title-deeds in his possession in the case of property qualification. I am of opinion that the Sheriff was right in repelling the objection in the present case.

Lord Gifford—I am of the same opinion. Mr Darling argued, with his usual ability and keenness, the general point that under the Act 1861 a written authority was absolutely needed. I should be sorry if that were so; and I do not think it is. This is a very technical objection. If an agent can sell an estate without a written authority, surely you can put a man on the register in a similar way; or take the case which was put to us of an illiterate voter—he would require four witnesses to put him on the roll. The objection is so technical a one that I think we should not sustain it unless compelled to do so.

Lord Craighill—I am of the same opinion. The first objection was abandoned by the counsel for the appellant, who conceded that it was not necessary that claims should be signed by the claimant himself, but that his agent may do it for him. On the question whether a written mandate to the agent is required, I concur in thinking that it is unnecessary, and that both on a consideration of the statutes and of the past practice as noticed by Lord Mure. Such being the case, the question is always just this, Where a claim has been signed by the claimant's agent, has it been proved that the agent had sufficient authority to do so. That is a relevant inquiry, as is shown by the cases cited to us from the bar. Here there is authority instructed in the ordinary way, and that being so, I am of opinion that all which the statutes require has been complied with. I should regret if any difficulty were put in the way of lodging claims, and that would be so were we to sustain this appeal.

The Court refused the appeal, with expenses.

Counsel for Appellant—Darling. Agent—J. Stormonth Darling, W.S.

Counsel for Respondent—Young. Agent—John Stewart, W.S.

COURT OF SESSION.

Tuesday, November 16.

FIRST DIVISION.

[Lord Craighill, Ordinary.

CLARK *v.* MELVILLE.

Process — Clerk of Court—Exhibition of Title-Deeds.

In an action for production and delivery of the titles to certain subjects by one alleging himself to be the heir of the last proprietor, against which the defender, who held the titles as law-agent, pleaded that the pursuer had failed to establish his propinquity, and that he was entitled to the production by the pursuer of a service or other habile title before exhibiting the deeds, the Lord Ordinary (Craighill) allowed the pursuer a proof of his averments, and to the defender a conjunct probation. On a reclaiming-note presented by the pursuer the Court unanimously recalled the Lord Ordinary's interlocutor, and expressed the opinion, that being satisfied that exhibition of the deeds called for was necessary, the proper course was that they should be exhibited in the hands of the Clerk of Court, not to form a part of the process, but merely put there for the temporary and limited purpose of being exhibited.

Counsel for Pursuer—Trayner—Watt. Agent—Alexander Morison, S.S.C.

Counsel for Defender—Robertson—Dickson. Agents—J. & A. Hastie, S.S.C.

Wednesday, November 17.

FIRST DIVISION.

[Sheriff of Lanark.

SCOTT *v.* MILNE AND ANOTHER.

Succession—Legacy—Intention—Double Portion or Substitution.

S. by a trust-disposition and settlement left a legacy of £400 to each of his three daughters—to two of them absolutely, but in case of the third to trustees, to hold for her in liferent and her issue in fee. This daughter having become a widow, and being in reduced circumstances, lived with her father till his death, and was entirely dependent on him. After executing his settlement S. took a debenture bond from a local authority for £400 in her name, the interest being paid to him during his life, and after his death to the daughter. *Held* that in the circumstances the testator's intention was to give her both sums of £400, and that the sum carried by the bond was not intended to be in substitution for the sum provided by the will.

William Scott, merchant, Strathaven, died on 13th May 1870 leaving two sons—William, who was appointed his executor, and James—and three daughters—Mrs Morton, Mrs Dykes, and Mrs Dewar. By his trust-disposition and settlement, which was dated 7th December 1866, his executor was taken bound to pay a legacy of £400 to each of Mrs Morton and Mrs Dykes. The settlement thereafter conveyed a sum of £400 to his trustees, in order that the "said trustees and their foresaids shall, as soon as can be done, invest said sum of £400 on good heritable security in Scotland in their own names as trustees foresaid, and apply the annual income and produce, deducting necessary expenses, for behoof of my daughter Agnes Scott or Dewar, wife of Alexander Dewar, teacher, Strathaven, in liferent for her liferent alimentary use allenarly; hereby providing and declaring that the said trustees shall be entitled to apply the whole or such part of the said principal sum of £400 as they may think proper, and of which they shall be sole judges, for the alimentary support and benefit of the said Agnes Scott or Dewar and her children after mentioned: After the death of the said Agnes Scott or Dewar the said trustees shall realise said capital sum of £400, or such portion thereof as may then be remaining,