

rent payable under the lease, while all the time the burgh authorities would have in their pocket what represented the capitalised assessment on the footing that this ground would never be let again. I think that consideration, in addition to those which your Lordship in the chair has referred to, makes it plain that this is not revenue from heritage at all, and therefore does not fall to enter the valuation roll.

LORD CULLEN—If the ground in question be regarded as a separate subject of valuation, it seems to me to be quite clear that the sum of £8201, 15s. 10d. can in no sense be treated as rent paid for the ground or as representing the annual lettable value of it. It is something quite different in its nature. Now if that be so, I am unable to see how, by proceeding to treat the ground and the rest of the harbour property as a *unum quid*, the sum of £8201, 15s. 10d. can be regarded as a contribution of annual lettable value made by the said ground to the total annual lettable value of the undertaking as a heritable subject of valuation. It no doubt enters the harbour accounts as part of the receipts during the year, but, looking to its true nature, it is not a receipt on which it is possible to base a calculation of the amount of rent which a hypothetical tenant might be expected to pay for the subjects.

The Court were of opinion that the determination of the Valuation Committee was wrong.

Counsel for the Appellants—Cooper, K.C.—Constable, K.C.—E. O. Inglis. Agent—James Watson, S.S.C.

Counsel for the Assessor—Cree, K.C.—Kemp. Agent—P. G. Dunn, Assessor.

COURT OF SESSION.

Thursday November 21.

FIRST DIVISION.

GLASGOW COURT-HOUSES COMMISSIONERS v. GLASGOW PARISH COUNCIL.

Local Government—Poor and School Rates—Crown—Exemption—Poor Law Amendment (Scotland) Act 1845 (8 and 9 Vict. cap. 83)—Education (Scotland) Act 1872 (35 and 36 Vict. cap. 62).

The Poor Law Amendment (Scotland) Act 1845, section 34, and the Education (Scotland) Act 1872, section 44, provide that the assessment for poor rates and school rates shall be levied one-half upon owners and the other half upon occupiers. The Crown is not named in the statutes as liable to assessment.

A statutory body of commissioners were created in 1836, with additional powers by subsequent statutes, for the purpose of holding certain buildings in

Glasgow. The buildings were used for various public purposes—Justiciary Court, Sheriff Court, Justice of the Peace Court. Under their statutory powers the commissioners had let certain portions of the buildings held by them to the County Council of Lanark for administrative, sanitary, and police purposes. For the other buildings and portions of buildings they received no rent.

Held, in a special case, that the commissioners were not liable for occupiers' rates, nor for owners' rates in respect of the unlet portions but only for owners' rates in respect of the portions let.

Coomber v. Justices of Berkshire, 1883, 9 App. Cas. 61, followed and applied.

The Poor Law Amendment (Scotland) Act 1845 (8 and 9 Vict. cap. 83), section 34, enacts—"When the parochial board of any parish or combination shall have resolved to raise by assessment the funds requisite, such board shall . . . resolve as to the manner in which the assessment is to be imposed, and it shall be lawful for any such board to resolve that one-half of such assessment shall be imposed upon the owners and the other half upon the tenants or occupants of all lands and heritages within the parish or combination rateably according to the annual value of such lands and heritages. . . ."

The Education (Scotland) Act 1872 (35 and 36 Vict. cap. 62), section 44, enacts—" . . . The school board of each parish and burgh shall annually . . . certify to the parochial board . . . the amount in the deficiency of the school fund required to be provided by means of a local rate, and the said parochial board is hereby authorised and required to add the same under the name of 'school rate' to the next assessment for relief of the poor, and to lay on and assess the same, one-half upon the owners and the other half on the occupiers of all lands and heritages, and to levy and collect the same along with the assessment for relief of the poor when that assessment is so imposed and levied. . . ."

