The defendant denied making the agreement, denied that Wilcox and Pardee were, or that John B. Pardee was, his agents, or agent, or had his authority to make such an agreement, and pleaded the Statute of Frauds as a defence.

At the trial, an application to amend was made by the plaintiff by adding to the paragraph of the statement of claim, before set out, these words: "and a further note or memorandum of which is also in writing and signed by the defendant." Which note or memorandum, consisting of an entry made at the time by the defendant in his note-book, is as follows:—

"June 15. Sold 28½ feet, N. Queen, to J. B. Pardee, price, $225 00 per foot, one 3/1 cash.

Total purchase price $6,412 50

3/1 cash, $2,132.50.

Balance of O.B. equity payments, Dec. and June. Interest 7%. Keenan payments to be assumed as per agreement. Cost of property.. 4,788 00

$1,624 50

After some evidence had been given, the amendment was allowed. This memorandum was unsigned, but it is said the "O.B. Equity" means the defendants' equity in the lands, and that, therefore, this memorandum, written by himself, in which he uses the initials of his name, is a sufficient signature under the statute. The memo', however, was made in the course of the negotiations, and when made it is clear no agreement had then been arrived at.

The learned trial Judge was of the opinion: (1) that the defendant had appointed Mr. Pardee his agent, and had authorized him to make the agreement in question, and (2) that the agreement referred to, and set out in the statement of claim, was sufficient to satisfy the Statute of Frauds.

My difficulty is to accept the first proposition, which, with deference, I think was not proved. This proposition seems to divide itself into two questions: (1) was Mr. Pardee an agent for the defendants for any purpose? and (2) if he was, was he or his firm authorized to make the particular agreement sued on? And, I think, both should be answered in the negative. They are both, of course, questions of fact, and in dealing with them I am bound to regard