neither the plaintiffs nor the last-named broker knew it, and both he and the plaintiffs acted throughout in good faith." The first re-insurance was bad for a non-disclosure. It was argued that the second was bad also. It was held that the knowledge of the first broker was not the knowledge of the plaintiffs, and that the plaintiffs were entitled to recover upon the policy of £700. Now his Lordship deals with the situation thus—"A broker is employed to effect a particular insurance. While so employed he receives material information; he does not effect the insurance and he does not communicate the information. How is it possible to suggest that the assured could rely upon the communication to the principal of every piece of information acquired by any agent through whom the assured has unsuccessfully endeavoured to procure an insurance? I am unable to accept the criticism by the Master of the Rolls upon the proposition that the knowledge of the agent is the knowledge of the principal. When a person is the agent to know, his knowledge does bind the principal." What does that mean when expanded? It means this; when your agent is the person whom you have commissioned to effect a contract, to wit, in this case a contract of insurance, then for every purpose, as in a question with the underwriter, you put the agent in the same position as yourself, and if he for the purpose of that insurance gets knowledge which is material to the risk he is bound to communicate it to the underwriter, just as you would be bound to communicate it to the underwriter; and you cannot, if the underwriter is put upon a risk unjustly by that not having been done, take to yourself the benefit of a contract which in point of fact has been vitiated by a non-disclosure on the part of your agent. All that is perfectly simple, but to build upon that foundation the idea that Lord Halsbury has discovered a sort of legal unicorn called the "agent to know" seems to me perfectly preposterous. I do not know what the "agent to know" is. It would come to this, that the most complete agent to know would be just the person whom you had sent to ask a question, as, for example, any servant whom you had sent to speak for you at the telephone. Any such messenger necessarily makes you constructively aware of all that he has learned and does not tell. That is the proposition. I think that proposition is absurd. There is no such thing as an "agent to know." The relation of principal and agent generally involves a contract between them. At any rate the relation is generally based, to use Scots terms, upon a mandate; but a general position of an "agent to know" is unknown I think to the law.

The difficulty does not end there, because after all, what Bowie, the brother, was sent to ask was not whether there was a bond upon the property; he was to ask, "What is the meaning of the Inland Revenue asking me for £1, 1s. 10d.?" Therefore the argument for the defenders really comes to this—An old lady sends her nephew to ask the Inland Revenue what they meant by asking her for £1, 1s. 10d.; that nephew, if he had properly made his investigations, would have found out that this was a demand in respect that there was a bond. Under schedule A she was entitled to an exemption, since her total income was under the exempted figure; nevertheless she had to pay income tax in respect of the interest which she deducted from the creditor in the bond. All these are things which, I may say, most old ladies would not understand anything about. Then if he had pursued his investigations he would have found out that there was a bond; if he had gone further he must have come to the conclusion that that bond was a forgery. Then although the nephew had not told the old lady anything about these things, she becomes the adopter of the forgery. I cannot help calling such an argument an absurdity. I do not think it necessary to say any more, and I think upon the whole matter that the interlocutor of the Lord Ordinary should be adhered to.

There was one other ground of defence, but that was held to be ruled by the case which was decided by us on the day when the argument in this case was heard.

LORD MACKENZIE—I concur with your Lordship. It was argued to us that it had not been proved that this old lady's signature on the bond in question had been forged, but I think the *onus* is completely discharged, and I entirely concur in what the Lord Ordinary says. With regard to her not being examined, it appears that a commission was taken to examine her, and that it was only because the parties whose duty it would have been to execute the commission had every reason to think and hope that she would be well enough to be examined at the proof that the commission was not executed, and therefore there is no blame upon them for not having obtained her evidence and laid it before the Court.

It is quite evident that she had been in use to say that there was no bond upon her property and that she was somewhat proud of the fact. When she learned that this bond had been discovered she immediately repudiated her signature, and she instructed the action to be raised. Then the evidence of the instrumentary witness, Charteris, obtained on commission, is to the effect that his signature was forged. And it is further proved satisfactorily that Miss Muir was not in Paisley on the date on which, on the face of the bond, she appears to have signed it there. Then there is no doubt that the deceased William Bowie had

been hard pressed for money, and that he made a confession to his brother Thomas which, although not in terms acknowledging that he had forged the bond, made it perfectly apparent that he had made use of his aunt's property for the purpose of raising money. It is equally clear that Miss Muir herself did not pay any interest on the bond, and that William Bowie did, and accordingly, as the Lord Ordinary says, it is too clear for argument that Miss Muir's name had been forged upon this bond by William Bowie.