A Special Case for the opinion and judgment of the Court was presented by the Glasgow Court-Houses Commissioners, incorporated by the Glasgow Court-Houses Amendment Act 1872 (35 and 36 Vict. cap. vi) (*first parties*), and the Parish Council of the Parish of Glasgow, incorporated under the Local Government (Scotland) Act 1894, who administered the Poor Law Amendment (Scotland) Act 1845 and collected the poor rates thereby authorised as well as the school rates authorised by the Education (Scotland) Act 1872 (*second parties*).

The following facts were stated in the Case:—The Glasgow Court-Houses Commissioners were charged with the statutory duty of providing court-house buildings for the city of Glasgow and the Lower Ward of the county of Lanark, and also courts for the sittings of the High Court of Justiciary on circuit for the city of Glasgow and

surrounding districts. The Commissioners incorporated in 1872 came in place of the unincorporated body of Commissioners appointed by the first Glasgow Court-Houses Act 1836, and at the time of this Special Case they administered the following local and private Acts, all relating to the Glasgow Court-Houses—(1) the said Glasgow Court-Houses Act 1836 (6 Will. IV. c. xxiv); (2) The Glasgow Court-Houses Act 1856 (19 and 20 Vict. c. xxxv); (3) The Glasgow Court-Houses Amendment Act 1868 (31 and 32 Vict. c. lxxxix); (4) The Glasgow Court-Houses Amendment Act 1872 (35 Vict. c. vi); (5) The Glasgow Court-Houses Amendment Act 1882 (45 and 46 Vict. c. lxxxii); and (6) The Glasgow Court-Houses Act 1890 (53 and 54 Vict. c. lviii). They also carried out and administered, so far as applicable thereto, the Glasgow Municipal Buildings Act 1878 (41 Vict. c. lxxix), and the Public General Statutes relating to Sheriff Court-Houses, cited as the Sheriff Court-Houses (Scotland) Acts 1860 to 1884, viz., 23 and 24 Vict. c. 79, 29 and 30 Vict. c. 53, and 47 and 48 Vict. c. 42. Since 1836 the Commissioners had from time to time acquired lands and heritages, and had built, furnished, and equipped, and were maintaining and regulating, all under said various Acts of Parliament relating thereto, extensive Court-House Buildings known as (1) The County Buildings, Glasgow, and (2) The Justiciary Court Buildings, Glasgow. The County Buildings comprised the whole block bounded by Ingram Street on the north, Brunswick Street on the east, Wilson Street on the south, and Hutchison Street on the west. These buildings were used for (first) the Sheriff Courts of the lower ward of the county of Lanark and the Sheriffs Appeal Court for the whole county, and (second) the Justice of the Peace Courts for the county of the city of Glasgow and also for the county of Lanark. Accommodation was provided within the buildings also for the offices of the Sheriff-Clerk of the county of Lanark and his deputies, the Clerk to the Justices of the Peace for the county of the city of Glasgow and for the county of Lanark, the Procurator-Fiscal of the county of Lanark and the Fiscal of the Justice of the Peace Court, and the subsidiary employees. There was also a dwelling-house consisting of four rooms and kitchen occupied by the superintendent of the buildings, who was a servant of the first parties. Further, under the terms of the Glasgow Court-Houses Act 1890 (53 and 54 Vict. cap. xlviii), section 18, the Commissioners were empowered to sell or let to the County Council of the County of Lanark any portion of the lands, houses, and other property which the Commissioners then possessed or which they might acquire, and under these powers they had leased the following portions of the County Buildings—(1) To the County Council of the County of Lanark for their meetings and general business, three rooms at a gross rental of £121, 2s. 10d. (2) To the said County Council, for use as headquarters of the county police for the Lower Ward

