money being paid in, and there is no doubt that, when the catastrophe came at the end and he was obliged to go, she went with him to the bank, got the money out on her requisition as she was bound to do, and the circular notes were paid for out of that. When the husband is afterwards charged with the ownership of those notes, he says they are his own money. The wife is asked afterwards about this claim of her husband's to the circular notes and she says nothing. Considering that these circular notes were bought out of money which purported to be her money, paid for by her and afterwards claimed by her, and that she was asked in reference to this claim, surely she was under a duty to say something. She says nothing, and that is evidence that is entitled to be considered. In all the circumstances, I am of opinion that there was a *prima facie* case, that she was a volunteer, and that this money retains its character as trust money and she cannot be allowed to keep it.

Solicitors, for the appellants, *Henning & Brockman.*

Solicitors, for the respondents, *M. L. Moss & Dwyer.*

H. V. J.

[HIGH COURT OF AUSTRALIA.]

QUEENSLAND TRUSTEES LIMITED . . APPELLANTS;
PLAINTIFFS,

AND

FOWLES . . . . . RESPONDENT,
NOMINAL DEFENDANT,

ON APPEAL FROM THE SUPREME COURT OF QUEENSLAND.

Succession duty—Realization—Value of estate impossible of fair ascertainment—Agreement—Power of Commissioners to compound—General power of the Executive Government—Succession and Probate Duties Act 1892 (*Qd.*) (56 *Vict. No.* 13), *secs.* 20, 37, 39, 47.

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James Tyson died intestate, and the plaintiffs were appointed administrators. The deceased's estate consisted largely of station properties and it was found impossible to value it satisfactorily in accordance with the provisions of the *Succession and Probate Duties Act* 1892. An interim assessment was then made on certain valuations which had proved unsatisfactory to the plaintiffs, and duty was paid on that basis, it being agreed in letters passing between the Chief Commissioner of Stamps and the plaintiffs that a final adjustment should be made after the whole estate of the intestate in Queensland had been realized, and that in the event of the real and personal property realizing more than the value disclosed in the previous accounts, additional duty should be paid in respect of such increase, and that in the event of the estate realizing less than such estimated value, a proportionate part of the sum paid in respect of succession duty should be refunded.

The estate having realized less than the estimated value, the plaintiffs sued for a refund.

Held, that the making of this agreement was (1) within the express powers of the Commissioners under sec. 39 of the *Succession and Probate Duties Act* 1892; and (2) within the general powers of the Government.

Decision of *Real* J. reversed.

APPEAL from the Supreme Court of Queensland.

The plaintiffs were the administrators of the real and personal estate of the Honourable James Tyson, who died intestate in 1898. The defendant was the person duly appointed under the provisions of the *Claims against the Commonwealth Act* as nominal defendant on behalf of the Government of the State of Queensland in respect of the matter of the plaintiffs' claim. During the year 1899 the plaintiffs, as such administrators, obtained valuations of the real and personal estate of the intestate in Queensland for the purpose of assessing the amount of succession duty payable in respect of the estate and duly lodged succession accounts based on such valuations, but prior to the assessment of the succession duty some of the properties comprised in the valuations were sold and the valuations were thereupon ascertained to be excessive, and it became necessary to have fresh valuations made in order to assess the duty. By correspondence in the months of December 1899 and January 1900 it was agreed by and between the plaintiffs and the Chief Commissioner of Stamps, acting for and on behalf of the Government of the State of Queensland, that, in order to avoid the delay which would be caused by obtaining

fresh valuations and the consequent delay in the assessment and payment of the said succession duty, an interim assessment of the amount of succession duty payable in respect of the said estate should be made on the valuations already obtained as above stated, and that the plaintiffs should pay the amount so assessed on the following terms and conditions, namely, that although the duty should be paid at once according to the values so estimated and shown in the succession accounts lodged by the plaintiffs, a final adjustment should be made after the whole estate of the intestate in Queensland had been realized, and that in the event of the real and personal property disclosed in the said accounts realizing more than the value as estimated in such accounts additional duty should be paid in respect of such increase by the plaintiffs, and that in the event of the said estate realizing less than such estimated value a proportionate part of the sum paid in respect of succession duty should be refunded to the plaintiffs. The plaintiffs paid duty on the interim assessment, and upon final realization it was found that, provided the agreement were valid, £9,964 17s. 1d., had been paid in excess. At the trial brought for the recovery of this sum, the defendants claimed that the alleged agreement was illegal and contrary to the provisions of the *Succession and Probate Duties Act* 1892, and that the Chief Commissioner of Stamps had no power or authority under the said Act or otherwise to make it. *Real* J., who presided, found that the agreement was made with the authority of the Government, but that it was invalid. The rest of the material facts are set out in the judgments hereunder.

