ON ERROR,

FROM THE COURT OF EXCHEQUER IN SCOTLAND.

AGNES AND MARY BROWN, PLAINTIFFS IN ERROR.
H. M. ADVOCATE-GENERAL, DEFENDANT IN ERROR.

1852.
19*th*, 24*th*, *and* 28*th June*.

An instrument may pass property from the dead to the living, and yet not be testamentary, or subject to legacy duty.

Upon a recital of mutual love and affection, five maiden sisters, by a written instrument, convey and assign "from them and their heirs severally to and in favour of each other, and to the heirs and assignees of the last survivor," all property then belonging to them, and all property to which they should be entitled at their death; transferring the whole "from them severally, and from the predeceasor and predeceasors, to and in favour of themselves jointly, and the survivors and survivor of them;" with power of administration, and with an obligation to pay all debts of the sisters predeceasing. HELD (reversing the judgment below) that this instrument was not testamentary; and that duty under the stamp laws was not demandable.

THE information set forth that one Grace Brown had died leaving personal estate of great value, and that her sisters, Agnes and Mary Brown, had intromitted with and entered upon the management thereof; but that they had not exhibited the inventory, or paid to the use of her Majesty the stamp duty, by the statutes (*a*) in such case required.

Plea, general issue.

Upon the trial a special verdict was returned, finding that the said Grace Brown had died on the 7th of June 1841, and that if any inventory duty were chargeable in respect of her personal estate, her said sisters were bound to make it good.

But upon the legal question, whether there really were any such personal estate of the deceased, liable to inventory duty, the judgment of the Court was to be taken. And the decision of that question was held to depend upon the construction to be put on a most singular instrument to which the deceased had been a party.

That instrument bore date the 26th of January, 1825, and was as follows:—

(*a*) 48 Geo. III. c. 149, s. 38; 55 Geo. III. c. 184, sch. part 3.

ON ERROR.

AGNES & MARY BROWN *v.* H. M. ADVOCATE-GENERAL.

We, Grace Brown (*a*), Agnes Brown (*b*), Euphemia Brown, Mary Brown (*c*), and Jessy Brown, lawful daughters of the deceased James Brown, do, for the love, favour, and affection we have and bear to each other, hereby assign, dispone, convey, and make over, from us and our heirs severally, to and in favour of each other, and to the heirs and assignees of the last survivor, all lands, heritages, tacks, steadings, rooms, possessions, heritable bonds, wadsett rights, decreets, and abbreviates of adjudication, and grounds and warrants thereof, together with all and sundry goods, gear, debts, sums of money, body clothes, wearing apparel, rings, jewels, and other paraphernalia; and in general, the whole heritable and moveable, real and personal subjects, effects, means, and estate, of whatever kind or denomination now pertaining, belonging, indebted, or resting, owing to us, or either of us, or to which we or either of us shall have right in any manner or way at the period of our or either of our deaths, with the writs, title-deeds, evidents, and securities of the said heritable subjects and bonds, bills and other vouchers, instructions and documents of the said personal subjects, with all that may then have followed, or may be competent to follow upon the same, dispensing with the generality hereof, and declaring these presents to be as valid, effectual, and sufficient as if every particular of our and each of our subjects, effects, means, and estate had been herein specially enumerated and set down, turning and transferring the whole premises from us severally, and from the predeceasor and predeceasors, to and in favour of ourselves jointly, and the survivors and survivor of us, whom we hereby surrogate and substitute in the full right, title, and place of us severally, and of the predeceasor and predeceasors, with full power to us, and to the survivors and survivor of us, to intromit with, sell, use, and dispose of the subjects, effects, means, and estate, heritable and moveable, real and personal, hereby conveyed; and to uplift and discharge the debts and sums of money that may be owing to us separately, or to either of us, at present or during our joint lives, or at the period of our or either of our decease; declaring, however, as it is hereby expressly provided and declared, that the survivors and survivor of us shall be bound and obliged, as, by acceptance hereof, we bind and oblige ourselves, and survivors and survivor of us, to pay off and discharge the whole debts, sick-bed and funeral charges of the predeceasor and predeceasors; which mutual agreement and conveyance before written, we bind and oblige ourselves severally, and our respective heirs, to warrant to each other, and to the survivors and survivor of us, from all facts and deeds done and granted, or that can be done and granted by us severally, prejudicial hereto.

