Appeal No. VA89/0/024

**AN BINSE LUACHÁLA**

**VALUATION TRIBUNAL**

**AN tACHT LUACHÁLA, 1988**

**VALUATION ACT, 1988**

**North Kerry Milk Products Limited** **APPELLANT**

**and**

**Commissioner of Valuation** **RESPONDENT**

RE: Milk Processing Plant at Listowel, Co. Kerry
Quantum - Valuations to remain in place for five years if circumstances unchanged

B E F O R E

| | |
|---|---|
| **Hugh J O'Flaherty** | **S.C. Chairman** |
| **Paul Butler** | **Barrister** |
| **Brian O'Farrell** | **Valuer** |

**JUDGMENT OF THE VALUATION TRIBUNAL**
**ISSUED ON THE 21ST DAY OF MARCH, 1990**

By notice of appeal dated the 15th day of August, 1989, the appellants appealed against the determination of the Commissioner of Valuation in fixing the rateable valuation of £6,360 on the above described hereditament.

The grounds for appeal are that "the valuation is grossly excessive, inequitable, increased improperly and bad in law. In particular we refer to Valuation Tribunal judgment as delivered on the 20th January, 1989 and other relevant factors."

**Precis of Evidence**

During the course of the hearing agreement was reached on certain issues. It is proposed in outlining the written submissions in advance of the hearing to deal only with the items which were still at issue i.e. the boilers.

A written submission was received from Messrs Hennigan & Co., 23 Upper Mount Street, Dublin 2, Rateable Valuation Consultants & Valuers on the 5th January, 1990. With regard to the Foster Wheeler steam generator and steam boilers Messrs Hennigans said that the multi-solid fluid bed steam generator which was supplied by Foster Wheeler Power Products Ltd. was commissioned by North Kerry Milk Products Ltd. in 1982. They said that assembly and construction were completed in May 1984 but the unit did not become fully operational until late in 1986. They said that it is designed to burn a wide range of solid fuels including coal, peat, anthracite, sawdust, etc. and produces steam for the main factory premises at a temperature of 240°C and at a pressure of 24 barometers. The design capacity of the unit is 53 tons of steam per hour and the net output is 47.62 tons of steam per hour.

Messrs Hennigan said that the company's decision to commission the subject steam generator was taken following the receipt of advice from the Government and also from the E.C.C. which provided a grant to cover 45% of the cost of the project and was also influenced by the possibility of future scarcities and increases in the price of fuel oil.

They said that North Kerry Milk Products Ltd. now have two steam generating plants in the subject complex:-

1. The Foster Wheeler Steam Generator.
2. The original oil - fuelled boilers.

The original oil-fuelled boilers have sufficient capacity to fully satisfy the factory's requirements. The oil system involved is uncomplicated and easy to control. It is easy to start up and works well at half or even quarter load. The oil- fuelled generator system has operated since 1973 and is still in good working order. Replacement is not envisaged in the near future.

Messrs Hennigan said that at present the company operates the Foster Wheeler solid fuel steam plant for six months approx. of each year. The original oil-fuelled steam boilers produce steam for the first two months of each year and for a short period towards the end of each year when milk processing is at a reduced seasonal level and the requirements for steam are very low. The oil based system is more economical to operate during this period.

Messrs Hennigan said that the company's decision to operate the steam plants in the manner outlined is also based on their objective to maintain both systems in satisfactory working order. They said that the Foster Wheeler solid fuel steam generator involves a very complicated operational procedure with many individual controls and special emphasis on clean burning of the fuel to avoid pollution of the atmosphere. They then outlined its operation.

They accept that the following components of the steam generating plants are rateable.

1. buildings and structures
2. fuel silos
3. ash silo
4. chimney stack
5. electric motors
6. furnace

7. heat exchangers (boilers)

In assessing their estimate of valuation particular regard was had to the provisions of section 7(3) and the schedule contained in section 8 of the Valuation Act, 1986.

While they accept that the furnace is rateable they contend that all moving parts should be excluded from valuation. The same applies to the heat exchangers (boilers).

They say that due regard must be had to the fact that the Foster Wheeler steam generator is in reality only used for six months approx. each year and taking account of the grants received, the cost to North Kerry Milk Products Ltd. is 55% of the real cost. They say that the original oil-fired generators are combined furnace/boilers and the installation costs are relatively cheap by comparison with those of Foster Wheeler steam generator.

They estimate the replacement cost of the oil furnace/boilers at £200,000 and have allowed depreciation at 50%.