Stumm (*Real* with him), for the appellants. The agreement entered into was valid; (*a*) it was a compounding within the meaning of sec. 39 of the *Succession and Probate Duties Act* 1892, and (*b*) it was such a contract as a responsible officer could make: *O'Keefe* v. *Williams* (1). An action will lie against the Crown for moneys overpaid. There was abundant evidence upon which *Real* J. was justified in finding that the agreement was entered into by the Commissioner with the Government's authority. [Counsel referred to the following cases:—*Percival*

(1) 5 C.L.R., 217; (1910) A.C., 186.

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v. *The Queen* (1); *Crossman* v. *The Queen* (2); *Stern* v. *The Queen* (3); *In re the Will of Alice Tyson* (4).]

O'Sullivan A.-G. and *Lilley* (*A. E. Douglas* with them), for the respondent. The agreement entered into was illegal according to the provisions of the *Succession and Probate Duties Act*, especially sec. 20. When money has been paid into the Consolidated Revenue as succession duty it can only be paid out again under the provisions of sec. 37, which do not cover the present case. By sec. 37 the Commissioner must be satisfied that it is such a case of mistake that the money ought to be refunded. Apart from the Act, the Commissioner was going beyond his powers in making such an agreement, and there was not sufficient evidence to show that the Government had authorized him. It was proved at the trial that, in carrying on the stations, stock had been sold, and the purchase money derived therefrom placed to income account; it should have been placed to capital account and succession duty paid on it. There has not been a proper realization. [Counsel referred to *Mechem on Public Officers*, secs. 828 and 832, and to the following cases:— *Williams* v. *O'Keefe* (5); *Rockhampton Corporation* v. *Ingham* (6); *Ontario Mining Co.* v. *Seybold* (7); *The Queen* v. *Commissioners of Inland Revenue*; *In re Nathan* (8); *Watherston's Trustees* v. *The Lord Advocate* (9); *Alston's Trustees* v. *The Lord Advocate* (10); *Whiteley Ltd.* v. *The King* (11); *In re Tyson*; *Ex parte Queensland Trustees Ltd.* (12).]

Stumm, in reply. The stations had to be carried on as going concerns and the agreement contemplated that only a fair number of stock in proportion to the working expenses was sold and income tax was paid on the purchase money. [He referred to *In re Tyson*; *Ex parte Queensland Trustees Ltd.* (12); and *Holsworthy Urban District Council* v. *Rural District Council of Holsworthy* (13).]

Cur. adv. vult.

(1) 3 H. & C., 217.
(2) 18 Q.B.D., 256.
(3) (1896) 1 Q.B., 211.
(4) 1907 St. R. Qd., 52.
(5) (1910) A.C., 186.
(6) 6 Q.L.J., 256.
(7) (1903) A.C., 73.
(8) 12 Q.B.D., 461.
(9) 3 F. (Ct. of Sess. Cases), 429.
(10) 33 Sc. L.R., 278.
(11) 26 T.L.R., 19.
(12) 10 Q.L.J., 34.
(13) (1907) 2 Ch., 62.

The following judgments were read :—

GRIFFITH C.J. This is an action brought by the appellants, administrators of the real and personal estate of the late James Tyson, who died in December 1898, intestate, against the Government of Queensland, to enforce an agreement alleged to have been made in January 1900 between them and the Commissioners of Stamps with regard to the succession duty payable in respect of the estate.

The *Succession and Probate Duties Act* 1892 imposes a succession duty upon estates devolving by death, the amount of which in the present case was 10 per cent. on the value of the whole estate.

The Act contains full provisions as to the assessment of values. The persons accountable for the duty (which term includes administrators) are bound to deliver to the Commissioners a full and true account of the property liable to duty and of its value and of the deductions claimed by them (sec. 47). The Commissioners may accept the estimate of the person sending the accounts, or may have a fresh estimate made and assess the duty upon that basis, and the person accountable is entitled to appeal to the Supreme Court (and in some cases to a District Court) against their assessment (*Ib.*).

