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IN THE PRIVY COUNCIL

No. 30 of 1969

O N A P P E A L
FROM THE COURT OF APPEAL OF NEW ZEALAND

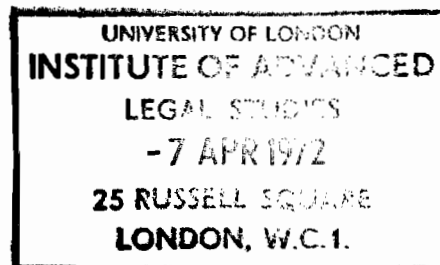
B E T W E E N :

BATEMAN TELEVISION LIMITED (in liquidation)
and BATEMAN T.V. HIRE LIMITED (in liquidation)
Appellants

- and -

COLERIDGE FINANCE COMPANY LIMITED Respondent

RECORD OF PROCEEDINGS



LINKLATERS & PAINES,
Barrington House,
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London, E.C.2.
Solicitors for the
Appellants.

MACFARLANES,
Dowgate Hill House,
London, E.C.4.
Solicitors for the
Respondent.

8, 1971

IN THE PRIVY COUNCIL

No. 30 of 1969

O N A P P E A L

FROM THE COURT OF APPEAL OF NEW ZEALAND

B E T W E E N :

BATEMAN TELEVISION LIMITED (in liquidation)
and BATEMAN T.V. HIRE LIMITED (in liquidation)

Appellants

- and -

COLERIDGE FINANCE COMPANY LIMITED

Respondent

RECORD OF PROCEEDINGS

INDEX OF REFERENCE

No.	Description of Document	Date	Page
	<u>IN THE SUPREME COURT OF NEW ZEALAND</u> <u>CANTERBURY DISTRICT, CHRISTCHURCH REGISTRY</u>		
1.	Petition for the compulsory winding-up of Bateman T.V. Hire Limited	27th September 1968	1
2.	Petition for the compulsory winding-up of Bateman Television Limited	30th September 1968	3
3.	Notice of Motion for appointment of provisional liquidator	1st October 1968	5
4.	Affidavit of John Nicholas Rundle in support of Notice of Motion for appointment of provisional liquidator	1st October 1968	6

No.	Description of Document	Date	Page
5.	Affidavit of Claude Whitney Evans in opposition to Notice of Motion for appointment of provisional liquidator, sworn	4th October 1968	12
6.	Affidavit of Robert Currie, sworn	7th October 1968	14
6(a)	Exhibit "A" to Affidavit of Robert Currie	26th March 1968	15
6(b)	Exhibit "B" to Affidavit of Robert Currie	26th March 1968	16
7.	Further Affidavit of John Nicholas Rundle, sworn	7th October 1968	17
8.	Further Affidavit of Robert Currie, sworn	9th October 1968	18
8A.	Exhibit "G" to Affidavit of Robert Currie sworn 9th October 1968 - Agreement between Bateman T.V. Hire Ltd. and Star T.V. Limited	1st December 1967	27
9.	<u>Court Notes of Evidence</u>		
	<u>Petitioner's Evidence</u>		
	John Nicholas Rundle -		
	Examination	27th November 1968	33
	Cross-examination	27th November 1968	37
	Re-examination	27th November 1968	45
	Further Cross-examination	27th November 1968	47
	Walter Arthur Hadlee -		
	Examination	27th November 1968	48
	Cross-examination	28th November 1968	51
	<u>Respondent Companies' Evidence</u>		
	James Robert Bruce Menzies -		
	Examination	28th November 1968	55
	Cross-examination	28th November 1968	64

No.	Description of Document	Date	Page
	Robert Currie -		
	Examination	28th November 1968	78
	Cross-examination	29th November 1968	96
	Re-examination	29th November 1968	102
	<u>Petitioner's Further Evidence</u>		
	Yvonne Rosa Perry -		
	Examination	29th November 1968	106
	Cross-examination	29th November 1968	107
	Re-examination	29th November 1968	109
	Further Cross-examination	29th November 1968	109
	John Nicholas Rundle (recalled)		
	Examination	29th November 1968	109
	Cross-examination	29th November 1968	112
10.	Reasons for Judgment - Macarthur J.	12th December 1968	113
11.	Order for winding-up of Bateman T.V. Hire Limited	12th December 1968	126
12.	Order for winding-up of Bateman Television Limited	12th December 1968	128
	<u>IN THE COURT OF APPEAL OF NEW ZEALAND</u>		
13.	Notice of Motion on Appeal by Bateman T.V. Hire Limited	19th December 1968	130
14.	Notice of Motion on Appeal by Bateman Television Limited	19th December 1968	131
15.	Judgment of the Court of Appeal North, President Turner, J. McCarthy, J.	8th May 1969	132
16.	Formal Judgment of the Court of Appeal	8th May 1969	175

No.	Description of Document	Date	Page
17.	Order granting Final Leave to Appeal to Her Majesty in Council to Bateman T.V. Hire Limited	4th August 1969	177
18.	Order granting Final Leave to Appeal to Her Majesty in Council to Bateman Television Limited	4th August 1969	178

E X H I B I T S

Exhibit Mark	Description of Document	Date	Page
	<u>Petitioner's Exhibits</u>		
"A"	Conditional Purchase Agreement between Bateman Television Limited and Bateman T.V. Hire Limited	2nd June 1966	179
	Further copy of Conditional Purchase Agreement between Bateman Television Limited and Bateman T.V. Hire Limited	(Same as Exhibit "A" to Affidavit of R. Currie sworn 9th October 1968) 2nd June 1968	186
	Analysis of 156 Conditional Purchase Agreements produced as Exhibit "A"	Undated	198
"C"	Schedule of Arrears	Undated	204
"D"	Schedule of repossessions including details of amounts owing to Coleridge Finance Co. Limited by Bateman Television Limited	Undated	207
"G"	(1) Letter Coleridge Finance Company Limited to Bateman Television Limited	2nd February 1968	209

Exhibit Mark	Description of Document	Date	Page
	<u>Petitioner's Exhibits (continued)</u>		
"G" (contd.)	(2) Schedule of proposed terms of settlement	Undated	210
	(3) Letter Wynn Williams & Co. to Cavell Leitch & Pringle	19th March 1968	212
	(4) Letter Wynn Williams & Co. to J.R. Menzies	19th March 1968	213
	(5) Letter J.R.B. Menzies to Wynn Williams & Co.	26th March 1968	215
	(6) Letter Wynn Williams & Co. to Cavell Leitch & Pringle	25th March 1968	216
	(7) Letter Wynn Williams & Co. to J.R.B. Menzies	26th March 1968	217
	(8) Letter J.R.B. Menzies to Wynn Williams & Co.	29th March 1968	218
	(9) Letter Wynn Williams & Co. to Cavell Leitch & Pringle	29th March 1968	220
	(10) Letter Cavell Leitch & Pringle to P.T. Mahon	30th April 1968	221
	(11) Letter J.R.B. Menzies to R.G. Hintz	1st May 1968	221
	(12) Letter Cavell Leitch & Pringle to J.R.B. Menzies	3rd May 1968	224
	(13) Letter Cavell Leitch & Pringle to J.R.B. Menzies	7th May 1968	228
	(14) Heads of Agreement between Bateman Television Limited, Bateman T.V. Hire Limited, Star T.V. Limited, Bateman Records Limited, Bateman T.V. Service Limited, Noel Desmond Bateman and Graham Irving Thomas	9th May 1968 (Same as Exhibit "B" to Affidavit of R. Currie sworn 9th October 1968)	229

Exhibit Mark	Description of Document	Date	Page
	<u>Petitioner's Exhibits (continued)</u>		
"G" (contd.)	(15) Suggested amendments to Heads of Agreement	Undated	233
	(16) Draft Debenture Bateman Television Limited to Credit Services Investments Limited	Undated	234
	(17) Letter Wynn Williams & Co. to J.R.B. Menzies	20th May 1968	237
	(18) Letter Wynn Williams & Co. to Cavell Leitch & Pringle	20th May 1968	238
	(19) Letter Wynn Williams & Co. to J.R.B. Menzies	12th July 1968	239
	(20) Letter Wynn Williams & Co. to Cavell Leitch & Pringle	12th July 1968	241
	(21) Draft clauses of Debenture referred to in "G"(20)	Undated	242
	(22) Letter J.R.B. Menzies to Wynn Williams & Co.	23rd July 1968	243
	(23) Letter Wynn Williams & Co. to J.R.B. Menzies	24th July 1968	243
	(24) Letter Cavell Leitch & Pringle to Wynn Williams & Co.	26th July 1968	245
	(25) Letter Wynn Williams & Co. to J.R.B. Menzies	26th July 1968	247
	(26) Letter Wynn Williams & Co. to J.R. B.Menzies	30th July 1968 (Same as Exhibit "C" to Affidavit of R. Currie sworn 9th October 1968)	249
	(27) Letter J.R.B. Menzies to Wynn Williams & Co.	1st August 1968 (Same as Exhibit "D" to Affidavit of R. Currie sworn 9th October 1968)	251

Exhibit Mark	Description of Document	Date	Page
	<u>Petitioner's Exhibits (continued)</u>		
"G" (contd.)	(28) Letter Cavell Leitch & Pringle to Wynn Williams & Co.	2nd August 1968	253
	(29) Letter Cavell Leitch & Pringle to J.R.B. Menzies	2nd August 1968 (Same as Exhibit "E" to Affidavit of R. Currie sworn 9th October 1968)	254
	(30) Letter Wynn Williams & Co. to J.R.B. Menzies	5th August 1968	256
	(31) Letter Cavell Leitch & Pringle to J.R.B. Menzies	8th August 1968	257
	(32) Letter Wynn Williams & Co. to Cavell Leitch & Pringle	10th August 1968	259
	(33) Letter J.R.B. Menzies to Cavell Leitch & Pringle	16th August 1968	260
	(34) Letter Wynn Williams & Co. to Cavell Leitch & Pringle	22nd August 1968	261
	(35) Letter Cavell Leitch & Pringle to J.R.B. Menzies	9th September 1968	262
	(36) Letter P.T. Mahon to J.R.B. Menzies	16th September 1968 (Same as Exhibit "F" to Affidavit of R. Currie sworn 9th October 1968)	263
	(37) Letter Cavell Leitch & Pringle to J.R.B. Menzies	17th September 1968	266
	(38) Letter Cavell Leitch & Pringle to J.R.B. Menzies	20th September 1968	267
	(39) Letter J.R.B. Menzies to Cavell Leitch & Pringle	23rd September 1968	269
	(40) Letter J.R.B. Menzies to Cavell Leitch & Pringle	24th September 1968	270
	(41) Letter J.R.B. Menzies to P.T. Mahon	1st November 1968	270

Exhibit Mark	Description of Document	Date	Page
	<u>Respondents' Exhibits</u>		
"2"	Letter J.R.B. Menzies to Cavell Leitch & Pringle	16th October 1968	272
"3"	Letter J.R.B. Menzies to Cavell Leitch & Pringle	18th October 1968	273
"10"	(a) Draft Bateman Group Consolidated Accounts for year ending	March 1968	274
	(b) Bateman Television Limited Trading & Profit and Loss Account year ended	31st March 1968	276
	(c) Bateman T.V. Hire Limited Trading & Profit and Loss Account year ended	31st March 1967	279
	(d) Bateman Records Limited Trading & Profit and Loss Account year ended	31st March 1967	282
	(e) Star T.V. Limited Trading & Profit and Loss Account year ended	31st March 1967	285
"12"	Form of Hiring Agreement used by Bateman T.V. Hire Limited	Undated	288

(ix)

DOCUMENTS TRANSMITTED TO THE PRIVY COUNCIL
BUT NOT INCLUDED IN RECORD

No.	Description of Document	Date
	<u>IN THE COURT OF APPEAL OF NEW ZEALAND</u>	
1.	Order granting Conditional Leave to Appeal to Her Majesty in Council to Bateman Television Limited	8th May 1969
2.	Order granting Conditional Leave to Appeal to Her Majesty in Council to Bateman T.V. Hire Limited	8th May 1969

DOCUMENTS NOT TRANSMITTED TO THE PRIVY COUNCIL
AND NOT THEREFORE CONSIDERED FOR INCLUSION IN THE RECORD

No.	Description of Document	Date
	<u>IN THE SUPREME COURT OF NEW ZEALAND</u>	
1.	Orders for Appointment of Provisional Liquidators	
2.	Affidavit of Caroline Chaplin	
3.	Affidavits of Service of Petitions	
4.	Affidavits of Andrew Alexander Moore	
5.	Notices of Motion by the Bateman Companies for orders of discovery against the finance companies	
6.	Order for Discovery against Coleridge Finance Co. Limited	
7.	Affidavit of Documents of Coleridge Finance Co. Limited	
8.	Notice of Motion by the Bateman Companies for an Order staying winding-up proceedings	

(x)

No.	Description of Document	Date
9.	Affidavit of Robert Currie in support of Motion for Stay of winding-up proceedings	
10.	Notice of Motion for abridgment of time on the Motion for Stay of winding-up proceedings	
11.	Draft Order for adjournment of Notice of Motion for a stay of winding-up proceedings on terms	
12.	Notice of Motion of Coleridge Finance Co. Limited for an Order setting aside certain alienations of property of Bateman T.V. Hire Limited	29th November 1968
13.	Notice of Motion of Coleridge Finance Co. Limited for an Order setting aside certain alienations of property of Bateman Television Limited	29th November 1968
14.	Affidavit of John Nicholas Rundle in support of Motion	
15.	Further Affidavit of John Nicholas Rundle in support of Motion	
16.	Order of the Supreme Court of New Zealand for conservation of property	29th November 1968
17.	Affidavit of Robert Currie in opposition to Notice of Motion, sworn	11th December 1968
18.	Reasons for Judgment of Macarthur J. setting aside alienations of property	
19.	Order of the Supreme Court of New Zealand setting aside alienations of property	12th December 1968

No.	Description of Document	Date
20.	Ex-parte Motion to give Official Liquidator certain powers	
21.	Report of Official Assignee pursuant to Rule 31 of The Companies (Winding-up) Rules 1956	
22.	Order of the Supreme Court of New Zealand giving Official Liquidator powers of appointing Special Manager extending time for calling meetings and advertising	
<u>IN THE COURT OF APPEAL OF NEW ZEALAND</u>		
23.	Praecipe to set appeal down for hearing	11th March 1969
24.	Ex-parte Notice of Motion for leave to set down appeal for hearing	11th March 1969
25.	Motion for final leave to Appeal	
26.	Affidavit in support of Motion for final leave to Appeal	
27.	Certificate as to Security for costs	
28.	Judgment appealed from	
29.	Motion for Stay of proceedings	
<u>EXHIBITS</u>		
<u>Exhibit Mark</u>		
"C"	Demand pursuant to Section 218 of the Companies Act 1955 served on Star T.V. Limited by Coleridge Finance Co. Ltd. exhibited to Affidavit of Robert Currie, sworn	7th October 1968
"H"	Sale Agreement between Bateman T.V. Fire Limited and Bateman Records Limited exhibited to Affidavit of Robert Currie, sworn	9th October 1968

Exhibit Mark	Description of Document	Date
"A" (part)	Conditional Purchase Agreements other than those in Exhibit "A" of Petitioner's Exhibits	
"B"	Ledger Cards	
"E"	Demand under Section 218 of the Companies Act served by Coleridge Finance Co. Limited on Star T.V. Limited	26th November 1968
"F"	Demand under Section 218 of the Companies Act served by Harewood Investments Limited on Star T.V. Limited	26th November 1968
"1"	Debenture given by Eastern Motors Limited to Coleridge Finance Co. Limited	
"4"	Receipt given by Cavell Leitch & Pringle to Star T.V. Limited	
"7"	List of chattel securities taken by Coleridge Finance Co. Limited	
"8"	List of registered mortgages taken by Coleridge Finance Co. Limited	
"9"	Letter J.R.B. Menzies to Cavell Leitch & Pringle	
"12" A.	Conditional Purchase Agreement between Bateman Television Limited and Star T.V. Limited	
"12" B.	Conditional Purchase Agreement between Bateman Television Limited and Star T.V. Limited	
"5"	Memorandum of Association of Coleridge Joinery Works Limited	
"6"	Special Resolution of Coleridge Joinery Works Limited	
"11"	Extracts from Minutes of Bateman T.V. Hire Limited	

IN THE PRIVY COUNCIL

No. 30 of 1969

O N A P P E A L

FROM THE COURT OF APPEAL OF NEW ZEALAND

B E T W E E N :

BATEMAN TELEVISION LIMITED (in liquidation)
and BATEMAN T.V. HIRE LIMITED (in liquidation)
Appellants

- and -

COLERIDGE FINANCE COMPANY LIMITED
Respondent

RECORD OF PROCEEDINGS

No. 1

PETITION FOR THE COMPULSORY WINDING-UP OF
BATEMAN T.V. HIRE LIMITED dated 27th September 1968

No. M. 142/68

IN THE SUPREME COURT OF NEW ZEALAND
CANTERBURY DISTRICT
CHRISTCHURCH REGISTRY

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 1

IN THE MATTER of the Companies Act, 1955

A N D

IN THE MATTER of Bateman T.V. Hire Limited,
the duly incorporated Company
having its registered office
at 710 Colombo Street,
Christchurch.

Petition for
the Compulsory
Winding-up of
Bateman T.V.
Hire Limited

27th September
1968

To the Supreme Court of New Zealand

The 27th day of September, 1968

The humble petition of Coleridge Finance Company
Limited sheweth as follows:-

30 1. Bateman T.V. Hire Limited (hereinafter called

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 1

Petition for
the Compulsory
Winding-up of
Bateman T.V.
Hire Limited

27th September
1968
(continued)

the Company) was in the month of November 1963 incorporated under the Companies Act, 1955.

2. The registered office of the Company is at 710 Colombo Street, Christchurch.

3. The nominal capital of the Company is \$200 divided into 100 shares of \$2 each. The amount of the capital paid up or credited as paid up is \$200.

4. The objects for which the Company was established are as follows: To sell or hire television and radio sets and other objects set forth in the memorandum of association thereof.

10

5. The Company is indebted to your petitioner in the sum of \$166,354.54 for arrears of instalments due and owing as at the 26th day of March 1968 under a number of hire purchase agreements under which the Company is purchaser, the interest of the vendor under such agreements having been duly assigned to your petitioner for valuable consideration.

20

6. Your petitioner has made application to the Company for payment of the said arrears of instalments owing as at the 26th day of March, 1968 but the Company has failed and neglected to pay the same or any part thereof.

7. The Company is insolvent and unable to pay its debts.

8. In the circumstances it is just and equitable that the Company should be wound up.

Your petitioner therefore humbly prays as follows:

30

1. That Bateman T.V. Hire Limited may be wound up by the Court under the provisions of the Companies Act, 1955.

2. Or that such other order may be made in the premises as shall be just.

COLERIDGE FINANCE COMPANY LIMITED
by its solicitor and authorised
agent:

'I.A. Pringle'

This petition was filed by Ian Alexander Pringle, Solicitor for the petitioner. The petitioner's address for service is at the offices of Messrs. Cavell, Leitch & Pringle, 176 Hereford Street, Christchurch.

40

No. 2

PETITION FOR THE COMPULSORY WINDING-UP OF
BATEMAN TELEVISION LIMITED
dated 30th September 1968

No. M. 143/68

IN THE SUPREME COURT OF NEW ZEALAND
CANTERBURY DISTRICT
CHRISTCHURCH REGISTRY

IN THE MATTER of the Companies Act, 1955

A N D

IN THE MATTER of Bateman Television Limited,
a duly incorporated Company
having its registered office
at 710 Colombo Street,
Christchurch.

To the Supreme Court of New Zealand

The 30th day of September, 1968

The humble petition of Coleridge Finance Company
Limited sheweth as follows:-

1. Bateman Television Limited (hereinafter called
the Company) was in the month of November 1963
incorporated under the Companies Act, 1955.

2. The registered office of the Company is at 710
Colombo Street, Christchurch.

3. The nominal capital of the Company is \$2000
divided into 1000 shares of \$2 each. The amount
of the capital paid up or credited as paid up is
\$2000.

4. The objects for which the Company was estab-
lished are as follows: To sell or hire television
and radio sets and other objects set forth in the
memorandum of association thereof.

5. The company is indebted to your petitioner in
the sum of \$8704.46 being payments due and owing by
the Company as at the 26th day of March, 1968 in
respect of television sets re-posessed by the
Company which were the subject of hire-purchase

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 2

Petition for
the Compulsory
Winding-up of
Bateman Tele-
vision Limited

30th September
1968

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 2

Petition for
the Compulsory
Winding-up of
Bateman Tele-
vision Limited

30th September
1968
(continued)

agreements under which the Company was vendor and whereof the vendor's rights and interests had been acquired by the Company to your petitioner for valuable consideration.

6. Your petitioner has made application to the Company for payment of the said sum of \$8704.46 but the Company has failed and neglected to pay the same or any part thereof.

7. The Company is insolvent and unable to pay its debts.

8. In the circumstances it is just and equitable that the Company should be wound up.

Your petitioner therefore humbly prays as follows:

1. That Bateman Television Limited may be wound up by the Court under the provisions of the Companies Act, 1955.

2. Or that such other order may be made in the premises as shall be just.

COLERIDGE FINANCE COMPANY LIMITED
by its solicitor and authorised
agent:

'I.A. Pringle'

This petition was filed by Ian Alexander Pringle, Solicitor for the petitioner. The petitioner's address for service is at the offices of Messrs. Cavell, Leitch & Pringle, 176 Hereford Street, Christchurch.

10

20

No. 3

NOTICE OF MOTION FOR APPOINTMENT OF A
PROVISIONAL LIQUIDATOR
dated 1st October 1968

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

NOTICE OF MOTION FOR ORDER APPOINTING
PROVISIONAL LIQUIDATOR

No. 3

IN THE MATTER of Section 234 of the Companies
Act, 1955

Notice of
Motion for
appointment of
a provisional
Liquidator

A N D

1st October
1968

10 IN THE MATTER of petitions for the winding up
of Bateman T.V. Hire Limited
and Bateman T.V. Limited
presented by Coleridge Finance
Company Limited and of a petition
for the winding up of Star T.V.
Limited presented by Belmont
Finance Limited.

20 TAKE NOTICE that Counsel for the above-named peti-
tioning creditors Coleridge Finance Company Limited
and Belmont Finance Limited WILL MOVE this Honour-
able Court at the Supreme Court House, Christchurch
on Wednesday the 2nd day of October, 1968 at the
hour of ten o'clock in the forenoon or so soon
thereafter as counsel may be heard FOR AN ORDER
that Walter Arnold Hadlee of Christchurch, Public
Accountant, be appointed provisional liquidator of
Bateman T.V. Hire Limited and of Bateman T.V. Limited
and of Star T.V. Limited upon such terms as in the
opinion of this Honourable Court shall be just and
30 necessary AND FOR A FURTHER ORDER abridging the
time for service of this notice of motion UPON THE
GROUNDS that petitions for the winding-up of
Bateman T.V. Hire Limited, Bateman T.V. Limited and
Star T.V. Limited have been presented to this
Honourable Court by the above-named petitioning
creditors AND UPON THE FURTHER GROUNDS appearing by
the affidavit of John Nicholas Rundle sworn and
filed in support hereof.

DATED at Christchurch this 1st day of October, 1968

40 'I.A. Pringle'

Solicitor for Coleridge Finance Company
Limited and Belmont Finance Limited

TO The Registrar, Supreme Court, Christchurch
AND TO Bateman T.V. Hire Limited, Bateman T.V. Limited
and Star T.V. Limited.

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 4

No. 4

AFFIDAVIT OF JOHN NICHOLAS RUNDLE in support
of Notice of Motion for appointment of
provisional Liquidator sworn 1st October 1968

IN THE MATTER of Section 234 of the Companies
Act, 1955

A N D

Affidavit of
John Nicholas
Rundle in
support of
Notice of
Motion for
Appointment of
provisional
Liquidator
sworn 1st
October 1968

IN THE MATTER of petitions for the winding up
of Bateman T.V. Hire Limited and
Bateman T.V. Limited presented
by Coleridge Finance Company
Limited and of a petition for the
winding up of Star T.V. Limited
presented by Belmont Finance
Limited.

10

AFFIDAVIT OF JOHN NICHOLAS RUNDLE

I, JOHN NICHOLAS RUNDLE of Christchurch, Public
Accountant, make oath and say as follows:-

1. I am the accountant for Coleridge Finance
Company Limited which on the 30th day of September,
1968 presented to this Honourable Court petitions
for the winding up of Bateman T.V. Hire Limited
and Bateman T.V. Limited. I am also accountant
for Belmont Finance Limited which on the said 30th
day of September 1968 presented a petition for the
winding-up of Star T.V. Limited.

20

2. Coleridge Finance Company Limited is a
finance corporation which for a considerable
period of time together with Cambridge Credit
Corporation Limited and the said Belmont Finance
Limited and Kent Credit Limited up to and including
the year 1968 provided finance for Bateman T.V.
Limited and Bateman T.V. Hire Limited and Star
T.V. Limited in respect of the purchase and sale
or purchase and hiring of television sets. The
said Bateman T.V. Limited and Bateman T.V. Hire
Limited and Star T.V. Limited are members of a
group of Companies engaged in the television, radio
and records business of which the controlling
shareholders and directors are Noel Desmond

30

40

Bateman and Graham Irving Thomas, both of Christchurch, Company Directors. The method of financing the Bateman Companies fell into two categories. In the case of a television set which was sold by Bateman T.V. Limited on hire purchase it would assign its rights under the agreement to one of the finance companies in consideration of the appropriate cash advance. In the case of a television set to be hired to a member of the public, Bateman T.V. Limited would sell that set to Bateman T.V. Hire Limited and under a hire purchase or conditional purchase agreement and then Bateman T.V. Limited would assign its rights as vendor under that agreement to one of the finance companies in consideration of the appropriate cash advance. The instalments payable to the finance company would be found by the Bateman company out of hire charges received by that company and it would also guarantee losses or default by persons paying hire purchase instalments direct to the finance company.

3. For a period of time up to the end of 1967 the instalments payable to the finance companies by the Bateman companies became substantially in arrear, especially in the case of Bateman T.V. Hire Limited. Various approaches were made in the latter part of 1967 to Messrs. Bateman and Thomas with a view to accelerating payment of arrears but no progress was made. In the early part of 1968 Messrs. Bateman and Thomas were requested by the finance companies to arrange for Bateman T.V. Limited and other Bateman companies owning hire sets to execute a common debenture in favour of Coleridge Finance Company Limited and the other finance companies to secure total advances including arrears of instalments. The Bateman companies which were requested to execute the debenture were not only Bateman T.V. Limited and Bateman T.V. Hire Limited and Star T.V. Limited but also two other companies controlled by the same shareholders, namely Bateman Records Limited and Bateman T.V. Service Limited which were required to guarantee the said debenture. Following execution of the debenture it was expected by the shareholders of Coleridge Finance Company Limited and its associated finance companies that they would be able to sell the shares in all the finance companies to a buyer who had been negotiating with the finance companies.