of the said county, two rooms at a gross rental of £45. (3) To the District Committee of the district of the Lower Ward of the county of Lanark, for the administration of their sanitary department, three rooms at a gross rental of £100. The gross rentals, however, included payment for the supply of lighting, cleaning, and attendance, and the net rental of the above premises might be taken at £90, £33, and £75 respectively, or £198 in all—the figures agreed to between the Commissioners and the Treasury in settling the annual Treasury allowance for maintenance. The Court-Houses Commissioners also had vested in them the Justiciary Court buildings in Jail Square at the foot of the Saltmarket, Glasgow. These buildings were at the time of the case under reconstruction, but they had been and would again be used for the sittings of the Justiciary Courts in Glasgow, held for the counties of Lanark, Dumbarton, Renfrew, and Ayr, with occasional cases from other adjoining counties. The buildings would also be used for criminal cases tried before the Sheriff and a jury and for pleading diets in Sheriff and High Court cases, and they would also be available for ordinary Sheriff Court purposes should the accommodation in the County Buildings at any time be temporarily overtaxed. A court room with retiring room attached was being provided as an extra Sheriff Court. Board of Trade inquiries and inquiries under special Acts, such as the Fatal Accidents Act, might also be held there in preference to the County Buildings if found more convenient. The Justiciary Buildings also contain a dwelling-house of four rooms and kitchen for the superintendent of the buildings, who was a servant of the first parties. The first parties had not hitherto leased any portion of said Justiciary Court buildings under their powers. The duties of the Court-Houses Commissioners were defined in the series of Acts of Parliament above mentioned, and related solely to the proper provision of court-houses within the city, and their maintenance and regulation.

Under the provisions of the Sheriff Courts (Scotland) Acts, 1860 to 1884, the Commissioners of His Majesty's Treasury made the following annual payments for the maintenance of the Court-Houses Buildings—(1) For the County Buildings, sheriffs' department in Wilson Street and Ingram Street, £2546, 10s. (2) For the Justiciary Buildings then under reconstruction a provisional allowance of £370, subject to readjustment when the Justiciary Buildings were completed. (3) For extraordinary expenditure an annual allowance was made for County Buildings of £143, 10s. No annual allowance was made by the Treasury for the maintenance of the Justice of Peace department, the cost of which was provided from a local assessment. The Commissioners of His Majesty's Treasury voluntarily made an annual contribution to the local assessing authorities in lieu of payment of occupiers' poor and school rates and municipal assessments in respect

of all property occupied by Government departments. No account was taken by the Treasury of the rates leviable upon owners. The County Buildings and the

Justiciary Court Buildings were entered in the valuation roll for the city and royal burgh of Glasgow for the current year as follows, viz. :—

Parish of Glasgow, 1912-13.

Section	Description	Situation	Proprietor	Tenant	Occupier	Yearly Rent or Value
1375						
105	Sheriff and Justice of the Peace Court-House and offices	149 Ingram Street	Glasgow Court-House Commissioners, per W. Boyd Anderson, 137 St Vincent Street, Glasgow	The Commissioners of His Majesty's Treasury, the Justices of the Peace for the county of Lanark and the Justices of the Peace for the county of the city of Glasgow	Tenant	£3307 0 0
106	Offices and meeting-rooms	Do.	Do.	The County Council of the county of Lanark	Tenant	90 0 0
107	Constabulary offices	Do.	Do.	The County Council of the county of Lanark	Chief Constable for the county of Lanark and police officials	33 0 0
108	Sanitary offices, &c.	Do.	Do.	The District Committee of the district of the Lower Ward of the county of Lanark	Tenant	70 0 0*
Section 369						
1	Building	Saltmarket	The Glasgow Court-House Commissioners, Glasgow	The Commissioners of His Majesty's Treasury	Tenant	150 0 0

* £75 is the figure adjusted with the Treasury and stated in the case.

In respect of their ownership of the County Buildings and Justiciary Court Buildings the first parties were assessed for the year 1911-12 to the poor and school rates on the sums of £3500 and £150 respectively, which assessments amounted to £204, 17s. 11d. and £8, 15s. 8d. respectively, making together the sum of £213, 13s. 7d. as the amount of the owners' proportion of said rates. The occupier's proportion of said rates had up to and including the year 1911-12, been met by a contribution by the Commissioners of His Majesty's Treasury, who up to and including that year were entered in said valuation and assessment rolls as sole tenants and occupiers of the whole premises in question. Up to and including the year 1911-12 the first parties had been assessed in the owners' proportion of said rates and had paid the same except for the year 1911-12. In making up the accounts for the maintenance and repair of the court-houses for the three years, upon the average expenditure of which the present amount of the Treasury contribution was fixed, and also in 1908 and 1909, when an application which was made for an increased grant was refused, the owners' rates and assessments were entered as a proper expenditure of the Court-Houses Commissioners; but in 1910 this item of expenditure was objected to by the Treasury on the ground that the buildings being public courts for the administration of justice and for carrying on the business of the country fell within the privilege of the Crown and were not liable to assessment for local rates. This item of expenditure was therefore disallowed by the Treasury as not enforceable, and it was intimated that if paid, it could only be considered as a voluntary contribution to local rates by the first parties. The first parties as proprietors had prior to this case paid the local assess-

