

pursuer does not aver that the defenders knew that he was ignorant of the presence of these plates. As to any risks or contingencies connected with the presence of these plates in his leg, the pursuer was not entitled to expect or rely on information obtained from the defenders, but was bound to consult his own doctor with reference thereto.

I therefore agree with the judgment which has been proposed.

The Court adhered.

Counsel for the Reclaimer (Pursuer)—Aitchison, K.C.—N. M. L. Walker. Agent—George Forsyth, S.S.C.

Counsel for the Respondents (Defenders)—Mackay, K.C.—J. Stevenson. Agents—Blackstock, Rose, & Company, S.S.C.

Friday, June 27.

FIRST DIVISION.

[Sheriff Court of Lanarkshire.

BENT COLLIERY COMPANY, LIMITED
v. O'HARE.

CADZOW COAL COMPANY, LIMITED
v. HASSAN.

JOHN WATSON LIMITED v. FITZ-
PATRICK.

JOHN WATSON LIMITED v. SCULLION.

M'ANDREW & COMPANY, LIMITED
v. BARKAUSAS.

JOHN WATSON LIMITED v. COLLINS.

Workmen's Compensation Acts 1906 to 1923
—*Workmen's Compensation Act 1923 (13*
and 14 Geo. V, cap. 42), sec. 14—Termination
of Payments—“End or Diminish”—
Employer Terminating Payments at His
Own Hand—Interim Award of Compensation—
Suspension, Pending Review, of
Charge on Award.

An employer who is liable to pay compensation under the Workmen's Compensation Acts is only entitled to terminate or reduce the payments by agreement or arbitration or under the special provisions of section 14 of the Act of 1923, and where he terminates or reduces the payments at his own hand on the ground that the workman has in fact totally or partially recovered an interim award of compensation may be made in an arbitration to fix compensation or review an award. An employer who is applying for review of an award is not entitled, pending review, to suspend a charge under the award.

The Workmen's Compensation Act 1923 enacts—Section 14—“An employer shall not be entitled otherwise than in pursuance of an agreement or arbitration to end or diminish a weekly payment under the principal Act except in the following cases:—
(a) Where a workman in receipt of a weekly

payment in respect of total incapacity has actually returned to work. (b) Where the weekly earnings of a workman in receipt of a weekly payment in respect of partial incapacity have actually been increased. (c) Where the medical practitioner, who has examined the workman under paragraph (14) of the First Schedule to the principal Act, has certified that the workman has wholly or partially recovered or that the incapacity is no longer due in whole or in part to the accident, and a copy of the certificate (which shall set out the grounds of the opinion of the medical practitioner) together with notice of the intention of the employer at the expiration of ten clear days from the date of the service of the notice to end the weekly payment, or to diminish it by such amount as is stated in the notice, has been served by the employer upon the workman: Provided that—(i) In the last-mentioned case, if before the expiration of the said ten clear days the workman sends to the employer the report of a duly qualified medical practitioner (which report shall set out the grounds of his opinion) disagreeing with the certificate so served by the employer, the weekly payment shall not be ended or diminished except in accordance with such report, or, if and so far as the employer disputes such report, except in accordance with the certificate given by a medical referee in pursuance of paragraph (15) of the said schedule as amended by this Act; and (ii) where an application has been made in pursuance of the said paragraph (15) as so amended to refer the dispute to a medical referee it shall be lawful for the employer, pending the settlement of the dispute, to pay into court, (a) where the notice was a notice to end the weekly payment, the whole of each weekly payment becoming payable in the meantime; (b) where the notice was a notice to diminish the weekly payment, so much of each weekly payment so payable as is in dispute; and the sums so paid into court shall, on the settlement of the dispute, be paid to the employer or to the workman according to the effect of the certificate of the medical referee, or if the effect of that certificate is disputed as in default of agreement may be determined by the registrar or, on appeal, the judge; (iii) nothing in this section shall be construed as authorising an employer to end or diminish a weekly payment in any case in which, or to an extent to which, apart from this section he would not be entitled to do so.”