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 4

Affidavit of
John Nicholas
Rundle in
support of
Notice of
Motion for
appointment of
provisional
Liquidator
sworn 1st
October 1968
(continued)

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 4

Affidavit of
John Nicholas
Rundle in
support of
Notice of
Motion for
appointment of
provisional
Liquidator
sworn 1st
October 1968
(continued)

4. Messrs Bateman and Thomas refused to agree to the execution of the said debenture and as a result the finance companies issued notices under Section 218 of the Companies Act, 1955 each dated the 26th day of March, 1968 and requiring payment of the following arrears of instalments:-

Owing to Coleridge Finance Company Limited by Bateman T.V. Hire Limited	\$166,354.54	
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Owing to Coleridge Finance Company Limited by Bateman T.V. Limited	\$8,704.46	10
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Owing to Cambridge Credit Corporation Limited by Bateman T.V. Hire Limited	\$61,169.92	
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Owing to Belmont Finance Limited by Star T.V. Limited	\$532.00	
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Owing to Kent Credit Limited by Star T.V. Limited	\$291.00	
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	<u>\$237,051.92</u>	
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5. Following service of the said notices there were further negotiations between the parties and on the 9th day of May, 1968, heads of agreement were signed by the Bateman companies and by Messrs Bateman and Thomas in which it was agreed to execute the proposed debenture on the terms stated therein. However, following execution of the heads of agreement further disputes took place as to what further or additional terms should be included in the proposed debenture and in the result the proposed debenture has never been executed. 20

6. The shareholders of Coleridge Finance Company Limited and Belmont Finance Limited have now decided to discontinue their attempts to re-organise the security for the debts owing to the finance companies by the Bateman Companies and winding-up petitions have been presented against Bateman T.V. Limited, Bateman T.V. Hire Limited and Star T.V. Limited. 30

7. It is desired to obtain (if possible) the immediate appointment of a provisional liquidator of Bateman T.V. Limited, Bateman T.V. Hire Limited 40

and Star T.V. Limited for the following reasons:-

(a) The main assets of the last-mentioned Bateman companies are their ownership of or interest in some 1,900 television sets which are in the possession of members of the public in the Christchurch area under contracts of hire or held by the Bateman companies for purposes of hire or re-sale.

10 (b) Hire charges in respect of these sets are estimated by me to be received by the last-mentioned Bateman Companies at the rate of \$3,000.00 per week.

20 (c) No arrears of instalments due to finance companies have been paid by the Bateman companies since March, 1968 and the total arrears now owing to the finance companies have substantially increased from the figure of \$237,051.92 referred to in Paragraph 4 hereof. The total of all indebtedness by the Bateman Companies to the finance companies exceeds \$425,000.00.

(d) Following the advertisement of the winding-up petitions in a Christchurch newspaper it is expected that payments of instalments or hire charges may in many cases be suspended by people in possession of television sets unless they are notified forthwith by the provisional liquidator as to the method or manner of continuing their payments.

30 (e) Some time must elapse between the presentation of the said winding-up petitions and the making of winding-up orders partly because the petitions cannot be heard until 23rd October next and partly because the solicitor for the Bateman companies has informed the finance companies that any petition to wind up Bateman T.V. Hire Limited will be opposed by that company upon the grounds (inter alia) that the transactions between Bateman T.V. Limited and Bateman T.V. Hire Limited are illegal and void as being money lending transactions on the part of Bateman T.V. Limited which is not
40 registered as a money lender. Opposition to the said petition on this or other grounds may result in the decision of this Honourable Court being reserved as to whether a winding-up order should be made. If for example a period of between five

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 4

Affidavit of
John Nicholas
Rundle in
support of
Notice of
Motion for
appointment of
provisional
Liquidator
sworn 1st
October 1968
(continued)

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 4

Affidavit of
John Nicholas
Rundle in
support of
Notice of
Motion for
appointment of
provisional
Liquidator
sworn 1st
October 1968
(continued)

and six weeks were to elapse between the date of presentation of a winding-up petition against Bateman T.V. Hire Limited and the date of a winding-up order then I estimate that over that period Bateman T.V. Hire Limited and Bateman T.V. Limited would receive for hire charges and for purchases of television sets moneys totalling not less than \$20,000.00. Unless a provisional liquidator is appointed there will be no control over the receipt and disposition of such moneys.

10

(f) During the course of negotiations with the Bateman companies earlier in 1968 it came to my attention that on the 1st day of December, 1967 Bateman T.V. Hire Limited had purported to sell by written agreement to Star T.V. Limited 350 television sets for a total consideration of \$35,000.00 on terms which entitled Star T.V. Limited to pay the purchase price by instalments over a period of 10 years. This transaction was effected at a time when the finance companies were putting pressure on the Bateman companies (in particular on Bateman T.V. Hire Limited) to pay their arrears of instalments and I took the view which I still hold that the transaction may have been designed to put these 350 television sets out of the hands of any liquidator of Bateman T.V. Hire Limited. This view was based on my knowledge that Star T.V. Limited was indebted only for an insignificant amount (as appears from Paragraph 4 hereof) and thus might avoid a winding-up order. At about the same time as I heard of this transaction I also learned of a similar transaction which is said to have taken place whereby Bateman T.V. Hire Limited sold to Bateman Records Limited (which is not indebted to the finance companies) a further 900 television sets on terms similar to if not identical with the terms set out in the said written agreement entered into in the case of Star T.V. Limited. I caused my views of both these transactions to be conveyed to the solicitor for the Bateman companies but he maintained that the transactions were bona fide and were entered into for tax purposes and not to defraud the finance companies or the liquidator of any Bateman company and he maintained that neither transaction could successfully be attacked by the liquidator of any Bateman company.

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40

(g) At the time when I learned of the transactions

referred to in Clause (f) of this paragraph it was proposed to negotiate for the execution of the said debenture by all the Bateman companies and the purported transfers of the 1250 television sets were not of significance provided the said debenture was executed. Now that a debenture has not been executed and winding-up petitions have been presented the finance companies have been advised that the said purported transactions will inevitably be attacked by the liquidator of Bateman T.V. Hire Limited on various grounds. The agreements may be attacked as being mere sham transactions. They may be attacked on the basis that the 1250 television sets (or a considerable proportion of them) were already subject to hire purchase in respect of which the vendor's rights had already been assigned to the finance companies. Even if the said agreements were effective to pass title to the television sets or some of them the transactions may still be open to attack as being fraudulent trading by Messrs Bateman and Thomas under Section 320 of the Companies Act, 1955. If the purpose or object of the said transactions was to alter the incidence of taxation of Bateman T.V. Hire Limited or either of the transferee companies then the said agreements will be void inter partes pursuant to Section 108 of the Land and Income Tax Act, 1954. Under the circumstances just adverted to it is considered by me that the immediate appointment of a provisional liquidator is necessary in order to examine the accounts and records of Bateman T.V. Hire Limited so as to ascertain the identity and whereabouts of the television sets purported to have been assigned by the said agreements and to take such other steps as may be necessary for the protection of the assets of Bateman T.V. Limited, Bateman T.V. Hire Limited and Star T.V. Limited during the period which must elapse before the winding-up petitions are heard.

(h) According to the best of my knowledge information and belief, the finance companies are the only creditors of the Bateman companies apart from ordinary trade creditors.

(i) The said notices under Section 218 of the Companies Act, 1955, were never complied with by

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 4

Affidavit of
John Nicholas
Rundle in
support of
Notice of
Motion for
appointment of
provisional
Liquidator
sworn 1st
October 1968
(continued)

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 4

Affidavit of
John Nicholas
Rundle in
support of
Notice of
Motion for
appointment of
provisional
Liquidator
sworn 1st
October 1968
(continued)

any of the Bateman companies.

SWORN by the above-named)
John Nicholas Rundle this)
1st day of October, 1968) 'J.N. Rundle'
Before me :-)

'J.F. Burn'

A Solicitor of the Supreme Court of New Zealand

No. 5

Affidavit of
Claude Whitney
Evans in
opposition
to Notice of
Motion for
appointment of
provisional
Liquidator
sworn 4th
October 1968

No. 5

AFFIDAVIT OF CLAUDE WHITNEY EVANS in opposition
to Notice of Motion for appointment of provisional
Liquidator sworn 4th October 1968

10

IN THE MATTER of Section 234 of the Companies
Act, 1955

A N D

IN THE MATTER of petitions for the winding up
of Bateman T.V. Hire Limited
and Bateman T.V. Limited
presented by Coleridge Finance
Company Limited and of a petition
for the winding up of Star T.V.
Limited presented by Belmont
Finance Limited

20

AFFIDAVIT OF CLAUDE WHITNEY EVANS

I, CLAUDE WHITNEY EVANS of Christchurch, Public
Accountant, make oath and say as follows:-

1. That I am a Public Accountant, practising in

Christchurch and a partner in the firm of Claude W. Evans & Co.

2. That I have made an inspection of the records of Bateman T.V. Hire Limited, Bateman T.V. Limited and Star T.V. Limited, and enquired into the system operating with regard to the collection of hire charges, instalments in respect of television sets and cash sales of the respective companies. The takings are recorded through cash registers and receipt books according to normal accounting practice, and bankings of the amounts received are made regularly.

3. I found that payments were made by cheques signed by N.D. Bateman and G.I. Thomas jointly. A scrutiny of all payments over the last three months indicated that there were no unusual items, and that the payments were in respect of the normal trade transactions of the respective companies.

4. I found no reason to believe that there was any lack of control over the receipt and disposition of such monies.

5. From my examination of the records I found no reason to believe that the assets of the company or the interests of the companies creditors were likely to be jeopardized by reason of there being no appointment of a provisional liquidator.

SWORN by the above-named
Claude Whitney Evans this
4th day of October, 1968
Before me :-

'B.S. McLaughlin'

A Solicitor of the Supreme Court of New Zealand

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 5

Affidavit of
Claude Whitney
Evans in
opposition
to Notice of
Motion for
appointment of
provisional
Liquidator
sworn 4th
October 1968
(continued)

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 6

AFFIDAVIT OF ROBERT CURRIE
sworn 7th October 1968

IN THE MATTER of Section 234 of the Companies
Act, 1955

A N D

IN THE MATTER of petitions for the winding up
of Bateman T.V. Hire Limited
and Bateman T.V. Limited
presented by Coleridge Finance
Company Limited and of a petition
for the winding up of Star T.V.
Limited presented by Belmont
Finance Limited

10

AFFIDAVIT OF ROBERT CURRIE

I, ROBERT CURRIE of Christchurch, Company Secretary
make oath and say as follows:-

1. THAT I am Secretary to the above-named Bateman
T.V. Limited and its associated companies.

2. THAT there was served upon the above-named
Bateman T.V. Hire Limited, Bateman T.V. Limited
and Star T.V. Limited by Coleridge Finance Company
Limited in the case of Bateman T.V. Hire Limited
and Bateman T.V. Limited and Belmont Finance
Limited in the case of Star T.V. Limited notices
and demands purporting to be under Section 218 of
the Companies Act 1955 on the 26th day of March
1968. True copies of the said notices and demands
marked respectively "A", "B" and "C" are hereunto
attached.

20

30

3. AT the same time as the said notices were so
served as aforesaid copies of the same were served
upon J.R.B. Menzies, Esq., Solicitor for the said
companies Bateman T.V. Hire Limited, Bateman T.V.
Limited and Star T.V. Limited together with a letter
from the then solicitor to Coleridge Finance Company
Limited. A true copy of the said letter is also
hereunto annexed and marked with the letter "D".

SWORN at Christchurch this)
7th day of October 1968 }
before me :-

'R. Currie'

40

(Signature illegible)

A Solicitor of the Supreme Court of New Zealand

No. 6
Affidavit of
Robert Currie
sworn 7th
October 1968

No. 6A

EXHIBIT "A" TO AFFIDAVIT OF ROBERT CURRIE
sworn 7th October 1968

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

TO:- BATEMAN T.V. HIRE LIMITED a duly incorporated
Company having its registered office at 710
Colombo Street, Christchurch.

No. 6A

10 TAKE NOTICE that COLERIDGE FINANCE CO. LIMITED a
duly incorporated Company having its registered
office at Christchurch demands payment from you of
the sum of ONE HUNDRED AND SIXTY SIX THOUSAND
THREE HUNDRED AND FIFTY FOUR CENTS (\$166,354.54)
being the amount owing by you to it and requires
payment of such sum at its registered office at
152 Hereford Street, Christchurch forthwith.
This Notice and Demand is made pursuant to Section
218 of the Companies Act 1955 and if for three
weeks after receipt of this Notice you neglect to
pay this sum or to secure or compound for it to the
reasonable satisfaction of COLERIDGE FINANCE CO.
20 LIMITED objection will be presented to the Supreme
Court at Christchurch for the winding up of the
Company on the grounds that the Company is unable
to pay its debts.

Exhibit "A" to
Affidavit of
Robert Currie
sworn 7th
October 1968
- Petitioner's
demand from
Bateman T.V.
Hire Limited
for \$166,354.54

26th March
1968

DATED at Christchurch this 26th day of March 1968.

COLERIDGE FINANCE CO. LIMITED
by its Solicitor and authorised
agent:

"WYNN WILLIAMS & CO"
"A.D. HOLLAND"

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 6B

No. 6B

EXHIBIT "B" TO AFFIDAVIT OF ROBERT CURRIE
sworn 7th October 1968

TO:- BATEMAN T.V. LIMITED a duly incorporated
Company having its registered office at 710
Colombo Street, Christchurch

Exhibit "B" to
Affidavit of
Robert Currie
sworn 7th
October 1968 -
Petitioner's
demand from
Bateman Tele-
vision Limited
for \$8704.46

26th March
1968

TAKE NOTICE that COLERIDGE FINANCE CO. LIMITED a
duly incorporated Company having its registered
office at Christchurch demand payment from you of
the sum of EIGHT THOUSAND SEVEN HUNDRED AND FOUR
DOLLARS FORTY SIX CENTS (\$8,704.46) being the
amount owing by you to it and requires payment of
such sum at its registered office at 152 Hereford
Street, Christchurch forthwith. This Notice and
Demand is made pursuant to Section 218 of the
Companies Act 1955 and if for three weeks after
receipt of this Notice you neglect to pay this sum
or to secure or compound for it to the reasonable
satisfaction of COLERIDGE FINANCE CO. LIMITED an
objection will be presented to the Supreme Court at
Christchurch for the winding up of the Company on
the grounds that the Company is unable to pay its
debts.

10

20

DATED at Christchurch this 26th day of March 1968

COLERIDGE FINANCE CO. LIMITED
by its Solicitor and authorised
agent:

"WYNN WILLIAMS & CO"
"A.D. HOLLAND"

No. 6C

No. 6C

30

Exhibit "C" to
Affidavit of
Robert Currie
sworn 7th
October 1968 -
Coleridge Finance
Co. Limited's
demand to Star
T.V. Limited

26th March 1968

EXHIBIT "C" TO AFFIDAVIT OF ROBERT CURRIE
sworn 7th October 1968

Not reproduced.

No. 7

FURTHER AFFIDAVIT OF JOHN NICHOLAS RUNDLE
sworn 7th October 1968

IN THE MATTER of Section 234 of the Companies
Act, 1955

A N D

IN THE MATTER of petitions for the winding up
of Bateman T.V. Hire Limited
and Bateman Television Limited
presented by Coleridge Finance
Company Limited and of a petition
for the winding up of Star T.V.
Limited presented by Belmont
Finance Limited.

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 7

Further
Affidavit of
John Nicholas
Rundle sworn
7th October
1968

I, JOHN NICHOLAS RUNDLE of Christchurch, Public
Accountant, make oath and say as follows:

1. I have read the affidavits of Claude Whitney
Evans and Robert Currie, sworn and filed herein.

2. Referring to the affidavit of the said Claude
Whitney Evans, the petitioning creditors of the
Bateman companies are not so much concerned with
the operations of the Bateman companies up to date
as with the receipts of payments and other trans-
actions of the Bateman companies which might take
place between now and the making of any winding up
order. During the course of negotiations with the
Bateman companies it came to my attention that
there were debts and credits which existed as
between different companies in the Bateman group.
I also believe that the receipts and payments of
the five Bateman companies are effected through
one or possibly two bank accounts and that the
allocation of such receipts and payments is deter-
mined by the companies themselves. If 900 tele-
vision sets were transferred to Bateman Records
Limited on or about 1st December 1967 then I
expect that this company may have assets or credits
arising from hire receipts which a liquidator may
consider are really the property of Bateman T.V.
Hire Limited.

3. During the period between now and the making
of any winding up order it is to be expected that

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 7

numbers of television sets may be returned by hirers. Unless a provisional liquidator is appointed there is no control over the manner of dealing with returned sets including re-hiring or sale of the same and there is no guarantee that the existing business of the Bateman companies including maintenance and servicing of television sets will continue to be carried on as an efficient going concern.

Further
Affidavit of
John Nicholas
Rundle sworn
7th October
1968
(continued)

SWORN by the above-named)
John Nicholas Rundle this)
7th day of October, 1968) 'J.N. Rundle'
Before Me:-)

10

'D.W. Farnsworth'

A Solicitor of the Supreme Court of New Zealand

No. 8

No. 8

Further
Affidavit of
Robert Currie
sworn 9th
October 1968

FURTHER AFFIDAVIT OF ROBERT CURRIE
sworn 9th October 1968

IN THE MATTER of Section 234 of the Companies
Act 1955

20

A N D

IN THE MATTER of petitions for the winding up
of Bateman T.V. Hire Limited and
Bateman T.V. Limited presented
by Coleridge Finance Company
Limited and of a petition for
the winding up of Star T.V.
Limited presented by Belmont
Finance Limited

I, ROBERT CURRIE of Christchurch, Company Secretary
make oath and say as follows:

30

1. THAT I am Secretary duly appointed to Bateman
Television Limited, Bateman T.V. Hire Limited,
Batemens Records Limited, Bateman T.V. Service
Limited and Star T.V. Limited (all of which com-
panies are hereinafter referred to as "the trading
companies").

2. I have passed the required examinations in accountancy to enable me to be eligible for the qualification of registered accountant but I have never applied for the status as the conditions of my employment from time to time have never required me to do so.

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8

Further
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

10 3. THAT operations of the trading companies which are the hiring out of television receivers or their sale have been financed primarily by advances of moneys required to complete the purchase from time to time of television receivers from wholesalers and manufacturers by the trading companies so that in turn the trading companies could hire out or sell the said television receivers to customers while to a lesser extent further financial assistance was obtained by the discounting of Hire Purchase Agreements with finance companies including Coleridge Finance Company Limited, Cambridge Credit Corporation Limited, Belmont Finance Limited and Kent Credit Limited (which said named finance companies are all hereinafter referred to as "the finance companies").

20

30 4. THAT the funds or moneys employed in the purchase of television receivers used for hiring out to customers were obtained in the main from the said Coleridge Finance Company Limited and Cambridge Credit Corporation Limited, the method of financing being that the said Bateman Television Limited having secured a cash advance from one of the finance companies would purchase television receivers from a wholesaler or manufacturer and would then in turn sell such receivers at retail price to the said Star T.V. Limited and Bateman T.V. Hire Limited, a security document for each cash advance from the finance company concerned being given by the said Bateman Television Limited and Bateman T.V. Hire Limited entering into a form of Conditional Purchase Agreement expressed to refer to the number of unspecified television receivers which would be assigned to the finance company concerned. A true copy of one such Agreement is hereunto annexed marked with the letter "A".

40

5. THAT to the best of my knowledge and belief none of the said finance companies other than Cambridge Credit Corporation Limited has ever held a Moneylenders Licence and the Moneylenders Licence

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8

Further
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

of the said Cambridge Credit Corporation Limited was last renewed on the 12th day of April, 1965.

6. THAT to the best of my knowledge and belief no memorandum of the contract as required by the Moneylenders Act 1908 and its amendments was ever completed in respect of any of the said advances comprised in the total amount now alleged to be owing.

7. THAT the effective rate of interest charged by the finance companies on all advances made pursuant to the scheme hereinbefore described exceeded 15% per annum.

10

8. THAT to the best of my knowledge and belief the forms of the Conditional Purchase Agreements failed to comply with the requirements of the Hire Purchase and Credit Sales Stabilization Regulations 1957 and amendments in that the prescribed deposit was not paid and in many cases the term of the agreement was extended beyond that prescribed under the said Regulations.

20

9. THAT the subject matter of the agreements referred to in the preceding paragraphs hereof was not described in detail with the result that it was impossible to identify the television receivers to which any such agreement related

10. THAT in many cases the forms of assignment of such agreements were not executed in the proper manner.

11. THAT a statement giving details of the amounts alleged to be owing although requested by the trading companies has not yet been received from the finance companies. Such request was made on behalf of the trading companies in writing on the 24th day of September, 1968 following a written statement being received from the finance companies that all negotiations and discussions among the parties concerning the deferment of moneys owing had been broken off. The result of the failure of the finance companies to render such a statement is that it has so far been impossible to determine what parts (if any) of the alleged debt are affected by the Moneylenders Act 1908 and Amendments and the Hire Purchase and Credit Sales Stabilization Regulations 1957 and Amendments.

30

40

10 12. THAT in the normal course of its trading and with the knowledge and approval of the finance companies the said Bateman T.V. Hire Limited has parted with the possession either by way of hire or sale of the television receivers purchased as aforesaid in breach of the relevant purchase agreement and consequently the provisions of the Chattels Transfer Amendment Act 1931 making the Moneylenders Act 1908 inapplicable to assignments of customary Hire Purchase Agreements to finance companies do not so I am advised and verily believe apply.

13. THAT the scheme of obtaining advances from the finance companies commenced approximately five years ago, and up until the end of the financial year ending 31st March, 1966 regular payments were made to the finance companies.

20 14. THAT the ensuing year saw a marked increase in the popularity of television and as the trading companies' needs for more television receivers increased considerable further funds were made available by the finance companies with the result that the trading companies found it difficult to pay accruing instalments out of revenue and at the same time acquire the further necessary stocks so that with the consent and agreement of the finance companies arrears were capitalised.

30 15. BECAUSE of these operations to obtain more trading capital the indebtedness of the trading companies to the finance companies rose considerably between the month of March 1966 and the month of December 1966.

16. THAT in or about the month of December, 1966 one R.G. Hintz the then Manager of the finance companies intimated to the trading companies that no further moneys could be advanced by the finance companies and he requested that repayments be accelerated.

40 17. THAT in compliance with such request made by the said R.G. Hintz as aforesaid the trading companies thenceforth paid to the finance companies all the proceeds of hire purchase sales of television receivers with the result that in the financial year ending 31st March, 1968 some \$74,000 were repaid.

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8

Further
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8

Further
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

18. THAT late in the year 1967 and in the early part of the year 1968 the finance companies being themselves involved in take-over negotiations endeavoured to reorganise their securities from the trading companies by endeavouring to obtain the completion of a debenture to be given by the trading companies but no such debenture was completed because the repayment requirements of both principal and interest were beyond the current revenues of the trading companies.

10

19. THAT notwithstanding the fact that the trading companies had been advised that the financial operations between the trading companies and the finance companies might not conform with the requirements of the Moneylenders Act 1908 and Amendments, the Hire Purchase and Credit Sales Stabilization Regulations 1957 and Amendments and the Chattels Transfer Amendment Act 1931 the trading companies have at all times been willing and anxious to complete a debenture and to afford to the finance companies a reasonable margin of security in respect of their indebtedness.

20

20. ON the 29th day of March, 1968 the trading companies' solicitor wrote to Messieurs Wynn Williams & Co., Solicitors for a company known as Credit Services Investments Limited which was proposing to take over the finance companies with a view to initiating negotiations.

21. THAT towards the end of April, 1968 the trading companies received from the finance companies a document intituled "Heads of Agreement" in which there were set out terms which the finance companies offered to the trading companies.

30

22. THAT after the "Heads of Agreement" had been considered by the trading companies negotiations took place by correspondence and finally a meeting was convened at which I was present between representatives of the finance companies and the trading companies. At this meeting the "Heads of Agreement" were executed by the trading companies and signed under the hands of R.G. Hintz as duly authorized agent for the finance companies, Coleridge Finance Company Limited and Cambridge Credit Corporation Limited. There were several other outstanding matters which were discussed, namely, the continuance of discounting services by

40

the finance companies, charges for insurances and documents, amounts of "pay-outs" due at the time of execution of the debenture, early liquidation of the trading companies existing bank overdraft, restraints on the directors of the trading companies as regards engagement in similar businesses to the trading companies, legal costs and a checking of the statement of the debt to be secured by the debenture. The signing of the "Heads of Agreement" which took place at the end of the said discussion so took place in completion and arrangement of these matters.

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8

Further
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

23. ATTACHED hereto marked with the letter "B" is a true copy of the "Heads of Agreement" as completed and signed on the 9th day of May 1968 as aforesaid.

24. THAT before the signing of the "Heads of Agreement" as aforesaid the trading companies were given to understand by the finance companies that the debenture to be given by the trading companies might either be transferred to the taking-over company the said Credit Services Investments Limited or alternatively the debenture might be taken by that company direct and then subsequently the trading companies were led to understand that the debenture would be taken by the trading companies independently of the said taking-over company.

25. THAT at the time of execution of the "Heads of Agreement" as aforesaid the trading companies were then given to understand by the said R.G. Hintz that the finance companies and not the said taking-over company would be taking the debenture but no condition was ever applied by the finance companies to the "Heads of Agreement" that it was subject to any approval by the said taking-over company.

26. THAT on or about the 21st day of May, 1968 draft clauses for the debenture to be given and taken were received from Mr. A.D. Holland of Messieurs Wynn-Williams & Co. for consideration by the trading companies and in Mr. Holland's absence from Christchurch this draft was discussed with the finance companies' own solicitor, Mr. Pringle and in particular it was pointed out that the clause purporting to restrict the rights of the said directors to engage in business was in breach of the understanding reached at the discussions of

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8

Further
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

the 9th day of May, 1968. Mr. Pringle however undertook to refer the matter to Mr. Holland who on his return wrote to the trading companies through their solicitor on the 30th day of July, 1968 that he had not been aware of any amendment to the "Heads of Agreement" until the matter was raised by the trading companies' said solicitor. Attached hereto and marked with the letter "C" is a true copy of the letter written by Messieurs Wynn-Williams & Co. as aforesaid.

