

allowed the appeal, holding that the taxation should have been as between the trustees and their solicitor, and whatever costs were properly payable by the trustees should have been allowed them irrespective of the ultimate incidence of such costs. He also held that the prospective costs of completing the final distribution of the estate might also be properly allowed upon such taxation, though such prospective costs would not be properly taxable on a partial or interim distribution.

"IT is gratifying that the common-sense interpretation placed by the First Division upon the term "accident" as used in the Workmen's Compensation Act has now received the approbation of the House of Lords in *Fenton v. J. Thorley and Co.* (7th Aug. 1903). The term came up for construction in Scotland in two cases which are reported consecutively in the current volume of the Session Cases. The first is that of *Stewart v. Wilsons and Clyde Coal Company Limited* (1902, 5 F. 120), where a workman was injured through straining his back in replacing a derailed hutch. The court refused to be led aside by metaphysical disputations on the doctrines of chance and casuality, and held that the workman had suffered from an "accident" which entitled him to compensation under the Act. "If such an occurrence as this cannot be described in ordinary language as an accident," says Lord Kinnear, "I do not know how otherwise to describe it." Somewhat similarly in the other case of *Golder v. Caledonian Railway Company* (1902) 5 F. 102, where a workman was injured through jumping off a bogey in the course of his employment, compensation was awarded, although it was proved that the shock which he sustained would probably not have proved fatal had he not been suffering from disease at the time. Here, of course, it was argued, though unsuccessfully, that death was due, not to the "fortuitous" element of accident, but to the disease. Nevertheless the court held that he had sustained an "injury by accident" within the meaning of the Act. With the decision in *Stewart's* case Lord Macnaghten expressed himself as in entire agreement, and Lord Robertson's observation seems to apply with equal pertinence to each of these three cases: "No one out of a law court would ever hesitate to say that this man met with an *accident*." The Act plainly intended that the term "accident" should be understood in its ordinary acceptation, and the House of Lords has now ensured that it shall be so understood."—*Law Times, Eng.*