to this extent, that it is a question to be determined on evidence whether acts are or are not distinctly referable to a previous parole agreement.

This case is one in which the agreement suggested by defender wants the feature of probability in its favour. But the rule now announced will, it appears to me, apply to cases where this is not so, and may result in great hardship and injustice. I can very well suppose a case in which a landlord residing close to the mineral field worked by his tenant, observing and knowing that his tenant is working at a disadvantage in not being able to resist the demands of his men for higher wages because he has to get a large output from the field to enable him to meet his fixed rent, agrees with his tenant that he shall be placed in a position to resist the men's demands, and that a reduction shall be made from the fixed rent for the year, or for each year in which a strike occurs. This agreement is not reduced to writing, but the tenant thereupon proceeds on the first occasion of a demand for an increase of wages to resist it, and shuts up his works. Thereafter the landlord, ignoring his agreement and the acts following on it, demands his fixed rent. He is met with the answer—"You varied the settled terms of the lease, and with your knowledge I acted on the faith of this." Is proof in such a case to be disallowed and all remedy refused because the acts are not in contradiction of the lease? I apprehend not; and in one view even of this case it might turn out that an agreement to this limited effect was made and acted on. Again, suppose that a landlord agrees with his tenant that he will make a reduction from his rent under a lease of several years' duration if the tenant will make a large outlay in the way of building, draining, planting, or other permanent improvements. The tenant goes on to make the expenditure. The acts are not inconsistent with the lease though the agreement alters one of its terms. According to the present decision it seems to me the tenant would be at the mercy of his landlord. If the view I take of the case of *Wark* be sound, a proof would be competent and justice would be done. Take, again, such a case as that of *Sutherland*. A person undertakes to perform a contract of furnishing machinery or other articles by a date fixed. While in course of carrying out the work the other contracting party finds he cannot take delivery, and requests that the work be delayed, and in consequence the contractor dismisses his workmen and delays the work. It seems to follow from the decision to be now given that the variation by parole, followed by acts however important, cannot be proved, because they are not directly inconsistent with the contract. The result would be to deprive the Court of the power to do justice by allowing proof in circumstances in which it appears to me that proof is admissible. These are illustrations of the result of the view which your Lordships take of this case, and I feel for these reasons constrained to differ from a judgment which would lead to such results.

The only other observation I have to make has reference to a point referred to by two of your Lordships in this particular case—the power of renunciation or break at the end of every three years of the lease, in the tenant's option, and a clause which is generally spoken of in this way, that it is a right "to make up shorts,"—that when the fixed rent in any year exceeds the lordships the tenant is entitled to make up the shortcoming in future years. I do not understand your Lordships' judgment to proceed to any extent on these clauses. For my own part, I think they have little, if any, bearing on the case, and the judgment would obviously be the same if they were both awanting. Upon the whole, I think the case is one in which we should have everything by proof before proceeding to deal with the merits of the case, and that parole evidence of the facts alleged is competent.

The Court recalled the Lord Ordinary's interlocutor, repelled the defences, and decerned in terms of the conclusions of the summons.

Counsel for Pursuer (Reclaimer)—Kinnear—Lorimer. Agents—MacBrair & Keith, S.S.C.

Counsel for Defenders (Respondents)—Asher—Lang. Agent—Thomas Carmichael, S.S.C.

Friday, December 17.

FIRST DIVISION.

[Sheriff of Lanarkshire.

DAVIE *v.* BUCHANAN.

Partnership—Joint-Adventure.

Held that where one of the partners in a joint-adventure extends the joint-adventure in its natural lines, and acquires for that purpose property with funds raised partly on the credit of the copartners and partly by a mortgage over part of the copartnery assets, it will be presumed that the property was acquired for the joint-adventure, and that the purchaser is bound to account to the copartner suing him therefor.

