

The evidence of Mr. McIntosh is that after plaintiff returned to work, he, McIntosh, was passing the boiler shop one morning and spoke to plaintiff, asking him how he was feeling. Plaintiff replied that he was getting better. McIntosh said he had the \$30 for him, if he wanted to come and get it. Plaintiff said he would like to see Wickens first, and asked, "would you telephone for me." McIntosh says he did telephone, and got word that Wickens would come, but, as I have said, Wickens did not come. McIntosh said further that a few days after and when passing the boiler shop again, plaintiff asked him if Wickens had been there, or if he (McIntosh) had heard. McIntosh replied that he had not heard. Then plaintiff said: "Well, I guess I won't wait; I want to close it up; so I will take the \$30." McIntosh then said: "All right, I will be back in the office in a little while, and I will send for you." Plaintiff, after a little, went to the office. McIntosh said, "Bob, this will clean the thing up." The receipt had been prepared. It was written out, and the indorsement on the cheque was made. . . . "I took him over to the second standing desk in the office, and I said: 'Bob, this cleans the whole thing up; you had better read it.' He said, 'I have not my glasses,' and I said, 'I will read it to you.' I read it aloud and very distinctly, standing close to him, and he signed it in my presence. I turned over the cheque, and I said: 'This is the cheque, made payable to me; I have indorsed it to you; you sign it, and I will put it in the deposit and cash it for you.' He signed it, and I gave him the \$30, and I said, 'Bob, this cleans the thing all up.'"

This evidence presupposes a settlement with Wickens, and there was no such settlement in fact. The evidence of Wickens is that he had only one interview with plaintiff, and then plaintiff told him he would be laid up for 2 or 3 weeks. Wickens states: "I told him I was sorry for him; I told him that if he would be satisfied perhaps I could get him enough to pay him for 3 weeks. . . . He said he was surprised—that he did not expect to get anything." So Wickens left and made a report to his company which resulted in his company sending a cheque to defendants for \$30. Wickens did not explain to plaintiff why he (Wickens) was to give plaintiff the \$30, and he did not tell plaintiff that the company were amenable in any way, but he did tell him that "the company had a policy covering the McIntosh