ments on owners on the assumption that they were legally liable for them; but they were then advised that the rates leviable by the Corporation of Glasgow and the Parish Council upon owners of property could not be legally charged against them.

The contentions of the parties were—The first parties maintain (1) that the entries in the valuation roll for the year 1912-13, above set forth, represent the facts correctly; (2) that the said buildings were vested in the first parties for purposes required and created by Government for the administration of the government of the country, of justice, and of police; (3) that the Commissioners of His Majesty's Treasury and the justices of the counties of the city of Glasgow and Lanark occupied the parts of the said buildings of which they were entered as tenants for the said purposes or one or other of them; or otherwise that the occupiers of the said parts of the said buildings were the judges, sheriffs, and justices who administered justice there; and (4) that the parts of the said buildings of which the County Council of the county of Lanark and the District Committee of the district of the Lower Ward of the said county were entered as tenants were occupied by them respectively for the said purposes or one or other of them. The first parties consequently contended that they were not liable for any local rates, and in particular for the rates levied by the Parish Council of the parish of Glasgow. The second parties, on the other hand, maintained that the first parties, as proprietors of the lands and heritages in question, had no statutory or other right of exemption from rating, and were liable to be assessed in the owners' proportion of the poor and school rates of the parish of Glasgow calculated upon the annual value thereof entered in the valua-

tion roll and parish assessment roll, and that whatever exemption there might be of the tenants or occupiers thereof from payment of the tenants or occupiers' proportion of said rates in respect of the nature of the occupancy, such exemption did not operate to relieve the proprietors of the proportion assessed and levied upon them; that in any event exemption of the first parties in respect of occupancy by them, or alternatively by the Crown for the administration of justice, could only relate to the proportion of the annual value applicable to such occupancy, and the first parties still remained liable in the owners' proportion of the rates due in respect of the rentals paid by the County Council of Lanarkshire. The second parties further contended in regard to the unlet portions of the County Buildings and Justiciary Court Buildings, that the first parties—and not the Crown, or the Treasury as representing the Crown, nor the judges, sheriffs, and justices who administered justice there—were, within the true intent and meaning of the Lands Valuation (Scotland) Acts, the occupiers thereof in respect of the occupation thereof for the purposes of repair and maintenance and regulation, and of supervision thereof by themselves and by their superintendents and servants resident therein, and that in respect of such occupancy the first parties were liable to be assessed in the occupiers' proportion of said rates.

The questions stated for the opinion and judgment of the Court were—"1. Are (a) the first parties, or (b) the Commissioners of His Majesty's Treasury as representing the Crown and the Justices of the Peace for the counties of the City of Glasgow and Lanark, or (c) the judges, sheriffs, and justices who administer justice there, the occupiers within the meaning of the Lands Valuation Acts of the portions of the buildings in question appropriated to the administration of justice? 2. On the assumption that question 1 (a) is answered in the affirmative, are the first parties liable for (a) the owners' rates, and (b) the occupiers' rates assessable in respect of the said portions of the buildings in question? 3. On the assumption that question 1 (b) or 1 (c) is answered in the affirmative, are the first parties liable for the owners' rates assessable in respect of the said portions of the buildings in question? 4. Are the first parties liable for owners' rates assessable in respect of the parts of the buildings in question let respectively (a) to the County Council of the county of Lanark for their general administration, (b) to the said County Council for their police administration, and (c) to the District Committee of the district of the Lower Ward of the said county?"

