Appeal No. VA95/4/026

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Carbery Milk Products **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Factory and land at Map Ref. 2PV.3B, Townland: Dromidiclogh West, ED: Kinneigh, RD: Dunmanway, Co. Cork
Rateability of tanks

B E F O R E

Liam McKechnie S.C.	**Chairman**
Joe Carey PC.DDSc.DBAdm.MIAVI	**Member**
Rita Tynan Solicitor	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF MARCH, 1997

1. By Notice of Appeal dated the 5th day of October 1995 the Appellant Company appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £2,920 on the above described hereditament.

The grounds of appeal, as set out in the said Notice are:

"**1.** that the valuation is excessive and inequitable and
2. that the valuation is bad in law."

2. This case was dealt with by way of an oral hearing which took place in Cork on the 11th day of September 1996. The only point in issue and argued before us was one of rateability. This in respect of certain milk tanks belonging to and forming part of the Company's operations at Ballineen in the County of Cork. If rateable, the parties have agreed that the appropriate valuation to place thereon is £99. Consequently, should this Tribunal hold with the evidence and submissions adduced on behalf of the Appellant Company then that part of the total valuation amounting to £945 in the Absolute column should be reduced to £846.

3. During the course of the hearing we heard evidence from Mr. John Holland and Mr. Desmond Killen FRICS FSCS IRRV, a Valuer on behalf of the ratepayer and from Mr. Frank O'Connor ARICS BSc. (Surveying) on behalf of the Commissioner. Mr. Holland was formerly a supervisor with the Appellant Company and is now a Production Manager. He was and remains intimately involved in all aspects of production and has both technical and scientific knowledge of the Company's operations and activities. From the evidence so given the following are the relevant facts so found or agreed, which in our opinion are material for the purposes of this appeal:-

(a) The Appellant Company carries on a substantial dairy processing business at its factory in West Cork. It processes approximately 72,000,000 gallons of milk and skimmed milk powder annually. This is converted into a range of cheddar and low fat cheeses, mozzarella cheese, powdered food ingredients and alcohol.

(b) The raw material for this manufacturing process, namely milk, is delivered to the Company by four local co-operatives. These co-operatives draw their milk yield from different farmers with different herds and different farming operations and of course from different geographical areas.

(c) Milk, in its original state has a 12.5% solid composition. This consists of Fat, Protein, Lactose and Minerals. The percentage element as described to each of these components will vary depending on location, herd, farming operations etc.

(d) Both raw (whole) milk and skimmed milk is delivered by way of bulk carrier to the Company's factory. After arrival both types of milk are unloaded, chilled and pumped to one or more of the tanks the subject matter of this appeal. In all there are eight such tanks involving a total capacity of 395,000 gallons.

Five of these are used for the intake of raw milk with four having individual

capacities of 60,000 gallons and the fifth having a capacity of 80,000 gallons.

The other three are reception tanks for skimmed milk with each having a capacity of 25,000 gallons.

(e) Raw milk has a variable fat content but is generally within the range of 3.5-3.6%. Skimmed milk on the other hand is extremely low in fat content being generally down to 0.2 or 0.3 of 1%. On the other hand skimmed milk, has a higher concentration of protein relative to raw milk. The actual percentages of fat content and protein content can be accurately and scientifically measured. For all of the Company's dairy products a certain specification, either customer dictated or legally required must be met. Otherwise, the end product is not usable. Such specifications frequently require an alteration in the fat and protein content of raw milk from that which prevail in its natural state. This is achieved by mixing and blending skimmed milk with whole milk in a certain specified ratio; this is achieved in any one of the five silos in which the latter is contained. When so mixed or blended the resulting milk is then pumped to the cheese vat and the rest of the manufacturing process continues thereafter.

(f) In addition to knowing both the fat and protein content of skimmed and raw milk the Appellant Company has the facility of knowing precisely what percentage of skimmed milk is required to be pumped into and blended with the already ascertained quantities of raw milk in one of the appropriate silos. This quite obviously can be identified immediately prior to the commencement of the blending. Once blended however there is no further chance of intermediate inspection with the next opportunity presenting itself only when the end product has been manufactured.