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27. THAT on the 1st day of August 1968 the solicitor to the trading companies wrote to Messieurs Wynn-Williams & Co. a letter a true copy of which is attached hereto marked with the letter "D" in reply to their said letter of the 30th day of July, 1968 following a meeting between him and Messieurs Pringle and Rundle respectively the solicitor and accountant for the finance companies.

28. THAT on or about the 2nd day of August, 1968 the trading companies through their solicitor received a letter from Messieurs Cavell, Leitch & Pringle wherein Mr. Pringle disagreed with certain provisions of the letter from the trading companies solicitor. This letter was received as aforesaid by the trading companies with considerable surprise because at the conclusion of the said discussions of the 31st day of July, 1968 all matters were regarded by the trading companies as completely settled and agreed upon and the trading companies have regarded the new matter introduced by Mr. Pringle in the said letter of the 2nd day of August, 1968 as after thoughts. Attached hereto and marked with the letter "E" is a true copy of the said letter dated the 2nd day of August, 1968. However by the 17th day of August, 1968 further agreement had been reached upon all outstanding matters except as to the clause concerning the restraints to be applied to the directors of the trading companies.

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29. THAT on the 16th day of September, 1968 a further letter was received by the trading companies through their said solicitor. This letter was written by Counsel for the finance companies P.T. Mahon, Esquire. A true copy of this said letter is hereunto attached marked with the letter "F". The main point of this said letter is that the trading companies were required to agree to

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the original provisions of clause 12 of the "Heads of Agreement". The contention of the trading companies was that an agreement to a modification of this clause had been reached at the said meeting of the 9th day of May, 1968 but in view of the pressure applied by the said P.T. Mahon, Esquire in his said letter the trading companies agreed to subscribe to the said Clause 12. An indication was given in the said Mahon letter that the trading companies' acceptance of his terms were to be conveyed to the said Mr. Pringle "although I understand he will not be in his office until this afternoon". Unfortunately owing to the said Mr. Pringle being away from his office from Christchurch on the afternoon referred to the message of willingness to accept by the trading companies was not conveyed to him and on the 17th day of September, 1968 a letter was received from Messieurs Cavell, Leitch & Pringle withdrawing what was referred to as the offer contained in the Mahon letter. The trading companies contention is with respect that even before the Mahon letter there existed completed and wholly agreed to arrangements between the parties.

30. AT all times the trading companies have been ready and willing to execute the debentures as required of them by the "Heads of Agreement" and its amendments.

31. THAT with reference to the sales of television sets from Bateman T.V. Hire Limited to Star T.V. Limited and to Bateman Records Limited attached hereto and marked respectively with the letters "G" and "H" are true copies of the sale agreements.

SWORN at Christchurch this)
9th day of October 1968) 'R. Currie'
before me:)

'A.N. McKay'

A Solicitor of the Supreme Court of New Zealand

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8

Further
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8

Further
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

EXHIBIT "A" TO AFFIDAVIT OF ROBERT CURRIE
sworn 9th October 1968 is part of
Petitioner's Exhibit "A" and is not
reproduced.

EXHIBIT "B" TO AFFIDAVIT OF ROBERT CURRIE
sworn 9th October 1968 is the same as the
Petitioner's Exhibit "G" (14) and is not
reproduced.

EXHIBIT "C" TO AFFIDAVIT OF ROBERT CURRIE
sworn 9th October 1968 is the same as the
Petitioner's Exhibit "G" (26) and is not
reproduced.

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EXHIBIT "D" TO AFFIDAVIT OF ROBERT CURRIE
sworn 9th October 1968 is the same as the
Petitioner's Exhibit "G" (27) and is not
reproduced.

EXHIBIT "E" TO AFFIDAVIT OF ROBERT CURRIE
sworn 9th October 1968 is the same as the
Petitioner's Exhibit "G" (29) and is not
reproduced.

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EXHIBIT "F" TO AFFIDAVIT OF ROBERT CURRIE
sworn 9th October 1968 is the same as the
Petitioner's Exhibit "G" (36) and is not
reproduced.

EXHIBIT "H" TO AFFIDAVIT OF ROBERT CURRIE
sworn 9th October 1968 being Sale Agreement
between Bateman T.V. Hire Limited and
Bateman Records Limited is not reproduced.

No. 8A

EXHIBIT "G" TO AFFIDAVIT OF ROBERT CURRIE
sworn 9th October 1968

"G"

In the Supreme
 Court of New
 Zealand,
 Canterbury
 District,
 Christchurch
Registry

No. 8A

Exhibit "G" to
 Affidavit of
 Robert Currie
 sworn 9th
 October 1968

MEMORANDUM OF AGREEMENT made this 1st day of December 1967 BETWEEN BATEMAN T.V. HIRE LIMITED (a duly incorporated Company having its Registered Office in Christchurch (hereinafter referred to as "the Vendor") of the one part AND STAR T.V. LIMITED (a duly incorporated Company having its Registered Office in Christchurch) (hereinafter referred to as "the Purchaser") of the other part WITNESSETH that IT IS HEREBY AGREED by and between the Vendor and the Purchaser as follows:-

1. The Vendor shall sell and the Purchaser shall purchase the television receivers listed in the Schedule hereto attached and marked B.

2. The price payable in respect of each of the said television receivers shall be the sum of one hundred dollars (\$100:00).

3. The total price payable in respect of the said television receivers namely the sum of Thirty Five thousand dollars (\$35,000:00) shall be paid by the Purchaser to the Vendor in forty equal quarterly instalments of Eight hundred and Seventy Five dollars (\$875:00) on the first days of the months of March, June, September and December in each year the first of such instalments to be paid on the first day of March 1968.

4. Interest shall be payable at the rate of 6% per annum on the balance of purchase moneys outstanding such interest to be calculated with half yearly rests but the Purchaser shall have the right to repay any sum at any time and interest on the amount so paid shall cease from the date of payment. Payments of interest shall be made half yearly commencing on 1st June, 1968.

5. Each instalment paid in accordance with the preceding Paragraph 3 hereof shall be applied equally in reduction of the amounts owing in respect of each of the television receivers listed in the said schedule.

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8A

Exhibit "G" to
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

6. Notwithstanding that any purchase money shall still remain unpaid the property in the said television receivers shall pass to the Purchaser immediately upon the execution of these presents by both of the parties hereto and thereafter the said television receivers shall be at the sole risk of the Purchaser.

7. In the event of the Purchaser selling any one or more of the television receivers listed in the said schedule the balance of purchase money in respect of the television receiver or television receivers owing by the Purchaser to the Vendor at the time of such sale shall be paid by the Purchaser to the Vendor immediately.

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8. IT IS HEREBY AGREED AND DECLARED that all income which has accrued or shall accrue from the said television receivers or any of them after the 31st March 1967 and prior to any subsequent resale thereof belongs and shall belong to the Purchaser

IN WITNESS whereof these presents have been executed the day and year first above written

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The Common Seal of BATEMAN T.V.)
HIRE LIMITED was hereto affixed)
in the presence of:

L.S.

'N.D. Bateman'
'G.I. Thomas'

The Common Seal of STAR T.V.)
LIMITED was hereto affixed in)
the presence of:-

L.S.

'N.D. Bateman'
'G.I. Thomas'

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SCHEDULE B

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8A

Exhibit "G" to
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

AUTOCRAT SERIAL NO. 274506

CLIPPER SERIAL NO. 307395

274509

307409

274503

307414

212302

307432

115566

308030

114637

308211

114557

308089

111857

307251

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116472

308201

120021

308228

829170

308241

36860

308260

274403

308309

CLIPPER SERIAL NO. 297141

308434

296436

308813

297238

309147

297008

309594

298010

310258

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297271

299007

296892

309657

297317

296467

297337

310462

297659

310480

298741

292926

297179

310510

298758

311293

298941

312211

298954

299618

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298957

308315

298969

312317

298057

308114

299011

313127

299017

312285

299018

311325

298732

313761

299036

312862

298935

313053

297137

313143

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299364

313262

299495

313758

299019

313934

297261

313776

299572

313850

299699

313852

298738

313936

304993

307386

299206

307084

299019

314928

307381

314985

315017

314809

In the Supreme
Court of New
Zealand,
Canterbury
District,
Christchurch
Registry

No. 8A

Exhibit "G" to
Affidavit of
Robert Currie
sworn 9th
October 1968
(continued)

CLIPPER	SERIAL NO.	ULTIMATE	SERIAL NO.
	315047	E.	22027
	314989		22031
	311066		22049
	314974		22177
	315076		22151
	315035		22144
	315081		22243
	315487		22355
	313171		24334
	313174		22710
	315119		24370
	315476		22808
	315078		24509
	315602		22957
	315652		22962
	315046		22966
	315733		22381
	316013		23215
	316172		23295
	316012		23259
	316240		23289
	316288		23315
	316289		23638
	315735		23367
	316579		23408
	318438		23510
	334767		23554
	3367354		23441
	382798		23413
	336576		23401
	336754		23420
	536728		23381
	310424		24506
	315119		23415
	312662		23512
	315014		23560
ULTIMATE	SERIAL NO. 160		23567
E.	2371		23594
	DX116		23646
	6114		23654
	12975		23659
	13239		23633
	13337		23645
	13785		23726
	13735		23744
	13829		23746
	15405		23958
	21894		23990
	21982		24049
	21993		24072

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10	ULTIMATE	SERIAL NO.	24063	ULTIMATE	SERIAL NO.	28230	In the Supreme Court of New Zealand, Canterbury District, Christchurch Registry No. 8A Exhibit "G" to Affidavit of Robert Currie sworn 9th October 1968 (continued)
	E		24048	E		28282	
			24234			27974	
			24057			28355	
			24125			27336	
			24290			29637	
			24269			29526	
			24337			32454	
			24394			29773	
			24404			31006	
20			24407			29712	
			24537			30757	
			24400			313774	
			25472			32909	
			24810			32349	
			24909			29332	
			23673			220192	
			25283			32914	
			24898			33309	
			25023			337962	
30			25088			32494	
			25193			32607	
			25269			32852	
			25281			35094	
			25303			33169	
			25480			32261	
			25531			272914	
			25616			337962	
			25678	H.M.V.	SERIAL NO.	3169	
			25800			3164	
40			25359			8798	
			29525			8383	
			25750			8805	
			25105			8807	
			25851			8770	
			25853			10306	
			25932			8814	
			26023			10185	
			26095			26799	
			26053			10238	
			27021			62293	
			27094			10318	
			27408			13172	
			26044			16137	
			27830			51517	
			27919			17895	
			27951			19831	
			28309			19832	
			28391			19842	
			28208			20485	

In the Supreme Court of New Zealand, Canterbury District, Christchurch Registry	H.M.V.	SERIAL NO.	51117	H.M.V.	SERIAL NO.	271821	
			51171			62271	
No. 8A			41130			51473	
			51414			21953	
Exhibit "G" to Affidavit of Robert Currie sworn 9th October 1968 (continued)			51515			21459	
			51745			10314	
			63049			8799	
			61490			57434	
			61861			40207	
			62015			10085	
			51130			62034	10
			63027				
			51457				
			63035				
			63049				
			62165				
			63055				
			64195				
			64620				
			65093				
			64162				20
			62204				
			61585				
			51497				
			61576				
			63054				
			51745				
			51280				
			5146				
			26868				
			41784				30
			17865				
			51557				
			8804				
			51189				
			40182				
			62411				
			62212				
			63067				
			51473				
			52047				40
			62411				
			8757				
			282946				
			8775				
			51497				
			51321				
			298412				
			294310				
			262730				

NO. 9.COURT NOTES OF EVIDENCE
27th November 1968

IN THE MATTER of the Companies Act 1955
- and -

IN THE MATTER of BATEMAN TELEVISION LIMITED
AND BATEMAN T.V. HIRE LIMITED
AND STAR T.V. LIMITED

NOTES OF EVIDENCE

10 Hearing: 27 November 1968

Counsel: P.T. Mahon and Fox for petitioning
creditors, in support.

Gough for the debtor companies, to
oppose.

MAHON OPENS AND CALLS:JOHN NICHOLAS RUNDLE (Sworn)

20 I am a Public Accountant practising at
Christchurch. My firm has been the accountant
for Coleridge Finance Company, Cambridge Credit
Corporation, Belmont Finance Company, Kent
Credit Limited for some years. I was not
myself personally involved in the writing up of
the transactions between the two companies. I
am familiar with the method by which the
amounts due by way of instalment were trans-
ferred to ledger cards in the office. The
practice was to open a separate account for
each purchase agreement. The card would
contain the name of Bateman T.V. Hire Limited,
30 the deal number which referred to the same
deal number on the conditional purchase
agreement. The card would show the amounts of
instalments due, give the payments and dates
and carry a running balance. The cards were
introduced into the debtor's ledger of the

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes of
evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Examination

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes of
evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Examination
(continued)

Exhibit "A"
Exhibit "B"

Exhibit "C"

Exhibit "D"

company and recorded the balance to be repaid showing instalments and that is where the balance due was. I will look at that card. That is an example of the ledger card up to the time of the decimal currency changeover when introduced for a new bookkeeping machine. By looking at one of those cards, one could tell how much had been paid off and what the balance due was - the total amount outstanding under the deal and then instalments were deducted from that.

In my affidavit I swore with regard to the previous proceedings, I deposed that on 26 March 1968 notices were served under s.218 of the Companies Act and I there stated the amounts for which the notices were issued. In the case of Coleridge Finance Company Limited the amount in the notice was stated at \$166,354.54. I have myself checked the accuracy of that total. With the cards. That sum is based on the agreements between Bateman T.V. Limited and Bateman T.V. Hire Limited. The balance has been taken from the ledger of the agreements owing with the unexpired instalments at that date. I produce as one bundle the conditional purchase agreements between Bateman Television Limited and Bateman T.V. Hire Limited which related to the debt at 26 March 1968 of \$166,354. (EXHIBIT A). I produce as EXHIBIT B the ledger cards which relate to the same agreements. The smaller cards are those relating to pre-decimal currency forms. I produce as EXHIBIT C a typed schedule of arrears taken from those cards showing \$166,354, and alongside the typed figures there is written in pencil the further arrears to bring it up to date to 26th November, and they total \$247,300.54.

Referring to the amount owing to Coleridge by Bateman Television Limited that is calculated at \$8,704.46. That is a calculation of amounts due by Bateman Television Limited resulting from repossession of sets from conditional sale. I produce as EXHIBIT D a copy of a schedule which shows the names of the persons of which the sets were repossessed and it shows a balance due in

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respect of each payable to Coleridge by Bateman Television Limited, and this schedule and the other one have been previously provided to Bateman, I understand. The notices issued also refer to the debt due to Cambridge Credit Corporation.

10 Passing to Belmont Finance Limited as at 26th March, owed \$532. That amount I understand was paid yesterday to the solicitors for Belmont. I have not received, as to the other smaller debt of \$291 owing to Kent Credit Limited by Star T.V. Limited, my firm has not received nor have the solicitors received it to the best of my knowledge. I have authority for Kent Credit Limited to support the petition of Belmont Finance against Star T.V. Limited if that should be necessary

20 I produce as EXHIBIT E a copy of a demand under s.218 of the Companies Act served by Coleridge Finance Limited on Star T.V. Limited yesterday, the 26th November 1968 for \$3,900. I produce as Exhibit F a copy of another demand under s.218 served yesterday on Star T.V. Limited by Harewood Investments Limited for \$240 and that is another Finance Company in the Group. Apart from the payment yesterday by Star T.V. Limited to Belmont Finance, there have been only one payment at the time this agreement was signed on 9th May of approximately \$1,500. This was in respect of the debts due to the Finance Companies. This money was made available by the debtor companies and would have gone to Coleridge Finance. Other than that, apart from the \$532, there was another amount which has been paid out since the provisional liquidator was appointed.

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40 As to instalments payable by Bateman T.V. Hire Limited under the conditional credit agreements, Bateman T.V. Hire Limited stopped paying instalments towards the end of March. Then the other amount owing to Coleridge by Bateman Television Limited, that is a fixed amount just not accounted for on repossession.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes of
evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Examination
(continued)
Exhibit "F"

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Examination
(continued)

Exhibit "G"

Exhibit "G"(34)

From about the beginning of this year there were from time to time negotiations with regard to the Bateman companies executing a debenture. The substance of the matter was that there was a proposed takeover by the Finance Companies and the company Credit Services Investment Limited proposed re-financing the Bateman debt. The solicitor acting for Credit Services Investment Limited was A.D. Holland of Wynn Williams & Company. On the 9th May 1968 there were agreements signed between the Finance Companies and Bateman companies. Those heads of agreement involved the proposed terms of the debenture. On the same day as those were signed the Bateman companies forwarded a further schedule of proposed terms or tentative terms - I'm not sure whether it was the same day or the day after, but it was forwarded very close to the signing. After that date, 9th May, there was some considerable negotiation trying to get three clauses to go in the debenture. Mr. Holland on behalf of Credit Services Limited was a part of these negotiations throughout the year. Eventually, coming now to about September of this year, there was one point at issue that the Bateman group wanted in the debenture and Credit Services Limited would not agree with. That was involving the right of Mr. Bateman and Mr. Thomas to go into other television businesses in certain circumstances. I produce as EXHIBIT G a bundle of correspondence reading in date from the bottom upwards dealing with the negotiations. This letter is EXHIBIT G dated 22nd August (Letter read by Mr. Mahon). That point in that letter was the point that held up agreement between Credit Services Limited and the Bateman companies. When Mr. Holland refers to his client as Credit Services Limited, the Managing Director was in Australia at that time. I negotiated with Mr. Bateman and Mr. Thomas, but I do not remember to what extent I negotiated on this point. This point did arise. They would not agree with it. They finally did agree, but at that time the Finance Companies had decided to wind them up. Correspondence had gone through their companies withdrawing the offers.

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Were you present at a meeting on 9th May last? With Messrs. Hints, Menzies and others? Yes. And I think a document called a head of agreement was discussed, was it not? It was discussed. This document was subsequently signed? Yes, signed subject to correspondence between solicitors. That document is EXHIBIT G? That is correct. The handwritten addition you mentioned had been written in to the document? It was written in at the time of signing. Where did this signing take place? At the offices of the debtor company. And who was the person present? Messrs. Bateman, Thomas, Curry, Pringle, Hints, Menzies and myself. And there is a further addition to that agreement referring to \$300? That is correct, yes. Was that the sum connected with the sum that you mentioned in your evidence? At the stage of signing the heads of agreement the debtor companies were holding hire purchase agreement with members of the public relating to sets which they would sell, these agreements were available to be discounted with another Finance Company and were discounted with Dominion Finance Company for a total sum of \$3,000 - of \$1,500 to debtor companies and \$1,500 to Coleridge Finance. Those figures were approximate. This was all done by arrangement? No, the money was found for the discounting agreements on the next day, the 10th May. As a result of what had been agreed upon that day? The agreements were made available to us on that day. Is Dominion Finance one of your companies? Dominion Finance is a Public Company which was available to discount these agreements by arrangement with us. Are you connected with Dominion Finance? No, not at all. But did you or your office superintend the discounting of these agreements? I made the arrangements but I wasn't present when the actual agreements were discounted with the Finance Company. And you received the sum of \$3,000 and divided it between the two interests? The money which was received came back to the office. I was not present at the time. But it was done through your office? It was done

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Copy notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Cross-
examination

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Cross-
examination
(continued)

through our office, yes. And under your command and supervision? I was not present for most of the day at the office on the 10th. You supervised what was done? I didn't personally supervise what was done, I was out of the office for most of the day from about 10 o'clock in the morning. Did you give the necessary directions? Yes I did. In the Heads of Agreement reference was made to correspondence between solicitors? That is correct. That is written on to the original agreement. Written in handwriting. Reference is made to this correspondence, what correspondence was that? This is correspondence between solicitors. I am not quite certain, I should imagine it would be correspondence proceeding from the signing of Heads of Agreement. At that meeting were a number of matters discussed as well about the Agreement? From memory I think just about every term in the Agreement was discussed. But were additional matters discussed? I think one or two were yes. And were those to be left to Mr. Menzies to put into some form or order, do you recall that? I don't recall what was arranged in that matter. It was arranged between solicitors. Was any representative of Credit Services Investment Limited present at that meeting? No, there was no representative. And was the name of this company discussed at all? I'm certain it would have been. Do you recall? I do not recall specifically but there is a term if I remember rightly in the Head of Agreement relating to the discounting of hire purchase agreements. If it is not in the Heads of Agreement it was mentioned at this meeting. The hire purchase agreements for sales by the Bateman companies were to be discounted with Credit Services and one of the conditions of them signing the Heads of Agreement was that Credit Services would vary the normal discounting terms and advance to the Bateman companies up to 75% of the set. This had been discussed before? This had been discussed before and correspondence had been received from Credit Services on this matter from the Managing Director. Was Credit Services a party to the Heads of Agreement? The negotiations were made between the parties

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with the intention that any agreement was to be reached it had to have the approval of Credit Services, whether a party or not is a legal matter which I do not think I am competent to give an opinion on. You have the agreement before you: is Credit Services a party? Credit Services are not mentioned on the Heads of Agreement. That company has not signed? That is correct. Who signed the agreement on behalf of Coleridge Finance Company and Cambridge Credit Corporation? Mr. Hints and Mr. Pringle. Who is Mr. Hints? He is the former manager of the Finance Group. I think you told us there were further negotiations after the signing of the agreement in November, and that Mr. Mahon wrote a letter to Mr. Menzies on 16th September 1968? No, I don't have a copy of that letter. (Witness shown letter). I think the Bateman group were required to give their decision on the afternoon of the day that letter was written? I think if you look at the last paragraph? Yes, that would be correct. I think the decision was to be, if the condition was accepted this was to be communicated to a certain solicitor? The decision was to be communicated to Mr. Pringle. Are you aware that he was not at the office that afternoon? I am not aware of his movements. I think you told us that you wrote down these negotiations - were they over the clause which Credit Services endeavoured to insert in this debenture requiring Messrs. Bateman and Thomas not to enter into any new companies, is that correct? The only matter on which agreement couldn't be reached is the restraint of trade. What was the attitude to your knowledge of the Bateman group over the restraint clause? About this time Messrs. Bateman and Thomas went to Australia and before they went they said "We will not agree to this clause on any condition". This was not communicated to me; they didn't state that to myself personally. Do you know if they maintained that agreement had already been reached over the restraint? No. A new concession which was being asked for? They knew that this was the one that had to be met. They don't know if this was a new concession they were being asked to enter into, do you remember? No. Are you

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Cross-
examination
(continued)

To the Bench

To Counsel

familiar with the negotiations and the correspondence after the Heads of Agreement were signed? I was during the negotiations but I was not present at every meeting between representatives of the Finance group and Bateman and Thomas. Do you know that it has been contended that Bateman and Thomas were asked to make a conditional concession? No. Where is the office of the Coleridge Finance Company? The registered office or the business office. First of all the registered office? To my knowledge 155 Hereford Street, which is also the address of the registered office. Is this the office where the business affairs are carried on? Yes, that is correct. I think this company was formerly Coleridge Joinery Works Limited? I understand that to be the case. And it changed its name to the present name? That is correct. Do you recall when that might be? No, not at all. The company was Coleridge Finance Company before I joined the firm of public accountants which was then known as Norman S. Curly & Company. When it changed its name, did it begin entirely new business operations? I can't answer that one, I am not familiar with the situation. How far does your knowledge of the company extend back? My knowledge of this company extends back to approximately the beginning of December last year. How long have you been with this present firm of Accountants? Approximately six or seven years.

TO BENCH: I don't think I actually heard the name of your firm? The name of the firm is now J.N. Rundle & Company.

TO COUNSEL: The history of the firm - it was Norman S. Kirby & Company: the partners were Mr. Kirby and Mr. R.G. Hints. I was subsequently admitted to the partnership approximately four years ago. Then for a year it was Kirby, Hints and Rundle. Mr. Kirby retired and for two years the name was subsequently changed to Hints & Rundle - for two years I think - and then last December Mr. Hints retired and I have conducted the practice on my own account since then. Was there any reason for Mr. Hints retirement? The

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retirement was mutually arranged between ourselves. Was it anything to do with these Finance Companies? We did have a difference of opinion and the Finance Companies were one of the matters in question. For some seven years at least you have known of Coleridge Finance Company being in your office. Do you draw up the balance sheet? No, I haven't had anything to do with the accounting affairs of Coleridge Finance until this year. I suppose people would come into the office about the affairs. The affairs of the Finance Company were managed by Mr. Hints, together with the other finance companies of the group, separate staff employed on the Finance Companies' affairs and all the matters were attended to by that staff. Was the separate staff employed by the Finance companies or by your firm? They were employed by the firm. Were they concerned with the affairs of the Finance Company? The extra staff took over the affairs and were employed for the purpose of the Finance Company work. To your knowledge has this Company, Coleridge Finance Limited, lent money apart from hire purchase? I would think so, yes. And to what sort of people would it lend money? I couldn't say. Would you know that it lent money on mortgage? No. Would you know that it lent money on chattel securities? No. Or on debentures? Yes. Do you have any knowledge of this debenture given by Eastern Motors Limited? Yes, I have become aware of that this year. How is your company described in that debenture? The company incorporated having its registered office at Christchurch carrying on there business of moneylenders hereinafter and ... (EXHIBIT 1). Are you familiar with how these advances were being made to the Bateman group? No I am not familiar, they were all made before I assumed control. Can clients still obtain loans from this company by applying to them? The company is not making advances at the moment. But it has made advances, has it not? When I say advances, not discounting any hire purchase agreements or advancing any money in any form

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Cross-
examination
(continued)

Exhibit "1"

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Cross-
examination
(continued)

Exhibit "D"

whatsoever. When did it cease to make advances? Approximately December last year. You told us concerning these Bateman hire purchase agreements for the cards numbers corresponding with the agreement, is that correct? The records of the company would compare with the agreements. Did you put the sets concerned in each agreement on the card? I am not familiar with the method and procedure adopted in the preparation of these cards. It would probably be true to say that the sets were not noted on the cards, is that correct? That is correct. Did you supervise accounts at all for the Bateman company? No. Have you had a similar system to that with the Bateman companies with other clients? That I am not certain about either. Would you have a look at that form of agreement - that's an agreement entered into by a man trading under one name and himself trading under another name? I can't comment on this one. I know nothing of the party involved. That agreement is it not discounted by Coleridge? That I couldn't comment on either; there is nothing here on the marking or anything like that to show that it has been discounted. Are you aware it was produced as being part of the advancing system of Coleridge Finance Company Limited?