Argued for the first parties—(1) The entries in the valuation roll were correct. The Glasgow Court-House Commissioners were not the occupiers, and consequently were not liable for occupiers' rates. (2) Even if they were the occupiers, they occupied for public administrative pur-

poses. Occupation for such purposes was constructive occupation of the Crown and consequently—the Crown not being mentioned in the Glasgow Court-Houses Acts—they were exempt from occupiers' rates—*Coomber v. The Justices of Berkshire*, 1883, 9 App. Cas. 61, esp. Lord Blackburn at p. 65 and Lord Watson at pp. 73 and 74 (disapproving of *Clerk v. Dumfries Commissioners of Supply*, July 16, 1880, 7 R. 1157, 17 S.L.R. 774); *Mersey Docks v. Cameron*, 1864, 11 H.L. (Clark) 443, esp. Lord Blackburn at 464; *Greig v. University of Edinburgh*, June 8, 1868, 6 Macph. (H.L.) 97, 5 S.L.R. 620; *Clyde Navigation Trustees v. Adamson*, June 22, 1865, 3 Macph. (H.L.) 100. (3) The same ground of exemption applied equally to owners' rates—*Coomber, cit. sup.*, Lord Blackburn at p. 69. This applied also to the subjects let (106, 107, and 108), though they admitted they were in a less favourable position for the application of the exemption.

Argued for the second parties—The earlier cases, such as *The Queen v. The Overseers of Manchester*, 1854, 3 El. and Bl. 336, and *The Justices of Lancashire v. The Overseers of Stretford*, 1858, El. Bl. and El. 225, were distinguishable from the present, and were decided, not on the ground that there was constructive occupation by the Crown, but on the ground that the premises were occupied as a trust for the public. The later cases, however, of *The Mersey Docks (cit. sup.)* and *Coomber (cit. sup.)* made it difficult for them to argue that there was not here constructive occupation of the Crown so far as the buildings were used for administrative purposes. But the real test of the exemption was exclusive use for the service of the Crown—*Surveyor of Taxes v. Smith*, October 25, 1901, 4 F. 31, 39 S.L.R. 20. Accordingly the exemption should not be extended, beyond constructive occupation of the Crown, to constructive ownership of the Crown. The opinion of Lord Watson in *Coomber (cit. sup.)* at p. 78 seemed to be against this extension, but there was no direct decision on the matter. If it had been intended to give exemption from owners' rates, that would have been provided for in the Court-Houses Act, as was done by the Militia Act (17 and 18 Vict. cap. 106), as held in *M'Isaac v. Mackenzie*, March 3, 1869, 7 Macph. 598, 6 S.L.R. 402.

At advising—

LORD PRESIDENT—The questions put to us here are as to the liability of the Court-Houses Commissioners for poor rates. They are a statutory body, created originally by a statute of 1836, but having had various additions to their powers and establishments by subsequent statutes which it is not necessary more particularly to describe. But the reason and sum of their existence may be described thus: they are a body created simply to hold certain buildings in Glasgow which are used for various public purposes—Justiciary Court, Sheriff Court, Justice of the Peace Court.

Now the present state of the occupation of the property is quite well brought out

by the entry in the current valuation roll of 1912-13. That shows that there is a block of buildings, part of which is put under the figure 105 in the roll, and consists of what I may call the Sheriff Court buildings. For them no rent is paid by anybody, and the entry put in the roll as tenant and occupier is "The Commissioners of H.M. Treasury, the Justices of the Peace for the County of Lanark, and the Justices of the Peace for the County of the City of Glasgow," this part of the building being used for the purposes of the Sheriff Court and the Justice of Peace Court. Then there are three smaller parts of the same building, 106, 107, and 108, which are let by the Court-Houses Commissioners in virtue of their powers under their recent Act of 1890, section 18, to the County Council of Lanark, and are occupied by the County Council and by the District Committee of the Lower Ward for general administrative, sanitary, and police purposes. Then there is also the Juxtiary Court Buildings in Jail Square, which are used for judicial purposes only.