Messrs Hennigan & Co then outline components of the Foster Wheeler steam generator that have already been rated by way of the 1984 and 1985 Annual Revisions. They then set out additional components which they considered to be properly rateable and their assessment of the valuation on these. They say that they consider that the developed ground under the Foster Wheeler steam generator should no longer be rateable as the steel superstructure and stairway are now considered rateable. They say that the subject Foster Wheeler steam generator produces 100,000 lbs of steam per hour and the total component valuation (including horsepower) is £180. They consider this assessment to be fair and reasonable when compared with the valuation of £110 assessed by the Valuation Tribunal on the steam generation plant in the Oil Refinery at

Whitegate, Cork which has a capacity of 90,000 lbs of steam per hour (Irish Oil Refining Plc and the Commissioner of Valuation - Appeal Nos. VA88/11 and VA88/263).

A written submission was received on the 5th January, 1990 from Mr Brian O'Flynn, a valuer with 14 years experience in the Valuation Office. Mr O'Flynn outlined the valuation history of the property in question and again because of the agreement on certain issues at the oral hearing it is necessary only to outline the points he made on the boilers.

Mr O'Flynn outlined the boilers which are attached to the subject property as follows:-

1.Foster Wheeler solid fuel fluidised bed boiler.
Output 105,000 lbs/hr net of saturated steam at 24 bar G. (350 p.s.i.g.) at 224°C.
Efficiency - Coal firing 87.53% on G.C.V.
Installed 1984. Agents state that boiler was not fully operational until late 1986.
Manufacturers claim that unit returned 94% availability in first full year of operation (January 1986).

2.Thompson Cochran Boiler Oil Fired.
Output 20,000 lbs/hr at 212°F. Installed April 1972.

3.Thompson Cochran Boiler Oil Fired.
Output 25,000 lbs/hr at 212°F. Installed April 1973.

4.Marshall Fowler Boiler Oil Fired.
Output 29,000 lbs/hr at 212°F. Installed May 1974.

5.Robey Lincon Boiler Oil Fired.

Output 40,000 lbs/hr at 212°F. Installed September 1978.

6.Thompson Cochran Boiler Oil Fired.

Output 40,000 lbs/hr at 212°F. Installed May 1981.

With regard to the Foster Wheeler boiler Mr O'Flynn said that this was installed at a time when oil prices were high relative to solid fuels. He said that although oil prices have fallen in the meantime there is still sufficient difference in the respective prices of fuels to warrant using the solid fuel boiler during peak milk production season (mid March to mid September). The ratio in cost terms between using oil instead of coal is 2.67:1 based on a 75% efficiency. He said that when the boiler was installed it was reported (Ir. Times 17.5.83) that the saving in fuel costs was of the order of one million pounds per annum.

Mr O'Flynn said that the proper method of valuation for the boilers is the contractors method as there is no evidence of letting for such items. The hypothetical tenant is the occupier in this case, who bought the equipment and had it installed. He said that the case may also be considered from the point of view of a hypothetical landlord who leases the equipment to the appellants. Such a landlord will expect a return on his money at a level equal to if not greater than that which he can obtain from long dated government securities or gilts. Furthermore the hypothetical landlord will expect the tenant to provide for the replacement of the plant or machine at the end of its useful life. He will also expect the tenant to maintain the machine/plant at its normal efficiency.

Mr O'Flynn then outlined the stages in arriving at a valuation as follows:-

Stage 1. Estimation of cost of construction (current replacement cost).

Stage 2. Deductions from cost to arrive at effective capital value (may involve allowance for age and obsolescence).

Stage 3. Estimation of cost of land (site value).

Stage 4. Application of the market rate at which money can be borrowed or invested.

Stage 5. Stand back and look - Is Stage 4 a realistic rent which tenant would pay.

Mr O'Flynn then made the following points.

(a) The value on rotating parts is 5% of the effective capital value.

(b) Grant aid cannot be deducted in calculating effective capital value.

(c) There is no special treatment in valuation terms for the plant if it is expensive to maintain.

(d) As the net annual value is to be taken on a year to year basis the remaining life of the plant is not an issue. The real issue is the loss in relative efficiency.

Mr O'Flynn then outlined his estimate of the current replacement costs of the Foster Wheeler boiler leading to a rateable valuation of £1,690. His rateable valuation for the other five boilers together was £217. He then produced a list of agreed valuations on other boilers under the headings of the year of installation, make, design capacity i.e. the no. of lbs/hr and rateable valuation.