(g) In addition to mixing and blending all of these tanks are fitted with mechanical agitators which *inter alia* have the effect of ensuring that the fat content rises to the top and there is held in suspension for the duration of its holding. Without such agitators the product would disintegrate and quickly fall below any retrievable specification.

(h) From the time of arrival at the factory the milk, either whole or skimmed or in its combined state, is held in the appropriate tanks for periods varying from about one hour up to 24 hours with the precise duration being

dependent on the requirement of the factory for the product in question: it should be noted however that where combined the absolute minimum period required is about one hour with this being dictated not by throughput but by the process itself.

(i) In the three tanks which hold skimmed milk no blending or mixing takes place therein.

Photographs and a schematic layout of the process carried on in the factory were proved before us and these together with the totality of the evidence presented a full and comprehensive picture of the precise activity carried on in this dairy processing factory.

4. On behalf of the ratepayer it was submitted that by way of a decision dated the 6th day of December 1988 this Tribunal had already decided that tanks, indistinguishable for valuation purposes from those the subject matter of this appeal were non-rateable. Indeed, following that decision agreement was reached between the Appellant Company and the Commissioner in that the subject tanks or those which they in fact replaced were non-rateable. *(See Valuation Appeal* - **VA88/077 - Carbery Milk Products v. Commissioner of Valuation** being an agreed determination of this Tribunal given on the 26th day of June 1989). Accordingly, it was urged that in the absence of any substantial change in material facts we in this Tribunal should adhere to and follow the aforesaid decision of the 6th December 1988. It was not contended however that such a decision constituted an estoppel whether by way of *per rem judicatem* or by way of issue estoppel. Secondly, and in any event, it was suggested that the tanks in question were designed or used primarily to induce a process of change and that accordingly they were non-rateable under *Reference No. 1, of the Schedule to the 1860 Act* as inserted into that Act by *Section 8 of the Valuation Act, 1986*. On behalf of the Commissioner it was alleged that the relevant principles of law had indeed changed following the decision of the Supreme Court in the case of ***CaribMolasses Company Limited v. Commissioner of Valuation***, an unreported decision of the Supreme Court given on the 26th May 1993. It was stated that this judgement altered the basis upon which this Tribunal gave its judgement in the Mitchelstown case and that as a result the Commissioner was justified in looking afresh at each of the units in question. In addition, either as part of this submission or as a separate submission it was suggested that these milk tanks were rateable as plant under the aforesaid Reference No. 1.

5. In the Mitchelstown case there were in all five appeals, two dealing with grain installations and three dealing with milk installations. The latter three are described in page 2 of the judgement as:-

"Appeal No: 95 - Castlefarm Milk Installations Milk Powder Factory
Appeal No: 97 - Clonmel Road Milk Installations Cheese Factory
Appeal No: 99 - Castlefarm Milk Installations Butter Factory".

Commencing at page 33 of the judgment the Tribunal dealt with the relevant law and its finding of facts. Firstly it quoted *Section 12 of the 1852 Act*, secondly it quoted *Section 7 of the 1860 Act* in both its original and amended form, thirdly it quoted the Schedule to that Act as inserted by *Section 8 of the 1986 Act*, fourthly it referred to several of the more important decisions commencing with ***Cement Limited v. Commissioner of Valuation [1960] IR 283*** and ending with ***Siucra Eireann Cpt. v. Commissioner of Valuation***, a decision of Mr. Justice Hamilton who was then the President of the High Court, now the Chief Justice, on the 6th day of October 1988, fifthly it cited with approval the principles specified by the then President of the High Court, later Chief Justice Finlay in ***Beamish & Crawford Limited v. Commissioner of Valuation,*** a unreported decision given on the 8th May 1978, and then starting, at page 38 of the judgement the Tribunal went on to say:-

"The purpose of the amendment brought about by the Valuation Act, 1986, manifestly was to provide that certain industrial plant should be deemed rateable while, at the same time, preserving the age old exemption for machinery (save such as shall be erected and used for the production of motive power) ..... The Tribunal believes that if it had to decide the matter before the enactment of the 1986 Act, it would clearly be bound to hold, in accordance with the judicial decisions herein before referred to, that <u>all</u> the installations under appeal in this case constituted machinery and would be entitled to exemption..... With regard to the Limerick Road grain installations there can be no doubt that what goes in is grain and what comes out is grain and there is no doubt that a process of change comes about in the grain and it is right to say that this process of change is "induced" during its storage in the installations. To "induce" a process of change means to being about or cause a process of change. If the grain was not treated - to use a neutral term - in these installations in the way that has been described by the witnesses it would be of no use. The Tribunal has no doubt that this is a highly sophisticated system and that a

simpler layout to deal with storage simply would have been feasible.