In the beginning of the year 1864 the pursuer and defender and John Cook entered into a joint-adventure or partnership for the building and working of a river steamer called the "Eagle," which is still plying between Glasgow and Rothesay on the Clyde. The vessel was registered in the name of the defender as managing owner and master, and he duly accounted to the pursuer for the profits of the joint-adventure during the seasons of 1864 and 1865, since which date no accounting took place between them. Three other steamers were subsequently purchased by the defender, as the pursuer alleged, with the funds and on behalf of the joint-adventure, and the present action was therefore raised by the pursuer in the Sheriff Court of Lanarkshire at Glasgow for the purpose of compelling the defender to account to him for his share in the profits or earnings of these vessels. The defender maintained that by an advance made to the pursuer in 1866, by depreciation in the value of the vessel, and by sundry disbursements and advances, the pursuer's interest in the "Eagle" was really exhausted, and he ceased to be a partner, at least on and after 3d December 1868, and that as he had never till August 1879 made any claim upon the defender with regard to the profits of said vessel, his claim was barred by *mora*. A proof was allowed, from which it appeared that in 1867 the steamer

"Rothesay Castle" was purchased and registered as before in name of the defender, and worked by him till 1879, the price being obtained from a bank by means of a mortgage of the "Eagle," and acceptances granted by the pursuer and Cook as collateral security. In 1877 a new steamer called the "Brodick Castle" was built, and since managed by the defender; and in 1879 the "Rothesay Castle" was sold and the "Elaine" purchased in her place. The pursuer, who in 1865 received advances from the defender, commenced business in London, and thenceforward resided there, and was not personally engaged in the working of the joint-adventure. He continued to receive various advances from the defender till about the year 1869, when he became insolvent and compounded with his creditors. In 1871 he went to Italy, where he remained till 1877.

The pursuer pleaded—"The defender having been managing partner with the pursuer in the joint-adventure for the purchase and working of the said steamers, and having failed to account for his intromissions as such, decree ought to be granted in terms of the prayer of the petition."

The defender pleaded—"(1) The pursuer's demands are barred by *mora* and tactiturnity. (3) The pursuer having no interest in the other steamers referred to by him in his condescendence, the defender is not bound to count and reckon with him in connection therewith."

The Sheriff-Substitute (GUTHRIE) found that the pursuer had failed to prove that he was a partner or joint-owner with the defender of the "Brodick Castle" and "Elaine," but ordained the defender to lodge an account of his intromissions and receipts connected with the "Eagle" and "Rothesay Castle." The defender failed to lodge that account in order that he might get an appealable interlocutor, and the Sheriff-Substitute thereafter decerned against him for the sum of £10,000 alternatively concluded for.

The defender appealed to the Court of Session, and argued—He was registered owner of the vessels, and the proof allowed in the Sheriff Court was incompetent, being proof of a trust, and could still be objected to—*Orr*, 1846, 8 D. 1011; *M'Arthur*, 1844, 6 D. 1174; *Carlisle*, 1864, 2 Macph. 882; *Watson* v. *Duncan*, 1879, 6 R. 1247. Even if there was part-ownership here, there was not necessarily therefore partnership, and all that is proved is a joint-adventure to run the steamer "Eagle," which was concluded by the settlement in 1865. The defender purchased the "Rothesay Castle" and the other steamers for himself and with his own means, and is not liable to account for the profits made by them.

Answered for the pursuer—The objection to the mode of proof comes too late—*Simson* v. *Stewart*, May 14, 1875, 2 R. 673. It was competent—*Horne* v. *Morrison*, 1877, 4 R. 977; and Act 1696 does not apply—see 25 and 26 Vict. c. 63, sec. 3. A joint-adventure in the carrying trade is really a partnership, its duration is continuous and indefinite, and it involves a number of transactions. The purchase of the "Rothesay Castle" was with the partnership funds, and in the line of its business—Lindley, i. 569, and cases there cited; also p. 577, and case of *Russell* v. *Alston*, there cited; *M'Niven* v. *Peffers*, Dec. 2, 1868, 7 Macph. 181, and 41 J. 104.