(*a*) The deceased. (*b*) One of the Plaintiffs in Error.
(*c*) The other Plaintiff in Error.

The Court of Exchequer (consisting of Lord *Jeffrey* and Lord *Cuninghame*) were of opinion that inventory duty was demandable; and judgment was therefore entered for the Queen.

The grounds of this judgment were fully stated by Lord *Jeffrey*, who held that the instrument of the 26th January, 1825, was of a two-fold nature; operating partly as a present conveyance, and partly as a last will and testament. His Lordship's reasoning, though abridged, is here set out in substance, because it will be found that the LORD CHANCELLOR criticises it very specially in recommending the final judgment of the House, which, without Lord *Jeffrey's* argument, would be less easily intelligible.

Lord *Jeffrey's* argument was as follows:—

I am inclined to hold, that, by the terms of this extraordinary instrument, each of the parties (and Grace Brown, of course, as one of them) was finally divested of all the articles of property that had previously belonged to her. The words of Conveyance are very precise and special; and as they *expressly* make over to her sisters, *inter alia*, all her body clothes, jewels, and trinkets, I am of opinion, that, after the execution of that deed, she had no longer any separate property in her own slippers or under petticoats—and could not give a cast gown to her waiting woman, without a vote of the whole sisterhood: and I think, further, though this is less absolutely declared, that she was under an obligation to throw into this common fund all that might afterwards come to her, by succession or otherwise—and was tied up, by the special clause of warrandice, from defeating this ample and somewhat lavish conveyance, by any separate, gratuitous, or testamentary deed. But though thus effectually stripped of all her original property, I take it to be equally clear that she was, by the same deed, simultaneously vested with other property, of an equivalent or superior value; and took at least as much as she gave by this mutual conveyance. She finally made over, no doubt, four-fifths of all her peculiar property to her four sisters; but she got from each of them, in return, one-fifth of all *they* severally had at the time, or might ever afterwards acquire; with an equal right to the use, management, disposal, and enjoyment of the fund thus created by their mutual contributions. That this common fund was thereafter to be held by the whole five as joint, *but unlimited proprietors*, and not in any sense or degree in trust,

ON ERROR.

AGNES & MARY BROWN
v.
H. M. ADVOCATE-GENERAL.

or for life-rent or alimentary purposes, I take to be manifest from the whole tenor of the deed, and every separate provision it contains.

I hold it to be perfectly clear, that, while they all survived, these five ladies were the joint but *full proprietors* of all that had previously belonged severally to each; and consequently, that each of them was vested in one equal fifth share of the fund created by this collation of their several properties; the whole effect of the mutual conveyance, in so far as it was operative, and implied a contract or agreement *inter vivos*, being to commute or convert the right they severally had before, to certain articles of individual property, into a right to an equal fifth share of the joint stock or fund now created—and to restrain them by the clause of warrandice from dissolving this union, or dilapidating the common fund, by separate *gratuitous* acts of alienation.

But while such was the condition of the parties as to acts of this description, it is very material to observe, that the share of the common fund thus belonging to each was all along attachable by their several creditors, either during the life of the individual debtor or after her death. The deed recognises this liability without even limiting the obligation to the actual value of the succession.

Such, then, being the nature of the deed, and such the rights of the parties under it, when considered as an agreement and regulation of these rights *inter vivos*, it remains to be determined what was the true character and legal effect of the *mortis causa* destination which it also contains. This ultimate destination is essentially, and in its own nature, distinct from any arrangement of the joint rights of parties while all of them were alive.

The argument is, that because everything belonging to each of the sisters was onerously conveyed to *the whole*, by the deed of 1825, the whole were entitled, as a body, to retain it against any claim of the individual creditors of each and all of these sisters. But this seems too palpably extravagant to require a serious refutation. The only truly onerous part of the agreement of 1825 was *the exchange* or substitution of the exclusive right which each previously had to the separate articles of her property, for a fifth share of the mass formed by their union. The day before they entered into that agreement the whole of that mass belonged to the whole sisters; each, however, having then only an exclusive right to certain articles of it. But the day after the agreement, *the whole mass still belonged, as before, to the whole sisters;* only that the former right of each to particular articles was now converted into a right to one-fifth of the whole united fund. None of them, therefore, was *divested* of any property by this arrangement. A change was merely made in the specific form or description of that property. But their new shares of it were as fully vested in each of them, as the whole had ever been; and were consequently, it

would seem, as open to attachment by their creditors. It would be strange indeed, if by a mere mutual conveyance to *each other*, parties could thus withdraw the property they all continued to hold and enjoy from the claims of their lawful creditors.