The Bent Colliery Company, Limited, appellants, being dissatisfied with an interim award by the Sheriff Substitute at Hamilton (SHENNAN) in an arbitration to determine the rate of compensation payable to John O'Hare, respondent, under the Workmen's Compensation Acts 1906 to 1923, appealed to the Court of Session by Stated Case.

Similar appeals were made in arbitrations under the said Acts between Cadzow Coal Company, Limited, appellants, and Charles Hassan, respondent; John Watson Limited, appellants, and Patrick Fitzpatrick, respon-

dent; John Watson Limited, appellants, and Peter Scullion, respondent; and John M'Andrew & Company, Limited, appellants, and William Barkausas, respondent. The case in which John Watson Limited were appellants and Frank Collins was respondent was an action of suspension at the instance of John Watson Limited of a charge following upon an award of compensation under the Workmen's Compensation Act 1906.

The six appeals raised substantially the same questions and were dealt with together by the Court. The facts in the first four appeals were treated as identical, and the facts of the other cases were similar. It is therefore only necessary to refer at length to the case of the *Bent Colliery Company, Limited v. O'Hare*.

The Case stated — "The following facts are admitted by the parties: — 1. The respondent was a pony-driver in the employment of the appellants in their Bent Colliery. 2. The respondent was duly certified as disabled on account of miners' beat knee from 29th December 1923. 3. The appellants admitted liability to pay compensation, and paid him full compensation in respect of total incapacity to 17th January 1924. 4. The appellants refused to pay the respondent further compensation in respect of total incapacity after 17th January 1924, but offered to pay him 7s. 6d. per week in respect of partial incapacity. The respondent refused this offer and raised the present arbitration proceedings.

"Section 14 of the Workmen's Compensation Act 1923 provides that 'an employer shall not be entitled otherwise than in pursuance of an agreement or arbitration to end or diminish a weekly payment under the principal Act' except in certain specified cases. It was admitted that the present case was not one of those so excepted.

"In his initial writ the respondent included a crave for an interim award of compensation.

"On 19th February 1924 I heard parties on the question of making an interim award, the appellants maintaining that the respondent was not entitled to an interim award.

"On 26th February 1924 I made an award of £1 per week in respect of total incapacity with the statutory additions until further order, reserving to the appellants their right to pay into Court on complying with the conditions laid down in section 14 of the Workmen's Compensation Act 1923.

"I was of opinion that the appellants were attempting to diminish the compensation payable to the respondent otherwise than in pursuance of agreement or arbitration, that under section 14 of the Act of 1923 they were not entitled to do so, and that (there being no recorded memorandum of agreement or award) an interim award was a competent method of enforcing the provisions of section 14 in the respondent's favour."

The question of law was—"In the circumstances set forth was I entitled to make an interim award of compensation to the respondent?"

In the cases of the *Cadzow Coal Company v. Hassan* and *John Watson Limited v. Fitzpatrick* the employers had given notice under section 14 of the Workmen's Compensation Act of 1923 of intention to diminish the rate of compensation, and had made an application for a reference to a medical referee under Schedule I, par. 15, of the Workmen's Compensation Act 1906 and section 11 of the Act of 1923, which in each case had been granted on the same date as that on which the interim award was made. In the case of *John Watson Limited v. Scullion* the interim award was made while an application for a reference to a medical referee was undisposed of. In the case of *M'Andrew & Company v. Barkausas* the interim award was made in an application for the review of an award of compensation for partial incapacity. In the case of *John Watson Limited v. Collins* the employers had applied for review of an award of compensation for partial incapacity, and had refused to pay compensation subsequent to the date as at which they sought to have the compensation ended or diminished. They had thereupon been charged to make payment. No separate argument was presented in the cases of *Barkausas v. John M'Andrew & Company* and *John Watson Limited v. Collins*.