At advising—

LORD SHAND—In this action, which originated in the Sheriff Court of Lanarkshire, the pursuer James Davie, a marine architect in Dumbarton, claims an account of intromissions and receipts in connection with the purchase and working of certain steamers on the Clyde, from the defender William Buchanan, who is a steamboat master in Glasgow. He claims an accounting not only in regard to the s.s. "Eagle," which was purchased in 1864, and is still running on the Clyde, but also in regard to other three steamers. The Sheriff-Substitute has found that the defender is bound to furnish an account as regards the "Eagle" and "Rothesay Castle," but has assoilzied him in reference to the "Brodick Castle" and the "Elaine." Both parties have appealed to this Court, Buchanan maintaining that although bound to account in regard to the "Eagle," he is not so bound with reference to the "Rothesay Castle;" the pursuer and respondent Davie, on the other hand, maintaining that he is entitled to an accounting not only in reference to the "Eagle" but also with regard to the "Rothesay Castle" and the "Brodick Castle," though it is now admitted that he has not established his case with regard to the "Elaine." The parties are agreed that there was a partnership or joint-adventure entered into among them with regard to the s.s. "Eagle" in 1864. In the previous year 1863 a steamer of the same name was purchased by a copartnery including Buchanan and Davie, and sold shortly afterwards at a profit as a blockade-runner, but we have nothing to do with that vessel in this case. Following upon that, however, parties are agreed that in 1864 a new steamer was purchased by the parties, of which Buchanan held five-eighths, the pursuer Davie two-eighths, and Cook one-eighth, and that steamer is the present "Eagle." This steamer after running during the years 1864 and 1865 produced a considerable profit, which was divided in the proportion mentioned. So that with regard to the "Eagle" there is really no question that the pursuer is entitled to the accounting he asks. It appears to have been argued in the Court below that Davie's share of the "Eagle" had been paid out or reduced, and that his claim for an accounting was thereby extinguished. But I have no doubt that the view of the Sheriff-Substitute is sound, that there has been no paying out of the pursuer's share in the s.s. "Eagle," and that he is therefore still proprietor of that vessel to the extent of two-eighths. But the questions in reality in dispute between the parties relate to the s.s. "Rothesay Castle" and "Brodick Castle." It appears that in 1867, three years after the purchase of the s.s. "Eagle," the s.s. "Rothesay Castle" was purchased by the parties, and just as the "Eagle" had been registered in the name of the appellant Buchanan although representing himself and his co-owners, the title to the "Rothesay Castle" was registered in the same name. She was placed for some time on the same station, and then removed to Ardrossan, where she carried the traffic between that port and Arran till she was sold in 1879 by Captain Buchanan. The question is, whether for this period from the time of her purchase in 1867 to her sale in 1879 the pursuer Davie is entitled to an accounting for the profits of the s.s. "Rothesay Castle?" and the Sheriff-Substitute has decided in his favour.

It appears to me, after the very full consideration which I have given to the subject, that the Sheriff-Substitute has arrived at a sound result. The considerations which have led me without difficulty to the opinion are, in the first place, that the purchase of the "Rothesay Castle" was made by Buchanan for the purpose of working her as a consort boat with the "Eagle;" and, in the second place, that the mode in which the purchase was made, and the price of the vessel raised, is of itself sufficient to show that the purchase was a transaction for the copartnery firm. For we find that the price was paid by means of a series of acceptances between Buchanan, Davie, and Cook the co-adventurers, and that as a security to the bank for advances in addition to the acceptances the s.s. "Eagle" was mortgaged to the bank as the property of the copartnery. These considerations, even if they stood alone, would probably be sufficient for the decision of the case in point of law. For if the managing partner of a business extends that business in its natural line, and uses the copartnery funds for the purpose of a purchase, or as security for the price of the purchase, and has his co-adventurers assisting him by bills or otherwise in raising the necessary funds, the conclusion would appear to be irresistible that the subject purchased is the property of the copartnery business unless an arrangement to the contrary can be shown. But the case does not stand there, for there were here various communings between the parties, and these all go to show that as a matter of fact the vessel in question was purchased by arrangement between them for the purposes of the joint-adventure. In the first place, it is a circumstance of considerable importance that we find that about six months before the purchase the parties were in communication with a firm of shipbuilders in Glasgow about the building of a vessel to be put on the station. For it is proved by the evidence of Wingate and Davie, corroborated by their correspondence at the time, that as the trade furnished a profit, the parties had in view to build a steamer for themselves, and communicated with Wingate for the purpose, and that these communings would have led to the building of a new steamer but for the fact of the "Rothesay Castle" being then in the market. We have in November 1866 two letters from Wingate to Davie in which reference is made to the new steamer. The first, on November 10, says—"We enclose an outline tracing showing how Captain Buchanan would like the boilers, &c., placed. You will observe the machinery space is very long. It is wanted so, and the coal bunkers kept as small as possible in order to keep the tonnage down." That shows it to have been a steamer that Buchanan and Davie were taking an interest in. Again, on 16th November they write—"We expected Captain Buchanan would have written you about the new craft. He seems to think now that he would prefer her to be flush-deck forward, as she would be allowed to carry more passengers." Wingate says that it was for a Clyde steamer, and we do not find that Davie contradicts that. The suggestion that it was intended for sale as a blockade-runner is excluded by the evidence. And when Captain Buchanan is asked, he says with candour and frankness that it is quite possible the buying of a new steamer may have been discussed between them, and that occurs in a part of his evidence immediately following upon the questions asked of him with reference to the "Rothesay Castle." And the further circumstances ought not to be lost sight of, that at the time when the "Rothesay Castle" was about to be purchased we find Davie writing to Buchanan and giving it as his opinion that she must be worth £3500.