Sec. 39 provides that—

"When, in the opinion of the Commissioners, a succession is of such a nature, or so disposed or circumstanced, that its value cannot be fairly ascertained, or when, from the complication of circumstances affecting the value of a succession or affecting the assessment or recovery of the duty on it, the Commissioners think it expedient to exercise this present authority, they may compound the duty payable on the succession upon such terms as they think fit, and give discharges to the successor, upon payment of duty according to such composition; and they may, in any special cases in which they think it expedient so to do, enlarge the time for payment of duty."

Sec. 37 provides, *inter alia*, that when "any duty has been paid on account of a succession, and it is afterwards proved to the satisfaction of the Commissioners that . . . . for any . . . . reason it ought to be refunded, the Colonial Treasurer

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shall refund" it. It is not disputed that proof to the satisfaction of the Commissioners is a condition precedent to a right to enforce payment under this section. Tyson's estate, which was worth considerably more than £1,000,000, consisted in a great part of pastoral properties, some of which were in very remote parts of Queensland. For some time before Tyson's death the seasons had been adverse to the successful prosecution of pastoral pursuits in Queensland, and it was impossible in 1899 to place any but a conjectural value upon much of the property as at the time of death.

In September 1899 the administrators sent to the Commissioners valuations which they had had made of the real estate, and they paid a sum equal to 10 per cent. on the amount shown by the valuations, which was a little over £500,000. The Commissioners returned the valuations, acknowledging the payment as being "on account of the succession duty payable on realty," and accepting it "without prejudice and reserving all rights to the Commissioners when the actual duty has been ascertained after succession accounts have been lodged." A separate valuation of real estate appears to be required by Regulations, but with respect to the pastoral properties, which comprised nearly all the realty, the true value could only be ascertained in conjunction with the stock running upon it.

It is evident from the letter which I have just quoted that the valuations sent to the Commissioners were regarded on both sides as a provisional statement only, and not as a lodging of succession accounts in compliance with sec. 47.

During 1899 the plaintiffs had also had valuations made of other parts of the estate, which had proved on realization to be excessive, and it became necessary to obtain further valuations. Under these circumstances an agreement was made in January 1900 between the plaintiffs and the Commissioners of Stamps which, as correctly set out in paragraph 4 of the statement of claim, was as follows:—"That in order to avoid the delay which would be caused by obtaining fresh valuations and the consequent delay in the assessment and payment of the said succession duty an interim assessment of the amount of succession duty payable in respect of the said estate should be made on the

valuations already obtained as stated in paragraph 3 hereof and that the plaintiffs should pay the amount so assessed on the terms and conditions following that is to say, that although the duty should be paid at once according to the values so estimated and shown in the succession accounts lodged by the plaintiffs a final adjustment should be made after the whole estate of the intestate in Queensland had been realized and that in the event of the real and personal property disclosed in the said accounts realizing more than the value as estimated in such accounts additional duty should be paid in respect of such increase by the plaintiffs and that in the event of the said estate realizing less than such estimated value a proportionate part of the sum paid in respect of succession duty as aforesaid should be refunded to the plaintiffs."

The plaintiffs allege that this agreement was made with the authority of the Government, and it was so found by *Real* J. Fresh valuations were accordingly made, amounting in all to £1,251,390 and the plaintiffs paid 10 per cent. of that amount to the Government. In my opinion this was a provisional payment only, and the Government were in effect stakeholders with respect to it.

Owing to various causes the final realization of the estate was protracted, but it is not disputed that it was made in a due course of administration. An administration decree had, indeed, been made by the Supreme Court, and the plaintiffs acted under the directions of the Court.

Upon the final realization it was found that the provisional assessments on which the duty had been thus provisionally paid were in excess of the amount realized by £99,648, so that under the agreement, if valid, a sum of £9,964 17s. 1d. was repayable to the plaintiffs. The action is brought to recover this sum, although the amount claimed was somewhat larger.