Argued for the appellants — Section 14 of the Act of 1923 was not intended to deprive the employers of the right which they formerly had to withhold or diminish the payments on the ground that the workman's incapacity had *de facto* ceased or become less. The intention was merely to simplify procedure in certain specified circumstances in accordance with the general purpose of the Workmen's Compensation Acts to provide a summary and informal method of obtaining compensation — *Hutchison v. Cadzow Coal Company*, 1924 S.C. 421, 61 S.L.R. 345; *Rankine v. Alloa Coal Company*, 1903, 5 F. 1164, 40 S.L.R. 828. This was also apparent from the other procedure provided by the Act — Willis' Workmen's Compensation (22nd ed.), pp. 276, 277. "End or diminish" in the section meant ending or diminishing permanently, and did not apply to cessation of payment until a question as to the alteration with capacity of the workman had been decided. The right to compensation ended on the date when incapacity ceased — *Wishart v. Gibson & Company*, 1914 S.C. (H.L.) 53, and the Act of 1923 should not be interpreted so as to give the workman compensation after that date.

Argued for the respondent — The terms of the section clearly prohibited the employer from terminating the compensation at his own hand except so far as allowed to do so in the circumstances which it specified. *Wishart v. Gibson & Company* (cit.) did not decide at what date the right to compensation ended, but merely that the arbitrator might antedate his award. The section did not impose any hardship on the employer, who could stop payment on obtaining a certificate that the workman had recovered from incapacity, or under

proviso (ii) pay the compensation into Court pending the settlement of the dispute.

At advising—

LORD PRESIDENT (CLYDE)—In the first four of these cases (which were treated as identical and were heard along with the other two), the workman had been in receipt of compensation from his employer in respect of an admission by the latter of his liability (but without any recorded memorandum of agreement) for some time. Then the employer, on the ground that the workman had recovered his capacity, either wholly or partly, ceased payment, or diminished the amount of the payment, as the case was. Whereupon the workman, alleging that his incapacity remained unaltered, applied for arbitration under the 1906 Act, and included in his initial writ a crave for an interim order on the employer to continue the payment of the weekly compensation at the same rate as before until the issue of an award in the arbitration. This crave was founded on the provisions of section 14 of the Workmen's Compensation Act 1923. In each case the learned arbitrator ordered the employer to pay compensation at the old rate "until further order," subject to the reservation of the employer's right to pay the money into Court on complying with the conditions contained in sub-section (c), section 14. The question put to us is whether the arbitrator was entitled to make this interim order?

The main argument presented by the employers (appellants) was on the construction of section 14, which is certainly not free from the obscurity which seems inseparable from every attempt of the Legislature to express its will in this department.

The employers pointed out that notwithstanding the negative form of section 14, that enactment does in effect give them a positive right to "end or diminish" the weekly payments in the cases defined. They said that even if the words "end or diminish" are taken at their lowest meaning—namely, as implying only a power to interrupt or alter the weekly payments, without prejudice to the question of the employers' liability for them as such liability may be ultimately determined—this was a measure of protection given them by the Act of 1923.

The final proviso of the section enacts that nothing in it is to have the effect of authorising an employer to "end or diminish" the payments in any case in which, or to an extent to which—*apart from the section*—he would not be entitled to do so. Now there is, I think, no doubt that under the Act of 1906 an employer had no right—apart from agreement or decree-arbitral—to interrupt or alter the amount of the weekly payments except in accordance with whatever might be the true state of facts with regard to the recovery by the workman of his capacity. Thus if the workman had truly recovered capacity, the employer's liability for the statutory compensation was thereby brought to a conclusion, and the employer was com-

pletely justified in ceasing to pay any, and continued to be so justified until a recurrence of the workman's incapacity supervened. So with a partial recovery of capacity and a corresponding diminution of the weekly payments. That seems to be the result of the discussion of this aspect of the subject by the House of Lords in *Wishart v. Gibson*, 1914 S.C. (H.L.) 53. But under the Act of 1906 the employer had to act on the best information he could get, and on the best opinion he could form. Section 14 of the 1923 Act therefore gives him a certain measure of protection, for he is now definitely entitled to "end or diminish" the weekly payments—even if only in a provisional sense—whenever one of the defined cases occur, apart from the true state of the facts with regard to the workman's capacity, and apart from any inquiry or opinion on the part of the employer with reference to those facts.