Now, what is there to be placed against that evidence? It is said the vessel was registered in the name of Buchanan alone. But that I think of no moment. The same was done in the case of the "Eagle," and it is quite usual that a vessel should be registered in the name of one party for the benefit of the other proprietors. Cook certainly depones there was no such intention. But I have not much confidence in that evidence, if it means that there was no such intention at the time of the purchase. Cook was then in difficulties, and had been getting large advances from Captain Buchanan, in respect of which it was arranged that all joint-adventure was at an end. When that arrangement was made we do not know, but I have a strong conviction that at the time of the purchase Cook understood he was to have an interest in the vessel as well as Buchanan and Marshall. This is corroborated by a remarkable letter from Cook when he was first written to by Davie on the subject, in which he says—"Mr William Marshall is still in life, and at the time the 'Rothesay Castle' was bought him and I knew well enough she was bought for the owners of the steamer 'Eagle,' namely, Buchanan, Cook, and Davie, but I could not say the amount of cash you put in or took out." When the question was first mooted he thus plainly says that the purchase was made for the joint-adventure, and I am not prepared to take it that he had no interest when the ship was first bought.

Again, it is said that Davie has nothing to do with the negotiations as to the purchase, these being made by Marshall, a stranger, who is brought in. All he says is that he was asked to make the purchase for Buchanan and Davie, and all he had to do with the matter was to make it on the best terms he could. Then we have letters written by Davie after getting into pecuniary difficulties, which I think the Sheriff-Substitute correctly describes as not very creditable in the circumstances. He mentions his difficulties with his creditors, and speaks of concealing his interest in the copartnery estate. He says in one letter to Buchanan—"Don't admit to anybody that I have any share or interest in the 'Eagle,' and in fact say nothing—deny it to anyone." But it would be putting too much weight upon that letter to hold it as excluding the "Rothesay Castle," although the observation was made with some force that he does not there mention that vessel. And the "Eagle" alone was the main subject of the adventure. It was the vessel which had brought the parties together, and as the principal subject it alone is mentioned. Besides, evidently before the parties are in any dispute about this matter we find Davie writing to Captain Buchanan on 3d December 1877—"If anyone asks such questions again, tell them I have nothing to do with the steamers—you are only a friend of mine." There we have the word "steamers," implying that there was more than one used when the parties are not in any dispute, and the terms of

that letter appear therefore to me to take away the effect of the previous one. It was said, again, that the mortgage of the "Eagle" is a circumstance of no consequence. But it appears quite true that when Davie wanted £1000 he desired Buchanan to use the security of that vessel to raise the money, and in a question when the vessel was mortgaged really for the price of a new vessel the inference seems irresistible that that vessel must be regarded as the property of the copartnery.

There remains the question as to the "Brodick Castle," in the profits of which the Sheriff-Substitute has held that the pursuer has no right to share. The question is not free from difficulty, but I think the conclusion to which the Sheriff-Substitute has come must be held to be correct. It must be observed that the "Brodick Castle" was purchased at a much later date—in fact eleven years after. And it is important to see the position of parties in the interval. Now, Davie had not only been drawing largely from Buchanan, but his circumstances were such that he was now irretrievably insolvent. It was desired to continue the bills which he had granted, but his name was then of no value in the market, and Captain Buchanan had to find new ones. We find Davie writing again and again that he is in hopeless bankruptcy, and trying to conceal the fact as well as his small share in the copartnery from his creditors. It seems to me that it would be very strong to hold that in the new purchase of a steamer Buchanan was buying for himself and also for a man in such circumstances. Besides, by this time (1878) Cook had no more interest in the steamers, and it would be a strong thing to hold that where one co-adventurer was leaving, the other was buying for a new copartnery. Then, in the third place, we have the facts of the purchase. There were no communings between the parties as in the case of the "Rothesay Castle." And there is an entire failure to show that the funds required for the new purchase were furnished by the copartnery or on its credit. The only evidence on this point is where Buchanan explained the history of the mortgage on the "Eagle." He says that "was discharged in 1874," three years before the purchase of the "Brodick Castle;" "I granted a new mortgage on her on 18th January 1875 for £3000 in favour of the British Linen Company Bank. It was that last mortgage that was security for the price of the 'Brodick Castle.'" So that the pursuer's argument comes to this, that because the defender happened to possess a general security which enabled him to purchase the "Brodick Castle" the pursuer is entitled to have an interest in the vessel. On the whole I agree with the result at which the Sheriff-Substitute has arrived, and would therefore suggest to your Lordships to adhere practically to his judgment.

