

whom he shewed a swelling on his chest, but he made no claim and did not then know that he could do so. The swelling abated and the plaintiff resumed work on 27th July, with another employer. After this the plaintiff had no trouble except tenderness and intermittent pain, until February or March, 1911, when the swelling again commenced and a tubercular abscess formed. In February he thought it sufficiently serious to put down the date of the accident so that he could remember it. The plaintiff worked on and off for different employers earning full wages until May 25, 1911, when, after consulting a doctor he underwent an operation in August, 1911. In June, 1911, he told the defendant he had been ordered into a hospital but even then made no claim, and it was not till July 18, 1911, that a claim for compensation was made by the plaintiff's solicitor, and liability was denied. The County Court Judge held that notice of the injury was not given "as soon as practical after the happening thereof," and that the plaintiff had failed to shew that the defendant was not prejudiced in his defence by such want of notice and that the failure to give such notice or make a claim was not occasioned by "mistake or other reasonable cause," and he therefore dismissed the claim; and this judgment was affirmed by the Court of Appeal (Cozens-Hardy, M.R., and Moulton and Buckley, L.JJ.), the Court of Appeal holding that where notice has not been given as required by the Act the onus is on the plaintiff to shew that the defendant has not been prejudiced or if he has been prejudiced then the omission was occasioned by "mistake or other reasonable cause." That the mistake referred to in the section in question is one of fact and not of law. Some observations of Lord Adam in the case of *Rankine v. Alloa Coal Co.*, 41 Sc. L.R. 306, in which a wider meaning is given to the word mistake are adversely criticised, and dissented from.

EMPLOYERS' LIABILITY ACT—EVIDENCE — STATEMENTS BY DECEASED WORKMAN AS TO CAUSE OF INJURY—DECLARATION AGAINST INTEREST.

*Tucker v. Oldbury* (1912) 2 K.B. 317. This action was brought to recover damages for the death of a deceased workman. The Judge of a County Court who tried the action rejected evidence offered of statements made by the deceased as to the nature and cause of an injury to his thumb which ultimately resulted in his death. The evidence was to the effect that the deceased had told the defendants' manager when asked what