**Oral Hearing**

The oral hearing took place on the 11th January, 1990 in Tralee and on the 13th of March, 1990 in Dublin. Mr Richard Cooke S.C. (instructed by Pierse & Fitzgibbon, Solicitors, Listowel, Co

Kerry) represented the appellants. Mr Aindrias O'Caoimh Barrister (instructed by the Chief State Solicitor) represented the respondent.

During the course of the oral hearing it became apparent that the items at issue could be divided into the following categories

1. Buildings
2 Motor Power
3. Boilers
4. Tanks
5. Pipelines.

After protracted discussions and with an important proviso which will be dealt with hereafter agreement was reached on four of the above as follows:-

| | | |
|---|---|---|
| Buildings | £3,200 - | |
| Motor Power | £ 750 | |
| Tanks | £ 270 - | this takes into account an additional £42.50 which the respondent said he now accepts should be added to the tankage. |
| Pipelines | £ 250 - | this Mr O'Flynn pointed out was based on a compromise figure on the footage of piping as he took into consideration only major runs of pipe and did not include underground piping or some overhead piping that was difficult to measure. |

No agreement could be reached on the boilers as the respective rateable valuations were as follows:-

Commissioner of Valuation £1,907 and the Appellants £180.

The major difference here related to the Foster Wheeler steam generator and evidence was given by Mr Patrick Kyne of Hennigan & Co and by Mr Pat O'Neill of North Kerry Milk Products. Mr Kyne generally outlined the reasons for installing the Foster Wheeler boiler as already indicated in the precis of evidence and he made the point that the boiler should be rated on its output rather than on its capital value because of the unique circumstances in which it was installed.

After the first hearing the Tribunal addressed the following questions to both parties.

1. If there were no Foster Wheeler boiler what valuation should attach to the boilers in the installations and what would be the significance of the lack of such an installation?

2. Assuming the Tribunal were to hold that the Foster Wheeler installation was acquired having regard to exceptional circumstances and, that, in the ordinary way, no reasonable person would contemplate acquiring it except for those exceptional circumstances, how should the Tribunal apportion its valuation?

3. Although the Foster Wheeler installation might not have been acquired at all in the ordinary way, nevertheless since it is now in use to a significant extent how should it together with the other boilers be regarded by the Tribunal?

In addition the Tribunal asked Mr O'Flynn to submit details on the valuations of boilers in other dairy co-ops. The responses received from both parties were as follows.

**Reply from the appellant**

Question No. 1.

"We propose to deal initially with the second part of the above query. We submit that the absence of the Foster Wheeler steam generator would not now have a significant bearing on the net annual value of the subject Milk Processing Plant to the hypothetical tenant as envisaged by

the Valuation Acts. The above steam generator was ordered in November 1982 at a time when it was generally agreed by experts that worldwide oil reserves were diminishing and as these reserves were mainly located in trouble spots, prices were constantly increasing and might become prohibitive.

Having regard to these factors the appellants deemed it prudent to study the possibility of providing an alternative source of steam generation so essential for the processing of their agri-foods. Consideration was therefore given to the installation of a multi-solid fuel steam generator as a precautionary measure.

The Foster Wheeler steam generator was officially classed by the Commission of the European Communities as an energy demonstration project to investigate alternative methods of energy production. In consequence it qualified for substantial grant aid from the E.C., the I.D.A. and the Department of Energy. Such aid is only provided for projects which do not result from normal investment decisions in that the inherent risks are considered to be too high due to the experimental nature of the projects in question.

Having considered all of the above factors the appellants decided to install the Foster Wheeler steam generator. However contrary to expectations and projections, the price of fuel oil has been substantially reduced in the intervening period. When the appellants originally gave consideration in 1981 to the possibility of installing a solid fuel steam generator, the cost of heavy fuel oil was $187.72 per metric tonne. However at the operative date for this appeal in 1988 the cost had fallen to $69.21 per metric tonne (Source - Dept of Energy). The cost of commissioning and monitoring the original demonstration project and subsequent maintenance and operational costs have also proved to be much higher than initially estimated. The cost of steam generation by means of the Foster Wheeler installation has been showing a loss since 1987

when compared to the cost of generating steam by means of oil. The differential has increased steeply since 1987 as shown hereunder:-

1987 - Loss £ 14,481

1988 - Loss £ 89,205

1989 - Loss £205,860

In the light of the foregoing it is submitted that the hypothetical tenant would not invest in a Foster Wheeler steam generator at the operative date for this appeal and in reply to the query posed by the Tribunal, it is our opinion, that the lack of such an installation would no longer be a significant factor.

