INCORRECTLY SUMMARISING THE EFFECT IN LAW OF AN AGREEMENT OR A DEED ON A PUBLIC REGISTER

case of 3 of the patents it did so on 9th November 1994 and in the case of the other, on 11th November.

The attacks on the register - preliminary

Two substantive attacks are made on the entries in the register. Mr Pumfrey QC for McDermotts also pointed out that the actual wording describing A2 was not accurate. Whilst this seems to be right, nothing turns on this. Moreover the point was not raised in the Notice of Motion and I propose to take no action in relation to it. One cannot expect the Comptroller's officers (who at this level are not legally trained) always to summarise accurately the effect in law of documents such as assignments. Anyone interested can always get a copy of the actual document, which is open for inspection on the public file.

The first attack: the Stamp Act points on A2

I begin with what Mr Pumfrey regarded as his weaker attack. This was directed solely at A2. He said that Stena were in breach of their duty under s.5 of the Stamp Act. Whilst he now accepted that the agent's method of valuation was adopted for bona fide reasons, the Stamp Office were not told how the calculation had been done. So said Mr Pumfrey there was a breach of s.5: "all the facts and circumstances affecting the liability to duty" were not "fully and truly set forth" in A2. But A2 recited the original agreement, which the Stamp Office could have called for. And it recited a valuation bona fide placed on the assignment by both parties. Section 58(1) entitles them to do that. It permits parties in circumstances such as this (i.e. where many things are bought for a lump overall consideration) to apportion the consideration "as they think fit." These are wide words. Doubtless they would not extend to a dishonest apportionment. But if the apportionment is bona fide, that is enough, see *West London Syndicate v IRC*[1] . I think A2 sufficiently complied with s.5.

That is a first answer to Mr Pumfrey's point. But there is more. A breach of s.5 does not lead to a document being a nullity. This can be seen from *Nisbet v Shepherd*[2] where a stock transfer form which had failed to recite the consideration at all was held to be effective,

[1] [1892] 2QB 507 at p.526 *per* Rigby LJ