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Where does the Coleridge Company get its funds from? Apart from its subscribed capital? It has depositors and shareholders' funds as predominant source of finance. How many depositors does it have? There would be approximately sixty. Fifty to sixty depositors. You've produced a Schedule showing deals I think you said were with Bateman T.V. Hire Limited and attached to it was a schedule of repossessions in relation to Bateman Television Limited? The schedule of repossessions were of hire purchase agreements discounted by Bateman Television Limited. (Witness shown Schedule of Repossessions). These are repossessed? These balances are on my cards from debtors, the deals that were discounted by Bateman Television Limited to the Finance Company. The Finance Companies were unable to recover balances due. I understand that in most cases the sets have been repossessed. I have checked the schedule against the cards. This schedule does not purport to be a full schedule of all

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the repossessions of sets discounted by Bateman Television Limited to finance. Has full credit been given for these sets? From my observation of the cards where it said set repossessed, the balances had been credited. Who does repossessing of the sets, the Finance Company or Bateman? Of recent times this is from December of last year, to my knowledge this has closely been concerned with the Finance Companies and the Finance Companies have arranged repossession of the set. Now the Bateman Group will say that they have disputed some of the credits allowed as repossessions? What have you to say about that? I can't comment because I don't know what their dispute is. They dispute the credits allowed for repossessions and also the value of the sets repossessed? In examining these cards I would accept the procedure adopted by the Finance Companies and the credits which would have gone to the cards would have gone through the normal procedure which is handled by the Finance Companies' staff and any item in dispute would have to be referred back to the source documents. To your knowledge have proper credit notes been passed when a set has been repossessed? To my knowledge there would be no actual credit note, the cash received would be credited to the card less the net cash after repossession costs deducted. Are you aware that the Bateman group disputes the amount on the cards as the amount owing? They have not communicated this to myself and I am not aware that this amount is in dispute. I have seen no correspondence on this matter. They complain they have never had statements, what do you say to that? I have been informed that they have had statements.

TO BENCH: Are you referring simply to the item of \$8,407 odd? Yes.

TO COUNSEL: You mentioned the amount of arrears owing by Bateman Group, how much did the group pay to the 31st March this year; do you have that figure? No, it is not available to me - this is the Bateman

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Cross-
Examination
(continued)

To the Bench

To Counsel

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Cross-
examination
(continued)

Television Group. Yes? No, it is spread over twelve months and over quite a number of cards. It will be said to be \$74,000, would you dispute that? As I say, I haven't seen it, it's of no importance to ourselves, it could be that amount, I wouldn't know. If that sum were to be paid that would be reflected in the amount which you mentioned as being the amount owing when the agreement was signed? The amount owing I mentioned before was the amount in 218 served on the Company. All cash received up to that date had been credited to these accounts. You mentioned instalments in arrears, are those principal or is only interest accruing? The instalments were the scheduled instalments which were the amounts provided on the agreements as being the monthly repayments and these would include both principal and interest. Now that you've brought in this principal charge, should not only interest be shown as accruing due to you now? Many of the deals are now overdue, the instalments should have all been paid by now and under the agreement I understand that interest does not accrue on arrears, the figure does account for interest on arrears. In other words, interest and principal? Interest on the instalments, the interest would have expired. But the specific amount of the interest charged is on capitalised interest? No, I would disagree there. Did you actually draw any of the advances made to this agreement? As I mentioned before I wasn't actively involved with the Finance Companies until late last year. Did you in any way physically make these advances? No sir. Have you any knowledge where the agreements were prepared at all? No I am not competent to comment. Who prepared the agreements? I am not competent to comment on that either. Concerning the deals mentioned in that schedule of Bateman T.V. Hire Limited, are you aware that some of the agreements you produced have no numbers attached to the sets described in the schedule? I have examined some of the agreements and I am aware of that, yes. Are you also aware that some of the numbers shown in these agreements have no relation to sets at all? No, I am not aware of that. Have you

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been on the business premises owned by the Bateman Group? I have been to the premises known as the Star T.V. for the purposes of negotiation. Have you seen sets in stock there? Yes I have. Do you know to which company that stock is appropriated or was appropriated? I don't know, Batemans have not stated much information to us at all.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Cross-
examination
(continued)

Re-examination

10 REXM MAHON: In your office, were there
ever any agreements for sale that were
brought in to be discounted between Bateman
T.V. Hire Limited and members of the public?
Not to my knowledge, but there again I am
not au fait with the situation. So far as
you are aware, what was the function of the
Hire Companies? As far as I am aware the
function of the Hire Companies was to hire
sets. And if there was conditional purchase
sale to members of the public, what company
20 would it be made with? I would understand
Bateman Television Limited. I think you had
copies of the Bateman 1967 accounts? Yes.
Look at the first page, that is the Balance
Sheet of Bateman Television Limited to 31
March 1967; next page, profit and loss
account for Bateman Television Limited? No,
they are not arranged in that order. I have
it now sir. There we find the ordinary
system of stock on hand at the beginning and
30 end of the period and purchases and sales which
is trading on stock? Yes. Then look at the
Balance Sheet of Bateman T.V. Hire Limited:
do we see there amongst fixed assets £191,900
of Television sets less depreciation?
Correct, yes. And under liabilities, £219,758
owing to Coleridge Finance Company? That's
right, yes. Then turn to profit and loss
account of Bateman T.V. Hire Limited - that
would only show receipts? Reading this
40 account here it does show the receipts which
could be another term for sales, but looking
further down I can see no other items
relating to cost of sales and I would assume
these would be receipts and these items all
relate to costs of business. Then further

Exhibit "10"(C)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Re-examination

Exhibit "G"
Exhibit "G"(27)

down towards the end, you see an item Depreciation, £38,656, which I assume would be? That would be depreciation written off for this year, the balance sheet shows what I would presume to be the aggregate depreciation. The amount before that is the aggregate cost price before that date. So the profit and loss account relates to Bateman T.V. Hire Limited? Yes, that is correct, and Star T.V. was the same where as Bateman Records Limited in their trading account show a similar layout to that of Bateman Television Limited with sales, stock and purchases. In the correspondence produced as EXHIBIT G there is a letter from Mr. Menzies dated 29th March written to Wynn Williams & Company acknowledging the notices served under s.218, was any question to your knowledge raised at any time during these negotiations after March 1968 of amounts referred to in the notices were wrong? No, definitely not. Was there agreement reached at one point as to the total amount which the debenture was to cover? Yes. Is that figure \$425,000? That is correct, yes. Does that figure include the amounts due under the notices which were served? Yes it did. Did Mr. Menzies on 1st August 1968 by letter forming part of EXHIBIT G record agreement for total debt put at \$425,000? They were prepared to execute a debenture for that sum? Yes. If the terms of the document could be agreed? Yes.

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You were asked some questions with regard to some of these agreements produced which didn't have serial numbers on them, I know you don't know the details of how they were filled but do you know where the serial numbers come from that are used by the Finance Companies? From what I can gather they were all supplied by Batemans. They would calculate the sets Batemans had bought from the manufacturers? From my enquiries I understand they were supplied by Batemans but not verified by the Finance Companies. That is the serial numbers? That's right, as I understand the situation any serial numbers on those documents would be supplied by Batemans to the Finance Companies.

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You were asked about the Heads of Agreement

signed on 9th May: would you look at EXHIBIT G: do you see the Heads of Agreement there? Yes. Just on top of that document is there a document described "Suggested Amendments and Additions to Heads of Agreement"? Yes. Dated 9th May. And it goes on to say pursuant to 9th May? Yes. But I am not in agreement that all these matters were agreed upon at that conference. Was this document delivered to the Finance Companies by Mr. Menzies? Yes. Was it either on the 9th May or another day? I am not certain of this; it was either on the 9th May or the next day. As I say I was out of the office on the 10th. In the document you suggest further clauses? Yes. Including an addition to Clause 12 with reference to the trading restriction on Mr. Bateman and Mr. Thomas? Yes.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Re-examination
(continued)

Further
Cross-
examination

FURTHER EXM: That is the Balance Sheet of Batemans T.V. Hire Limited? That is correct. It shows fixed assets a balance of approximately \$100,000? That's right, yes. Item 6, is that correct? Yes, there are two other items but they are insignificant. Does that refer to stock? I would be most surprised if it did; I haven't known the Tax Department to accept depreciated stock. Stock would be valued and shown as an item in the trading account and also in the Balance Sheet. The normal procedure is to value stock for accounts. These accounts definitely in my opinion have been drawn up with these items being an asset and that the depreciation is correct deduction against this revenue as it was the company's operations. Shown in the balance sheet as a fixed asset. If it was trading stock, the correct procedure would be to show in trading account as a current asset. Would you turn over to balance sheet of Bateman Television Limited - that has a similar item of fixed assets? No, it doesn't.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

John Nicholas
Rundle

Further
Cross-
examination
(continued)

Walter Arthur
Hadley

Examination

Bateman Television Limited, the fixed assets are motor vehicles, office equipment, furniture, alterations and tools. What's the item of stock shown there in Bateman Television Limited? From my observation as an accountant looking at these balance sheets. Is the item of stock shown as £6,900? The item of stock is shown there and is shown as credit in the trading account which in effect has been taken off the cost of sales for that year.

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WALTER ARTHUR HADLEE (Sworn)

I am a public accountant in practice at Christchurch. I was appointed by order of this Court as provisional liquidator of Bateman Television Limited, Bateman T.V. Hire Limited, and Star T.V. Limited.

In the course of my duties as provisional liquidator I ascertained the way in which the banking was done in respect of the companies. I called on the companies' bankers immediately after my appointment and ascertained the funds available and transferred them to a provisional liquidator's account. Apart from the Bateman Television Hire account there were very small balances in the other two accounts, and I learned that it was the company's practice to make its payments primarily through one bank account, that of Bateman T.V. Hire Limited. And then to adjust the receipts and payments between the companies on the balance date? I

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haven't been able to quite find out because I have been trying to get the accounts of these three companies since my appointment and I haven't yet received them. In regard to the three companies, the accounts I asked for were the accounts of each company to the 31st March 1968 which I would have expected in the ordinary course to have been prepared for taxation purposes prior to this and also for the accounts from the 1st April 1968 up to the date of my appointment as provisional liquidator, which was 10th October 1968. I have had no accounts whatever. As to whether I have put the secretary of the three companies under pressure to produce these accounts, I have made I suppose half a dozen enquiries as to when these are likely to be ready. I should make it clear that the secretary has worked very hard to prepare the accounts, but has explained that he has had his difficulties because he has not known how to allocate the income. It could only be an assumption on my part that this is the reason. At all events, they have not been produced. I also asked for the account of Bateman Records Limited, and Bateman T.V. Services Limited, which are not debtor companies. I had a reason for asking for those. I felt that the five companies were really all part of the group of shareholding being owned by the same shareholders, the directors being the same. I also wanted to ascertain the total drawings of the directors and shareholders and again I have asked for these to be presented to me but I have not yet had them from the three companies, let alone the five. Then I had access to the 1967 accounts for the Bateman group. I found that a balance sheet as at 31st March 1967 that Bateman Records owed Bateman T.V. Hire Limited £11,645. Bateman T.V. Hire Limited show as an asset Bateman Records Limited who owe Bateman T.V. Hire Limited £11,645, so that there is a debt owing to one of the companies of which I am provisional liquidator. I found in the same accounts that Bateman T.V. Services Limited owed Bateman Television Limited £2,317; yes, the accounts of Bateman Television Limited

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

Walter Arthur
Hadlee

Examination
(continued)

Exhibit "10"(d)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

Walter Arthur
Hadlee

Examination
(continued)

show Bateman T.V. Services Limited owed £2,317. That is before current assets. So that unless there had been some change between the 1967 accounts as at October 1968 it was probable that two of the companies were owed substantial sums by these two non-debtor companies. The legal advisers of Bateman Group declined to give any records of Bateman Records or Bateman T.V. Services as conveyed to me by the directors.

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At the same time I was required to pay sundry outgoings and expenses for these same two companies whose records were withheld; in my view I was. The order appointing me required me to continue the business and preserve the business as a going concern, I think were the words, and it seemed to me imperative that I should pay the wages for the T.V. Services Limited company which was effecting the contracting work for the hirers of sets. Also I had to purchase parts for the repairs of sets. It is probably only incidental but it is important also to see that the motor vehicles, service motor vehicles, were kept on the road, and to that extent I had to make promises of payments to suppliers of petrol and garages to maintain the vehicles. I made a request of the directors, Bateman directors, with regard to information asked by Coleridge Finance Company with regard to the sale of used television sets. Coleridge Finance Limited wrote to me, and on 12th November said "In connection with the sale of used television sets no longer required for rental purposes we wish to advise that we do not agree to the sale of any of these sets which may be covered by conditional purchase agreements between the Bateman companies and the Finance companies until such time as the present Court action has been determined. We also request that we be supplied with a list of all such sets disposed of since your appointment, giving make, serial numbers and address and name of the purchaser and the amount paid." I had to reply to Coleridge to say that the information requested would be declined. I said "I have made a formal request for the information required by your company but I am advised by the directors of the Bateman

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Group of companies that they have been advised by their solicitors not to release such information in the meantime." I looked at the books of accounts of the companies of which I am provisional liquidator, but not in great depth.

With regard to Bateman T.V. Hire Limited, to my knowledge of its affairs, as to whether it would be able to pay the amount claimed to be due by the petitioning creditors for arrears of instalments, no, I had better look at the matter as a whole. Without going into or having made available to me the information which I would need, my assessment is that on the information given to me by the Secretary, Mr. Curry, that the companies could not pay their debts. My own estimation is that their assets are about - when I say the companies, that is the three companies - I would say that the approximate position would be that the assets and liabilities would rate as about two to three, as near as I can make it.

THURSDAY 28th November 1968

I said yesterday that on my assessment of the position of the three debtor companies, they could not pay their debts. If the amount claimed is a current debt, that would be so. As to whether I can tell the Court whether these companies have paid their profits or losses according to the accounts as at 31st March 1967 which were produced to me, the consolidated losses of the three companies according to the balance sheets at 31st March 1967 was \$109,066. That does not include the losses of Bateman Records Limited or of Bateman T.V. Services Limited, which, if added, would bring the total to \$120,749.

XXM: When you say the companies cannot pay their debts when they fall due would they be able to do so if the debts to the petitioning creditors had been covered by the debenture that was proposed? I think that is evasive, but I haven't seen the terms of the debenture. The debenture provided that \$5,500 were to be paid? I couldn't give you an answer on that without doing an exercise on it. In the course

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
27th November
1968

Petitioning
Creditors
evidence

Walter Arthur
Hadlee

Examination
(continued)

28th November
1968

Cross-
examination

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Petitioning
Creditors
evidence

Walter Arthur
Hadlee

Cross-
examination
(continued)

of your provisional liquidatorship, I think you were appointed with the intent that you should be custodian of the property of these companies? Yes. Pending the termination of these proceedings? Yes. And I take it that you were able to look after the property of these three companies in the meantime? I haven't had any custody over the sets out on hire; I found that to take this literally was creating an impossibility virtually. I have taken control of the cash assets. I have had the man in charge of the stocktaking procedures keep me posted with stock position. I have paid current amounts which the creditors have required to be paid to keep the business functional. I have paid wages but to answer your question literally, I have not been able to take control of what section 238 of the Act states in respect to assets which may appear to belong to the company because some of those assets could relate to amounts owing by the two companies of which I was not appointed provisional liquidator, that is, the inter-company indebtedness. I think you told us that the receipts were all banked in the account of Bateman T.V. Hire Limited? Yes, and also Star T.V. Limited. Those two accounts are both used. And those two accounts were under your control? Yes. You have told us you may have made some claims regarding the companies, Television Services I think you said? Yes, wages and parts. But that company will have had a claim anyway against the companies you represent for services rendered and so on? That company, T.V. Services Limited, is as far as I know to maintain the sets which are hired to the public and to do work for the public if they bring their sets in to the area of Manchester Street. In other words, there are several people, firms, who repair television sets for the public, and Bateman Television Services is one of them. And it also services sets out on hire for the Bateman T.V. Hire Company? Yes. You weren't therefore seriously out of pocket by these arrangements? Well I am unable to pay at the moment the trade creditors, for instance I haven't paid all suppliers for their accounts rendered up to August. I have not paid some whose accounts are owing to August

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for television receivers.

10 TO BENCH: What date in August? End of August. How much would be involved? The account owing to A.W.A. for August and September is \$9,270, and to H.M.V. \$1,384, and there is also an account owing to Pye Television, the details of which I haven't got with me but which I think was to the order of \$1,500; that account has been transferred by Pye to Batemans Records Limited so that I haven't worried about paying that one.

20 TO COUNSEL: How much would be involved in making payments to these other companies. Up to two days ago I paid out for T.V. Services Limited wages amounting to \$2,066 and I paid parts as required mostly small amounts of about \$20 a time, nothing very major in that payment. I kept the Records salaries going \$234. I think that's all. Would these companies have claims against you? I don't know until I see the accounts up to date. The inter-company transactions have to be considered in the light of that question. It is almost certain that Bateman Records Limited would owe money to Bateman T.V. Hire Limited because they owed over \$23,000 in the accounts at March 1967. Similarly, Bateman T.V. Services Limited

30 owed \$2,317 or \$4,634 to Bateman Television Limited. So there would have to be a very marked change in the inter-company transactions between March 1967 and to date if there were no amounts owing by the other two companies to the three companies of which I am provisional liquidator. Have you collected moneys owing to these companies too? I have collected no moneys owing to Bateman Records as far as I know. I say that because

40 a receipt book is kept in the name of Star T.V. Limited in Gloucester Street and that receipt book seems to be a receptacle for sundry moneys which are paid into that office by customers of any of the companies. And the proceeds, receipts are totalled and banked into Star T.V. Limited's bank account. And then the secretary has to sort out to whom the money really belongs. You said you complained about this matter and that

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Petitioning
Creditors
evidence

Walter Arthur
Hadlee

Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Petitioning
Creditors
evidence

Walter Arthur
Hadlee

Cross-
examination
(continued)

you were advised by the directors that further disclosure had been forbidden by their legal advisers? That was the text of my letter to Coleridge Finance on the 22nd November. I think it was Mr. Thomas who said that Mr. Menzies would not agree to the release of this information. Was the order defining your powers ever completed? I have had no instructions beyond the appointment of the 10th October. Are you aware that letters have been sent from the solicitor for the companies to creditors asking for the draft order? I believe there was a request of that nature. And do you know whether this draft order was ever furnished? No I don't know the details of the transactions between the counsel. I think there was a proposition that if winding up orders were made against these companies your services would be sought as liquidator? That has never been put to me. The Official Assignee would become the provisional liquidator in the ordinary way. It would then be a matter for the creditors. You are aware it was mentioned in Court at the last hearing? I wasn't present at the hearing. Have you been securing the services of staff? No. I have made no arrangements with staff in the event of a liquidation. I have been very careful to say at all times that there may not be an order made. I have been careful to point out to the creditors that the company is not in liquidation and it is a matter for the Court. On your ratio of assets to liabilities which I think you gave as two to three yesterday? Yes. That would depend a good deal on the valuation of the current assets? Yes it would depend to some extent on that; it would depend upon that but I can't conceive that the valuations which I have taken could be exceeded to any extent. I have used \$180 for new sets of which there aren't very many, about forty I think, and \$120 for the sale of used sets and if there were 1,800 new sets another \$30 each would amount to \$5,000 which is not very considerable in relation to \$400,000. What about the sets on hire which are regarded as fixed assets? Well they can't be sold whilst they are on hire. I have simply in this calculation put a value on all sets not that I think they could be readily sold at that price. What value did you put on them? \$120.

REXM: NO QUESTIONS.

CONCLUSION OF EVIDENCE FOR PETITIONING CREDITORS

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MR. GOUGH OPENS AND CALLS:JAMES ROBERT BRUCE MENZIES (Sworn)

I am a practising solicitor in Christchurch. I have acted throughout these matters as solicitor to the debtor companies concerned since December 1967. There were some preliminary negotiations beginning last December. Some difficulties were encountered concerning at that stage bringing things to finality. They did not come to a conclusion. Notices under s.218 of the Companies Act - I received a copy on the 29th April. Service of the notice is admitted. At the same time as the notices were served, there was another communication. My client companies were invited to submit a list of terms which would be acceptable to them. These notices were signed by Mr. A.D. Holland. A list of terms was submitted. The next step in the negotiations - I would correct myself here; I mentioned the 29th April, it was 29th March.

On the 29th April we received a document which has already been referred to in these proceedings as Heads of Agreement. That was substantially the same document with the written addition of clause 13. When I received the Heads of Agreement I conferred initially with my clients and on the 1st May I wrote then to Mr. R.G. Hientz who I understood had been conducting the negotiations on behalf of the finance companies. That is a copy of the letter which I wrote. On the second page of that letter I wrote a number of suggestions to be included in the Heads of Agreement, in particular Paragraph (d). That related to the restraint clause in the Heads of Agreement, namely the second portion of Clause 12 of the Heads. Concerning that clause and other matters, I received a reply dated 3rd April from Messrs. Cavell, Leitch & Pringle, no, 3rd May, and that is the letter which I received in reply. I have the original. In that letter Mr. Pringle said about Clause (d), I will quote: "Clause (d) Your suggestion is acceptable". There was no other qualification to that comment. There is quite a lot of matter

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination

Exhibit "G"(14)

Exhibit "G"(11)

Exhibit "G"(12)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination
(continued)

in that letter. Most of it disappears in the course of correspondence; I think that is a fair statement. There was a meeting at which I attended. This meeting was held at the premises of Star T.V. in Gloucester Street, Christchurch. In attendance were Messrs. Hientz, Pringle, Rundle, Bateman, Thomas, Currie and myself. Mr. Hientz was the former manager of the Finance Group. I have never been clear as to the date at which his position as Manager terminated. Mr. Pringle was solicitor to the Finance Group. Mr. Rundle was the accountant to the Group. Messrs. Bateman and Thomas were directors of the Bateman companies. Mr. Currie was secretary of the companies. As to what discussion took place, broadly, the Heads of Agreement were considered and the clauses and found acceptable subject to the various modifications constituted by the two earlier letters to which I have referred. I read through the points made in my letter and, dealing with all that is relevant now, Clause (d) was accepted without comment. I was to do something concerning this. I felt that correspondence was a fairly loose way of recording the arrangements although the document did by Clause 13 include the arrangements of these two previous letters. It was therefore understood that I would submit to Mr. Pringle a document providing more formally but not in any way varying the substance of the points agreed upon in the correspondence and subsequently confirmed at the meeting.

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As to whether there was anything outstanding at all when the meeting broke up, I would say there were minor matters; there was question of the companies' indebtedness under bank overdraft mentioned in Clause (c) of my letter. That subsequently solved itself. There is a reference to a ruling in the Magistrate's Court which was similarly disposed of and I think from memory that was the last thing outstanding. I did the further drafting of the document incorporating the points on which agreement had been established, and I submitted it to Mr. Pringle on the 21st May.

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That is a copy of the document concerned duly signed. I would explain to the Court that certain notes have been made on it subsequently to my meeting with Mr. Pringle, some of them considerably later. They were made by me myself. It is a page and a half headed "Suggested Amendments". The Heads of Agreement was signed on the 9th May 1968. I was present when it was signed. The date on which I submitted the second document to Mr. Pringle was the 21st May. According to my evidence, Mr. Pringle with two minor modifications made at that stage to which I agreed accepted the document submitted. The parties concerned, to my understanding, were the Hientz Group of companies and the Bateman Group. There was another company concerned but not as a party to the negotiations. Mr. Rundle in evidence yesterday said there was reference to the meeting on the 9th May to discounting facilities possibly being provided by Credit Services Investments Limited.

TO BENCH: There is a reference to Credit Services Investments Limited in the letter sent to you by Mr. Pringle's firm on 7th May? That sir as I understand it was apropos of the negotiations for discounting. There is a reference to it in the letter of 3rd May too? Yes sir.

TO COUNSEL: In the Heads of Agreement Credit Services Investment Limited were not mentioned to my recollection. As to whether there is an indication in the Heads of Agreement at all concerning a person, there is no other party named. There is a reference to a nominee. That is what I had in mind giving that answer. The next stage of these negotiations would be about the same time as I saw Mr. Pringle, namely the 21st May, that I received from Mr. Holland a draft of proposed clauses for a debenture. This is the copy of the draft. It is a three-page document. That was a draft of the proposed clauses of a debenture over which there could conceivably be any room for disagreement or negotiation. That debenture was to be given to Credit Services Investment Limited. When I received that document I did

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination
(continued)

To the Bench

Exhibit "G"(13)

Exhibit "G"(12)

To Counsel

Exhibit "G"(17)
Exhibit "G"(16)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination
(continued)

Exhibit "G"(22)

Exhibit "G"(11)
Exhibit "G"(12)

Exhibit "G"(22)

very little with it because Clause 9 imposed a condition restricting the directors of the Bateman companies in a way contrary to the previous agreement, and that was a matter which was covered by the document to which I submitted to Mr. Pringle on the 21st May. I then received a letter. That document was under cover of a letter. That letter is dated 12th July. This draft I have before me was received, I think, the 21st May. There was a subsequent draft later in July. I later received a further letter from Mr. Holland, a number of letters. This is a copy of that letter. This is a letter dated 12th July 1968 which I received from Mr. Holland and which among other things says "It has been decided that the advance should be made by Credit Services Investments Limited". With that letter there was a further draft of a debenture. This is the second draft which I received beginning "Blank Limited. Debenture". I received this under cover. The marginal notes are my notes. When I received that draft I considered it closely. I felt that Paragraph 3 was not in terms of the agreement already made. I recast that. I recast also from memory Paragraphs 4, 5, 6 and 7, not as matter of substances but simply to clarify the intentions of the parties. I sent my drafts on to Mr. Holland later in July and he accepted my amendments entirely, apart from that to Paragraph 3. I also made an enquiry of Mr. Holland at that time. The terms of this proposal struck me as being at variance with what I knew to be the points established by agreement between the parties, and it occurred to me that Mr. Holland could have put forward these proposals only in ignorance of the amendments incorporated into the Heads of Agreement, namely the letters of 1st and 3rd May. I therefore wrote to Mr. Holland enquiring as to whether he was aware that there had been any modification or that a document had been submitted to Mr. Pringle on the 21st May. I so wrote to Mr. Holland in a letter dated the 15th. That is a copy of the letter which I wrote. That is a true copy of the letter. I wrote further to Mr. Holland. On the 23rd I think it was I sent the draft clauses. This is a copy of the letter of the 23rd July and also

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enclosure headed "Suggested Amendments to Proposed Debenture".

TO BENCH: You meant that you had referred to the directors and secretary Mr. Holland's letter of the 12th? That's correct sir.