The pretence of onerosity, too, in so far at least as relates to the rights *inter vivos*, appears to me little less extravagant. The exchange of an exclusive right to certain articles of property, thrown into a common fund, for a general right to a certain share of that fund, might, in one sense, be said to be onerous; but, in truth and reality, it was a mere exchange. The contract itself might, perhaps, be onerous and irrevocable; but *the subject taken under it* became as much the exclusive property of the party taking it as that was formerly which had been surrendered in exchange.

The great objection which was pressed upon us was, that the deed under which the defendants claim and have taken the succession, was *onerous*, and was *not revocable;* and it may be right to say a few words as to each of these allegations separately.

As to *onerosity*, it is plain, as no separate consideration is alleged to have been given for the bequest, that there was none, except what may be supposed to have arisen from the *mortis causa* destination having been *mutual*—or made in common by and to all the parties to the deed. Now, is it possible to say, that this constitutes any proper onerosity, or obligation to pay, or to do something in return for a valuable consideration actually received? or is it anything else in effect, but a mere cross-fire of gratuitous legacies or bequests, with substitutions?—which are always given from *some* motive or inducement—and may be given on the inducement arising from the knowledge that a similar bequest has been made by the intended legatee without losing their proper character of bequests? And indeed, if this be not the true view of the law, the objection would obviously be equally available against all *Mutual Testaments*, which, especially among near relations, are by no means unusual. But I have never heard that the surviving parties ever hesitated in such cases to act and confirm as executors, and consequently to pay inventory duty, since that impost has been exigible; and I understand the practice in this respect to have been invariable. Yet all such testaments are obviously just as onerous as this can be pretended to be. In substance and reality this is a mutual or joint testament, and nothing else. It makes over only *the free succession* of the several parties from and after the period of their respective deaths, and it anxiously describes what is so made over as "all that may belong or be owing to us at the time of our decease," a form of expression peculiarly appropriate to testamentary instruments, as was well remarked by Lord *Fullerton* in the case of *Trotter*,* in 1847. So completely, indeed, does this

* *Advocate-General* v. *Trotter*, 10 Second or New Series, 56.

ON ERROR.

AGNES & MARY BROWN *v.* H. M. ADVOCATE-GENERAL.

mutual destination to survivors coincide with the nature and substance of a testament, that it would plainly have been no way inconsistent with its actual tenor, but, on the contrary, a very suitable and proper following out of its undoubted object, if it had contained an express nomination of the said survivor or survivors, as executors and sole residuary legatees of those predeceasing; or had in terms bequeathed a number of special *legacies* to other parties, payable either at the death of the last survivor, or even by instalments on that of each of the several testators. But if there would have been no incongruity in the introduction of these or similar appointments while their insertion would have fixed its character beyond all question, can it be seriously doubted that its true and substantial description was from the beginning that of a testamentary instrument?

The objection chiefly relied on, however, though substantially based on this allegation of onerosity, was, that the deed was *irrevocable*—and so, it was said, inconsistent with the nature of a testament; to which it was assumed to be essential, that it should be revocable up to the moment of death. Now there are various good answers, as it seems to me, to this allegation. In the first place, it is, like the last, equally applicable to the case of proper mutual *testaments*, with nomination of executors and bequests of legacies in strict technical terms. These, too, when once executed and delivered into neutral custody, for mutual behoof, I take to be legally irrevocable; and they are so, beyond all doubt, after the death of any of the parties. But it has never been doubted, that they must, notwithstanding, be dealt with in all respects as testaments. In the next place, is it true, either in law or in fact, that the deed now in question is really irrevocable? It may not be revocable by any *one* of the conjunct testators; but it is certainly revocable *by the whole;* and the whole is, in such a case, the only true or legal testator; and so the joint testament is truly revocable, exactly as any other testament is, by the will and act of the proper testator—the only party who did or could make it, in the form in which it was made. That testator was, no doubt, in these cases, a plural or composite person; but a person entitled to make such an instrument—and afterwards to unmake it, exactly as any other maker might do. Lord *Fullerton*, I observe, takes the same view of the law in the case of *Trotter*. He there says, "Mutual testaments may not be revocable by *one* of the parties; but most unquestionably they might be recalled if both parties agree; so *that they are, in truth, revocable.*"