Real J. found all the facts as I have stated them, but thought that the agreement was invalid, and for that reason dismissed the action, but without costs. As I understand his judgment, he thought that when money has once been received on account of succession duty and paid into the Consolidated Revenue it can only be recovered under sec. 37, *i.e.*, upon proof to the satisfaction

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of the Commissioners that it ought to be refunded. But, with respect, no question of a refundment under that section arises in this case. The Government are sought to be made liable under an express agreement which is not *contra bonos mores* and is not forbidden by any positive law. The question is whether that agreement was within the express powers of the Commissioners under the Act, or, if not, was within the general powers of the Government. The latter question depends, as I pointed out in *O'Keefe* v. *Williams* (1), upon the general authority of the officers of the Executive Government to make ordinary contracts relating to the administration of public affairs.

In my opinion the agreement in question was within the express powers conferred on the Commissioners by sec. 39 to compound for the succession duty payable on such terms as they may think fit, in cases when the value of the succession cannot be fairly ascertained, and to enlarge the time for payment of duty. It was contended for the Crown that the effect of the agreement was to substitute the value of the property at the time of realization for the value at the time of death as the basis of assessment of duty, which would be contrary to the Statute. That is a matter of construction. In my opinion this was not the real meaning of the agreement, which was, as I construe it, an agreement that the value shown by realization should be taken as conclusive evidence of the value at the time of death.

Under the circumstances existing when it was made such an agreement was eminently reasonable, and probably afforded the only practicable basis of assessment. In substance it was an agreement to compound the speculative and problematical amount for a sum not then certain, but to be rendered certain by the result of realization. *Id certum est quod certum reddi potest.* The basis of the agreement was evidently that both parties believed that the value at the time of realization would be practically the same as at the time of death. It is not suggested that this was not an honest belief.

Further, and apart altogether from sec. 39, I think that the agreement was within the general power of the Executive Government. The obligation to return duty overpaid under a

(1) 5 C.L.R., 217, at p. 226.

mistake as to value, although a duty of imperfect obligation, is nevertheless an honourable obligation to which a Government is not forbidden to give effect, and it appears to me that a promise that if a sum of money is paid provisionally by way of duty, and it shall afterwards appear that the amount is excessive the surplus shall be returned, is a lawful promise.

Moreover, in the present case there never was any assessment of the duty within the meaning of sec. 7 until the realization was complete, so that the question of returning duty paid in pursuance of an assessment does not arise.

Some subsidiary points were raised by the Attorney-General. He maintained that the realization was not complete, because a part of the estate, consisting of about £200,000 of inscribed stock in the Queensland National Bank Limited, was not actually sold but distributed in specie amongst the beneficiaries. The learned Judge took the view that this distribution should be regarded as a realization within the meaning of the agreement at a price equal to the market price at the time of distribution, which was much greater than its market price at the time of death. This was the most unfavourable view for the plaintiffs, but they do not dispute it, and I think that it was right, at any rate as against the Crown. He also contended that all proceeds of stock sold from the pastoral properties in the ordinary course of working ought to be regarded as capital and as forming part of the succession. I think that this contention is negatived by the obvious intention of the parties that the stations should be carried on as going concerns until realization. As a matter of fact, income tax has been paid to the Government in respect of these receipts. He further suggested that there were some errors in the accounts, and that some part at least of these receipts should have been regarded as capital. As to this contention it is sufficient to say that the accounts were open for examination and were examined during the trial (which extended over two months) by the officers of the Government, that no account was asked for by the defendant, but on the contrary the learned Judge was asked to decide what was the actual amount realized from the estate and on which succession duty was payable. It is too late to raise the contention now.

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The last point which the Attorney-General made was with respect to a sum of about £12,000 claimed as a deduction in respect of costs of litigation ordered by the Supreme Court to be paid out of the estate. It appeared that shortly after the agreement of January 1900, and as incidental to the preparation of the provisional valuations, it was agreed between the parties that all costs ordered to be paid out of the estate should be allowed as deductions. Whether in the absence of such an agreement they ought in strictness to be so allowed may be arguable. It is at least arguable, and in my opinion this subsidiary agreement ought to be regarded as part of the compromise and of the agreement on which the action is brought.

I should add that in my opinion the express authority of the Government to the Commissioners to enter into the agreement sued on (if necessary to be proved) was clearly proved upon the evidence.

The appeal must therefore be allowed, and judgment entered for the plaintiffs for £9,964 17s. 1d.