Nonetheless, storage is of the essence whereas the procedures by which a change is brought about is something that can be done by different methods, although at a great deal more expense and using more man-hours than such an installation as this. The question for resolution is whether the primary purpose of the operation is for storage or is it to induce a process of change in the substance?

As this has been said above, storage cannot be dispensed with and, therefore, it must be put first in importance in the scheme of things. If it is first in importance then the installation is designed or used primarily for storage.

Accordingly, the Tribunal determines that the Limerick Road grain constructions are deemed to be rateable hereditaments. The Tribunal applies the same reasoning in respect of the Clonmel Road grain constructions.

With regard to the Castlefarm milk installations (milk powder factory), the Clonmel milk installations (cheese factory) and the Castlepark milk installations (butter factory) it seems to the Tribunal that a strong argument has been presented that what is involved in these operations is a process which is an integral part of the whole manufacturing process that takes place at the respective installations; that what is involved is machinery pure and simple and that the 1986 Act has not effected any change in relation to these installations.

However, on balance, the Tribunal has come to the conclusion that these installations must be regarded as plant too. However, there is no element of storage or containment except in a peripheral or casual manner and insofar as there is such an element the Tribunal is in no doubt that the primary purpose of these installations is to induce a process of change in the substance contained or transmitted. Indeed the Tribunal is of the opinion that there is induced a process of change at each stage of the respective operations."

Accordingly it held that the grain installations were rateable but that the milk installations were not.

6. From the above quoted extract the following can be stated:-

(a) All the installations in question constituted, within the pre-1986 law, "machinery", and thereunder would therefore be exempt,

(b) All such constructions however were also "plant" within the meaning so described in the relevant provisions of the 1986 Act and accordingly in the post-1986 situation their rateability had also to be considered in the context of *Reference No. 1 to the Schedule of the 1860 Act.*

(c) Under that Reference the crucial question was whether such constructions were designed or used primarily to induce a process of change with the words "to induce" meaning to bring about or cause a change in the process.

(d) In the particular circumstances grain bins, whilst a process of change took place therein were designed or used primarily for storage or containment and accordingly were rateable plant. Whereas on the other hand the milk installations came within the proviso as contained within the said Reference No. 1 and were therefore non-rateable plant.

7. It seems to us that the definition of the word "machinery" from a ratepayers point of view had reached its high water mark in 1986 and that since, subject to the occasional flash flood, the tide has ebbed and indeed continues to so do. One such example is to be found in the case of ***Siucra Eireann Cpt v. Commissioner of Valuation [1992] ILRM 682***. In that case the receptacles in question were heavy duty oil tanks which contained steam heating/diluting elements with pumps. These were used for the purposes of loading and unloading oil thereto and therefrom. Having referred to *Section 7 of the 1860 Act* and having quoted with approval from the judgement of O'Higgins C. J. in ***Beamish & Crawford v. Commissioner of Valuation [1980] ILRM 149***, Mr. Justice McCarthy, in giving the judgement of the Supreme Court, at page 685 of the report said:-

"In my judgement these tanks are holding vessels for fuel oil; the fact that the oil has to be heated in order to move it, does not make the tank a machine; further these tanks do not play an integral part in the process as if the oil were the raw materials. It follows that the learned President erred in holding that these tanks and the manner of use thereof are part of the process of manufacture. As Costello J. said in Pfizer Chemical Corporation v. Commissioner of Valuation, High Court 1988 No. 706 SS (Costello J), judgement delivered 9th May 1989, to hold otherwise would do violence at

once to the English language and common sense. These receptacles are tanks - not machines. The fact that the tanks are fitted with equipment which enables the oil to be heated does not alter their character which predominantly is one for storage purposes".