By the law of Scotland, testaments may be made both onerous and irrevocable, without losing, in any respect, their proper character of testaments; or entitling those who take benefit by them to exemption from any of the consequent liabilities. Lord Stair's

authority on this matter is precise and positive (*a*). And, finally, the statutes are so far from requiring a proper or regular testament, with nomination of executors, &c., to warrant the exaction of the duties they impose, that they have, as it were, studiously enlarged and varied the expression, and declared they should be exigible upon all succession, either under testaments *or* "*testamentary dispositions*" of any kind. These are the expressions of the *schedule*. But the words in the body of the act are still more general and comprehensive—being "any Testament *or other writing relating to the disposal of such personal estate and effects, or any part thereof*, which the person exhibiting such inventory shall have in his custody or power" (*b*).

Against this judgment Agnes and Mary Brown sued out a Writ of Error to her Majesty in Parliament.

Mr. *Bethell* and Mr. *Anderson*, for the Plaintiffs in Error: The instrument of 26th January, 1825, is a deed of gift *de præsenti* founded upon contract for onerous consideration. It is not testamentary. It is not revocable. The sisters might bind their interests. There is given to each a right of present enjoyment with a future contingent limitation. The reasoning of the Court below is hard to understand. The case of the *Attorney-General* v. *Jones* (*c*) cited on the other side is erroneous. [LORD CHANCELLOR: That case is quite wrong (*d*).] This instrument has no such double aspect as has been attributed to it in the Court below. It is a conveyance *de præsenti*, and gives estates for life till the last survivor who takes an estate of inheritance. Such arrangements are binding in Scotland. *Thomson* v. *Thin* (*e*), *Grant* v. *Grant* (*f*), *Braidwood* v. *Braidwood* (*g*), *Curdy* v. *Boyd* (*h*), *Advocate-General* v. *Trotter* (*i*).

(*a*) B. 3, T. 8, § 33. (*b*) See 48 Geo. III. c. 149, s. 38.
(*c*) 3 Price, 368. (*d*) 1 Sug. on Powers, 7th Ed. p. 260.
(*e*) Morr. 3593. (*f*) Morr. 3596.
(*g*) 26th Nov. 1835, 14 First Series, 64.
(*h*) Morr. 15,946. (*i*) 10 Second Series, 56.

ON ERROR.

AGNES & MARY BROWN v. H. M. ADVOCATE-GENERAL.

The *Lord Advocate* (*Inglis*) and the *Solicitor-General* (Sir *F. Kelly*), for the Defendants in Error: The instrument is testamentary, and duty is consequently demandable. The words of the Act are sufficiently large to include this case, which is one of simple destination, without any intermediate restraint on the right of property. [LORD CHANCELLOR: What do you make of the words "and to the heirs?" Will not the "last survivor" take by force of the gift?] The conveyance of what shall belong to the sisters at their respective deaths cannot be called a present gift; but, on the contrary, operates *de futuro*. The property passes to the survivor, as coming from the dead to the living; and the powers of management and administration are precisely those which belong to an ordinary executor. The contract is not good against creditors. [LORD CHANCELLOR: The contract would not be necessarily void, although the property comprised in it might be liable to the demands of creditors.] The warrandice is a mere personal obligation; and the arrangement, though of a mutual character, is not onerous, but expressly "for love, favour, and affection."

The LORD CHANCELLOR (*a*):

Lord Chancellor's opinion.

My Lords, the liability to legacy duty in this case depends on the import of a very short instrument; and I must now call your Lordships' attention to its natural construction and fair operation—without reference to technical rules—either of Scotch or of English law.

Five maiden ladies agreed to throw the whole of their separate property into a common fund; and with this view executed a deed, by which (in terms somewhat startling to the ear of an English conveyancer) they "disponed, conveyed, and made over, from them and their heirs severally, to and in favour of *each other*, and

(*a*) Lord St. Leonards.

to the heirs and assignees of the last survivor,"—all lands, and, in short, all property of every description which they then had, or which they might have at their respective deaths; the expression in another part of the instrument being that they "transferred the whole premises from them severally, and from the predeceasor and predeceasors, to and in favour of *themselves jointly*, and the survivors and survivor of them whom they surrogated and substituted," &c. [Here his Lordship read the clauses as above set out.]