But the employers in the present case went on to argue that because the section gives them this measure of protection, therefore its negative shape might be disregarded, and the section construed as an enabling one in their favour. In that view they would be as free as ever to interrupt, or alter the rate of, the weekly payments in any case in which their information as to the workman's recovery of capacity seemed to them to justify that course—the workman being of course entitled, if he disputed the fact of his recovery, to operate a remedy by recording a memorandum of agreement or by resort to arbitration. This contention appears to me to be an impossible one. Taking the words of the section in their ordinary meaning, it seems to me that they clearly go at least thus far, that the employer may not interrupt or alter the weekly payments except (a) "in pursuance of an agreement," or (b) "in pursuance of arbitration" (whatever that may mean), or (c) in the cases defined.

In the opening speech for the employers another and (at first sight) important objection was made to the interim orders on the double ground (1) that the learned arbitrator had no jurisdiction to pronounce the interim orders at all, and (2) that if he had he had exceeded his jurisdiction, or at any rate erred, in pronouncing orders in the unqualified form which he adopted. It was said that the interim orders actually pronounced had the effect—contrary to the whole scheme and meaning of the Workmen's Compensation Acts 1906 and 1923—of making the weekly payments ordered irrecoverable even although it should be ultimately ascertained that the workman had regained capacity at the date when the employer interrupted or altered the weekly payments and had maintained it thereafter. The latter ground of objection raises the large question whether the consequences of action by the employer under any of the sub-heads of section 14 of the Act of 1923 are (a) such as conclusively to affect his liability for compensation, either generally for the future, or particularly for such future period as may elapse before the question of his

liability is determined in the usual way, or are (b) such as to affect it only provisionally or conditionally by way of what I may call a regulation of interim possession. In the latter view the payments would not be even suspended but merely withheld in whole or in part pending a determination of the employers' liability. The question turns on the precise meaning to be given to the words "end or diminish" as used in section 14. But the course taken by the employers' senior counsel makes it unnecessary to consider any of these questions, and impossible to decide any of them in these cases. He declared himself unable to contest the view which was put forward on behalf of the workman, that the Act of the employer in interrupting or altering the weekly payments—not being acquiesced in by the workman—raised a question "as to the liability to pay compensation under this Act" within the meaning of sub-section (3) of section 1 of the principal Act, and was therefore properly dealt with by the learned arbitrator in the form of the interim orders. Accordingly while the employers' senior counsel did not formally withdraw this part of the case, he declined to present any argument upon the question of jurisdiction or on the form of the orders.

We must in these circumstances take the case upon the footing that the only objection to the interim orders on which the employers insist in these cases is that which turns on the negative character of the provisions of section 14 discussed in the former part of this opinion. For the reasons there explained I think this attack fails, and it is therefore our duty to answer the questions put in all the cases in the affirmative. But I desire expressly to reserve my own opinion on the other objections to the interim orders alluded to above, should these be raised in any future case, and I must not be supposed to indicate any view with regard to their merits either way.

*Suspension—John Watson, Limited
v. Frank Collins.*

This is an appeal from the Sheriff-Substitute's refusal to suspend a charge by a workman against his employers, proceeding on an award of statutory compensation obtained in May 1923. The employers interrupted the weekly payments in January 1924, and three weeks later applied for review of the compensation on the ground that in January the workman had recovered capacity, or at any rate that his incapacity had then lessened, and in any case that—as the workman had then become fit to earn his former wage—the weekly payments should be suspended. The workman then executed the charge which the employers, following the course laid down in *Wishart v. Gibson*, seek to suspend.