BARTON J. I shall not add anything except as to the question of the validity of the agreement itself. It is said that there is no express authority in the *Succession and Probate Duties Act* 1892 to make such an agreement as this, and that the powers of the Commissioners are so circumscribed that the making of such an agreement is unlawful. I take it that an agreement not prohibited by the Statute and otherwise lawful may be made. In itself, this is a perfectly plain common-sense arrangement, which, having regard to the circumstances, seemed to afford the parties a reasonably safe guide to follow. There is nothing in the Act that makes such an agreement unlawful. If it were not expressly authorized by sec. 37 it would not follow that it might not be made. Certain statutory powers given to an officer expressly may, or may not, exclude the existence of other powers which may be exercised by the Government. If there were anything in the context which implied that no other kind of agreement could be made except that kind of agreement which you find in the Act, that would be something to the purpose; but nothing of that kind has been pointed out to us. As far as the

mere legality of the agreement is concerned, it is as much a lawful one as that which was held to be so in the case of *O'Keefe* v. *Williams*, first in this Court (1), and again by the Privy Council (2), and as much a lawful agreement as that which Mr. *Stumm* referred to in *Holsworthy Urban District Council* v. *Rural District Council of Holsworthy* (3). That as a compromise it is also within sec. 37 of the Act I think one can entertain no doubt. I should not have thought it an easy task to argue that it is not one, had it not been considered to be outside the protection of the section by the learned Judge who tried the action. An agreement of this kind, which is not the substitution of one basis for another, but gives a method, agreed upon by the parties, of arriving at the prescribed basis, appears to me, with the greatest respect for the opinion of *Real* J., to be beyond all doubt such a composition as is sanctioned by the Statute. On the other points of the case I add nothing to what has been said by the Chief Justice. I think the judgment must be for the appellants for £9,964 17s. 1d.

O'CONNOR J. The Attorney-General contested the appellants' claim on two grounds. First, that the agreement sued on, whether regarded as an agreement with the Treasurer on behalf of the Government, or as an agreement with the Commissioners, is illegal; secondly, if it is legal, there has been no realization under it. It is necessary to interpret the agreement before dealing with either of these grounds. Its meaning is perfectly plain, if regard is had to the circumstances under which it was made. By the 47th section of the *Succession and Probate Duties Act* 1892 an obligation is imposed upon persons coming into successions to notify the Commissioners, and to deliver to them at the same time a true and full account of the property included in the succession, and of the value thereof, so as to enable the assessment to be made. The plaintiffs complied with the section as well as they could in the short time allowed them, but, having regard to the nature of the property, it was obvious that valuations made under such circumstances would be extremely

(1) 5 C.L.R., 217.

(2) (1910) A.C., 186.

(3) (1907) 2 Ch., 62.

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unsatisfactory evidence of the value of the properties. It may, I think, be well assumed that the Government were no more desirous of assessing than the plaintiffs were of paying tax on more than the real value.

It was plain to both parties that the real value of the successions must be ascertained in some other way. In the meantime realization of the properties became necessary for the administration of the estate. But before it could be realized it was essential to pay succession tax on the real property, so as to clear the title from the blot which would remain on it so long as the duty remained unpaid. It was therefore arranged that the amount of duty payable on the real property, according to the valuations sent in, should be paid at once. I was at first disposed to think that there was something in the argument of the Attorney-General that the real property was outside of the agreement sued on. But, on looking into the whole matter, I think it is clear that the parties all along intended to include the whole property in the agreement. The stock and land had to be realized together, and it is obvious, from the letters which constitute the agreement, that the whole property, real as well as personal, is expressly brought within its terms. Now, what was the object of the agreement? It was to arrange some method of determining the fair value of the property at the time of succession, and that object was attained by arranging that the value realized, when realization in the course of due administration took place, should be taken to be the value at the time of succession. That being so, the question arises is such agreement beyond the powers of the Commissioners or of the Government? I shall first take it to be the agreement of the Government made by the Treasurer on its behalf. It may be conceded that the Treasurer, as much, if not more than any other officer of Government, is bound to see that duty is collected according to law. The Government have no power to remit or relieve from taxation, or to collect more taxation than the Act imposes. But in the powers of administration there must be included a power in the Government to make any agreement which is necessary for fair and reasonable administration. That is the kind of power referred to in *O'Keefe* v. *Wil-*

liams (1), mentioned by my learned brother the Chief Justice, who said in that case, referring to an agreement made by a Minister for Lands in New South Wales :—" The question of the authority of Minister does not arise under the *Crown Lands Act* at all, but depends upon the general authority of the officers of the Executive Government to make ordinary contracts relating to the administration of public affairs."