It should be noted that this case was dealt with under the pre-1986 provisions, that the concept of the tanks playing an integral part in the overall process was a relevant consideration as was the predominance of the use or purpose of such tanks and that in approaching the task, as to what was or was not "machinery", one should, if at all possible, avoid using or applying a strained interpretation. Whether in so commenting the court had in mind an approach to interpretation somewhat different from that laid down by the Supreme Court in the ***Trustees of Kinsale Yacht Club v. Commissioner of Valuation [1994] ILRM 457*** is unclear but that issue, if issue there be, is neither relevant or material to this appeal.

8. In the case of the ***Irish Refining Company Plc v. Commissioner of Valuation [1995] 2ILRM 223*** Mr. Justice Geoghegan was dealing with an issue as to whether sections of plant (including tanks, pipelines, etc. all being part of the business operations carried on by the Refining Company) formed an integral part of its manufacturing process and was therefore "machinery" and thus exempt under *Section 7 of the 1860 Act*. At page 226 of the judgement he said as follows:-
"In particular it has been urged on me that there is clear authority for the view that because some kind of activity takes place in, say, a tank for the purposes of blending or mixing the contents of a tank or for the purposes of maintaining the contents in a particular condition, it does not necessarily mean that the tank is to be regarded as a machine. The case primarily relied on by the Commissioner is the latest case which is Pfizer Chemical Corporation v. Commissioner of Valuation, High Court 1988 No.706 SS (Costello J.) 9th May 1989, Supreme Court 1989 No. 226, judgement of McCarthy J. (with whom the other two members of the Court agreed) delivered 7th April 1992. The company relied in argument on a number of other cases including J. H. Thompson and Son Limited v. Commissioner of Valuation [1970] IR 264; United Molasses Company Limited v. Commissioner of Valuation [1972] RA 282; Beamish and Crawford Limited v. Commissioner [1980] ILRM 149, an earlier case under the name of *Pfizer Chemical Corporation v.*

Commissioner of Valuation, and ***Siucra Eireann Cpt. v. Commissioner of Valuation [1982] ILRM 682****. It is not very easy to reconcile all these decisions with each other but in approaching consideration of this case stated, I take the view that I should have special regard to the later Pfizer case as it represents the most up to date view of the Supreme Court. However, in my view, only limited reliance can be placed on previous case law. One of the reasons why it is not very easy to reconcile the cases is because each was decided, and properly decided, on its own facts. But I am satisfied that one clear principle does emerge. The fact that tanks or receptacles are fitted with equipment which enables some activity to take place within does not necessarily alter their character as tanks and convert them into machines. To repeat the expression used by McCarthy J. in the Siucra Eireann case, if the character of the tank 'predominantly is one for storage purposes' it is a tank and not a machine. As to whether the predominant purpose is storage or not depends, in my view, on whether the activity within the tank is itself approximate part of the manufacturing process or is merely a process for retaining or maintaining the contents of the tank in a particular condition in preparation for the core manufacturing process."*

9. There is one other case in this context that we wish to mention. It is ***Denis Coakley & Company Limited v. Commissioner of Valuation [1996] 2ILRM 90.*** The appeals in that case concerned the appellant's grain handling plant at Kennedy Quay, Cork. Its case was that the valuation placed by the Commissioner on the grain silos and weigh bridge should be struck out on the basis that the same constituted "machinery" for the purposes of *Section 7 of the 1860 Act*. It was submitted on its behalf that the handling process (including delivery, sampling, weighing, dust extraction, turning, fluidisation, mixing and blending) was one continuous process which brought the whole of the plant including the silos within the definition of manufactory and that since the components thereof constituted machinery the same were, as above stated exempt from rating. On behalf of the Commissioner it was suggested that the plant did not constitute a manufactory and furthermore that the silo did not come within the definition of "machinery".

10. Dealing firstly with the question whether or not the handling plant constituted a "manufactory" the Supreme Court through the judgement of Mr. Justice Egan referred to the High Court decision of ***Cronin (Inspector of Taxes) v. Strand Dairy Limited, unreported, 18/12/1985***, a case concerned with the meaning of the

words "goods manufactured". Murphy J., in that case, was of the view that the ultimate product could not be said to be manufactured unless the process itself brought about some change in the raw material which was subjected to that process. Furthermore the High Court felt that the economic realities had to be taken into account and that if a commercially different product resulted then it could be said that the same was subject to a manufacturing process. In applying the above Mr. Justice Egan held that what was done to the natural product by way of adaptation was just about sufficient to make the grain, in the final analysis, a commercially different product from that which it was prior to the commencement of the process. The learned judge then went on to hold that the group of bins involved in the process, which were located in a cluster and which were collectively referred to "as a silo", were part of the process and ought to be described as "machinery". In doing so he referred to the Supreme Court decision in the ***Beamish & Crawford case (supra)***.