Lord Deas concurred.

Lord Mure—In this case there is no difference between the parties as to the liability of the defender to account for his intromissions with the proceeds of the "Eagle," and the dispute is confined to the other steamers. I have carefully considered the evidence and arguments stated to us, and have no difficulty in coming to the same result as the Sheriff-Substitute has arrived at with regard to the non-liability of the defender to account for the earnings of the "Brodick Castle." But I have had considerable difficulty in coming to the conclusion that the pursuer is entitled to an accounting for the "Rothesay Castle." I do not dispute, but concur in, the general doctrine of the Sheriff-Substitute's law when he says—"It is a reasonable and proper presumption that when a partnership or joint-trade is once established, and the profits derived from it on the credit of the partners are made the means of extending that trade or starting a new enterprise of the same kind, the new enterprise or the extension of trade shall be held to be undertaken by the same partners and on the same terms and conditions as the original concern, unless the party denying it and claiming the exclusive benefit of it shall bring forward evidence to show that he has the sole interest." The presumption is well founded in law, and laid down by Erskine, iii., sec. 20. But there may be circumstances to displace the presumption, and there seems to me a difficulty in holding that there are no such here, and that the pursuer did become a partner in the "Rothesay Castle," on the broad ground that if the defender's name alone appeared on the registry of the "Eagle," and the full value of the new vessel were raised by a mortgage over the "Eagle" for the whole partners of the company, it would then be a question of the company's money. But the difficulty is that this £3500 raised on the "Eagle" was less than the defender's share of that vessel, so that he was really applying his own money in the new purchase. Cook explains that he had no interest in the new vessel, and therefore it was a joint-adventure between Buchanan and Davie as to the "Rothesay Castle," but at the same time he signs the title along with Davie for the purchase-money, and therefore there is as much reason as regards Cook to hold him a shareholder as regards Davie, and yet Cook was undoubtedly not a partner. These circumstances appear to me to raise a difficulty, and it is not without hesitation that I do not differ from your Lordships in the result arrived at.

Lord President—I am of the same opinion. I will merely say with reference to the difficulty expressed by Lord Mure, that I go chiefly upon the ground that the "Rothesay Castle" was purchased on the credit of the copartners and the copartnery estate. It suits Cook now to say he had no interest in the "Rothesay Castle," but I am satisfied that he had originally an interest as well as Davie. The money for its purchase was procured partly by the assistance of the three partners and partly by a mortgage over the "Eagle." It may be that £3500 was less than Buchanan's interest in the "Eagle," and if Buchanan had made the mortgage, not of the "Eagle" but of his share in her, there would have been force in the observation. But the "Eagle" itself—the entire vessel—was the subject of the mortgage, and the result is that the "Rothesay Castle" was purchased by the partners with money raised on their credit and with the money of the copartnery.

The Court adhered.

Counsel for the Pursuer (Respondent)—Kinnear—Jameson. Agents—J. & J. Ross, W.S.

Counsel for Defender (Appellant)—Trayner—R. V. Campbell. Agents—Campbell & Smith, S.S.C.

Friday, January 7, 1881.

FIRST DIVISION.

[Court of Exchequer.

COLTNESS IRON COMPANY *v.* INLAND REVENUE.

(*AMENDED CASE.*)

Revenue—Income-Tax—5 and 6 Vict. c. 35, sec. 100, Schedule D.

Held that in computing the profits for assessment of income-tax a tenant of minerals is not entitled to deduct a sum representing the amount of capital expended in sinking pits which have been exhausted by the year's working.

