

entitled to reject the forms on the basis of s.14(4). On the other hand he had accepted them and, because the forms were valid and not nullities, his action in accepting them could not be impeached. Brightman J said¹³ that “not be available for any purpose whatever” means:

5 “that one person cannot compel another person to rely upon and accept an instrument which is not at the time of presentation properly stamped”

And that those words:

10 “Cannot be given their strictest meaning where they appear in the Act.”

This does not in my judgment go far enough for Mr Pumfrey’s purpose. He is asking the court to “rely upon and accept” A1. That, on Brightman J’s interpretation of the second limb of s.14, I cannot do.

15 Mr Pumfrey also has difficulty in relation to the first limb, *shall not be given in evidence*. He argued that this is limited to putting the actual document in evidence. Here he says, he has secondary evidence of the document, its effect and the fact (elicited in cross-examination of the patent agent) that it is signed by both parties. So, without any need to look
20 at the document, there is sufficient evidence of it. And, he said, (in refutation of Mr Miller’s point based on the best evidence rule) what he had was the best evidence he could give of the document. I do not think any of this will do. It depends on Mr Pumfrey establishing the rule that secondary evidence of an unstamped document can be given. But no case (in particular *Birchall*) or the language of the section supports that.

25 Accordingly I accept the submissions of Mr Miller and Mr Silverleaf that I cannot receive in evidence A1. Without A1 it cannot be proved that A2 is a nullity. So I must refuse the application for rectification. Mr Pumfrey suggested that this would be wholly contrary to the public interest because it is in the public interest that the register should not be misleading.
30 As it stands it is, he says, because it incorrectly records how Stena became owners. This is true, but I cannot see that it matters. And it is noteworthy that the Comptroller, whose views I sought precisely because I wanted to have an impartial view of the public interest, did not support Mr Pumfrey’s overenthusiastic espousal of the public interest.

¹³ At p.388