11. From the above we believe that the following general propositions can be deduced:-

(1) A receptacle "per se", to use a neutral word, used simply for storage purposes or for a multitude of purposes but with storage being the predominant one cannot qualify as machinery and therefore cannot get exemption under Section 7.

(2) Receptacles used simply or predominantly for storage purposes remain so even if contained within facilities which alter the viscosity of the contents of such receptacles.

(3) Receptacles with facilities for agitation only may or may not but in general will not qualify as machinery.

(4) In determining whether a receptacle "predominantly is one for storage purposes", one general test is to examine the activity contained therein. If such activity is merely for the purposes of retaining or maintaining the contents of the receptacle in a particular condition whilst awaiting the core manufacturing process then it is not machinery. If on the other hand the activity within is in itself a proximate part of the manufacturing process then exemption should follow.

(5) When dealing with the definition of "machinery" for the purposes of Section 7 "the components should not merely be regarded separately or piecemeal but as integral parts of the process in which they are used". (**See page 151 of the judgement of O'Higgins C.J. in Beamish & Crawford (supra)**).

(6) This "part of the integral process" approach, clearly applies to the different

components of a separate or distinct receptacle, apparatus or unit (for example one of several grain bins or milk installations) but in addition it also applies where it can be truly said that collectively such bins or installations or the like, are or form an inherent part of a continuous and direct manufacturing process (**See page 95 of the Denis Coakley & Company case (supra)**).

12. In this case the principal submission made, on behalf of the Commissioner was based on the Supreme Courts decision in ***CaribMolasses Company Limited v. Commissioner of Valuation (unreported),*** delivered on the 25th day of May, 1993. In that case the items in dispute consisted of two tanks which were lagged and had on the inside thereof steam coils. These could be heated by means of an external oil fired burner but in practice this rarely if ever occurred. Crude molasses, which depending on source of supply may have a different consistency or viscosity, was pumped by means of a pipeline from a ship into and held in these tanks. Instead of remaining a mass of irregular composition this crude molasses was mixed so as to form a uniform or homogenous blend and this was achieved by being pumped from one of the two tanks to the other. By way of gravity the molasses flowed out of these tanks and into pipes attached thereto. Upon leaving such tanks steam is applied to the attached pipes in order to improve the flow and in addition hot water is added so as to form "standardised molasses".

13. On these facts the single issue before the court was whether or not the tanks in question constituted non-rateable plant under the said *Reference No. 1 of the Schedule to the 1860 Act*. This on the basis that the same was designed or used primarily to induce a process of change. In support of an affirmative response it was contended for on behalf of the Company that the containment of the molasses in the tanks was part of a continuous process and that once this was the position there could not be any element of that type of containment as envisaged in the schedule. Indeed, that principal submission argued by way of analogy with the Beamish & Crawford case, was at page 16 of the judgement summarised as follows:-

"..... that the court should accordingly look at the Respondents installation as a single unit engaged in a continuous process and that if that approach were adopted the court must find that the tanks were non-rateable plant".

On behalf of the Commissioner it was argued that insofar as there may have been a

process of change this took place outside, and at a time when the molasses had left, the tanks. Reference to the application of steam and the injection of hot water to the attached pipes was made in support of this submission.

14. Mr. Justice Blaney was perfectly satisfied that, on the findings of fact made by the Valuation Tribunal, the respondents submissions were correct and accordingly he decided that insofar as there was a process of change the same occurred outside the tanks and that in consequence such tanks were rateable plant under *Reference No. 1 of the Schedule to the 1860 Act*. He then went on to deal with the company's principal submission, as formulated above, by stating:-

"..... I am unable to agree. The present case is wholly distinguishable from the Beamish & Crawford case where the issue was whether tanks used in the process of brewing beer constituted machinery. Here the issue is not whether the tanks constitute machinery. The sole issue is whether they come within the exception in the Schedule and that has to be determined by construing and applying the wording used in the Schedule. The decision in the Beamish & Crawford case is of no assistance in doing this".