I also received a letter from Mr. Holland dated 24th July in which the main matter under discussion was the number of sets. I did receive a letter dated 24th July 1968 as Mr. Gough has said; it was concerned largely with the number of sets to be offered as security and that matter was subsequently settled satisfactorily. I received a further letter concerning the same subject from Mr. Holland dated 26th July. Then Mr. Holland wrote to me again. The tenor of this letter again of the 26th July indicates that Mr. Holland was still unaware of the amendments made in the document submitted on the 21st May and earlier correspondence. I received a further letter dated the 30th July from Mr. Holland. That letter is concerning the Heads of Agreement. Mr. Holland said "In your letter of the 15th July you presumed that we were aware of the schedule of amendments to the Heads of Agreement agreed to by Mr. Pringle on 21st May. We were not aware of any such amendments." There was a meeting concerning that? I felt at that stage there was a very obvious lack of information or disclosure somewhere in the negotiations between the other parties and I arranged for a meeting at my office on the 31st July, I think, with Messrs. Pringle and Rundle. At that meeting various outstanding matters were considered? I referred to the document submitted by myself to Mr. Pringle on the 21st May, and it was my understanding that Messrs. Pringle and Rundle did not dispute the contents of that document. I wrote a report of that meeting the next day to Mr. Holland and sent a copy to Mr. Pringle. This is a copy of the letter dated 1st August. I received a letter in reply dated the 2nd August I think. As things have turned out, there is nothing of substance in this letter other than the references to what has become

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination
(continued)

Exhibit "G"(27)
Exhibit "G"(29)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination
(continued)
To Counsel

Exhibit "G"(11)
Exhibit "G"(12)

known as the restraint clause. Those references where Mr. Pringle refers at the foot of the first page to what he suggests that I would agree were the terms of the conferences of the 9th May on this restraint question. I do not accept that interpretation of what was done there. And as I have said before, the matter was completely covered by the exchange of letters dated 1st and 3rd May.

TO BENCH: Do you mean by this you don't accept Mr. Pringle's account of the matter as set out in the first paragraph of his letter of 2nd August? No, the third paragraph. I'm sorry sir, on the first page. Put this way, there is a difference of view between you and Mr. Pringle which is expressed in that third paragraph in the letter? I would say this is the first time that any disagreement with the purport of the May correspondence had been expressed.

TO COUNSEL: I received from Mr. Holland a draft debenture on about the 5th August. That is the draft which I received from Mr. Holland. My client companies were at that stage completely willing to execute the debenture on these terms with one modification, namely, that Clause 13 dealt with the restraint question in a way contrary to what had previously been agreed upon. With reference to the letters of 1st and 3rd May setting out what was agreed on, the draft debenture differs from what I thought the agreement to be in that this Clause 13 imposed considerably stricter restraints on the directors than had been covered by the May correspondence. The purport of the May correspondence was that no restrictions whatsoever should apply to the directors in the event of their terminating their connections with the companies or the companies being wound up. The draft debenture introduces quite a new element by saying that in the event of the present directors, broadly, engaging in other T.V. activities the whole of the principal sum should fall due. In other words, it was restricting the rights of the directors to engage in business. It made no reference at all to the situation which would prevail if the directors had

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terminated their connections with the companies. Further correspondence ensued and negotiations with a view to overcoming this one. I received a further letter from Mr. Pringle dated the 8th August. Mr. Pringle in the third paragraph on the second page of his letter of the 8th August again adverts to the question of the restraint clause starting of "We understand you agree". There again I disagree. He goes on in his preceding paragraph to say "We acknowledge". He says that his letter of the 2nd instant "should now be modified in terms of paragraph (d) of page 2 of your letter of 1st May last". That is all that is relevant in that letter.

TO BENCH: With reference to that matter on which the spirit of the agreement is mentioned, third paragraph on page 2, I just want to be quite clear as to what you told me: do you not agree that it is the spirit of the agreement as set out in Clause 12 that no new television companies or businesses are to be engaged in by Messrs. Bateman and Thomas? My view right through has been that the matter has been completely covered by the words I used in my letter of 1st May and there is no understanding going along with that whatsoever. You say one would take the express terms of Clause 12 and then added to that your letter of 3rd May? That is the true interpretation. That covers everything? Yes sir. Obviously there is a difference of view between you and Mr. Pringle as to what the spirit of the agreement was? As I said earlier, it wasn't until the August correspondence that Mr. Pringle didn't accept this view. I might mention also that I received a carbon copy of a letter dated 22nd August. The address was in original type and to myself, but it appeared that it was a copy of a letter written by Mr. Holland to Mr. Pringle in which he points out that Credit Services had not authorised the points agreed to in the May correspondence. That is the letter to which I refer.

TO COUNSEL: At this stage I received a new Clause 3. After the letter of the 22nd August

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination
(continued)

Exhibit "G"(11)

Exhibit "G"(12)

Exhibit "G"(34)

To Counsel

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination
(continued)

Exhibit "G"(36)

Exhibit "G"(35)

there was further correspondence but I can't remember the date of it. A new Clause 3 was sent to me. Clause 3 from memory - this is a copy of the new Clause 3 that was sent to me. This clause 3 dealt with the question of replacement of sets sold and the matter was carried no further. As I recall this question simply waited for a decision on the restraint question. Eventually this proposal was not proceeded with. On the 16th August 1968 I wrote to Mr. Pringle concerning this and also concerning the restraint clause. That is a copy of the letter which I sent. Mr. Pringle wrote to me in reply. I received a letter in September, dated 9th September. The portion of this letter relevant to the restraint question reads "We have to advise that the clause as to employment as submitted in the draft debenture must remain as is to comply with Credit Services requirements" and a few other portions which I omit - "We appreciate that this requires a departure from the Heads of Agreement". A letter was received from Mr. Mahon dated 16th September. In that letter Mr. Mahon covered the earlier stages of the matter and then winds up "I was therefore directed to advise you that unless your clients agree to the terms of clause 12 of the signed Heads of Agreement I am to draft a winding-up petition and arrange for Mr. Pringle to file the same either tomorrow or Wednesday. The proposal contained in the second last paragraph of Mr. Pringle's letter to you of 9th September 1968 is now withdrawn". Mr. Mahon went on to assure me that there was no element of pressure or coercion in what he had written. He concluded: "As I shall be in Court today I would be obliged if you would convey your client's decision in the matter to Mr. Pringle although I understand he will not be in his office until this afternoon". On receipt of this letter I got in 'phone communication with my clients. They said they would consider the matter. They rang me back to say that to enable the debenture to go ahead they would completely waive their earlier requirements as regards the restraint clause and I 'phoned Mr. Pringle's office I think round about 5 on the afternoon of that day and I was told that Mr. Pringle was not in town and I asked that a

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message be left that I had rung. I received a further letter the next day. I had been in Court in the morning and I received this letter some time after mid-day. This is the letter, dated 17th September. The writer expressed regret if any inconvenience was caused through the writer's absence. That letter left me somewhat in the dark.

10 Accordingly I 'phoned Mr. Pringle straight away and said was there anything I could do at this stage having in mind to repeat my client's decision and he said there was nothing that could be done. I wrote to Mr. Pringle again on the 24th September asking for a detailed statement of how the accounts were made up. I do not have a reply to that from Mr. Pringle. At a later date, I think early in November, I received a schedule of balances from Mr. Mahon through Mr. Mahon.

20 That is the schedule of the balances - it was the make-up balances shown on the 218. Those are the schedules I received. That didn't give me the information I was seeking. I had asked for detailed statements

disclosing how the several amounts mentioned in the notices served under s.218 were made up. I have not received this information as yet. Following the appointment of the

30 provisional liquidator, I wrote to the solicitors and accountants concerned about the order. This letter is dated 18th

October which I produce where I ask for a draft Order for the appointment of a provisional liquidator to be expedited. I wrote further to Mr. Mahon on the 1st November last pointing out that I had asked for a statement in detail, to be furnished, also asking how the amounts were made up. In

40 response to this letter to Mr. Mahon I received the schedule which has already been introduced but which did not fully satisfy my requirements in that it did not give details of how the balances were made up and in particular it did not show what credits had been allowed on the sale of sets re-possessed. On Monday the 25th November I wrote to the solicitors for the petitioning creditors enclosing the sum of \$638 in payment of the debt of \$532 which is mentioned in the Notices under s.218 as regards Star

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination
(continued)

Exhibit No.3
(sic) Exhibit
No.2 dated 16th
October 1968

Exhibit "G"(41)

Exhibit "C"

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Examination
(continued)

Exhibit "6"

Exhibit "7"

Exhibit "8"

Cross-
examination
Exhibit "G"(41)

T.V. Limited. I was advised that the further sum of \$106 was required to completely clear the liability to Belmont, being interest accrued since the original figure had been calculated. I was furnished with that figure by the solicitor who acts for them, Mr. Pringle. I paid a total of \$638. In my covering letter I undertook that all reasonable costs determined on these matters would be paid. I produce receipt dated 26th November 1968 in reply to my payment. My office is the address for service of the Bateman companies. As to whether I have been served with any notice of any appearance by any other creditor, no, I have not. I again wrote on 16th October 1968 concerning the draft of the Order appointing the provisional liquidator. There were two letters altogether and one has already gone in. I have never received any draft order. I produce a copy of the Memorandum of Association of the company known as Coleridge Joinery Works Limited certified under the hand of the Assistant Registrar of Companies on 26th November 1968. I also produce formally certified copy of a special resolution passed by Coleridge Joinery Works Limited changing the name of the company to Coleridge Finance Company Limited. I also produce by consent a list of chattel securities owned by Coleridge Finance Company Limited. I also produce by consent a list of registered mortgages given to Coleridge Finance Company Limited

XXM MAHON: When you asked on 1st November for these extended particulars of the amount due, had you ten days before obtained an order for discovery? That is so. Did you exercise the right of inspection of the Finance Companies' records? Not immediately because they were not available. Did you exercise in due course your rights of inspection of the companies' records? It depends on due course. Regrettably the right was exercised. You went along with Mr. Evans your accountant and examined whatever you wanted to see at the office? I didn't go along. What is the complaint about knowing how balance made up? We still don't know, it would have been an extremely complex matter to find out. Did you or Mr. Evans see those yellow ledger cards put in evidence? I don't know what Mr.

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Evans saw. Don't they show the balances made up? They do, but my impression is that they give no credit for a lot of repossessed sets. And in effect you were handed all the conditional purchase agreements some weeks ago? That's true. You had them in your possession yesterday? Yes. And you've written or your counsel has written a number of letters requiring admission of all sorts of documents? That is so. Were there not two of those letters containing extensive lists of documents sent only the day before? That is true. And accompanied by information that if admission was not made as sought an application would be made for an adjournment? I haven't seen the correspondence. All your requests have been met, haven't they? I am still of the opinion that we haven't yet had explained to us the true make-up of that balance of \$8,000 made up in respect of Bateman T.V. Do you agree there may be some question as to whether correct credit has been given in the case of repossessions? That's correct.

TO BENCH: I thought you expressly referred to the balance of \$8,900 odd? These items make that up sir.

TO COUNSEL: But is that question a matter of valuation of individual sets repossessed? Not as I understand it. What is the difficulty? Again as I understand the schedule supplied in respect of Bateman Television Limited represents balances owing by the, or allegedly owing by the, dealer companies where purchasers, conditional purchasers, had defaulted. My Clients' understanding is that in a very considerable number of these cases repossessions have been effected and they are not satisfied that credit has been given for all sets repossessed nor that the balances owing after repossession and resale have been pursued. Did you hear Mr. Rundle say yesterday that all appropriate credits had been passed? Yes I did.

Just go back to the beginning of this saga. At the beginning of 1958, 1968? 1968. Were your clients asked to execute a debenture to secure the amount owing by them? I didn't

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

To the Bench

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

keep diary records for that early period but broadly I agree with what you say. And did they not refuse to execute any debenture. Yes I might add my advice that the monthly instalments being required of them appeared to be beyond their reasonable capacity. Did they not have another reason that they were going to repudiate liability under the Moneylenders Act? I would deny that completely. I would also say that I have never used the word or adverted to the term 'moneylenders' until Mr. Holland mentioned it to me and suggested that was our intention. Were not Mr. Bateman and Mr. Thomas openly saying at the beginning of this year they were going to walk out owing nothing because the debts were not recovered? I know nothing of that. Whenever pressure was put on your client companies was not your answer "If you try to wind up the Bateman companies they will raise the Moneylenders' Act"? I don't think the correspondence will substantiate that. Let us not trouble with the correspondence: wasn't that the attitude you expressed to Hientz and Rundle and also to Mr. Holland verbally? I doubt very much that I ever mentioned the Moneylenders Act. I recall my reference was simply to the fact that I had grave doubts as to the enforceability of the Finance Company's claims.

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To the Bench

TO BENCH: On what grounds? Initially sir I was thinking of the hire purchase regulations, the statutory regulations. And having that in mind I was rather amused to find Mr. Holland telling me the Moneylenders Act did not apply to this transaction before I had mentioned it.

To Counsel

TO COUNSEL: Did you not maintain to Mr. Holland prior to April 1968 that the conditional sale from Bateman Television Limited to Bateman T.V. Hire Limited was the lending of money by Bateman Television Limited: did you put that to him? I did not. I would say that in various references in these proceedings to the status of Bateman Television Limited as a moneylender that is a question that has never been raised by me and has been considered by me. Wasn't that the original point you yourself raised on

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10 behalf of your clients? No. And anyhow you
 say your clients declined to execute the
 debenture because they were not satisfied
 with the rate of repayment proposed. I
 urged them to consider very carefully that
 they could be confident under all foresee-
 20 able circumstances that they could meet it
 and it was decided that it was doubtful that
 they could. And you were aware the debenture
 was required because of the takeover of
 Credit Services? I don't think I knew in the
 earlier stages what the nature of the
 negotiations between Credit Services and the
 Finance Companies was. Might I draw your
 attention to the letter dated 2nd February
 1968 in EXHIBIT G, letter from Coleridge
 Finance to the directors of your client
 companies dated 2nd February 1968 - "Dear
 30 Sirs, Further to our discussions of
 yesterday with Mr. E.N. Thomas of Credit
 Services Limited and yourselves, we wish to
 advise that the following would be the terms
 required by Credit Services Limited for the
 refinancing of the amount owing on your hire
 sets. The new securities are to be taken
 in the name of Coleridge Finance Company
 Limited." In view of that letter, would you
 agree that it was known in February that
 Credit Services proposed to take over the
 40 Finance Companies? No, all I took from that
 was that they were somewhere in the back-
 ground. The letter says the debenture would
 be given to Coleridge Finance. Did you
 regard the debenture as quite separate from
 Credit Services Limited? Oh, no. Was Mr.
 Holland not in touch with you early in March
 1968 acting on behalf of Credit Services?
 Early in March? Yes. He wrote to me on the
 19th March I think telling me what the
 Finance Companies would do in certain
 circumstances. It wasn't obvious from that
 that he was acting on behalf of Credit
 Services rather than on behalf of the
 Finance Companies. In his letter of 19th
 March to Mr. Pringle he is enclosing Heads
 of Agreement to take over the Finance
 Companies? I know nothing about that of
 course. He's also saying he's seen you and
 had discussions with you with regard to

In the Supreme
 Court of New
 Zealand
 Canterbury
 District
 Christchurch
 Registry

No. 9

Court notes
 of evidence
 28th November
 1968

Respondent
 Companies'
 evidence

James Robert
 Bruce Menzies

Cross-
 examination
 (continued)

Exhibit "G"(3)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

this proposed debenture? Now weren't you well aware that the debenture was part and parcel of the takeover of the Finance Companies. As I said before, I was never fully aware at that stage what the nature of the negotiations was. When did you become aware? Hard to put a precise date on it. Certainly in July I was very much in the dark. I would say the impression was an on again off again sort of thing. At times we were dealing with the Hientz group and his finance group and at other times dealing with Mr. Holland. Seemed to be no continuity in the thing at all. At one stage I was told Credit Services were right off the picture altogether. Were you not involved with a three-way deal with Credit Services, the Finance Companies and the Bateman companies from the very outset? I would say no as far as I was concerned. The companies I was representing were dealing with the Hientz group and nobody else. When Mr. Holland served the s.218 Notices on the 26th March, did you think that he was acting for the Finance Companies? As being part and parties to issue of those notices, yes. Had he not seen you only seven days before telling you he was acting for Credit Services? I knew that, but it didn't exclude his acting for the others also. So that here was the solicitor for Credit Services trying to force your client companies to sign the debenture? That is so. But in what capacity it was not clear. Aren't you taking a rather artificial view? You knew the whole position, did you not? I think the operative words are "at this point of time". I would say that it wasn't an artificial view at that stage. The position as it was conceded, was far from clear. When the s.218 notices were served, were you aware that Credit Services intended to buy the Finance companies by insisting on the debenture? As I said before, I didn't know the nature of the proposals between Credit Services group and the group. I asked whether you knew Credit Services wanted to buy the Finance companies? I would say no, because that is implicit in my previous answer. When Mr. Holland spoke to you, did

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you not say...? I don't remember. You see in his letter to you of 19th March he says as follows - "We wish to confirm our interview with you today whereby we indicated to you that, in order to avoid immediate action being taken against the above two companies by the finance companies in respect of the debts owing to them by your client companies, it will be necessary on or before 3 p.m. on Monday 25th March, for your clients to agree to re-finance the entire debt by accepting an advance from Credit Services Investments Ltd. for this purpose on the following terms and conditions:-" and then goes on to cite the debenture and a number of conditions? Yes. Will you agree now that on 19th March you knew from Mr. Holland that the general proposal was that Credit Services would re-finance the whole indebtedness as part of the takeover of the finance companies? I don't go with you all the way. I was aware that there was a proposal for refinancing by Credit Services at that stage. But as I said before, just where they fitted into the overall picture I don't know - didn't know at that stage. Didn't your clients tell you that Credit Services wanted to buy the Finance companies? I don't recall. Will you agree with this - at all times throughout these negotiations the man who prepared the debenture was Mr. Holland. No, because in the earlier stages there was a very definite understanding about costs on the debenture. At a later stage the Hientz group intimated that they could not honour that arrangement as Mr. Holland was now preparing the debenture. That ties in with my earlier statement that I was very much confused from time to time who was in the picture and who was not. These Heads of Agreement that were signed on 9th May, they were sent to Mr. Holland first for approval? I don't know. You don't know? No. How was it your clients came to agree to signing the Heads of Agreement when they had not been required to sign the debenture up to that time? As I said before, the major objection to signing the debenture was the high monthly instalment they were going to be required to pay. To

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

Exhibit "G"(14)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

my knowledge at no stage of the negotiations have they been adverse to signing a debenture which they have a reasonable expectation of being able to comply with. Do you remember in April 1968 faced with the following ultimatum - either they agreed to sign or a winding up petition would issue on Monday 30th April 1968? Yes. And was it not because of that ultimatum that they signed the Heads of Agreement nine days later? Not entirely. By that stage we had by negotiation got to the point where the monthly instalment was one that they felt was within their competence. Was not the issue as at 30th April 1968 that if a winding up petition was issued your clients would raise the Moneylenders Act, is that right. Frankly, I don't remember at which precise stage the Moneylenders Act came into it. And when your bluff was called and the Finance companies said they would give you the debenture, didn't your clients come in and sign the debenture? That is not my version of the picture. It is just a coincidence that they signed the Agreement nine days after the ultimatum date. As I said before, they were always willing to sign the debenture and by then they had reached terms they would be able to carry out. You don't think the question of issuing the petition had any bearing at all? I am sure they wouldn't have signed unless they had been granted terms which they could have carried out. So that at the meeting when they signed the Heads of Agreement Mr. Holland wasn't there, was he? No. And you have not sent Mr. Holland your letter of 1st May, had you? True. So that you had obtained therefore the agreement of Mr. Pringle to the alteration of this clause about the directors and you had not obtained the agreement with Mr. Holland? True. And then as soon as the Heads of Agreement were signed on 9th May you prepared a schedule of suggested amendments? A schedule of suggested amendments simply recorded the points on which agreement had been reached by correspondence prior to 9th May. Did you send a copy of that schedule of amendments to Mr. Holland? No. Why not? Because to my knowledge he wasn't in the picture. Not at any stage was it suggested to me that the proceedings on the 9th May were in any way

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subject to his approval. So on the 20th May when Mr. Holland sent you the principal clauses of the draft debenture were you surprised to hear from him? No because the situation had been changing so frequently and so rapidly I was prepared for any change at that stage. You saw his proposed clauses disregarded your amendment about the directors' right to trade? That's right. But at the same date I presented my formal suggested Heads of Agreement to Mr. Pringle and pointed out to Mr. Pringle that the two were at variance. And then you got Mr. Pringle to sign on 21st May? I don't think he signed. Or agree? Yes. What about Mr. Holland, did you take up those drafts before Mr. Holland? No it was left that Mr. Pringle would straighten out and I expected him to send back these suggested amendments because they did not matter any further. But Mr. Holland said to you why didn't you get in touch with him and say you've got things wrong? I felt that the parties I was negotiating with were the Hientz group represented by Mr. Pringle. All this followed on from the meeting of 9th May in which Mr. Holland took no part whatsoever. Here was the very debenture you had been engaged on; wasn't it sent to you by Mr. Holland? Two points there, I think the covering letter that Mr. Holland made some reference as to his being or about to be out of Christchurch and he later assumed it was natural that I negotiated with Mr. Pringle, and secondly, I still felt that if there was any variance between the proposed debenture and what my clients were prepared to give following the meeting of the 9th May that was a matter for Mr. Pringle to straighten out with Mr. Holland, not my concern. So in the event Mr. Holland never moved from his draft clause regarding the directors that he sent on 20th May? True. And you said that's all right, I've got Mr. Pringle to agree? That is the effect, yes. Mr. Holland was quite an extraneous party to any negotiations. As an extraneous party he sends the debenture for which negotiations done for five months? He was in my view committed by the

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

arrangements made by Mr. Pringle as between the Bateman group and ourselves. I couldn't say if he was committed between the Hientz group and Credit Services. If the debenture was to be given to Credit Services would you expect Credit Services to approve the terms? One would generally speaking so expect. If the debenture was to be given to the Finance companies but Credit Services were buying the finance companies would you also expect Credit Services to want to peruse it? That would be a matter between the Finance companies and Credit Services. To my mind the Finance company group purported to act as if under no constraints whatsoever. You know in May 1968 Credit Services were buying the Finance companies? I say I know that they were in the background but don't know precisely what it was. Did you know they were buying the Finance companies in May 1968. I would say no as at that stage I didn't know the nature of the negotiations. The draft clause Mr. Holland sent on 20th May referred to an advance by Credit Services to your client companies? Yes. How did that arrangement come about? The Heads of Agreement provided for debenture being given to Cambridge Credit or their nominee or nominees leaving order wide open. Your stand in matter is this, that you struck a concluded agreement with the Finance companies on the wording of the debenture? That's right. That Credit Services Limited had no say in the terms of the debenture? That no one was in a position to affect the bargain made between the Hientz group and the Bateman group. Was it your view that Credit Services Limited were to have no say as to the contents of the debenture? Yes, if you want a yes on that, that's yes. Why did you not write to Mr. Holland when you got his letter on 25th May telling him to mind his own business? As I said before, the Heads of Agreement made provision for a nominee, it was quite in keeping with that agreement that he should then come into the picture and secondly I considered anything of that nature was a matter between Mr. Pringle and Mr. Holland. Mr. Pringle had made a bargain with me, and if he wanted an alteration it was up to him to

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arrange it. How do you suggest the arrangement between Credit Services and Finance Companies on debenture, how could that have been arranged? I don't see it impossible at all. Credit Services you know now was negotiating to buy the Finance companies? Yes. And weren't Credit Services under the necessity to see to it that this big debt owing to the companies they were buying was correctly secured? You say I know now, yes. But that was a necessity on the part of Credit Services wasn't it? Not sure where we are getting to with your questions. Certainly if Credit Services were at any stage proposing to buy the Finance companies they would naturally want to be properly secured, will grant that to you. Doesn't it follow that Credit Services would have to approve all the terms of the debenture whether given to me or to the Finance group? That is a matter between the Hientz group and Credit Services. Would you regard that as normal for Credit Services to insist upon that? Yes, certainly, reasonable and sensible.

MID-AFTERNOON ADJOURNMENT.