But then it is said that if she did not adopt the forgery, at any rate there are circumstances which show that she must be barred from saying that she did not adopt it. That she adopted it in the way of doing anything positive is certainly not the case. The case of *Blackburn* was pressed upon our attention as sufficient to show that there is good ground for the plea of bar, because the knowledge of the nephew Thomas Bowie is to be deemed for the purposes of this case to be her knowledge. In one of the cases, I think *Blackburn*, it was pointed out that the wrong use of the word "agent" had caused a good deal of confusion in these cases. I think that when the facts in regard to the so-called agency here are examined they amount to no more than your Lordship has already described, that Thomas Bowie was used for the purpose of taking a message to the Inland Revenue to ask why they were making the charge of £1, 1s. 10d. The subsequent structure is built upon that one fact. Now when one compares that with the state of facts in *Blackburn*, they are utterly different. *Blackburn's* case had relation to a contract of marine insurance, and of course in all such contracts of insurance it is a condition-precedent that the insurer shall make a full disclosure of all facts which materially affect the risk which are within his knowledge when the contract is made. In the particular case the agent whose knowledge was sought to be fixed upon the principal had dropped out of the case; but it is quite clearly pointed out that the reason why, if that broker had effected the insurance, his knowledge, unless he communicated it, would have been fatal to the policy, was because his agency was to effect an insurance. That is quite clearly pointed out in the judgment of Lord Halsbury, and therefore it seems to me necessary to read the expression "agency to know" along with the passage in which it is apparent that Lord Halsbury was referring to a person who was acting as agent in effecting an insurance. That is quite different, and has no application to the facts in the present case. Accordingly I am of opinion that the arguments of the defenders cannot prevail, and that we should adhere to the interlocutor of the Lord Ordinary.

LORD PRESIDENT—LORD CULLEN also concurs in this judgment.

LORD KINNEAR and LORD JOHNSTON did not hear the case.

The Court adhered.

Counsel for Pursuers (Respondents)—Horne, K.C.—Paton. Agents—J. W. & J. Mackenzie, W.S.

Counsel for Defenders (Reclaimers)—Morison, K.C. — MacRobert. Agents—Lister Shand & Lindsay, S.S.C.

Friday, December 13.

SECOND DIVISION.

[Lord Ormidale, Ordinary.

M'GUIRE *v.* G. PATERSON & COMPANY.

Master and Servant—Workmen's Compensation Act 1906 (6 *Edw. VII, cap.* 58)—*Agreement for Redemption of Weekly Payment — Registration — Validity — Denial of Accident by Employers—Essential Error.*

At the request of a workman's law agent there was duly registered in the register kept under the Workmen's Compensation Act 1906 a memorandum of agreement under "Workmen's Compensation Act 1906," whereby on the narrative that the workman had been injured by accident in his employment he agreed to accept a sum "in full settlement of all claims in respect of said accident." The employers really, while willing to settle, denied that there had been any accident. Both parties had in contemplation that the workman would be incapacitated for a few weeks, but in this greatly underestimated his injuries, which eventually caused him the loss of a thumb, forefinger, and part of his second finger.

Held, in an action by the workman to have the memorandum reduced and the record thereof expunged, (1) that the denial of the accident by the employers did not prevent the agreement from being one under the Act entitling it to be recorded, and (2) that the underestimate of the injuries did not amount to essential error.

Master and Servant—Workmen's Compensation Act 1906 (6 *Edw. VII, cap.* 58), *Schedule II* (9)—*Memorandum of Agreement—Registration—Sheriff-Clerk—Obtaining Information as to Inadequacy of Payment.*

The Workmen's Compensation Act 1906, Schedule II. (9), enacts—"Where the amount of compensation under this Act has been ascertained, or any weekly payment varied, or any other matter decided under this Act . . . a memorandum thereof shall be sent . . . to the [*sheriff-clerk*], who shall, subject to such Act of Sederunt, on being satisfied as to its genuineness, record such memorandum in a special register . . . Provided that . . . (*d*)—Where it appears to the [*sheriff-clerk*],