Now the substance of the questions that are put to us is whether there is a liability on the first parties in respect of these buildings (1) for occupiers, and (2) for owners' rates.

It is useless to go at any length into the origin of these questions, because the whole matter is authoritatively settled by the case of *Coomber v. The Justices of Berkshire* (1883, 9 A.C. 61). In England the rate is upon the occupier; and therefore the rate that was there in question was an occupiers' rate, and the particular results to which the decisions have come are given in that case. I can conveniently quote a passage of Lord Watson's opinion in *Coomber* at p. 72, in which he quotes a passage in Lord Blackburn's opinion in the earlier case of the *Mersey Docks* to this effect—"Long series of cases have established that where property is occupied for the purposes of the government of the country, including under that head the police and the administration of justice, no one is rateable in respect of such occupation. And this applies not only to property occupied for such purposes by the servants of the great departments of State"—he states some of them—"in all which cases the occupiers might strictly be called the servants of the Crown"; and then he goes on giving the authority for each, "but also to property occupied by local police . . . to county buildings occupied for the assizes, and for the judges' lodgings . . . or occupied as a county court . . . or for a jail . . ."

Now in view of these high authorities it is quite useless to go into the reasons from which that result was reached. It is enough for us to apply the result to the facts here, and the application at once answers the question as regards all occupiers' rates, because all occupation by the first parties of these buildings is for public purposes in the sense of Lord Blackburn's judgment.

But then a separate argument has been addressed to us on the question of owners' rates. Now upon the owners' rates generally I think the same case of *Coomber* applies. Lord Blackburn in the course of his opinion, where he had to deal with a Scotch case, *Clark v. Dumfries Commissioners of Supply* (7 R. 1157), which was overruled by *Comber*, observes (p. 69)—"It has been pointed out that in the Scottish poor law half the poor rate is imposed on the owner." Then he goes on to say—"Whether the rate is exigible in respect of property or in respect of occupation the ground of exemption must be the same, viz., as said by the Lord Chancellor (Cairns) in *Greig v. University of Edinburgh*—'The Crown not being named in the English or Scottish statutes on the subject of assessment, and not being bound by statute when not expressly named, any property which is in the occupation of the Crown or of persons using it exclusively in and for the service of the Crown is not rateable to the relief of the poor.'" In other words, the same proposition seems to be true for ownership as for occupation.

I could quite understand that this would not apply if the ownership was really not the ownership of the Crown at all but was the ownership of a private individual, because I do not think there could be constructive ownership of the Crown where a private individual merely lets out the property for occupation by the Crown. But here we have to deal, not with a private individual, but with a statutory body who really exist merely for the purpose of holding. In other words, although not the Crown itself, I think the Commissioners are what may be called an absolutely bare trustee for the Crown, and that accordingly the same class of argument that holds good for occupation holds good for ownership.

Now that solves the question of liability for owners' rates except as regards three of the parcels. I think it solves it wherever the ownership and occupation are both devoted to what is called, in the extended view, Crown purposes. But where the ownership is used to get rent, then I think the matter is altered. Accordingly, so far as 106, 107, and 108 are concerned, I do not think the ownership is a Crown ownership for the moment, because I think that the Commissioners meantime hold these offices really as a mere investment. They have made a building which is too large for their own purposes and they let part of it, as they are allowed to do by the statutes under which they act. By so doing I think they turn the small portion of the building into a mere investment, and in so far as they actually take money and put it into their pocket, I do not think there is any reason for exemption for this investment.

I do not think the questions are framed in a way in which it would be desirable for us to answer them. I do not think it is part of our duty to frame an entry in the valuation roll, which is what the

first question proposes. I should propose^o simply to answer the questions put to us in the case by saying that in the circumstances put before us in the Special Case we consider that there is liability for the assessments in so far as laid upon the owner upon 106, 107, and 108, and that as regards all other owners' assessments and the whole of the occupiers' assessments there is no liability.

LORD KINNEAR and LORD MACKENZIE concurred.