The installation and operation of the Foster Wheeler steam generator has been supervised at all stages by Mr Pat O'Neill who is Chief Engineer of the Kerry Group Plc. Mr O'Neill has confirmed in reply to a query raised by the Chairman of the Tribunal at the hearing on the 11th January last that his group -who are described as the "ideal hypothetical tenant" by the respondents in their summary of evidence (page 4) - would not now commission the steam generator in question if same had not been already installed.

We now revert to the first part of query No. 1 posed by the Tribunal (i.e. if there were no Foster Wheeler boiler what valuation should attach to the boilers in the installations?).

In our opinion a fair and equitable valuation on the five oil- fuelled boilers would be £150 in the absence of the Foster Wheeler steam generator. We have assessed this valuation on a comparative basis with the oil-fuelled boilers installed at the Whitegate Oil Refinery which was recently the subject of an appeal to the Tribunal (Ref. Nos. VA88/11 and 263). These boilers have a capacity of 90,000 lbs. of steam per hour and were fixed by the Tribunal at a valuation of £110 which breaks down at £1.22 per 1000 lbs. of steam. The five oil-fuelled boilers at issue in

the subject Milk Processing Plant in Listowel are nominally rated at 154,000 lbs. of steam per hour. However their actual generating capacity for production purposes is limited to 123,000 lbs. of steam per hour and applying the above comparative rate of £1.22 per 1000 lbs. gives a valuation of £150.

Question No 2.

In apportioning its valuation we submit that the Tribunal should have regard to the value the hypothetical tenant would attribute to the steam generator in question in its actual state on the operative date for this appeal and having acquainted himself of all the relevant facts in conjunction with his advisors. He would see that the exceptional circumstances which prevailed in 1982 and which resulted in the appellant's decision to invest in the Foster Wheeler steam generator no longer apply for some years past. We contend that he would be also influenced by the following factors:-

1. the generating capacity of the Foster Wheeler installation is 95,000 lbs. actual steam per hour. The five oil-fired boilers have a combined generating capacity of 123,000 lbs. of actual steam per hour. The total generating capacity of 218,000 lbs. of steam per hour is substantially in excess of that which is required.

2. he would note that, at the operative date and taking one year with another, the Foster Wheeler installation is incurring annual losses as set out on page 2 when compared with oil.

We have also endeavoured in our assessment of the valuation shown hereunder to take "economic considerations" into account and as referred to by Mr Justice Kingsmill-Moore in the Supreme Court decision in Roadstone Ltd. V. Commissioner of Valuation.

Having regard to the foregoing we consider that a fair and equitable valuation on the Foster Wheeler installation (including horsepower) would be £180 (as detailed on pages 12 and 13 of our summary of evidence).

The above estimate is indeed fair and equitable when compared with the R.V. £110 fixed by the Tribunal on the boilers in the Whitegate Oil Refinery (Ref. VA88/11 and 263) which devalues as follows:-

WHITEGATE OIL REFINERY

Capacity of Boilers - 90,000 lbs. of steam per hour.

90,000 lbs. @ £1.22 per 1,000 lbs = £109.80 R.V. £110

The above rate of £1.22 per 1,000 lbs. of steam can be applied to the Foster Wheeler installation as follows:-

NORTH KERRY MILK PRODUCTS LTD.

Capacity of Foster Wheeler Installation - 95,000 lbs. of steam per hour.

95,000 lbs. @ £1.22 per 1,000 lbs. would give an R.V. £116

We have also had regard to the lime burning plant at the Mallow Sugar Company which cost £1.5m. approx and where only the kiln is valued at £45. (see details on page 14 of our summary of evidence).

As already outlined, our estimate of a fair valuation on the five oil-fired boilers is £150 on the basis of normal usage and in the absence of the Foster Wheeler generator. However in their existing partial usage which is mainly in the nature of providing stand-by steam generating

capacity, we consider that our assessment of £50 as set out in our summary of evidence is indeed fair and reasonable in these circumstances.