It will be seen that the substantial questions raised by this suspension are the same as those raised in the four cases I have already dealt with. No separate argument was presented on the suspension. We cannot in the circumstances explained above consider either the competency or the effect, or even the propriety, of refusing to suspend a charge which proceeds upon an

award of statutory compensation—limited (*prima facie* at any rate) to the period of actual incapacity—when the question of actual incapacity is in dispute. For these questions, although brought into prominence by this suspension, are precisely those on which the employers did not insist in their contentions at the debate.

I think we have no alternative except to affirm the judgment in the Court below. But the reservation I have already made applies to this case also.

*William Barkausas v. John M'Andrew
& Company, Limited.*

This Stated Case is practically in the same position as the first four. Compensation was awarded to the workman in January 1923. In November 1923 the employers applied for review. In April 1924 the workman moved in that application for an interim award at the old rate, and the Sheriff-Substitute granted the motion. Exactly the same considerations apply to this Stated Case as led me to the opinion (in the first four cases) that we must answer the question put to us in the affirmative. But I repeat the reservation already made.

LORD SKERRINGTON—In this group of cases the only question which was fully argued to us and on which we were asked to pronounce judgment related to the construction of section 14 of the Workmen's Compensation Act 1923. In all these cases the learned arbitrators took what seems to me clearly the correct view of the meaning of the section. It was maintained by counsel for the appellants (the employers) that section 14 left to an employer the same freedom to discontinue or to diminish at his own hand a weekly payment as he enjoyed before the Act of 1923 came into force. I cannot agree with this view. The section is, in my judgment, a restrictive enactment which was intended to limit the powers formerly enjoyed by employers while adding nothing to these powers except in regard to procedure. This appears from the initial words of the section, which are negative and prohibitory, and also from the final proviso. The appellants' counsel argued that the words "end or diminish" as used in section 14 bore a special and narrow meaning which must be ascertained by reference to paragraph 16 of the First Schedule of the Act of 1906. The answer to this suggestion is that the context of that paragraph shows that the words in question as there used referred exclusively to something which was to be done by agreement between the parties or by an arbitrator, whereas the scope and context of section 14 of the Act of 1923 is much wider and refers to something which an employer may do entirely at his own hand in some cases, or in other cases with the sanction of a medical practitioner or of a medical referee. The plain object of section 14, as I read it, was to regulate and restrict a practice which though within the legal rights of an employer under the Act of 1906 as interpreted by the House of Lords in the case of *Wishart v. Gibson & Company*

(1914 S.C. (H.L.) 53) was thought to bear hardly in some cases upon a workman who, after successfully vindicating his right to receive a weekly payment of compensation, found himself deprived of the fruits of his victory by the uncontrolled will of his employer until he had emerged successfully from the ordeal of a litigation in regard to his supposed recovery.

The appeals ought, in my judgment, to be disposed of in the sense which I have indicated.

LORD CULLEN—I agree with the construction placed on section 14 of the Act of 1923 by the arbitrator in its application to the present case—*Bent Colliery Company v. O'Hare*. The view advanced by the appellants is that when the first part of the section speaks of an employer not being entitled to end or diminish a weekly payment, it means to refer to a final ending or diminishing of his liability to make the payment. But that is what an employer had no power to do at his own hand, and therefore, as it seems to me, the disablement or prohibition enacted by the section must be read as directed against *de facto* cessation of payment by the employer subject to the defined exceptions. On the appellants' construction the prohibition effects nothing, and the section is solely an enabling one in favour of the employer, providing him with new facilities for finally terminating his liability in whole or in part. I am unable to construe the section in that way. The methods of terminating liability provided by the principal Act, by agreement or arbitrator's award, continue, and what section 14 enacts, as I read it, is that short of justification derived from an agreement or award the employer is not to be entitled to discontinue making a weekly payment in whole or in part at his own hand. Accordingly the appellants were, I think, in the wrong when they refused to continue making, except in part after 17th January 1924, the weekly payment for which they had antecedently admitted liability to the respondent O'Hare.