You said a short time ago you remembered the ultimatum which was given that a winding up petition be issued on 30th April? Yes. Do you remember a meeting held a day or two before 30th April in the office of Star T.V. Limited between Messrs. Rundle, Hientz, Bateman, Thomas, Currie and yourself? No thank you, I don't remember. I'm going to ask His Honour's leave to recall Mr. Rundle on this so I put to you what do you say about that - that at this meeting it was requested by the Bateman companies could they have the instalments reduced from \$6,300 a month down to \$5,500 and that Mr. Rundle and Mr. Hientz said they would have to ring Credit Services and get their consent and then at a second meeting later in the same day they were able to report they had got the consent of Credit Services Limited to that alteration and then the Bateman group went to sign the debenture. Do you remember a meeting at which those were made? No.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

Exhibit "G"(17)

All I can say that I do know there was the earlier higher instalment requirement and that as a result of negotiations it was reduced to the acceptable figure of \$5,500. Do you remember that Mr. Rundle and Mr. Hientz had to get the authority of Credit Services to agree to that reduction? I don't recall that at all. So that you say therefore that during the negotiations you were unaware that the takeover of the Finance group was dependent upon the condition of the debenture? I said throughout that I didn't know what the proposal was. As far as I was concerned, we were being asked to sign debenture and the detail was in my knowledge. You also said that you never understood that Credit Services had to agree to the terms of the debenture, that is what you say? Yes. You heard Mr. Rundle say yesterday that it was known at all times that Credit Services had to approve the debenture? I didn't accept that statement. You heard him say that? Yes. Mr. Rundle said on page 6 - "The negotiations were made between the parties with the intention that any agreement was to be reached it had to have the approval of Credit Services, whether a party or not is a legal matter which I do not think I am competent to give an opinion on." You don't agree with his statement? No. I disagree with one throughout the subject to their consent. The wording that you were pressing for and that Mr. Pringle agreed to with regard to the directors would allow the directors to abandon the Bateman group at any time and start in competition? That was my purpose in including the clause. I would say that it was not at the instigation of my clients that it was inserted. It was done by myself as a normal precaution in their interests. I suggest to you that it was your clients' instigation? I flatly deny that. I suggest to you that the reason why you took care not to consult Mr. Holland on that particular clause? I deny that. When he sent his draft clauses to you on 20th May why did you not write to Mr. Holland? As I said before, I did not regard him as a party, I had no correspondence with him. I took the matter up with Mr. Pringle. Mr. Pringle was in association with Mr. Holland; I expected him

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to carry it on. The draft was sent to you? That is true, but there was little point in taking it up with him when he was fairly obviously out of touch with what had been agreed upon. He and Mr. Pringle presumably were acting in close liaison and I fully believe that an agreement had been reached. I expected that Mr. Pringle would correct Mr. Holland on that point. Then Mr. Holland sent to you a draft debenture at a later date? Set of clauses at 20th May and set of clauses that would be in July and draft debenture April. Did that contain the same requirement? I can't remember the exact words but the effect was the same. Did you get in touch with Mr. Holland then telling him he was quite wrong? This was about 8th August when I was thrashing the point out in correspondence with Mr. Pringle. You didn't go to Mr. Holland and tell him he was wrong? No. I've already pointed out to him that he was presumably unaware of the agreements, of the amendments, which Mr. Pringle had agreed and he had acknowledged that that was so. Again, it's for Mr. Pringle and Mr. Holland to straighten that one out. Finally you and Mr. Holland did come to grips on the point and neither would give way? That is so. I felt that the point had been covered by agreement and that was the end of the matter. Mr. Holland said his approval had never been obtained to the original agreement? That is so. Do you say in any letter that Mr. Holland's approval was irrelevant? I haven't said so, in so many words, I simply ignored the question of his approval. If that was your view, why did you not put in writing to Mr. Holland or Mr. Pringle that the approval of Credit Services was not required? I don't think it is necessary to say everything in black and white. You've said a lot in black and white? Yes. Was this not the vital point that held it up? That is true. Why did you not say in a letter to someone that the approval of Credit Services to the debenture is not required? Explicit reference to that point did not appear to be necessary when I had already intimated to Mr. Holland in my letter of 15th July that fairly obviously

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

James Robert
Bruce Menzies

Cross-
examination
(continued)

he was not aware of the negotiations which had taken place at that time, including this particular point. You say to His Honour that you held this view right throughout the negotiations? Yes. You agree that nowhere in all the correspondence have you expressed that view? On the question of consent, no I say that is explicit to my mind in my letter of the 15th. You never expressed the view in any correspondence to be negotiated? Not an expression. And you agree this was a vital point that held up execution for months? True. Weeks. I don't think anybody could have failed to realise I was relying on this agreement consummated on 2nd May. Did you draw up the agreements dated 1st December 1967 when Bateman Television Hire Limited sold 950 television sets to Star T.V. and Bateman records? Yes. What was the purpose of that transaction? It's a long time ago now. To my recollection profits were being earned by the various companies in the Group. They had discussed it I think eighteen months ago with representatives of the Tax Department, and it was felt proper and desirable that the assets should be distributed in a way more in relation to the profits being earned by the various members. But these were not distribution of assets, these were sales? That is true. But of course it had the effect of placing these income producing assets legally in the hands of the companies which were in fact hiring them out and deriving the profits from them. Bateman Records in the business of hiring television sets out? So I understand.

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By the Court

TO BENCH: Which company sold to what company? Bateman Hire sold to Bateman Records. Bateman Hire sold 350 sets to Star and 600 sets to Bateman Records? That is correct. They are television sets? that is so.

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By Counsel

TO COUNSEL And at the time of that transaction on 1st December 1967 Bateman T.V. Hire was under pressure to pay its liabilities by the Finance Companies? I think that I had been consulted on the point not until later in the month. You know now that on 1st December 1967

Bateman T.V. Hire were under pressure by Finance companies to pay debts? Yes. If you had known the fact on 1st December, 1967, would you have drawn up these deeds? I regarded them as transactions which would stand up by any normal commercial tests, virtually arms length transactions. Between companies of identical shareholding? As regards parties, certainly not at arm's length, but as regards the terms they were such as would have been drawn up, could well have been drawn up, between parties dealing at arm's length. If you had known on 1st December 1967 that Bateman Television Hire was under pressure by the Finance companies to pay its debts, would you have drawn up the agreement? I think so. If you had known that Bateman Television Hire owed at least \$100,000 which it couldn't pay, would you have drawn up the agreement? I have said I think I would, I would have had to consider but when I had satisfied myself that proper consideration was being given. And you were aware that the transactions took \$95,000 worth of assets out of the hands of Bateman T.V. Hire? And replaced it by a debt. Payable over 10 years? Yes. Did you say that there was nothing in the Companies Act to stop that? No I have not made a reference to the Act. I thought you said you satisfied yourself that there was no commercial law to stop it? No, nothing about law at all. I think I said something to the effect that it was to my mind a transaction which didn't transgress ordinary commercial practice or to that effect. Did you consider whether it transgressed s.60 of the Property Law Act, that is the section which makes voidable any transaction of property between creditors? I don't think I had occasion to.

In the Supreme
 Court of New
 Zealand
 Canterbury
 District
 Christchurch
 Registry

No. 9

Court notes
 of evidence
 28th November
 1968

Respondent
 Companies'
 evidence

James Robert
 Bruce Menzies

Cross-
 examination
 (continued)

REXM: NO QUESTIONS

Re-examination

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

Robert
Currie

Examination

MR. GOUGH CALLS:

ROBERT CURRIE (Sworn).

I reside at Christchurch and am secretary to the Bateman group of companies, the debtor companies in these proceedings.

I first began my employment with these companies in March 1966. I was not secretary then; I was accountant. I was later appointed secretary. My qualifications are that I am a fully qualified accountant. I have not joined the Society. The basis employed in the obtaining of advances from the Group of companies - when an advance was required an approach was made to Mr. Hintz usually by Mr. Bateman. And Mr. Hintz in due course would send a cheque around for the amount requested. As to whether anybody else made these approaches, other than Mr. Bateman, yes, I would say I made the request by telephone at the direction of one of the directors of the company. There were no details supplied to support the request. The reasons given for wanting the money were for stock purchase generally. The amounts required would be £5,000, £2,000. The money would be employed for the purchase of stock. Details of the stock purchased would not be given. The agreements which were put in yesterday, the conditional purchase agreements, they would be signed subsequent to receiving the cheque. Sometimes several months later on occasions. The agreements would be prepared in the office of Coleridge Finance. As to whether that would apply to agreements between Bateman T.V. Limited and members of the public, they were prepared in our office. After they were completed, they would be taken to the office of Coleridge Finance, usually in groups, and we would receive a cheque in due course for the amount of discount. As regards Bateman T.V. Hire Limited, the agreements were prepared by Mr. Hintz; I seldom saw them. They were signed I would say generally at the office of Coleridge Finance although I have seen them being signed in our office on occasions. The sets that these agreements comprised - I could not relate the serial numbers on these agreements to any set with the

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exception of a few. As far as Bateman T.V. Hire Limited were concerned, when a set was hired by a member of the public, when the set was arranged to be delivered to the member of the public for hiring, a hiring agreement between Bateman T.V. Hire Limited and the member of the public would be signed. This is the form of agreement. The set came from - it could have been on the premises of Star T.V. in Gloucester Street or it could have been either in our Manchester Street property or our Papanui Road property. The company that would be regarded as owning the set would be - if the aerial number on the set was that belonging to Bateman T.V. Hire Limited then the set was regarded as belonging to Bateman T.V. Hire Limited. As to whether if the serial number of the set was regarded as belonging to Bateman T.V. Limited, Bateman T.V. Limited never hired any sets I mean they never hired any sets out to members of the public. As to where the Group operated from, 710 Colombo Street, 142 Gloucester Street, 230 Manchester Street, when you refer to the Group do you include Bateman Records - they had premises at 3 Oram Avenue, New Brighton, plus 221 Papanui Road. Bateman Records Limited, as to whether members of the public applied to them for sets, yes, on a fairly large scale. This is T.V. sets I am referring to. The Record Company's premises are at 3 Oram Avenue, New Brighton. The sets that the Record Company would be the agent for hiring the sets out, would be owned by either Bateman T.V. Hire Limited or Star T.V. Limited. Until the agreements in December were executed. That is with reference to Star and Bateman Records. The assistants in these premises were employed by Bateman Records Limited at 30 Oram Avenue, Bateman T.V. Services Ltd. at 230 Manchester Street. The other three premises, the staff were divided between the other companies. Between Bateman T.V. Limited, Bateman T.V. Hire Limited and Star T.V. In the hiring, as to whether any other company other than Bateman T.V. Limited was a hirer, hiring out sets, yes, Star T.V. Limited. It was a similar form

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

Robert Currie

Examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

Robert Currie

Examination
(continued)

of agreement that was used. These operations are all carried on. I am familiar with the agreements between Bateman T.V. Limited and Bateman T.V. Hire Limited and which were assigned to Coleridge Finance Company Limited. Those concluded by the Star Company were assigned to Belmont. The relation of the sets in these premises to the sets as stock - no relationship. I have been to the premises of Coleridge Finance. I wasn't aware that Belmont had the same premises but I probably didn't read the plate. There is a sign on the premises concerning the Finance Company. It indicates that it is the office of Coleridge Finance Company Limited. I heard Mr. Rundle yesterday give evidence concerning the set up of the office. I agree with that description. As I recall, he said that the registered office and the business office were at 152 Hereford Street, and to that extent I would agree. This office is a public office. I have heard Mr. Hintz describe the staffing arrangements. I agree with that to the best of my knowledge. Mr. Rundle's office did the accounting for the Bateman Group - prior to my taking up the position of accountant for the Bateman Group Mr. Hintz was secretary to at least one of the companies and an accountant - a firm of accountants. T.E. Flesher & Son were also secretary of one or more of the Companies. I think that Mr. Hintz was more involved as accountant to the Bateman Group than Mr. Rundle. I'm not sure about that. After I was employed by the Bateman Group I handled the accounts.

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Yesterday I heard Mr. Hadlee give evidence about the financial state of the Group. He gave the assets backing of the Group? Yes. He said the companies were unable to pay their debts as they arose. If this money owing to the petitioning creditors had been covered by the debenture, the Group I am certain could have paid its debts. I am not alone in my assumption here either. Both the General Managers of Dominion Finance Corporation and Credit Services Investments were adamant we could pay double the amount of the monthly instalment. I produce draft consolidated accounts for the Bateman Group for the year ended 31st March 1968. There are three columns -

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Exhibit "10"
(a) - (e)

music television and total. Music is a reference to Bateman Records. Television is reference to Television Company. The statement of accounts opens with the receipts of the Group for the year. The total of the receipts shown is in two amounts - the sales and service \$110,569.19, sales of music \$25,501.01; and a further item for hire receipts \$155,968.07. The gross receipts for the year total - the total of those three figures, is \$292,038.27. Being the total of \$136,070.22 plus hire receipts - total receipts. The expenditure of the Group shows a surplus. The surplus is the excess of gross receipts over expenses. The surplus total is \$114,574.31. These are draft accounts. The footnotes - these accounts were done fairly quickly after the 31st March 1968 and at that stage I had not confirmed with Mr. Hintz the amount of the interest for the year due to Coleridge Finance. Item 1, that is footnote 1, refers to the fact that the interest had been excluded. Footnote 2 refers to the fact that the accounts, or rather the receipts, included the sale price of sets which had been hired out and previously treated as fixed assets and now sold. The footnote Number 2 refers to an adjustment necessary to account for the depreciated value of those hired sets now sold. Those two footnotes would in effect reduce the surplus shown. The trading surplus should be some \$6,000 less, or \$54,574.31. I might add that there would also be a credit adjustment for creditors. Because this figure was also approximate in these accounts. Subsequently it was found to be considerably less. That is my footnote on page 2. Looking at the assets and liabilities on page 2 - I show a list of assets of \$408,503.24. and liabilities to the same amount. The bank account at that time was an overdraft. That overdraft figure is really the balance figure. That conforms to the bank statement as at 31st March 1968 - to the five bank statements of the five companies. There is a change

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

Robert Currie

Examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

Robert Currie

Examination
(continued)

To Counsel

in the accounts now as regards the bank account. To-day the bank balance is in excess of \$5,000 credit. The adjustment of creditors referred to in Footnote 1 show that it is some \$10,000 less. The \$74,000 item refers to the amount repaid to the Hintz Group. This morning -

TO BENCH: Over what period was that repaid, that \$74,000? Over the twelve months period 1st April 1967 to 31st March 1968.

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TO COUNSEL: As to anything I would like to tell His Honour about the stock position and current assets, the stock figure comprises \$4,751.00 for the music shop and the balance is to the value of television sets and parts in our shops and service department.

TO BENCH: On my reading the total is \$21,532.22? Yes.

TO COUNSEL: I have a further item of sets there. These are hired sets. The value that the sets are taken in at - the book value of these sets - is \$120 each. The market value at the 31st March 1968 would be \$180. The position with these sets is this: when a set is bought for hiring depreciation is written off every year and in this respect the Tax Department allows a write-off of 25% of the reducing balance each year plus in the first year an additional 20% special depreciation. In effect in the first year of a hired set's existence assuming the set cost £90 it can be depreciated by 45%. I haven't chosen in the accounts to claim all of this depreciation allowance because after about three years you would have a value in the vicinity of £30 per set and as these sets are selling daily for £90 a set the accounts would hardly comply with the true and fair view required by the Companies Act. Unless you preferred to keep two sets of accounts. When I show the market value at \$180 I base it on the fact that these sets are being sold for that price in the normal course of trading, but if the sets were sold in bulk tomorrow while they were on hire the book value may be \$120. However, in the terms of the

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manner now trading they would sell for approximately \$180.

TO BENCH: But the total figure you've inserted there is worked out on the book value of \$120? Yes sir.

TO COUNSEL: As I said originally the accounts were prepared in a very short space of time for the purposes of a meeting which was to be held between the Bateman Companies' directors and Mr. Bell and his secretary of the Bell Radio and Television Corporation who were interested in buying the Group. The financial position of the Group - if the debts owing to the petitioning creditors were funded on the debenture, the original term of the proposed debenture was six years with an additional four years available if sufficient security was available to cover it - the balance of the debt. I felt that this gave us ten years in which to clear the debt, and quite frankly I feel we could have done it in less time.

TO BENCH: On what terms of amount of monthly payments? The proposed instalments were \$5,500 a month minimum instalment and keeping to these terms we would have taken ten years to repay it.

TO COUNSEL: It was envisaged however that three major factors will affect our trading and these three factors are trade-ins of old sets, second T.V. channel, and colour television. These would have such a beneficial effect on trading that we would have been able to have paid the debt in much less a time than the contemplated ten years. It was not proposed to pay the debt over ten years if the debt could be met in a shorter time because of the heavy interest on the debt. If the terms of the debenture was for six years as contemplated by the Heads of Agreement the position of the company at the termination of the term if the payments were kept up - the companies would at the end of six years be required in order to refinance for a further four years to produce

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

Robert Currie

Examination
(continued)

To Bench

To Counsel

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
28th November
1968

Respondent
Companies'
evidence

Robert Currie

Examination
(continued)

sufficient assets as security for the balance owing plus interest. Prospects of re-financing at the end of six years would have been assured - that if the security was sufficient there would be no problem whatever and this seemed quite a logical conclusion. It would hardly seem necessary to get any further assurances. That assurance was obtained from financial houses. Reference was made this morning by Mr. Hadlee to some overdue accounts for debts. The terms of trade we enjoy very favourable terms. The major suppliers are A.W.A., H.M.V. and Pye have given us extensive credit in the past for periods going up to five or even six months. Other sundry creditors have given us two months, sometimes longer. When Mr. Hadlee this morning referred to the creditors' position he referred to the August accounts being unpaid. I haven't seen the cheque butts of the provisional liquidator's account for some time. He is paying all the accounts. But I would assume from memory that the August account is that of one or more of these three main suppliers of sets.

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COURT ADJOURNED

29th November
1968

FRIDAY, 29 November 1968

ROBERT CURRIE (continued)

I will look at these agreements. They are the agreements between Bateman Television Limited and Bateman T.V. Hire Limited. On them there is an assignment, a form of assignment of the debt and chattels comprised in the agreement to the Coleridge Finance Company Limited. I have divided those agreements into three groups. I produce one bundle of agreements where the only reference to the chattels concerned is the term 'T.V. Sets'. There are no numbers allotted to the sets at all. As to any other description of the sets, no. There is just a note, no serial numbers on the front of that bundle. I have tallied the value, the amount of the advances and the amount secured in that bundle of agreements. The total advanced is \$53,000 and the total secured is

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10 §67,122.72. I produce another bundle of
 agreements where I wish to say something
 about the numbers allotted to the
 Television sets comprised in the agreements.
 This bundle - the numbers are all numbers
 which of sets, which the Bateman Group of
 companies have never purchased or had any
 connection with. I have put "All
 Fictitious" on the outside of the bundle.
 In considering those agreements I made up a
 comprehensive list concerning them. This is
 the list I made up. From this list I have
 come to the conclusion that in the third
 bundle of agreements a number of the serial
 numbers described in the schedule are real
 numbers. In other words, they are numbers,
 serial numbers, of sets that the Bateman
 Group of companies have owned at some time.
 20 I have endorsed that group as being "Correct
 or 1Nos". In point of fact some of
 these numbers are correct in the agreements
 and the majority are not, they are also
 fictitious, but in this one particular
 bundle there are some serial numbers which
 relate to sets owned by the Group. My list
 tallies with those agreements. This list
 sets out the particular identifying number
 of the agreement and alongside of that
 identifying number describes the set number
 or numbers which are correct. The total of
 the bundle where the numbers are correct -
 total advances - \$151,000, total secured
 30 \$165,695.02. The value of the bundle where
 there are fictitious numbers - a total
 advance of \$147,000., total secured
 \$169,012.00. I'm sorry, I've given the
 wrong figure, that was the total for the lot.

40 As regards Star T.V. Company Limited, I
 produce two conditional purchase agreements.
 Those agreements are between Bateman
 Television Limited and Star T.V. Limited.
 Those agreements are assigned to Belmont
 Finance Limited. A few moments ago I said
 in evidence of a system used as regards the
 hiring of sets, by Bateman T.V. Hire Limited.
 The system employed by the Star Company is
 similar - just the same. I will look at the
 Schedule - the sets are described in the

In the Supreme
 Court of New
 Zealand
 Canterbury
 District
 Christchurch
 Registry

No. 9

Court notes
 of evidence
 29th November
 1968

Respondent
 Companies'
 evidence

Robert Currie

Examination
 (continued)

Exhibit

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Examination
(continued)

Cross-
examination

Schedule in the first case as 35 television sets.

TO BENCH: Have they been marked? EXHIBITS 12 and 12 B.

TO COUNSEL: In the first one you referred to there is just a general description 35 T.V. sets in the schedule? That's right. 12A is 35 T.V. sets. The amount of advance is £3,500. The amount secured is £4,061.14.9. 12B - the descriptions is 20 T.V. sets. There are no numbers. The amount of advance is £2,000 and the amount secured is £2,321.14.9. Those are the agreements from which the amounts stated in the notice under s.218 originates. I was present at the meeting of the 9th May referred to in the evidence of other witnesses. The document discussed there was the Heads of Agreement. To my knowledge no other documents were discussed. As to whether any mention was made of a company known as Credit Services Investments Limited, not that I recall. There were no representatives of that party there.

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XXM: MAHON: On the 20th of this month your companies' solicitor advised the petitioning creditors' solicitors that discovery revealed \$40,000 worth of agreements without a schedule? They further advised that \$86,000 worth referred to sets not owned by Bateman Group. Are those figures in accordance with the evidence you have just given? Yes, in accordance with that. And what were the total advances made under these 154 agreements? No, I don't think I do know off hand. It would be £200,000 or \$400,000 approximately? That's representing about 2,000 sets? Oh yes. These agreements related to your stock of sets which you acquired for hire purposes? No they didn't. Wasn't that the main reason for discovery? I don't know whether I know the answer to that one. I can't relate the numbers. Where did the Bateman Group get the money from to buy its stock of sets for hire? From the Finance Company. What was the peak number of sets which Bateman Group had bought for hire? Before the Finance Companies stopped lending you the money? Is that the total number of sets for hire on hand at one time or over the years. The total numbers they bought between 1964 and the end of 1966 on finance

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provided by the Finance Company? I think I would have to do some research. Would it not be between 2,000 and 2,500 sets? I would say that would be a minimum, yes. They got finance from the Finance Companies to build up a stock of sets for hire? Yes. And they accumulated the stock by this means of not less than 2,000 sets? Correct. And they did this between 1964 and the end of 1966? That's correct. And to finance these hire purchases they relied on the Finance Companies. Yes. So that borrowing an amount over the wholesale cost of each set they certainly borrowed something approaching a quarter of a million pounds over that period? Correct. And that sum was secured to the Finance Companies by these conditional purchase agreements which have been produced in evidence? I don't know the extent of the security but I'm not sure of the relationship there. The agreements have been put in evidence relate to that system of financing stock purchases? Yes. So that out of that total of advance of well over \$400,000 you say that \$40,000 worth comprises agreements without schedules? Correct. And \$86,000 worth referring to serial numbers of sets not owned by the Bateman Group? That's right. When I say over \$400,000 it might be nearer half a million dollars mightn't it? Oh yes. Isn't it correct that the serial numbers of sets were supplied to the finance group by the Bateman companies? No, that's not correct. Where would the finance company find them? I might ask the same question myself. Where did they get it from? I don't know. Wasn't the system going along these lines: the Bateman companies would want money to pay their wholesalers' accounts? Yes. If they wanted £5,000 they would produce a conditional purchase agreements covering 50 sets between Bateman T.V. Limited and Bateman T.V. Hire? No, that's not correct, those were produced afterwards. To borrow £5,000 would want 50 sets? Yes. Was that because it had been agreed to allocate £100 to a set as approximating the price for it? Yes. The true price might be a bit under or a bit

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

over? Yes. So then an agreement would have to be done for the 50 sets? For the £5,500. And then Mr. Hintz would draw up the agreement with the advance and other details and then he would have to ask your company for the serial numbers in your possession? That would have been the correct procedure. Isn't that what happened? No apparently not. How did he get the numbers? I don't know. He rang me up on about one occasion that I can recall for serial numbers of sets. You agree that the vast majority of the agreements had on them serial numbers of sets owned by your Group? The vast majority of the agreements handed in this morning would have serial numbers that didn't belong. We've only got your word for that? Yes. What records does your company keep of the serial numbers? These agreements were checked with our invoices back to 1963. What records did your company hold to relate to-day the serial numbers of sets which it owned? We have a stock card for every set, complemented by a hire card for every set on hire. We have a separate sort for sets in stock. When a number of sets have been bought from manufacturers or distributors do you usually record the serial numbers of them? Yes, they are recorded on a card. And then when you want to borrow from the Finance Company on say ten sets all you have to do was to notify the company ten numbers of sets? We didn't do that. What did you do? We merely asked for the money and banked the cheque. How did these agreements come to be signed? Is that within your knowledge? Mostly not. You never signed any of the agreements? No. They bear the signatures of your directors? Yes. And they bear also what purport to be serial numbers of the sets which are the subject of the agreement? Yes. And we have only got your say so that there is anything wrong with the serial numbers? At this moment. I suggest this to you, I suggest to you that when your directors ran short of money they would when it suited them issue the finance company with dummy serial numbers and get the cheque? I am sure they didn't. You didn't know whether they did or not? I just said I

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am sure they didn't. I didn't indicate that many of those agreements executed before I commenced working for the companies. You start in March 1966? Yes. And at that stage in 1966 the rate of financing was dying away, wasn't it? To these finance companies? No it continued for a few months, say six months after I had started. And it died away because the finance companies said they didn't have any more money to lend? That's correct. There you were then with this stock of sets over 2,000 which you were hiring to members of the public but you weren't able to meet the obligations under the agreements on which you borrowed the money? We certainly had difficulty in paying what was requested. Paying the instalments on the agreements? You couldn't pay those, could you? No. And you found that in 1966? Yes we did. And then throughout 1967 were you paying what you could off the agreements? Yes we were. Did the instalments fall heavily into arrear during 1967? Yes they did. And the hiring of the sets was done by the hire company? Yes. The selling of the sets was done by Bateman Television Limited. Correct. Bateman Hire also sold sets. Hired sets. What sort of sets? Where the set is hired out and is subsequently purchased by the hirer the sale is credited to the Hire Company concerned. Where is it credited, by whom? By me in the account. But the accounts that you prepare only show receipts being hirers don't they. These ones here - hire receipts yes. These are the ones. I am referring to these copies of the Bateman accounts for the year ended 31st March 1967. Are those copies of accounts prepared by you? They are, yes. You treat Bateman Television Limited as dealing in trading stock? Yes. And you treat Bateman T.V. Hire as not dealing in trading stock? At that time, yes. For the purposes of the accounts. You treat also Star T.V. as not needing a trading account? Yes. You treat Bateman Records as dealing in trading stock? Yes. So that you prepared accounts for the end of the year on the basis that Bateman T.V. Hire sold nothing? Yes.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

That's correct at ~~that~~ time. Up to and including the 31st March 1967? Yes. The transactions this Court is concerned with all took place before March 1967? Yes. Those accounts in the case of Bateman Television Limited and Bateman Records Limited are drawn up to comply with section 98? Yes. That requires that method of showing the transactions with the trading stock? Yes. You used to be an income tax inspector? 10
That's right. These matters will not be wholly unfamiliar to you? Not at all. Just moving on to another matter, when the Hire Company sold the set or when the Hire Company hired a set and the customer purchasing wished to buy he would buy would he not from Bateman Television Limited? He actually bought the set from Bateman T.V. Hire but the hire purchase agreements were in the name of Bateman Television Limited. But he couldn't 20
buy from the Hire Company because they didn't own them? They owned the sets because as I say we have a stock system of cards on which the serial numbers bear no relationship to the serial numbers in those agreements. If I hired in those days from Bateman T.V. Hire and then I succumbed to the blandishments of the company and bought it, I would be given a conditional purchase agreement between myself and Bateman Television Limited? Yes. Then 30
that agreement would be assigned by Bateman Television Limited to the Finance Company? That's correct. I would then pay my instalments to the Finance Company? Correct. Previously I would have paid my hire instalments to the Hire Company? That's correct. What I want to know is by what justification did the Bateman Company get a second advance from the Finance Company on that same set when it had not repaid the first one? Was it the same set? 40
I gave you an example, did that not happen hundreds of times? Having regard to the numbers on those sets I would say probably not. Were there not very great numbers of sets sold by Bateman Television Limited that up to the time of sale had been out on hire? That is correct. Would there be some hundreds of sets like that? Over the years, yes. I put it to you that when Bateman Television Limited sold one of those sets to the customer it discounted

that agreement to the Finance Company and did not let the Finance Company know whether it advanced twice on that one set? No I disagree with that. Do you agree with this: that when one of the hire sets was sold to the hirer was the Finance Company then paid the total amount outstanding by the hirer under the conditional purchase agreement?