My Lords, upon the face of this instrument, it is a disposition by *deed* (*a*); and, *primâ facie*, it must be considered to operate as such throughout. I do not see anything in its terms, or in its supposed change of language, to give it a testamentary character.

Supposing your Lordships to be unfettered by any technical rules of construction, nothing can be more simple than this instrument. We have on the part of each sister an interest, not in a *fifth part*, (as seems to have been supposed by the Court below,) but in the *whole* of the property. These ladies say, "Here are five of us; and we agree to throw our property into a common fund; and it shall be for ourselves and the survivors and survivor of us, and the heirs and assignees of the survivor." Then there is a power to intromit with the property, and sell and dispose of it. Is there anything in this arrangement, my Lords, incapable of a plain and rational construction? Very far from it.

The consideration of the deed is not simply love and affection; but it is, that each of the sisters gives up her separate property to be thrown into the common fund, in consideration of the share which she takes in the property of the others also thrown into that common

(*a*) That is, by deed *inter vivos*, as contra-distinguished from a *will*, which, by English lawyers, is never called a deed.

ON ERROR.

AGNES & MARY BROWN
v.
H. M. ADVOCATE-GENERAL.

Lord Chancellor's opinion.

fund. Executed for onerous causes, and fortified by warranty, this deed therefore is supported by abundant consideration, and is in all respects binding and irrevocable.

Now, if your Lordships were to hold that this instrument operated throughout as a deed, *and as a deed only*, what would then be the effect? Why, that every intention of these parties would be accomplished by it, and that legacy duty would not be demandable.

There certainly ought to be some powerful rule of law to compel your Lordships to frustrate the intention by treating this instrument as it has been treated in the Court below, partly as a deed, and partly as a last will and testament.

But, my Lords, the decision of the Court below being accompanied with very elaborate and ingenious reasons, I should wish to speak with all possible respect of the very learned Judge by whom those reasons were delivered. They are, however, reasons in which I feel it impossible to concur. The effect of them was, that the parties had only changed the property, but that they had not changed their interest in it. The learned Judge considered them to take exactly the same interest in the joint property as they had before in the divided property. Now *that* can hardly be accurate. For me to have a separate property consisting of three fields is *one* thing. But to throw these three fields into the surrounding estate, in order that I may have a fifth part in common with other persons, is evidently quite a different thing.

The learned Judge seems to have placed great reliance upon the circumstance, that the property is to pass "from the dead to the living." But, my Lords, what distinction is there between such a case and that of an ordinary marriage settlement to the father for life, to the mother for life, and then to the children;

which, in many instances, passes property not only from the dead to the living, but from the dead to those who are as yet unborn?

The learned Judge further observed, that none of these ladies were "divested of any property by this arrangement. A change," he says, "was merely made in the specific form or description of that property." I should for my own part state this proposition in exactly the opposite terms—that every one of them was divested of her property by this arrangement, and that she took a new interest in the common fund created by the several contributions brought in by every one of the five.

The argument is, that each of these ladies still possessed singly what she had given up, and was rendered neither richer nor poorer by the transaction. But it is perfectly clear that while each gave up her separate property, the several properties combined formed a joint fund; and each of them had a new interest given to her by this instrument in that joint fund.

It is admitted (and this I may remark goes a long way to decide the case) that the survivor will have a right to make a testament. It is also admitted that the clause of warranty barred revocation; and it is further admitted that this was a mutual settlement, which could not be altered by any one of the parties without the assent of the others.

But then it is said how absurd to suppose this to be a joint property of which no one sister could give away a single article (*a*) without calling together the whole of the others to know if she might do so. But is

(*a*) Lord Jeffrey, *suprà*, p. 81, says that, after executing the deed, not one of the parties could give her maid a cast-off gown, or an under petticoat, without the consent of the "whole sisterhood."

ON ERROR.

AGNES & MARY BROWN v. H. M. ADVOCATE-GENERAL.

Lord Chancellor's opinion.

this in truth so very absurd? If it be, then I must be forgiven for observing that every joint tenancy in England, as well as every tenancy in common in Scotland, is more or less subject to the same observation.