Apart from the specific facts of this CaribMolasses case it appears to us that in the judgement above referred to, the Supreme Court considered these tanks in isolation one from the other and certainly in isolation from the attached pipe work. It treated each tank as a distinct and separate unit. Furthermore it held that the "part of the integral process" approach did not apply and was not available where the issue of rateability fell to be determined under *Reference No. 1 of the Schedule to the 1860 Act*. Effectively it declined to extend the reasoning in the Beamish & Crawford case (supra) to a case where the issue of rateability was not argued under *Section 7 of the 1860 Act* but rather under the aforesaid Reference No. 1.

15. In applying the above principles where appropriate to the facts of the instant case we find it necessary to make a distinction between the tanks which hold the raw milk and the tanks which contain the skimmed milk. In respect of the latter three tanks we are perfectly satisfied that what goes in to those tanks is skimmed milk and what comes out is likewise the same skimmed milk. It will be recalled that the necessary changes in raw milk to produce skimmed milk have already taken place before the latter is delivered to the companies premises. To have available skimmed milk is of course necessary for the manufacturing process which in turn means that the company must make available a facility to hold or contain that milk until such time as the process is ready to receive it. Such a

holding takes place in these three tanks. We are satisfied that such tanks are designed or used primarily if not exclusively for storage or containment and certainly not either primarily or at all to induce a process of change. Any activity which takes place within these tanks does so for the purposes of retaining or maintaining the skimmed milk in its original condition. Indeed, if the process was otherwise ready this milk could by-pass any entry into or stay in these tanks and go directly to the manufacturing process of cheese. That it does not do so has nothing to do with any requirement of the manufacturing process itself. Accordingly we hold that these tanks are plant and are rateable as such within *Reference No. 1 of the Schedule to the 1860 Act.*

16. The position in our view however is quite different with regard to the five tanks which hold the raw or whole milk. As above stated it is crucial to the operations of the appellant company that a certain specification is met whether that specification is customer orientated or required by law. One way or the other unless this specification is satisfied then the ultimate product is of no use and certainly of no commercial viability. The word "specification", in this sense, is not simply an individual requirement of a particular customer. Rather it is demanded by and of the product itself. For example, Mozzarella cheese can only be such if both the fat and protein content are at a particular level. If not the resulting product, whatever it might be, is not mozzarella cheese. This is but one example of why the mixing and blending of raw milk with skimmed milk and the processes which take place within these tanks are crucial to the entire manufacturing operations of the appellant company. Whilst it is true to say that milk goes into these five tanks and that milk comes out, that statement, without qualification is inaccurate and is certainly an incomplete description of the activity which takes place within. What in fact goes in is raw milk which has a certain ascertainable percentage of fat and protein content and what comes out is not that milk with that content but rather milk with quite a different content of both fat and protein. It is neither raw milk in its natural state or skimmed milk in its natural state.It is a product different from both.

17. Could we test this proposition by rhetorically asking whether or not, if there was no requirement for storage and if the manufacturing process so permitted, could the raw milk as delivered by the four co-operative societies be pumped straight into the manufacturing process and avoid altogether these tanks. From the evidence of Mr. Holland we are quite satisfied that this could not take place. Accordingly it is our view and we so find that in respect of these five tanks the same are designed or

used primarily to induce a process of change in the milk contained therein and as such are non-rateable plant within the meaning of the aforesaid *Reference No. 1*.

18. Finally, as the parties will undoubtedly appreciate, we in this Tribunal are statutorily obliged to hear and determine any appeal properly brought before us and in respect of which we have jurisdiction. Given the nature of the rating system and the fresh periodic imposition of liability there cannot be any prohibition on any qualifying person to initiate a revision at any time or thereafter to bring an appeal to this Tribunal. If however there has been no material change in facts, circumstances or the relevant law then every such appeal will be dealt with in accordance with the juris prudence already well established by this Tribunal. In this case however we are satisfied that the Commissioner could not be justly or otherwise criticised for his approach to this revision and this appeal.

19. The determination of the Tribunal therefore is that as set out above. As the result will require a valuation to be placed on three tanks the parties may agree an apportionment of the RV of £99 attributable to tanks or in default of same, will have liberty to apply.