10 When the set on hire was sold to the customer by Bateman Television Limited was the Finance Company repaid the money it had previously advanced on that set that was still outstanding? I couldn't do that because I couldn't relate the number of the set sold to a particular number in one of those agreements. It was never done, was it? No. And wasn't the result that by this means the Pateman companies were paying double advances on the same set some
20 hundreds of times? I don't think so. I can't follow it. I can follow it if the serial number is there on those agreements. Wasn't that the method used by the Bateman companies? The Bateman companies never paid on hired sets which were sold because these were never treated as hire purchase agreements. And as I said if a particular television set on hire was sold I could
30 see no reason why pay out should be made to the Finance Company. Why do you take that view? Firstly, because I couldn't tie up serial numbers of sets. Why didn't you tell the Finance Company so? Because in the first place the Finance Company never asked, never raised the question and secondly because when these accounts for March 1967 were being completed the matter was raised in the Income Tax Department who stated
40 emphatically that these were not hire purchase agreements.

TO BENCH: Which were not hire purchase agreements? Those agreements there (pointing to bundle).

TO COUNSEL: So the Bateman companies therefore saw no difficulty in getting further advances from the same Finance Company on sets previously hired now sold by Bateman

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

To the Bench

To Counsel

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

Television Limited on hire purchase? Yes. And there would be some hundreds of those transactions? Hundreds. And still getting advances in this case we are talking about of something like £100 a set? Yes. So that the result was unknown to themselves the Finance Companies were advancing double the money on that particular set we are talking about? No. Not on a particular set. One true set and one fictitious, number. But that's the effect of this, they were double advancing weren't they on hundreds of sets without their knowledge. I don't quite see that. They had already advanced on the hire sets and the money was outstanding on those? Which hire sets, the ones on the agreement. We didn't have those hire sets. They had advanced numbers. They assume that your friend in the income tax department was wrong and these were hire purchase agreements, that being the case you will agree that the Finance Company paid double the advance in relation to the same set on hundreds of occasions. I would say that if those were hire purchase agreements - I just don't know what I would say. I was going to say that they advanced moneys on the sets in the schedules of those agreements and also on the discount agreements. And as I say I can't say. The same sets aren't they in hundreds of cases? No. Take the theoretical set that I bought - which is one of those for which your company has borrowed to buy - it is hired to me. Then I elect to purchase it. If the hire purchase agreement with Bateman Television to me is discounted by me and has not the Finance Company so made two advances on that one set which I have bought, is not that correct? I can't see it. I can only see it if the serial numbers on those agreements tied up with the serial number of your set that you bought. Otherwise I don't think I can. Did your company used to put different serial numbers on the set that it sold to customers; did your company change on its own records the serial number of a set which it sold to a customer? No. I put it to you that this was so, that the Finance Companies would not detect they were lending twice on the same set? I would strongly

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disagree with that. Since March of this year with what Company has the Bateman Group discounted its hire purchase agreements? Credit Services Investments Limited. And a good number of those sets would be sets intended to be covered by these agreements in Court? Yes. That's right? Yes, they are hired sets. Arising out of these negotiations, you were aware that Credit Services was taking over the Finance Company? I had meetings with the General Manager of the Company in February, three meetings, and he asked me for schedules of television sets which were security. I had them ready for them in February. He never asked for them again and that was the last we saw of them. That was the last you saw of the General Manager of Credit Services? Yes I think so. And you prepared for him schedules with serial numbers of all the sets owned by the Bateman companies? Yes. And they were going to support the debenture which would include the amounts now owing or now claimed by the petitioning companies? Yes, that was the proposal.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

MID-MORNING ADJOURNMENT

You started working for the Bateman companies in March 1966. Yes. One of your first jobs was to try and prepare proper stock records for them? As I recall we had stock records but we had the task of sorting them out. Before you came the stock record system was in a hopeless mess, wasn't it? Hopeless is not a very kind word, but it wasn't very good. And it wasn't until about the middle of 1966 that you prepared correct stock records? That would be correct at that time. But the system that you put into operation was one they had never had before? Not completely. It followed the previous system. Under the previous system they could not identify their stock, did they? Only some of the stock records were incorrect, the majority of the records were correct. During the course of the negotiations that took place this year, did you not produce different totals at different times of what

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

sets the companies owned? At different times, yes. The records can't be too good even now? Different totals at different times means we sold and bought sets. Didn't you for example tell the Credit Services that there were only 1850 sets and then when they said that would be right didn't you later say there were 1900? I can't recall the exact figures but something like that did happen. You've told the Court that you were aware from the general manager of Credit Services that he intended to buy the Finance Companies, is that right? That was the proposal in February, preliminary discussions took place. And you are also aware that he wanted the Bateman indebtedness to be secured by debentures? Yes. And then the directors were required to sign the debenture? Initially. No, I beg your pardon, I should say the agreement was never prepared in those early stages, the debenture was never prepared in those early stages. They declined to sign a debenture anyhow in these early stages? Yes. And was that because they wouldn't agree with the terms of the payment which Credit Services required? That was basically the reason. And did this situation remain the same until the Bateman companies were required to sign the Heads of Agreement? I think that's correct. Mr. Menzies yesterday said he remembered an ultimatum given to Bateman companies that a winding up petition would be issued on 30th April unless a debenture was signed? Do you remember that? Yes I do remember, I don't remember the dates. Do you remember a meeting at the office of Star T.V. Limited which took place at about the time of the ultimatum attended by Messrs. Rundle, Hintz, Bateman and Thomas and yourself and Mr. Menzies. That could be so - I do recall having meetings, who was present I couldn't say. Do you remember a meeting then at about the time of the ultimatum when you or your directors asked that the repayment under the proposed debenture be reduced from \$6,300 a month to \$5,500? Quite frankly I can't remember that, but that probably did take place; as I say it is extremely difficult to remember. I am suggesting to you that that reduction had to be approved by Credit Services before Mr. Hintz and Mr. Rundle could do it? I am not sure about

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that. I say most of the correspondence and such like would be more fully dealt with and more familiar to Mr. Menzies. To me every day something cropped up in connection with these negotiations over a period from January to now. Are you a friend of Mr. Hintz. I was quite friendly with him. And he was friendly with Mr. Bateman and Mr. Thomas? Yes. And wasn't it known by all that the signing of the debenture was part of a three-way deal involving Credit Services, the Finance Group and the Bateman Group? This was the original proposal in February following that date Mr. Menzies did have a lot of correspondence with Mr. Holland of Credit Services. Mr. Hintz discussed a lot of points arising from these negotiations with me. It was very difficult to say whether the debenture would be given to Credit Services. In February in our meetings Credit Services was proposed at that stage that they would like a debenture. I am not concerned with legal correspondence - I suggest to you that over the whole period of negotiations up to September this year you knew from Mr. Hintz the object was to sell out to Credit Services with your Group giving the debenture either to Credit Services or to Coleridge Finance, is that a fair statement? I would agree that we would at least give a debenture to Coleridge Finance but as I say in those months up to September Mr. Hintz and I frequently discussed the situation, there were times when he didn't know what was happening and I didn't know what was happening and he did say that because of terms imposed by Credit Services Coleridge might have to handle it themselves. That was only an alternative wasn't it if the debenture to Credit Services did not take place? I was going to say that - this other proposal of the Finance Companies to carry on themselves - that was only an alternative if the Credit Services deal did not go through? I don't know whether you would call it an alternative because as I say Mr. Hintz and I were at times in doubt as to which company would take the

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie

Cross-
examination
(continued)

debenture. As I say in negotiations were daily affairs, daily discussions and during that period Mr. Hintz did say that Coleridge were able to take themselves. Take the debenture? Yes. But he meant and sell to Credit Services? No, he didn't mean that. What did he mean? He meant that Coleridge would carry on without Credit Services. But as I say this was over a long period and things change. In the end of course the Finance Companies refused to accept the debenture from your firm because Credit Services wouldn't accept it? I haven't seen all the correspondence between the parties; I am not certain about that. You know the facts of the matter, that is a fact of the matter isn't it? At that stage it was very difficult to find out just what the facts were. You trying to say that in your position as secretary of the Group that you don't know that the Finance Group refused to take the debenture unless in the form agreed by Credit Services? What stage - in the final stage? Yes. As I say, I am not certain about what the position was. Didn't the Finance Group force your companies to accept Credit Services terms or put it to you that you had to accept them or else wind up? The solicitor for the Finance Companies instigated the proceedings initially. And then Mr. Bateman and Mr. Thomas simply refused in August and September of this year to accept the Credit Services terms? All the correspondence was dealt with by Mr. Menzies. At any particular time I would say that the restraining clause was one. They wanted to be able to simply sell the shares to some dummy and start up a business the next day? No they wanted to be able to be released to the Company at some stage if it was possible - didn't want to spend the rest of their lives tied to one company. You mentioned this morning that the income tax people didn't regard these documents as hire purchase agreements. Wasn't the position that - didn't you in the accounts try and secure a deduction for Bateman Television Company

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of 15% loss contingency which the Department allows on hire purchase transactions? Yes. And didn't the Department say "You're not going to get away from this, this is not an arms length transaction"? I don't think they used that term. They did write me a letter about it. That's the effect? No, they said it was a moneylending transaction, loans of money. They said you couldn't get the 15% reduction because this was not in agreement? A moneylending transaction. This morning you said these were not hire purchase agreements? Yes. You didn't tell His Honour the full tale: the Department said to you that they couldn't allow this because it was an inter-company transaction? No, that wasn't their view, their view was that it was a memorandum of money loaned, nothing to do with hire purchase. As between the companies? Yes. And there was a loan from Bateman Television Limited to Bateman T.V. Hire? Yes. Wasn't this where your directors got the idea that they might be able to dodge all liability here if Bateman T.V. Limited was not a money-lender? No, they discussed the problem with Mr. Menzies when they were negotiating. Weren't the two shareholders boasting in your presence that they were going to get out of this with the whole debt repudiated; weren't they doing that at the end of 1967? They made that statement, but not seriously. Weren't they saying that at the end of last December? 1967 - that statement was made but it was not a serious one. These transfers of television sets to Star T.V. and Bateman Records - you've I see in your 1967 accounts treated the transferee companies as owning them as at 31st March? 31st March 1967. Yes. In the accounts no. Are these the 1st December agreements? Yes. No, not at March 1967. Look at the Star T.V. balance sheet? Fixed assets of television sets, cost price \$35,000. Yes, they were the ones in 350 transfer in the December agreements were an additional 350. But in the December agreements it is provided that the hire receipts from these are to be the

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie
Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie
Cross-
examination
(continued)

property of Star T.V. to 31st March? 1967, that's right. 1st April 1967. I put it to you that Star T.V. did not own hire sets at 1st December 1967 and that these cost price \$35,000 are the ones referred to in the December agreement? That's not the position. When did Star get hold of the other 350 sets? Money loaned by Coleridge Finance to Star T.V. was appropriated to the purchase of these sets. Have you got the minute book of Bateman T.V. Hire at all? I see there is a minute here 14th December 1966 in which it was decided to transfer 600 sets to Bateman Records Limited and 350 to Star T.V. Why did it take a year to put that into effect? I discussed the position with the Income Tax Department and it was in conjunction with their thoughts on the matter that these sets be appropriated to other companies. The minute was made in December 1966 prior to the completion of the accounts for the year ending 9 March 1967, to 31 March 1967. I can't recall but I have an idea the minute states that when the accounts for March 1967 are completed. In view of Item 5 at the meeting on 14th December 1966 that "in view of the current taxation investigation and the implications thereof affecting the company's and its associate companies' incomes and assets when the accounts for the year ended 31st March 1967 are completed an approach be made to the company's solicitor to draw up an agreement for the sale of television receivers to Bateman Records Ltd. and Star T.V. Ltd. and having regard to the amount of trading carried out by these two latter companies, particularly the Saturday trading of Batemans Records Ltd. the numbers of sets transferred should be 600 to Batemans Records Ltd. and 350 to Star T.V. Ltd. the value of sets transferred being the current market value of sets in a bulk transfer." The purpose of the transfers of sets? The Tax Department had investigated the accounts up to March 1967 and the Tax Inspector had suggested and I had discussed it with him of course that Star T.V. and Bateman Records Limited should receive these sets because they were in fact being hired through their premises.

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TO BENCH: Those accounts there you have seen? Yes. Do you say that the item in the fixed assets there of television sets cost price \$35,000 does not refer to the sets mentioned in the minute of earlier December? No Your Honour. Is it just a coincidence the figure is the same? Yes.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie
Cross-
examination
(continued)

TO COUNSEL: Is it also a coincidence that the cost price of \$100 a set, are you suggesting that those sets which you say were owned previously would be bought for \$100 a set? No they weren't bought for \$100 a set. Why have you got in? That's pounds. But from whom were they bought? Those in March 1967 - those sets were appropriated to Star T.V. in the same way as sets were appropriated to Bateman T.V. Hire Limited when sets were bought from the manufacturers and put out on hire they were immediately appropriated for one of those two hire companies. So that you appropriated therefore sets subject to agreement between Bateman Television Limited and Bateman T.V. Hire? There was no agreement for transferring those sets up to March 1967. You purchased sets from manufacturers or wholesalers by borrowing from the Finance Companies? Yes. And you borrowed - having conditional purchase agreements between Bateman Television Limited and Bateman T.V. Hire? Yes. To cover your wholesale cost? Yes. So may I take it then that it would be a number of sets financed in this way which you appropriated to Star T.V. to be their property? Correct. And Bateman T.V. Hire remained liable to pay instalments on those sets to the Finance Companies? Star T.V. paid an amount of over £35,000 to Coleridge Finance. But were the agreements between Bateman Television Limited and Bateman T.V. Hire then cancelled? No the money borrowed by Star T.V. was financed in the same way as the money borrowed by Bateman Hire was. So were conditional purchase agreements between Bateman Television Limited and Star T.V.? Yes, the same as on the Exhibits. Have you seen those documents? No I don't think I have. You see you're contradicting yourself - you just said they were sets subject to agreement between

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In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie
Cross-
examination
(continued)

Bateman Television Limited and Bateman T.V. Hire that were appropriated? I don't think I said that. The method of financing these sets of Star T.V. was simply that they borrowed £35,000 from the Finance Company in the same way as Bateman Hire borrowed from the Finance Company. You say that Star signed agreements of some kind to these transactions? Not having seen the agreements - I presume they did. You never saw them? No, I haven't seen them. Were you in the company when these transactions with Star took place? No I wasn't. And what about the transfer to Bateman Records, did they previously own any television sets? No, Bateman Records didn't own any sets. Wasn't the object of this exercise of transferring 350 sets simply to be able to start in business with two companies that didn't own any money to the Finance Companies? No that wasn't the idea. It was discussed some time before with the Tax Department. It seemed equitable that it should be done. Why would it be equitable? Because the Bateman Records for instance were trading on Saturdays at New Brighton and were frequently putting out more hires in one day during a few months of the winter than we were putting out in an entire week. This was Saturday trading? Saturday trading yes. What has that got to do with the Tax Department? Because of this Saturday trading as I say it seemed equitable that sets should be transferred to that company. Seemed equitable to who? If you like to the directors of Bateman T.V. Hire Limited. The Tax Department has established right to treat the Group as one for income tax purposes because of same shareholding? The section you are referring to can be applied to companies with similar shareholdings but isn't always applied. That is section 141? Yes. Which of the companies earns the income? It is immaterial if they invoke section 141. The Finance Companies complained when they found out you transferred the 950 sets? I can't recall the exact position but we probably did have some discussions with them. They may have complained. Wasn't the answer that it was only done for tax purposes? Yes, as per the minute.

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TO BENCH: Just while you are on this topic, you, with regard to these 350 sets in respect of Star and 600 in respect of Bateman Records, used the term "appropriate"? Yes. But you also said that the method of financing was the same whether it was Star or otherwise; if that were so, there was an assignee of the hire purchase agreements, it would either be Coleridge Company or possibly Belmont? Yes. Do I understand that this appropriation was done without any notification whatever to the assignees of the hire purchase agreement? The finance companies were aware of the sales, but as I say they never insisted as far as I can recall on pay outs on any sets sold. But it's not a question of sale, you used the word appropriation - were the Finance Companies the assignees of the agreements not formally notified of the appropriation? Of the sets in those accounts sir? The 350 in relation to Star and the 600 to Bateman Records? No sir, I think the only intimation they had was a verbal intimation. These minutes of course show that this proposal had been considered before December 1967? Oh yes. And the minutes also show that the reason was tax implications and other matters? Yes. And are you the person who used to prepare the minutes? Yes. How is it that this minute of 14th December 1966 appears in a book that has a dollar sign? Yes the minutes previously were in loose leaf and were transferred to that minute book. Transferred? Yes I stuck them in. Who bought the minute book? The minute book was bought in 1967 round about the time dollars came in. It wasn't November 1967? I would say mid-1967, perhaps maybe earlier, not certain about this. I show you a copy of an invoice dated 15th November 1967, you look at that; is that for a minute book charged to Bateman Television Hire Limited? Yes. Is that for the minute book? It may not be because I have bought other minute books for myself. It could be. You charged it? Yes I paid the company for the books for myself.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie
Cross-
examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie
Cross-
examination
(continued)

Re-examination

Do you observe that the ink used by two directors was the same right throughout and the typewriter the same right throughout? That's correct. Where did you keep those loose papers? I kept them in the cabinet beside my desk. I see they do not have any holes in them? No they were just kept loosely. In what? In a manila folder. They all look about the same vintage? They do. In point of fact you wrote all those things up in November and put them in the book then? No I didn't. I wouldn't use a dollar book. Did the company ever have a minute book until November 1967? The Company's minute books should have been kept by the previous secretaries. Apparently they weren't. When was the company incorporated? Bateman Hire in November 1963. Where are the previous minutes? I don't know.

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REXM: GOUGH: Were some of the hire purchase agreements between Bateman Hire and Bateman Television prepared during the time you were employed by the Bateman Group? Yes. Did you see these when they came to Mr. Hintz's office? If they came round to our office I usually saw them. Did they have the schedules completed? No. Only on occasions. Were you ever asked to furnish numbers? Yes I was. Can you remember any particular time? 1966 I would say. I had a 'phone call from an employee of Coleridge Finance. Can you recall the information you gave? She asked for numbers of television sets and I gave her serial numbers relating to sets we had. Was there any other conversation over that supply of numbers? Yes about six months ago Mr. Hintz referred to some numbers. How was this request made, in writing? No, verbally. Did Mr. Hintz call or how was the request made? I think it was made by telephone first and then Mr. Hintz came around with a typist and began to type numbers on the sheets. And he brought the agreement with him? Yes. How many? Quite a number. A large number.

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My friend asked you about the sale of sets by the hire company: what happened to the proceeds of the sales of those sets? Proceeds

were banked in the company's bank accounts and particularly in the boom period of T.V. hire when we were buying a lot of T.V. sets the money was used to pay the manufacturers. During the course of the negotiations about the debenture I think a stock figure was given for the sets held by the Groups?

Yes. And was the Group required to furnish a certain number of sets for security purposes? Yes. Do you recall the number required? I think it was 1925. In fact it is referred to in the correspondence? Yes. And could the Group come up with any figures? At that time we had approximately 1925 sets. Or if we were short on that particular day we could have purchased additional sets to make up the balance.

Who supplied this figure of sets which the companies could furnish? The number of sets - we supplied them, Batemans. Were you requested to supply a number or were you asked for a specific number of sets? I think it was a specific number. That was the requirement of the Hintz Group? Yes. Was any complaint ever received that the number of sets which could be furnished didn't correspond with the money or didn't correspond with the sets on which money had been lent? When the number of sets was furnished by the Bateman Group, was there any complaint by the Hintz Group about the number of sets which could be furnished and the number of sets for which advances had been made? No, I don't think there was any complaint. Information was asked of the Hintz Group concerning how certain balances had been made up. When was that furnished - the deals furnished? I'm not sure that I can recall, I think it was just recently. Those deals, do they correspond with the 154 documents that were put in? In other words, we have deal 601 to 620 does that correspond with the number of documents? I think it does, yes. So that all the sets the subject of these advances are comprised in these deals? There would be additional deals which would have been paid off over the years not included here. These are the ones required to account for under the hire purchase deals?

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie
Re-examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie
Re-examination
(continued)

I would say so. Do you know how many sets are comprised in these deals? Very hard to say. Were the financial records of the Group available to the Hintz Group at all? They were never requested. When was the 1967 accounts furnished to the Group? The accounts for the year ended March 1967 were furnished to Coleridge Finance recently - I would say through Mr. Hadlee but on the other hand I could have supplied these figures some time ago to Mr. Hintz. Figures supplied during negotiations? Yes, I think they were. The transfer of the sets to Star and Records was that known to the Hintz Group at the time of the negotiations? Yes. And did the negotiations continue after the Hintz Group knew about the transfer? Yes. Could you tell the Court when the Hintz Group knew about these transfers? I would say it would be December 1967. Were negotiations - do you remember if the stock of the Bateman Television Company, Bateman T.V. Limited, was disclosed to the Hintz Group in the course of the negotiations? Was the stock of television sets disclosed? Yes. By the Bateman Television Company? Yes. Did therefore they know, that is the Hintz Group, know that a number of television sets in stock and a number of television sets out on hire, is that the position? I would say they would have a good idea of what was involved. Did you ever discuss a precise figure of the nature with the other side? Yes frequently during negotiations. Were any complaints ever received about the sale of sets to members of the public which were on hire? Not to me. My friend asked you certain questions concerning the course of the negotiations - can you tell us whether or not the negotiations were subject to the consent or approval of Credit Services Investments Limited? Do you recall that during the negotiations an offer was made to pay the costs of the debenture for the Bateman Group? There was an offer of that kind made. Who offered to pay the costs as well as Court costs? Coleridge Finance. My friend also referred to a letter sent out on the 25th November by the solicitors to the solicitors for the petitioning creditor and figures concerning that were mentioned, do you recall that? Do you recall that? Yes. Do you recall that question being

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put to you? No, I don't actually. The record reads on p.48, line 24, this was the question which my friend put to you - "On the 20th of this month your company's solicitors advised the petitioning creditors' solicitors that discovery revealed \$40,000 worth of agreements without a schedule?" Do you recall that question. Yes I do. Can you tell the Court if in that letter that excluded interest charges? Excluded the interest content. In other words, the \$40,000 worth referred to an advance on security? Yes. Is that correct. What did the \$40,000 refer to? The amount of the advance. And a further amount was mentioned, \$86,000 worth of sets not owned by the Bateman Group - was that a similar figure? Yes it was. When this figure was sent was examination of the documents? It was to the extent that we checked out the numbers. Was any further work done on the making up of the figures? No I don't think so. Do you recall examining the ledger cards of the Coleridge Finance Company? Yes. Those are the ledger cards which were put in as EXHIBIT B? Look at those cards - has any attempt been made to record on them the numbers of any television sets at all? No.

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Respondent
Companies'
evidence

Robert Currie
Re-examination
(continued)

Exhibit "B"

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LUNCHEON ADJOURNMENT

The totals of television sets comprised in EXHIBIT C amount to 1852 in accordance with this adding machine slip now handed to you? Yes, that is correct. How many sets are in the Group, that is sets out on hire or in stock or in possession of the companies of the Group? 1854. That is at present? Yes.

Exhibit "C"

CONCLUSION OF CASE FOR DEBTOR COMPANIES

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Petitioners
further
evidence

Yvonne Rosa
Perry

Examination

MR. MAHON CALLS: (IN REBUTTAL)

YVONNE ROSA PERRY (Sworn)

I am a married woman residing at 35 Kirkwood Avenue, Christchurch. I was from February 1963 to August 1968 employed in the accountancy firm of Hintz & Rundle. My job over that period was to deal with the finance section of it. I was familiar with the financing of the Bateman Group by means of making advances on sales of television sets from Bateman Television to Bateman T.V. Hire which were on conditional purchase agreements. I prepared most of the agreements - I only acted in a part-time capacity - and when I was away of course someone else had to do them. I did most of them. I will look at these agreements EXHIBIT A. They are the ones I am referring to. They contain details of the advance given, interest, instalment, names of the parties concerned. I typed in those details on the majority of them. The method I used with regard to the serial numbers of sets - they were filled in after the agreements were completed. The Bateman T.V. Hire shop was to give us a list of numbers which were typed in after they were completed. The Colombo Street shop would give me this information. Say that one agreement involved an advance of £1,000 to be taken on ten television sets. I would then type the agreement up in that form. I then had to get ten serial numbers. I would type the numbers in the agreement. To get the numbers in the first instance Bateman supplied us with the list of numerous numbers which were supplied on a sheet quoting the make of the set too and they were crossed off. When we had finished those lists we just used to ring the shop and they would give us some more lists. So that if I had a list from them say fifty numbers and if I put ten in the agreement which we are talking about, I would cross off those ten. It was at the earlier stages that they supplied the lists. After they stopped supplying us with these long lists of numbers we 'phoned the shop when the numbers were required and they would give us a list of the number of numbers we wanted. That was over the 'phone. I would say for example

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that I wanted ten serial numbers for a certain agreement and they would read me the ten over the 'phone. There are some agreements - a group of agreements all in 1965 period - which don't have serial numbers. I can't really account for that at all.