Question No. 3

Our reply to this query has been largely dealt with in our response to query No. 2. The Foster steam generator together with one oil-fired boiler are usually in operation from mid-March to the end of September each year. The remaining four oil-fired boilers are not required during this period and are only used from October to mid-March when the Foster Wheeler is closed down. We also submit that in assessing their valuation, the Tribunal should have regard to the level already established for boilers in the other major milk processing plants. In this context we would like to point out that - unlike the subject premises -these are located in the heart of rich pasture lands with catchment areas in close proximity viz. Golden Vale (Charleville), Ballyclough (Mallow) and Mitchelstown which in addition have the benefit of a relatively cheap and constant supply of natural gas from the Kinsale field. We suggest that the Tribunal also have regard to the level of valuation established for boilers at Avonmore and Waterford Co-op. The above five major Processing Plants have been referred to in Appendix No. 1 of the respondent's summary of evidence."

**On behalf of the respondent.**

Question No. 1

"It is submitted that the valuation of the boilers in the North Kerry Milk Products plant at Listowel should at all times be valued on the basis of the net annual value thereof having regard to the provisions of the Valuation Acts. It is submitted that insofar as the existence of the Foster Wheeler boiler is concerned that it should also be valued on the same legal basis. In the absence of the Foster Wheeler boiler it is submitted that the other boilers would still remain to be valued.

Accordingly the valuation which it is submitted should apply to the other boilers in the absence of the Foster Wheeler boiler is £217.

The significance of the lack of such an installation is that the appellant company would have a dependence on a single fuel (oil) which is more expensive than coal and which is liable in particular to wide fluctuations in price. Furthermore the overall reliability in supply is less assured than that in respect of coal of which there are reserves estimated at 350 years.

The ESB itself has commissioned a solid fuel based power station (also built by Foster Wheeler at Moneypoint in 1985 and this power station is relied upon by the ESB in preference to oil based stations.

It is submitted that the Tribunal should apportion the valuation as it has been set out in the submission of Mr Brian O'Flynn on behalf of the Commissioner of Valuation.

Question No. 2

In the assumption postulated by the Tribunal it is still necessary to determine the net annual value of the Foster Wheeler boiler. It is conceivable that in the circumstances of the assumption that the Foster Wheeler boiler may have diminished in value. However, what is relevant is its net annual value at the relevant date for this appeal, namely in 1988.

It is submitted that while the circumstances prevailing at the time of the purchase of the Foster Wheeler may differ such that the Foster Wheeler boiler may become either more or less valuable to its owner or a prospective tenant, it is still incumbent on the Tribunal to assess its net annual value at the relevant time (1988). It must be accepted that the Foster Wheeler boiler has considerable value, especially in the circumstances where it can produce steam cheaper than an oil fired boiler (as solid fuel is cheaper per unit of energy than heavy fuel oil). It is necessary to

determine this value and to determine the rateable valuation having regard to its net annual value. If it were to be a "white elephant" then it may have a very low valuation. Where however it still is the main source of steam and is capable today of producing steam more cheaply than an oil fuel boiler, this fact must be taken into account in assessing its value.

Even at today's lower oil prices than in 1985 the ratio of costs of useful energy is 2.67:1 in favour of solid fuel (see attached graph). The gap between the energy cost of oil and solid fuel today is as great as at any time in the past decade with the exception of the peak in oil prices in the period from mid 1983 to mid 1986. Furthermore a recent forecast by the President of the Irish National Petroleum Corporation is that oil prices will increase in the 1990's (see press cuttings attached hereto).

It must be realised that the Foster Wheeler boiler is used by the appellant for the entire of the main milk production season.

Question No. 3.

It is necessary to have regard to all boilers on the basis of their net annual value in 1988, that is "the rent at which one year with another the same might in their actual state be reasonably expected to let from year to year, the probable annual average cost of the repairs, insurance and other expenses, if any, necessary to maintain the hereditaments in their actual state and all rates, taxes and public charges, if any, except tithes, being paid by the Tenant". (Vide Section 64 of the Poor Relief (Ireland) Act, 1838). It is submitted that the significant use of the Foster Wheeler installation indicates that it is of some considerable value to the occupier - North Kerry Milk Products Limited.

It is submitted that the appropriate method of valuation is by reference to the contractor's method as there is no other way of ascertaining the net annual value of the hereditament and ascertaining

the rateable valuation of the hereditament in the absence of any rental evidence. It is submitted that such a method best ensures uniformity and accords with the requirements of the Valuation Acts. It is the normal method of valuing such hereditaments as the subject in other jurisdictions especially in Scotland and in England and Wales."