With respect to the claims of creditors, I will at once state how the case strikes my mind. The debts provided for by this instrument are such as might be contracted by any of the sisters during their lives; and I think it clear that those debts were a charge not upon the share of *each only*, but a charge *upon the whole fund*. It was argued at the Bar that *that* would lead to great absurdity and inconvenience. It might; but it was not an illegal provision, and it must be remembered that these ladies were not likely to feel any embarrassment from such a stipulation. They meant to live together—they meant to have a common fund—and no difficulty has arisen, and I will venture to say that no difficulty will arise. But suppose this otherwise;—still it is the will and act of the parties; and your Lordships have no more power than any individual at the Bar to withhold the effect which the law allows to such a disposition; although, peradventure, it may be an unwise one.

The fact that the property was liable to the debts of each of the sisters, did not necessarily defeat the conveyance. When a man in pecuniary difficulties conveys property, the conveyance is binding, *subject to his debts*. Creditors in Scotland, as well as creditors in England, may have the power to impeach the instrument as a fraud upon them; but that circumstance will not prevent a *bonâ fide* instrument being operative *as between the parties to the deed*. It is therefore no objection to this instrument that the property which is taken under it would be attachable by creditors.

It is next urged that each of the sisters might have renounced the succession with the liability to debts. But this position cannot be sustained. They were

bound by the acceptance; and they never could relieve themselves from the liability.

Two cases were much discussed at the Bar—*Curdy* v. *Boyd*, and *Braidwood* v. *Braidwood*. But it does not appear to me, my Lords, that these authorities support the judgment of the Court below in the present case.

The argument upon the limitations turned chiefly upon what is stated in Erskine's Institute and Bell's Commentaries. Now Erskine, in dealing with this subject (*a*), makes these observations: "If the right be taken to two jointly and their heirs without any mention of life-rent, the conjunct fiars enjoy the subject equally, while both are alive. But on the death of the first, neither the fee nor even the life-rent of his half accrues to the survivor, but descends to his own heir." Now, your Lordships will observe that there are no words of survivorship in the case here put by Mr. Erskine; and by the law of Scotland to give survivorship you must have an express limitation. The words "their heirs" are therefore used distributively. "Where again," the same writer continues, "a right is taken to two or more jointly, and *the longest liver* and their heirs, the words 'their heirs' are understood to denote the heirs of the longest liver." Then comes this passage, which was not cited by either of the learned Judges in the Court below, and is not referred to in the printed case of the Defendants in Error. "If the right be taken to two strangers, and to the heirs of one of them, he to whose heirs the fee is taken is the only fiar—the right of the other resolves into a naked life-rent." Now, my Lords, I press the words which follow upon your Lordships' attention. "All these rules," says Mr. Erskine, "arise naturally from the import of the several expressions." If this be so, and if there is

(*a*) B. 3, T. 8, § 35.

ON ERROR.

AGNES & MARY BROWN
v.
H. M. ADVOCATE-GENERAL.

Lord Chancellor's opinion.

nothing magical or occult in the investigation, I say the question is simply what is the meaning of the parties; and they have told you plainly what they mean. Erskine says, that where there is a limitation to two, and to the heirs of one of them, one takes the fee and the other takes the life-rent only. If there be a limitation to five, and the survivors and survivor, and the heirs and assigns of the survivor, what is there to distinguish between the two cases? I can see nothing. It is therefore clear, as it seems to me, that this is a good limitation to the survivor in fee.

Then, my Lords, Mr. Bell's Commentaries were cited. But I do not perceive anything laid down by Mr. Bell inconsistent with the view which I have submitted to your Lordships of the present case, to which I have given my anxious consideration out of respect for the learned Judges who decided it in Scotland, and also from its being a case, the decision of which is dependent exclusively upon Scotch law.

My Lords, I have come to a clear opinion that this is a decision which cannot be supported, and which was not called for; because the result of it is not to effect the object of the deed, so as to let the destination go to the parties according to its language; but it is indirectly to put upon that instrument a very strained construction; whereas if you allow it to speak for itself according to the natural import of the words, and according to the rules of Scotch law, every object in the parties' contemplation will be effected.

I therefore move your Lordships that the judgment of the Court of Exchequer be reversed.

Judgment of the Court below reversed.

DODDS & GREIG.—THE SOLICITOR OF INLAND REVENUE.