If the view above expressed is right there is no difficulty as to the workman's remedy against the cessation of payment contrary to the provision in section 14, if he holds an arbitrator's award or an agreement recorded or recordable. In cases such as that of the respondent O'Hare section 14 does not itself directly provide a remedy. What has happened is that the respondent initiated arbitration proceedings, partly to have the main question of continuing liability determined and partly craving an award in the meantime against the appellants for the continuance of the weekly payment which they had at their own hand refused in part to pay, and the arbitrator under the latter head has made the award craved. His jurisdiction to do so is challenged by the appellants. The respondent in answer founds on section 1, sub-section (3), of the principal Act, which relegates questions of liability, failing agreement thereon, to arbitration. He advances the view that section 14 of the Act of 1923, on his construc-

tion of it, imposes a new species of liability on the employer, and that as the Acts fall to be read together the result is that if the employer disputes his liability under section 14 it is to be understood that the dispute is covered by the arbitration provision in section 1 (3) of the principal Act. The alternative view would seem to be that the workman should take his remedy by ordinary action in a court of law—a course which does not seem to harmonise easily with the general scheme of the legislation. The Dean of Faculty with his habitual candour announced in the course of his reply that he had become convinced of the soundness of the respondent's argument on this head of the case. He did not in terms withdraw the question from adjudication, but standing the appellants' argument as it thus does I have not been convinced by it that the view taken by the learned arbitrator was wrong. I am accordingly of opinion that the question submitted should be answered in the affirmative.

For the same reasons I think that the questions submitted in the other five cases which were heard at the same time as that between the *Bent Colliery Company* and *O'Hare* should also be answered in the affirmative.

LORD SANDS—In the view which I take section 14 of the Workmen's Compensation Act 1923 must be interpreted in the light of the history of this branch of legislation and the decisions thereon. Compensation to an injured workman under the Act of 1906 is payable only during the continued subsistence of incapacity. But if the employer asserts and the workman denies complete recovery the matter cannot be instantly determined and it falls to be referred to arbitration. The question arose as at what date, in the event of the employer being eventually successful, the liability must be held to have terminated. Three different dates were suggested—the date of recovery as finally ascertained, the date of initiation of proceedings in the arbitration to have the matter determined, and the date of the determination. It was eventually decided in the Court of last resort that the first-mentioned of these three dates—the date of recovery—was the date as at which liability ceased—*Wishart v. Gibson & Company*, 1914 S.C. (H.L.) 53. In the general case an ultimate right to an accounting was not a satisfactory remedy to an employer who went on paying pending the dispute. Accordingly the employer where there was no recorded agreement ceased paying pending the arbitration; where there was a recorded agreement upon which he could be charged, his remedy, if so charged, was to suspend the charge.

In relation to any proposed action by the Legislature to modify this situation there were two conflicting considerations. On the one hand the right to an ultimate accounting did not hold an even balance between the employer and the employed. On the other hand eventual right to payment if he was successful did not furnish the workman with his aliment week by week.

Such was the position of matters and such were the conflicting considerations when the Act of 1923 was passed. I interpret section 14 of the Act stated in the form of a direction to the employer as follows (I leave out of account partial disability which would only confuse the statement):—“Where you, the employer, assert that the workman has recovered, but that is not agreed to by him or determined by arbitration, you are not to make yourself the judge of the matter and stop the payments unless indeed the man has actually returned to his work. The course you must follow is to get a medical certificate of recovery and serve this certificate upon the workman with a notice that after ten days you will stop payment of compensation. In that case if within the ten days you do not receive a counter medical certificate from the workman that he has not recovered you may cease to make the payments, but if you do receive such a certificate the whole matter may be determined by the medical referee. In this last case, however, in order that you may not be prejudiced by the risk of not recovering what you pay to the workman, instead of continuing the payments you may consign the amount of the payments in Court to await the ultimate determination of the matter.”