LORD JOHNSTON was sitting in the Lands Valuation Appeal Court.

The Court pronounced this interlocutor—

“Find in answer to the questions of law in the case that in the circumstances set forth in the case there is liability upon the first parties for owners' but not for occupiers' assessments in respect of the items of property entered in the valuation roll for 1912-13 under numbers 106, 107, and 108, but that there is no liability upon them for assessment either as owners or occupiers in respect of the other portions of property held by them as set forth in the case; and decern . . .”

Counsel for the First Parties—Macmillan, K.C.—Hamilton. Agents—John C. Brodie & Sons, W.S.

Counsel for the Second Parties—Murray, K.C.—Hon. W. Watson. Agents—MacKenzie, Innes, & Logan, W.S.

Thursday, November 21.

FIRST DIVISION.

MILNE'S EXECUTOR *v.* TRUSTEES OF BRISTO PLACE BAPTIST CHURCH AND OTHERS.

Writ—Succession—Testament—Deletions in Holograph Will Found in Repositories of Testatrix.

A testatrix left certain testamentary holograph writings. These were found in a closed envelope which was in a locked desk found in a chest of drawers. The key of the desk was in another drawer of the same chest. The envelope was addressed to the brother of the testatrix. In the testamentary writings certain bequests had been deleted or scored, but these deletions were not initialled or otherwise authenticated.

Held, in a special case, that the deletions must receive effect as being alterations made by the testatrix.

Peter Milne, retired farmer, Annerley House, Brechin, executor-dative of Miss Mary Ann Milne, Isla Bank Cottage, Brechin (*first party*), Percival Waugh and others, Trustees of Bristo Place Baptist Church (*second parties*), and the Rev. John Fraser and others, the ministers and elders forming the Kirk Session of the West United Free Church, Brechin (*third*

parties), and the said Peter Milne, as an individual, as sole next-of-kin of Miss Milne (*fourth party*), presented a Special Case for the opinion and judgment of the Court.

The *circumstances* in which the case was presented were—Miss Mary Ann Milne, Isla Bank Cottage, Park Road, Brechin (the testatrix), died domiciled there on 3rd May 1911, aged 75 years. For the last twenty years of her life she resided alone except during the three months immediately prior to her death, during which time she was attended by a domestic servant. The testatrix was from time to time visited by friends and relatives. Her sole next-of-kin was her only surviving brother Peter Milne. The testatrix left certain testamentary writings. After the death of the testatrix the said writings were found by the first party on the day of the death of the testatrix in a closed envelope which was contained in a locked desk found in a drawer of a chest of drawers in one of the rooms of her house. The key of the desk was found in another drawer of the same chest. The envelope was gummed up and addressed in the handwriting of the testatrix as follows—“To Mr Peter Milne, Annerley House, South Esk Street, Brechin.” The envelope was opened by the first party and found to contain the said writings. [The originals of the writings and the envelope in which they were found were made available to the Court at the hearing of the case.] The flap of the envelope had been lost. The writings were holograph of the testatrix.

The holograph testamentary writings contained the following passages:—
“1909

also to the Babbist Denomination—

B

To the [^] Congregation worshipping at present in B. Church Bristo Place, Edinburgh

(of which I am a member) I bequeath

£50, Fifty

pounds sterling to aid in maintaing

Gospel

Ministry there, & also £50, Fifty pounds to

Building fund for proposed New

Church—

Per Treasurer.

It is also my express wish that

the Residue of my Estate be equally

given to West Church Congregation—

Brechin to aid in Home & foreign—

mission work—according as Minister

& Session think best. The other half

to be given to the B. Congregation, before

mentioned at Bristo Place Edinburgh—

also

for Missions at Home & abroad—For the

Advancement of Christ's Kingdom

MARY ANN MILNE.

Per.—The West Church Session Brechin

I bequeath to the, now, Central fund—

£100, one hundred pounds, as, a Thank—

—offering for the Gospel—Ministry of the

Late Rev, Dr Foote & Rev, John Fraser—

Colleague & successor to the former