This was the sequel of the case reported Feb. 6, 1879, 6 R. 617, and Aug. 1, 1879, 6 R. (H. of L.) 123. The Coltness Company having appealed to the House of Lords, that House was of opinion, after hearing counsel, that the statement of facts contained in the case submitted to the Court of Session was not sufficiently full for a final disposal of the points of law raised, and remitted the cause to the First Division of the Court of Session as the Court of Exchequer in Scotland, that the said Court might direct it to be amended in terms of 37 and 38 Vict. c. 16, and that an adjudication might be had on the amended case, and report made to the House of Lords thereon. The parties accordingly petitioned the First Division to remit the case to the Commissioners, in order that the same might be amended by adding thereto, in form of schedules or otherwise—"(1) Statement of the amount expended by the company in sinking pits, and charged to capital account, from 30th June 1858 to 30th June 1878; (2) statement of pits exhausted from 30th June 1858 to 30th June 1878, showing the total cost in sinking the pits, the depth of them, and the length of time they were in operation; (3) statement of the amount expended on pit-sinking, and charged to capital account, from January 1872 till 30th June 1878, giving the depth of each pit; (4) list of pits exhausted from January 1872 to 30th January 1878, giving the depth of each pit, when the sinking of the pit commenced, when each pit was exhausted, and the cost of sinking each pit; (5) ist of pits at present working, giving the depth of each pit, when the sinking of each pit commenced, and when the output commenced, and the expense of sinking each pit; also by adding a statement as to the schedules and rules of the schedules of the Income-tax Acts on which the assessment of the duty was made on the appellants; also by adding a statement explaining how the sum of £9027, claimed as a deduction from the assessment by the appellants, is arrived at."

The Commissioners accordingly amended the case. The facts regarding pit-sinking in the company's mineral field, as amplified and explained in the amended case, were summarised by the Lord President in giving judgment, as follows:—"*First*, During twenty years, from 30th June 1858 to 30th June 1878, the appellants expended in sinking pits £165,825, 3s. 6d., or on an average annually about £8500. This includes the costs of many pits used only as air-pits and pits for pumping water, as well as the expenses of bores made in searching for minerals. *Secondly*, During the same period many pits have become exhausted. The total cost of sinking these pits, including air-pits, pumping-pits, and bores as above, was £102,678, 6s. 10d., being about an annual average of £5000, varying from £639, 4s. 4d. in one year, being the lowest, to £11,284, 15s. 1d. in another, being the highest. The depth of these pits varies from 9 fathoms to 114 fathoms. Their endurance in a state of usefulness varies from about one year to twenty-three years. *Thirdly*, Taking a shorter period of about six and a-half years, from January 1872 to June 1878, the total cost of pit-sinking is £71,964, 10s. 2d., including £10,337, 10s. 9d. for air-pits and boring, or an average annual expenditure of about £11,000. Those pits vary from 4 to 134 fathoms in depth. *Fourthly*, During the period of six years, from January 1872 to January 1878, the nineteen pits which became exhausted had cost £44,013, 13s. 1d., or about £2300 each pit on an average. They vary from 13 to 100 fathoms in depth, and lasted on an average about nine and a half years. *Fifthly*, The pits at present working—that is, in June 1878—are forty-three in number, and cost £97,537, 7s. 1d., or an average of about £2250 for each pit. They vary in depth from 14 to 134 fathoms, and were sunk, the earliest of them in 1849 and the latest in 1876."

This statement was also made—"The sum of £9027 claimed as a deduction from the assessment by the appellants does not represent the cost of pit-sinking during the year, but is a sum arrived at by calculating two shillings a ton on iron made, and a penny half-penny a ton on coal sold, during the year, it being estimated that this will properly represent the amount of capital expended on making bores and sinking pits which have been exhausted by the year's working. The cost of making bores and sinking pits is charged in the books of the company to an account called 'Sunk Capital Account,' and is written off annually by a sum computed at the respective rates above specified on the quantities of iron made and coal sold in the year, as representing the capital expended on pit-sinking exhausted by the year's working. The working charges deducted and allowed in ascertaining the profits for assessment include the whole cost of getting and raising the minerals after the pits are sunk, and of manufacturing the metal and selling the iron and coal, and the general expenses of the concern."

At advising—

LORD PRESIDENT—In the case originally presented to the Court on the 28th of January 1879 by the Coltness Iron Company against the determination of the Commissioners of Income-Tax for the Middle Ward of Lanarkshire, they maintained that from the amount of the profits of their business for the year ending 5th April 1878, as assessed for income-tax, there ought to have been deducted a sum of £9027, being the cost incurred by them in sinking new pits.