That appears to me to be the fair import of the section. The appellants contend that by implication the section though expressed negatively confers upon the employer a new right to terminate the compensation finally. In the light of the history of the matter I should have great difficulty in accepting this view. But in any case it seems to be excluded by the consideration that one of the cases where cesser of payment is sanctioned is where the workman has “actually returned to work.” That might be temporary and tentative, and the workman might after a day or two be found to be quite unable to continue the work owing to the injury which he had suffered.

“The general saving clause (iii) was not very satisfactorily elucidated in argument, but its terms appear to me to be inconsistent with the general arguments submitted by the appellants.

I agree with your Lordship in the chair that the argument submitted does not enable us satisfactorily to deal with a question of the competency of an interim award.

The Court answered the question of law in the affirmative and dismissed the appeal.

Counsel for the Appellants—Dean of Faculty (Sandeman, K.C.)—Marshall. Agents—W. & J. Burness, W.S.

Counsel for the Respondents O'Hare, Hassan, Fitzpatrick, Scullion, and Collins—Solicitor-General (Fenton, K.C.)—Keith. Agents—Simpson & Marwick, W.S.

Counsel for the Respondent Barkausas—Aitchison, K.C.—Gibson. Agents—W. G. Leechman & Company, Solicitors.

Thursday, July 3.

FIRST DIVISION.

[Lord Murray, Ordinary.]

GLASGOW PARISH COUNCIL v. CROMDALE PARISH COUNCIL AND DUNDEE COMBINATION PARISH COUNCIL.

Poor—Settlement—Residential Settlement—Constructive Residence—Computation of Three Years' Residence—House Acquired but not ready for Occupation at Commencement of Period—Poor Law (Scotland) Act 1898 (61 and 62 Vict. cap. 21), sec. 1.

The father of a pauper vacated his house in the parish of A a week or ten days prior to 28th May 1895 with the intention of removing to the parish of B, where he had taken a house with entry at 28th May 1895. By that date the eldest daughter and two of the younger children had removed to the parish of B, where the eldest daughter took over the keys and was preparing the new house for occupation, she and the two children residing meanwhile with relatives there. A few days after the 28th May 1895 the house was ready for occupation, and the father with his wife and the other children removed from the parish of A to the parish of B, where he and his family then took up residence. On 28th May 1898 he removed with his family from the parish of B to Glasgow, where he died in October 1898. *Held* that the father had not acquired a residential settlement in the parish of B.

Poor—Settlement—Derivative Settlement—Death of Father without Residential Settlement—Derivative Settlement from Widowed Mother.

Where the father of a pauper had died without having acquired a residential settlement and the surviving mother had acquired by residence a settlement for herself, *held* that the pauper on reaching puberty had a residential settlement derived from his mother. *Crieff v. Fowles Wester*, 1842, 4 D. 1538, *followed*.

The Parish Council of Glasgow raised an action against the Parish Council of Cromdale and the Parish Council of Dundee Combination concluding for declarator, *inter alia*, that Frederick Meldrum, then an inmate of Woodilee Asylum, Glasgow, had a subsisting parochial settlement in the parish of Cromdale, and for decree against the said parish for payment of £187, 11s. 2d. expended for behoof of the said Frederick Meldrum. Alternatively the summons concluded for declarator that the said Frederick Meldrum had, when he became chargeable to the pursuers, a parochial settlement in the parish of Dundee Combination, and for decree against the said parish for the said sum.

The following narrative is taken from the opinion of the Lord Ordinary:—“In this action the Parish Council of the Parish of