By letter dated the 7th March, 1990 Mr Brian O'Flynn submitted to the Tribunal details of the valuation of boilers in other dairy co-ops and these are attached at Appendix "A"

**Resumed hearing**

At the resumed hearing which took place in Dublin on the 13th March, 1990 Mr O'Neill who is Chief Engineer with North Kerry Milk Products Limited gave evidence that the North Kerry Milk Products could not be kept going without the Foster Wheeler boiler during the high season. The Foster Wheeler boiler produced 95,000 lbs/hr and another 25,000 lbs/hr is needed at peak time. He said that the ratio of the use of the Foster Wheeler boiler to the other oil burners is 4/7 as against 3/7. Under cross-examination from Mr O'Caoimh he said that figures produced by Eolas of 16.2p per litre for oil did not measure up with his analysis in North Kerry. In early 1988 he contracted for oil at 7.2p per litre. He produced a chart showing the costings of the different boilers which he said was an accurate representation. This is reproduced at Appendix "B". He said that there was no overlap of men working on the Foster Wheeler boiler and on the other boilers as they were both at different locations on the site. He outlined some serious defects which were found in the solid fuel burner and the type of fuel which can be used in it.

Mr Brian O'Flynn answered Mr Cooke on the replacement cost of the Foster Wheeler boiler referring to correspondence with the company that supplied the boiler in the first place.

Mr Aindrias O'Caoimh submitted that the proper way to value this construction was by use of the contractors method. He said this was based on the current replacement cost of the construction.

He said that this was the traditional approach and it was a standard approach taken in relation to the figures supplied by Mr O'Flynn on other boilers in other cooperatives. He said that the Foster Wheeler boiler gives rise to reduced energy costs for the appellants and that a valuation simply could not be arrived at by reference to other boilers. He said that by the end of the day it was cheaper to run taking one year with the next.

Mr Cooke said that this should be approached on the basis of output and that using the figures which Mr O'Flynn had supplied he calculated that the highest rate of the other boilers for the production of 1,000 lbs/hr was £2 varying down to £1.50. The bulk he said were £1.50 or £1.66. He said that by applying a similar criteria to the rateable valuation applied to the Foster Wheeler boiler one would arrive at a figure of £17.90 per 1,000 lbs/hr.

**DETERMINATION**

When the parties reached agreement on all outstanding matters, except for the boilers, Mr Cooke did make an important qualification. He said that it was not fair that the appellants should be vexed year after year with fresh appraisals.

The Tribunal accepts the force of this qualification and would express the wish that valuations now fixed (mostly by agreement) should remain in place for an appreciable length of time which it would regard as not less than five years. Of course, if circumstances change - if there are new buildings or installations, for example, the situation would obviously be different.

The Tribunal will now deal with the outstanding matter of the boilers. It accepts the force and, indeed, the logic of everything that Mr O'Flynn has so ably submitted and on which he has given evidence. The Tribunal would wish to express its appreciation, in particular, of his efforts in making available the basis on which boilers are treated in other creameries and the like. It accepts his valuation of the boilers other than the Foster-Wheeler installation at £217. The Tribunal accepts Mr O'Neill's evidence (a) that if the decision had to be taken again his company

would not install the Foster Wheeler boiler at all; (b) that the ratio of use is about 4:3 in favour of the Foster Wheeler boiler and (c) the difference in fuel cost at present is negligible.

So, in a word, the two boiler installations are roughly of the same use to the appellant company. If the Tribunal was to allow such a discrepancy £217:£1,790 that would have all the appearance of an unjust result. However logical a particular method of making an assessment may appear to be it cannot be the only guide.

The Tribunal must seek whatever method produces a just result (see Roadstone Ltd v. Commissioner of Valuation [1961] IR 239 at 260) and thinks that since the Foster Wheeler boiler is performing a similar function to the other boilers it should have the same valuation with an addition for its increased efficiency, the possibility, at least, that it could prove of great and unique benefit again in the future and its cost. The Tribunal also takes into account the comparables listed at appendix A and, in particular, it has regard to Avonmore Creameries both in regard to the valuation there put on the buildings and the valuation on the boilers. In the result the Tribunal fixes a total valuation of £530 on all boilers.

The breakdown is then as follows:-

| | |
|---|---|
| Buildings | £3,200 |
| Motive Power | £ 750 |
| Tanks | £ 270 |
| Pipelines | £ 250 |
| Boilers | £ 530 |
| Total | £5,000. |

The Tribunal wishes to put on record its appreciation to Counsel, Solicitors, Valuers and all involved in so far as they reached an amicable accommodation and, where they did not, for the skill, dedication and moderation with which they stated the parties' respective positions.