In the present case the subject matter of the agreement was the administration of the *Stamp Act*; the agreement itself was merely a means for enabling the value of the succession at the time when it became subject to the tax to be fairly arrived at, and I have no doubt that it was within the power of the Treasurer, as representative of the Government, to enter into an agreement so obviously essential under the special circumstances for securing the fair administration of the Act. I agree with the learned Judge in the Court below that there was ample evidence that the contract made by the Commissioners was made on behalf of the Government,

Taking now the agreement from the other point of view and regarding it as having been made by the Commissioners under the Act, the Attorney-General's objection must, in my opinion, fail there also, inasmuch as the agreement comes directly within the authority conferred on the Commissioners by sec. 39 to compound duty on such terms as they think fit. The circumstances contemplated by the words of the section have actually arisen in this case. That is to say, the succession was of such a nature that its value could not fairly be ascertained by valuations in the ordinary way, and it was certainly a case in which, from a complication of circumstances affecting the value and the assessment, it was expedient to make some kind of composition. The composition arrived at by means of the agreement was that, instead of adopting the valuations sent in at the time of notice of succession as the basis of assessment, the values actually realized in administering the estate should be taken as the basis of assessment, the value thus realized being agreed upon as the value at the time of succession. The learned Judge in the Court below decided that sec. 37 of the Act rendered it impossible for the Commissioners to

(1) 5 C.L.R., 217, at p. 226.

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make such an agreement. With every respect to the learned Judge I have been unable to follow his reasoning on that objection. Sec. 37 is directed at an object entirely different. It deals with cases where there has been payment of duty in the ordinary way, but in which circumstances have arisen which would make it unjust for the Commissioner to retain the duty. In that condition of things he is authorized to pay it back. The power thereby conferred in no way cuts down the power to compromise conferred by sec. 39.

I come now to the remaining objection, namely, that there had been no realization within the meaning of the contract. The Attorney-General has contended that all purchases and natural increases of stock taking place in the ordinary course of station management were to be included in the properties for the purposes of realization, and that the plaintiffs were bound to account in the realization for the value of all stock lost by droughts between the making of the agreement and the realization. To give effect to such a contention would be in my opinion to entirely misconstrue the agreement. It must be taken to have been an implied term of the agreement that, pending realization, the properties were to be carried on in the ordinary way. They had to thus earn income while waiting to be realized. It is well recognized that, in the earning of income from a station, it is necessary during every year to dispose of certain proportions of the stock, and replace them by others —increase is continually going on, and when droughts come stock will die. These changes may affect the income or capital, or both. But there are well known principles on which business men are able to determine what ought fairly to be treated as income, and what as capital, in dealing with such sales, additions, and losses. The Attorney-General's complaint, however, was not that there had been in the management of the properties an apportionment of these increases and losses on a wrong principle to income instead of to capital. He contended, broadly, that the value of all stock at any time on the stations between the date of succession and the date of realization must be included in the realization. That contention is in my opinion entirely inconsistent with the assumption to which I have referred

as the necessary basis of the agreement, namely, that pending realization the stations should be carried on in due course of administration. I therefore agree with the finding of the learned Judge in the Court below that the agreement contemplated that there should be realization in accordance with due administration. I concur also in his findings that there was in fact due administration of the properties, that they were well and carefully managed, and that they realized, when sold, the highest amount they could reasonably be expected to realize; so that the Government, as well as the beneficiaries, got the full benefit of the fair valuation which the agreement was designed to bring about. For these reasons the ground of objection that there was no realization within the meaning of the agreement must also fail. Notwithstanding these findings the learned Judge, holding the agreement to be illegal, entered judgment for the defendant. As that finding was in my view erroneous for the reasons I have explained, I am of opinion that the judgment for the defendant must be set aside and judgment must be entered for the plaintiffs in the sum of £9,964 17s. 1d., and the appeal must be allowed.

Appeal allowed. Judgment for plaintiffs for £9,964 17s. 1d., with costs.

Solicitors, for the appellants, *McPherson, Green & McPherson.*

Solicitors, for the respondent, *McCawley*, Acting Crown Solicitor.

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