10 XXM GOUGH: Were invoices ever taken to your office for the sets which were being purchased by the Bateman shop? No, never seen any. The instance list of fifty or so sets? Lists, yes, or there could have been more. Did this come from the Bateman shop? They were actually supplied by Batemans. And how long did this list take to use up? There were a considerable number of agreements there, I wouldn't like to give any estimate on that. Some of the agreements were for ten sets, some 20 of them five, but as soon as the lists were used we got the number from the shop. Does this mean that you got lists in advance of the agreements? We got the lists - the agreements were typed out and then asked for lists and they would be given to us and they supplied us with a sheet of paper with numbers on it and we used those as the agreements came in. So 30 that you got lists of sets and then agreements covering the numbers would be allocated to the agreements? To agreements yes. How long would it take to use up fifty serial numbers as it were? It would depend how much was advanced. You would hold this list - were some of the numbers allocated? Yes as they were allocated I would cross off the list. And then more agreements would come in? Yes. And more numbers on that list used? Yes. And then 40 when the lists were - when that list was exhausted another list would come round? Either that or we would 'phone and get the numbers from the shop. Did you do all this work yourself? While I was there most of it, yes. Did you use the same typewriter? I wouldn't say that, no. Would you look at these agreements again: would you say take the top one to begin with and look at the typing on the face of the

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Petitioners
further
evidence

Yvonne Rosa
Perry

Examination
(continued)

Cross-
examination

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Petitioners
further
evidence

Yvonne Rosa
Perry

Cross-
examination
(continued)

agreement; and then look at the typing on the schedule - a different typewriter has been used? Yes, that is right. Would the same remarks apply to that one? Yes. Would you mind looking at those Exhibits; just look at them and would you look at the face of the agreement again and the schedule in each case and tell us if that is a fair sample of the difference in typing? The original agreement would be typed and then the serial numbers would be typed in after. Those all look as if they have been done on a different machine. There is a group there that obviously the schedule done on a different machine to the body of the document - probably the same type of machine but with a fainter ribbon. Did you used to ring up for these yourself? Not all the time. You did some of the time? Yes. Sometimes I did on odd occasions. Who did you speak to? Usually one of the girls at the shop. Were these agreements dated with the schedule? The serial numbers, yes. Would you tell us how long after the agreement was signed there would be putting any numbers in? Almost immediately. And in some cases would the period be longer? It's hard to say. It's hard to say? Yes. Would some of them be as old as six months? Definitely not. When the agreement was prepared, had the advance already been made? The money which you had paid? I couldn't tell you that, all I was given instructions to do was to prepare the documents. You told us that the system changed after a while? This is concerning the numbers? Yes. So that when the agreement came back from Batemans you would ask the number on the telephone? The number would be inserted as soon as the number was notified. When would the agreements be signed? As soon as ready. Where? It might be signed at the accountant's office, quite often at Bateman T.V. And you used to ring up for the number when typing the agreement? If there was a block of agreements we would do them all and then 'phone up. The number would be obtained from the people at the shop? Yes. I think you said the girls at the shop? Yes, whoever answered the 'phone would give us the

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the number. Are you a shareholder in any of these companies? No. Have you previously been a shareholder? No. None of them? No.

REXM MAHON: You don't work for the accountants now? No. Who do you work for now? I work for Ballantynes.

TO BENCH: Would you mind looking at the two top agreements there; you already looked at those a moment ago and you did yourself make the comment that in some of the agreements in front of you the schedule numbers are handwritten? Yes. Whose handwriting is that? My own.

FURTHER XXM: There are some agreements without numbers, can you account for that? No.

JOHN NICHOLAS RUNDLE (Recalled and Sworn):

It has been shown in evidence that the Finance Companies gave an ultimatum to Bateman that winding up petitions would be issued on 30th April 1968 unless a debenture was executed. Prior to 30th April 1968 as to whether agreement was reached that a debenture would be executed, yes. I should say that the terms on which the debenture was to be executed were agreed. Those terms appeared a few days later in the Heads of Agreement signed on 9th May. The date of the meeting or conference on or before 30th April - the sequence of events was like this, unfortunately I don't have any minutes of the meetings, but after the threat to wind up the companies was made we had little or no contact with Batemans until just before

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Petitioners
further
evidence

Yvonne Rosa
Perry

Cross-
examination
(continued)

Re-
examination

Further cross-
examination

John Nicholas
Rundle
(recalled)
Examination

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Petitioners
further
evidence

John Nicholas
Rundle
(recalled)
Examination
(continued)

the exploration of the terms. 30th April this year was a Tuesday. Batemans were endeavouring to sell the business to another concern and we did not hear from them until after they had seen the directors of this other concern who were from Auckland and were in Christchurch on the 24th April which is the Saturday. We next heard from them I think on the Friday and a meeting was called by them and was held in the offices of Star T.V. Limited and this meeting was held on the Monday, 29th April. At this meeting, Mr. Bateman, Thomas, Menzies and Currie were present representing the Bateman companies and Mr. Hintz and myself were there representing the Finance Companies and Credit Services. Mr. Pringle had been invited to attend but through pressure of business could not make it. At this stage the terms submitted by Mr. Holland were discussed and the main points at issue were the security, the term for repayment and the monthly instalments, the instalments to be paid under the debenture. The instalments in the original proposition put to these companies were \$6,300 each month. Batemans indicated that they couldn't meet these instalments and I can remember Mr. Menzies pointing out that we must get agreement and that could we sort of work out an instalment which could be met and would be suitable to both parties. Eventually an instalment of \$5,500 was agreed on but the term would still remain at six years, this meant that at the expiration of the term of the debenture a balance would be outstanding - there would still be a capital sum owing by the Bateman Group. This was a major change from the terms already submitted to the Bateman companies and frequent reference was made to Credit Services and in particular Mr. Thomas their managing director who was based in Wellington and who had been conducting negotiations through him. On quite a number of occasions at these meetings it was quite common for the remark to be made - "Do you think Thomas would agree?" Naturally it was a major change in the proposed terms and the agreement was reached on the number of sets and other matters and it was left for us to contact Mr. Thomas in Wellington to determine

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his views on the matter and we would convene again in the afternoon. We duly contacted Mr. Thomas and he was agreeable to this change to \$5,500 and we reported back to this Group in the afternoon. We met on the same premises with the same people. After agreement was reached on this I then went down and saw Mr. Pringle and instructed him to prepare the Heads of Agreement.

10 When I told Mr. Thomas of Credit Services agreement the re-action to that was after many hours of negotiation something had been finalised. We advised Credit Services later on that these terms were the ones we proposed to proceed on and we were quite happy with this suggestion. The adjournment of the meeting was to see whether Credit Services would approve the

20 alteration of the terms. The terms in the agreement in previous negotiations frequent references was made to Credit Services. I had a full meeting in February with Mr. Pringle when same parties present with Mr. Pringle and again reference was made to what security Credit Services wanted and Thomas wanted. On this occasion I got Thomas' approval on the afternoon of 29th April and then I saw Mr. Pringle with regard to the Heads of Agreement. There could be

30 a day or so difference there. There was an arrangement which was agreed as to Credit Services taking over discount for this discounting for the Bateman Group once it had been assigned. I was going to add that when the agreement was reached in the afternoon I remember Mr. Bateman in particular saying that we will make certain that no notice will be given to the winding up petitions. He was still concerned

40 because next day was the date that winding up petitions were to be issued. Up until the date we signed the agreement Bateman were unable to get discounting facilities for their ordinary retail sales. Applications had been made to us for one finance, and that was how we came into possession of the 1967 accounts. This was causing them to negotiate with us because they couldn't get the discounting facilities and it was negotiated with Credit Services

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Petitioners
further
evidence

John Nicholas
Rundle
(recalled)
Examination
(continued)

In the Supreme
Court of New
Zealand
Canterbury
District
Christchurch
Registry

No. 9

Court notes
of evidence
29th November
1968

Petitioners
further
evidence

John Nicholas
Rundle
(recalled)
Examination
(continued)

Cross-
examination

that the normal terms for discounting television sets would be raised and the special arrangement was to be given to the Bateman companies whereby they could receive an advance from Credit Services up to 25% of the value of the television receivers. These were not available to them until Heads of Agreement signed and once this was signed I understand Credit Services started discounting with Batemans.

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XXM GOUGH: At this meeting, was the Heads of Agreement discussed? The meeting was held to determine the terms on which we would re-finance and the Heads of Agreement resulted from this. At the meeting Heads of Agreement were discussed? No. The Heads of Agreement had not been prepared at that stage. When were they prepared? After the second meeting on the same day, Monday the 29th. So that what was decided upon was to go ahead with document known as Heads of Agreement? No the main terms at issue were repayments, terms of repayment, amount of debts and security to be given to the Bateman companies. Others were in the course of preparation. So that it is fair to say that following this meeting on the 29th the Heads of Agreement were prepared from the discussions that were held there? As I said before, the principal terms and the main matters in dispute were the terms of security and terms of repayment. So that Mr. Menzies received Heads of Agreement as a document the document provided that the debenture was to be given Cambridge Corporation Limited as nominee? That is what is stated in the document. But it was known by the other parties at that stage that the agreement with Credit Services was obtained.

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CONCLUSION OF EVIDENCE IN REBUTTAL

No.10

REASONS FOR JUDGMENT (ORAL) OF
MACARTHUR J. dated 12th DECEMBER 1968

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

IN THE MATTER of BATEMAN TELEVISION LIMITED

- and -

BATEMAN T.V. HIRE LIMITED

- and -

STAR T.V. LIMITED

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968

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Hearing: 27, 28 and 29 November and 9 and 10
December 1968

Counsel: P.T. Mahon and Fox for petitioning
creditors Gough for debtor companies

Judgment: 12 December 1968

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There are three petitions for winding-up
before the Court. The petitions relate to these
companies, namely, Bateman T.V. Hire Limited,
Bateman Television Limited and Star T.V. Limited.
By consent the three petitions were heard together.
The hearing occupied several days. I have heard
lengthy evidence and a very large number of
documents have been put in evidence. Now, I have
reached a clear conclusion as to the judgment to
be given and I propose to give that judgment now
while the facts are fresh in my mind. The
decision will, however, of necessity be in
somewhat shorter form than would otherwise have
been the case.

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Without further ado, I am going to say that
my decision after due deliberation is that
winding-up orders must be made in respect of
the two first named companies, that is Bateman
T.V. Hire Limited and Bateman Television Limited.
The question of the petition in relation to Star
T.V. Limited will be dealt with later in the
course of this judgment.

The petitioning creditor in respect of the
first two companies that I have named is Coleridge

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

Finance Co. Ltd., while the petitioning creditor in respect of the third named company is Belmont Finance Ltd. The three debtor companies are members of a group of companies engaged in the television business and allied businesses, and these companies were referred to by counsel during the argument as the Bateman group. The two finance companies already mentioned belong to a group of finance companies which were referred to by counsel as the Hintz group. For several months during 1968 a company called Credit Services Investments Ltd. was interested in taking over the interests of the Hintz group and it was closely concerned in the negotiations between the Bateman group and the Hintz group during that time. For convenience I shall abbreviate the names of the various companies that are concerned in these proceedings.

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The petitions for winding-up allege the following debts to be owing by the debtor companies respectively: Bateman T.V. Hire Ltd. ~~£~~166,354.54 for arrears of instalments due and owing as at the 26th day of March 1968; Bateman Television Limited ~~£~~8,704.46 being payments due and owing by the company as at the 26th day of March 1968; and Star T.V. Ltd. ~~£~~532.00 for arrears of instalments due and owing as at the 26th day of March 1968. It should be stated here that in relation to the above mentioned debt allegedly owing by Bateman T.V. Hire Ltd. the evidence was that debt had increased to ~~£~~247,300.54 as at the 26th day of November 1968, which was the day before the hearing of the petition began. It should also be added that the evidence was that on the day before the hearing Star T.V. Ltd. paid the petitioning creditor Belmont Finance in full (namely ~~£~~532.00) but evidence was given of a debt owing by Star T.V. to a company called Kent Credit Ltd., another finance company in the group, and application was made towards the end of the hearing by Mr. Mahon for leave to substitute the last-named company for Belmont Finance on that petition. I will have to say something more about that particular point at a later stage. It should also be mentioned that the evidence was that notices purporting to have been given under S. 218 of the Companies Act 1955 had been given by each of the creditor companies, but

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there was argument upon this particular point, Mr. Gough making the submission that the notices did not comply properly with the requirements of S.218. However, and this is a point that I shall deal with shortly, there was overwhelming evidence in regard to both Bateman T.V. Hire and Bateman Television that quite apart from the question of the validity or otherwise of any such notice, neither of these companies was now able to pay its debts within the meaning of those words in S.217 of the Act.

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

Before dealing with the main contest between the parties, there are two matters that should be determined. First is the question which I mentioned a moment ago, whether the notices purporting to be given under S.218 of the Companies Act 1955 do comply with that section. S.218 provides that - and I quote only that part which is strictly relevant to the present enquiry -

"218. A company shall be deemed to be unable to pay its debts -

(a) If a creditor ... to whom the company is indebted in a sum exceeding Fifty pounds then due, has served on the company, by leaving it at the registered office of the company, a demand under his hand requiring the company to pay the sum so due....."

In the present case, each of the notices was signed by a solicitor, Mr. A. D. Holland, who appended his signature after the name of the company had been typed and followed by the phrase "by its solicitor and authorised agent". Now it must be noted that in S.218 the words are "a demand under his hand" - not just "under hand". During the argument, however, I was much inclined to the view, which I thought sensible, that S.218 as applied to a corporation giving a notice did not mean any more than that the notice must be in writing and sealed or signed, but I also thought at that time that signing by an authorised agent would suffice. There does not appear to be any reported decision precisely in point. Counsel did refer me to two Scottish cases

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

(Morton v. French (1908) S.C. 171 and Waterson's Trustees v. St. Giles Boys' Club (1943) S.C. 369) and I myself have found several other cases (e.g. Wilson v. Wallani L.R. 5 Ex.D. 155 and In re Dipford Parish Lands [1934] Ch. 151); but all of these decisions are under statutes of a different kind. Now, Mr. Gough pointed me to an editorial note in 6 Halsbury (3rd Ed.) at p.534 which certainly supports his argument. Moreover, it is noteworthy that in the Australian Companies Acts 1961, S.222, which is a section corresponding to our S.218, the words are: "a demand under his hand or under the hand of his agent thereunto lawfully authorised". In other words, the Australian legislature has expressly provided for signature by an agent. Upon reflection on this point I am compelled to the conclusion that the notices given in this case did not comply with S.218. I think that to hold that the signature of an agent suffices would in effect be to legislate, that is to say to add words to S.218 in the very way in which words have been inserted into the Australian legislation. I therefore uphold Mr. Gough's argument upon this point. But of course, as Mr. Gough freely concedes, that conclusion does not affect the position of the petitions in relation to Bateman T.V. Hire and Bateman Television because there is ample evidence that those companies are unable to pay their debts, and subject to certain defences that have been raised must clearly be held to be insolvent. The point that I have just dealt with, however, has a bearing upon the petition in relation to Star T.V.

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The second preliminary matter concerns the debt allegedly owing by Bateman Television and claimed to amount to \$8,704. In this connection, Mr. Gough submitted that this debt is disputed and that accordingly, apart from all other considerations, the Court ought to stay its hand so far as the making of an order for winding-up is concerned. In this connection, however, Mr. Mahon referred me to an authority which is very much in point, namely Re Tweeds Garages Ltd. [1962] 1 All E.R. 121. The headnote of that case, which is all that I need to read, shows that a company was at all material times heavily indebted to the petitioners although the exact amount of the indebtedness was disputed. The company was

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insolvent in the sense relevant to a winding-up and on a petition to wind up the company the Court held that:-

"Where there was no doubt that petitioners were creditors for a sum which would otherwise entitle them to a winding-up order, a dispute as to the precise amount owed was not a sufficient answer to the petition....."

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

10 And accordingly on the facts of that case, a winding-up order was made. In the present case, full particulars of the debt as claimed are provided in a schedule which was produced in evidence and although it is true that there was some correspondence between Mr. Menzies, who is the solicitor for the debtor companies, and the solicitors and counsel for the creditor companies, concerning the details, it is also true that the services of a competent public accountant were availed of by the debtor companies. There was full discovery and inspection of the documents and in addition to that there is the evidence of Mr. Rundle who spoke of what particulars had been entered upon the ledger cards in particular. In my view, upon this aspect of the matter, the evidence is ample to show a prima facie case that the whole of the debt as claimed is owing. It could be, of course, that some part of the debt will ultimately be shown as not owing, but if there were any real point involving a substantial part of the debt then I have no doubt that the facilities were available to the debtor companies to enable them to bring the point to the notice of the Court, and that has not been done. For these reasons, I am not prepared to uphold Mr. Gough's submission upon this point.

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Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

40 That brings me to the main issues in the case. As I have already indicated, it is perfectly clear that if I put aside for a moment the two specific defences that have been raised, Bateman T.V. Hire and Bateman Television are insolvent and are unable to pay their debts. There can really be no dispute upon that proposition and I need not go into the details. Mr. Gough, however, has raised the following defences and he has argued both of them

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

assiduously. First, he submits that on the evidence, there was a binding agreement whereby the debts shown to be owing were to be secured by a debenture. Second, that the debtor companies are not liable for the debts or any of them because these debts are irrecoverable upon the grounds, to put it very shortly, that they are covered by the Moneylenders Act 1908. Now I turn to deal with each of these defences in turn.

First, as to the question as to whether there was a binding agreement in relation to the giving and acceptance of a debenture, I need hardly say that I have considered all the documents since the conclusion of the hearing, and I have read again a great deal of the oral evidence. I do not propose to go into the matter in the greatest possible detail. There were very lengthy negotiations between the Bateman group and the Hintz group of companies and in addition, Credit Services also came into the negotiations. At the outset, I ought to say that in matters of evidence I accept Mr. Rundle as being a truthful and reliable witness, and I say that in particular because of the evidence which he gave concerning a meeting that was held on the 29th April 1968. Now, it was said by Mr. Gough that on the 9th May 1968 a document headed "Heads of Agreement" was signed, this being a document essentially between the Bateman group on the one hand and the Hintz group on the other. But it is perfectly clear that there were very lengthy and extensive negotiations after that document had been signed, and these negotiations were not just between Mr. Menzies, the solicitor representing the Bateman group, and Mr. Pringle, who was the solicitor representing the Hintz group. They also involved Mr. Holland, who was the solicitor acting for Credit Services. And, as I read the correspondence that occurred, I cannot but be impressed with the extent to which Credit Services were concerned in these negotiations. I could give several instances by reference to individual letters but one example will suffice. That is the letter dated the 30th July 1968 which Mr. Holland addressed to Mr. Menzies. I do not propose to quote the whole of that letter but the first page shows how closely Mr. Holland was concerned in the

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negotiations that had been going on, and the letter concludes with reference to the heads of agreement and an unequivocal statement by Mr. Holland that these heads of agreement are unacceptable to Credit Services unless they include "the amendments proposed by us", and the last paragraph of the letter says:-

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

"if, however, your client companies are prepared to give the debenture to Credit Services Investments Limited please advise by return mail in what respects you consider the Heads of Agreement as varied by correspondence between you and us does not correctly record the terms. On receipt of this information by return we are prepared to resubmit the matter to our clients for consideration."

In the face of a statement like that which was not objected to in reply, I simply ask - how can it be argued with any possibility of success that Credit Services Investments were not concerned in the negotiations? Now that was followed by a letter from Mr. Menzies dated 1 August 1968, and an interesting feature here is that his letter was addressed to Mr. Holland's firm and a copy was sent to Mr. Pringle's firm "for your information". That letter shows quite clearly that there had been a strenuous effort by all concerned to resolve all their differences and to bring these negotiations to a head where all outstanding matters had been concluded; and the letter includes this sentence with reference to the debenture which was to be drawn by Mr. Holland - "Presumably you will let me see a draft of a full document before engrossment". At that stage, then, it seems clear there was no agreement. Finally, when the whole matter had broken down because of the insistence by Credit Services upon a certain term in relation to the future business activities of the two directors of the Bateman companies there is a letter addressed by Mr. Pringle's firm to Mr. Menzies under date the 20th September 1968. I think it would be as well if I were to read the second paragraph of this letter because nothing can better illustrate the force of Mr. Mahon's argument that there never was completed agreement in the true sense;

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

as he put it, the agreement was inchoate - they had agreed upon a debenture but the final terms were never agreed. The paragraph reads:-

"Ever since 9th May 1968 when the Heads of Agreement were signed, there have been, as you know, continuous discussions and negotiations with regard to various amendments which your clients have maintained ought to be made to these Heads of Agreement. By the beginning of September, agreement on the different amendments had been reached, with the exception of the very important point contained in the latter part of Clause 12 of the Heads of Agreement which related to the agreement of Messrs. Bateman and Thomas not to go independently into the television business so long as the Bateman Group were still indebted under the proposed debenture. The Hintz group had agreed to your suggested modification of this term but Credit Services would not agree to the modification and thus an impasse was reached."

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But in the reply dated 23rd September 1968 there is not a word to suggest that there had been a completed agreement between the parties and that the other parties would be held to such completed agreement. On this aspect of the matter, Mr. Mahon answered Mr. Gough's submissions by claiming: first, that the evidence did not show that there was any completed agreement between these parties; second, alternatively, that in any event any agreement was subject to the condition that it had to be approved by Credit Services and that that condition had never been complied with; and thirdly, Mr. Mahon also submitted that the true view of the whole matter was that this was a tripartite series of negotiations and that in the upshot no agreement was reached. Now on these matters I need only say that I reach the quite clear conclusion that there never was any completed agreement and that means that I uphold the first point that was submitted by Mr. Mahon. However, I am also of the opinion that the matter could be upheld upon the alternative point raised by Mr. Mahon. I know that the Court has to take great care in dealing with any question of a condition of this kind, but in my opinion there clearly was such a condition in this case. I do not

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think it necessary to deal with the third aspect of the matter that was raised in argument. For these reasons, I reject the first defence raised by Mr. Gough.

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

The second defence as I have called it, arises principally under the provisions of the Chattels Transfer Amendment Act 1931 and the question is, to put it very shortly, whether subs. (3) of S.2 of the Chattels Transfer Amendment Act 1931 applies to the hire purchase agreements that were concluded in this case. Mr. Gough argues for various reasons that the agreements in this case were not customary hire purchase agreements within the meaning of the Act and he placed particular reliance upon subs. (5) of S.2 which refers to agreements in relation to customary chattels made between the manufacturer of or wholesale dealers in such chattels and retail dealers in such chattels. I have not quoted the whole of that subsection but summarised it. Now as a preliminary to a short discussion of this particular point I think I ought to mention two matters, and the first is the question as to the proper approach by the Court to the consideration of the documentary and other evidence in a matter of this kind. And I think that I could not do better than to quote what Finlay J. said in Cash Order Purchases Ltd. v. Brady [1952] N.Z.L.R. 898. He said:-

"....my conception is that we must first find the pith and substance of the arrangement by a consideration of the documents, and then, if necessary, proceed to consider whether it is established by relevant evidence that the pith and substance as represented by the documents was not the true pith and substance, but that the documents were a mere cloak to conceal the true character of the arrangement. I have used the expression 'relevant evidence' because it is a question of fact to be established by evidence that documents are a mask for another and different transaction."

The second point in this connection concerns the evidence regarding the actual course of business that was being carried on between these companies. That evidence is comprised partly in the oral evidence of Mr. Rundle and partly in his affidavit,

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

partly in the evidence of Mr. Currie, and partly also in a consideration of the balance sheets and financial accounts of the various companies that were placed in evidence. Without going into all the details, one particular point should be mentioned because it has a bearing on part of the argument and that is that the evidence seems to me to show clearly that the general course of business was that Bateman T.V. Hire did not sell television sets to members of the public. That company let out on hire television sets to members of the public and there is some direct evidence that if a set was sold to a member of the public that was done by Bateman Television. (See evidence, Rundle at p.12 and Currie at p.51 - and balance sheets as at 31/3/67). At this stage I turn to a very short consideration of subs. (5) of the Chattels Transfer Amendment Act 1931. The whole of the text of that subsection is this:-

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"(5) An agreement in relation to customary chattels, made between the manufacturer of or a wholesale dealer in such chattels or a finance corporation and a retail dealer in such chattels, by which possession of the chattels is given to such dealer, shall not be deemed to be a customary hire purchase agreement."

On this particular matter, counsel referred me to the various definitions of the words "wholesale" and "retail" given in the Oxford Dictionary and the matter was very carefully canvassed. It is no doubt an important point in the consideration of this case but I have a perfectly clear mind about the correct decision here. I am quite clear that in the ordinary sense of the words Bateman T.V. Hire is not a "retail dealer" and that it does not come within those words as used in subs. (5). I am equally clear that Bateman Television is not a wholesale dealer within the ordinary meaning of the words and within the meaning of the words used in that section. In substance I accept Mr. Fox's clear argument on this aspect of the matter. With regard to Bateman T.V. Hire he submitted strongly that the dictionary definition of selling did not go as far as hiring without an option to purchase, which was the case here. I would only add that in my opinion

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just because it sold television sets to Bateman T.V. Hire, Bateman Television did not thereby become a wholesale dealer within subs. (5). There was no evidence that Bateman Television sold sets to companies or persons other than Bateman T.V. Hire or members of the public. I am quite clear, as I have said, that Mr. Fox's argument on this aspect of the matter should be accepted and I do accept it. Coming back now to S.2 of the Amendment Act of 1931, subs. (1) defines customary chattels and also the words "finance corporation". There is no doubt that the finance companies in the present case come within the definition of finance corporation in subs. (1). We then come to subs. (3) and so far as that subsection is applicable to the present case it provides that:-

"(3) The Moneylenders Act 1908, except section three thereof, shall have no application in respect of any of the provisions of -

(a) Any customary hire purchase agreements; or

(I omit (b))

(c) Any assignment to a finance corporation of any such agreement or instrument, or of the chattels the subject of any such agreement or instrument, whether absolute or by way of mortgage, -

and, except for the purposes of the said section three, a finance corporation shall not, in respect of any such agreement, instrument, or assignment, be deemed to be a moneylender within the meaning of the Moneylenders Act 1908."

Now Mr. Fox submitted, and I accept his argument, that when one examines the documents in this case and the course of dealing and when one considers the oral evidence, then speaking generally the documents here were valid customary hire purchase agreements and assignments thereof. The agreements come within the precise terms of paras. (a), (b) and (c) of S.57 (1) of the Chattels Transfer Act 1924 and I do not need to read those provisions in full. And the assignments come within para. (c)

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968

(continued)

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

of S.2(3) of the 1931 Amendment which I have quoted above. Now there were some subsidiary arguments that were raised by Mr. Gough. I do not need to deal with them in detail. There was an argument under subs. (4). As to that, I think I indicated my opinion quite clearly during the arguments and I need not repeat it. But there is one further point in this connection and that is that there is evidence that there are some agreements amongst the many produced that do not in their schedules have serial numbers of the television sets, and there is some evidence, principally from Mr. Currie, that in some cases there are fictitious numbers inserted in the schedules. Having regard to the total amount of the advances under consideration, the total amount covered by these particular types of agreement is not a very large proportion of the grand total. But there is a question raised by Mr. Gough as to whether, by reason of these defects in the schedules, these documents are shown to be customary hire purchase agreements within the meaning of the Act. As to that, I accept Mr. Fox's argument, namely that the voiding provisions of SS.23 and 24 of the Chattels Transfer Act 1924 (which are brought into play by reason of S.16 of the Statutes Amendment Act 1936) affect only persons outside the customary hire purchase agreement and its assignees. The exact provision of SS. 23 and 24 reads:-

"shall be void to the extent and as against the persons mentioned in sections eighteen and nineteen hereof in respect of any chattels not so described."

And S.18 of course refers to questions of bankruptcy and the like, and S.19 refers to bona fide purchases for value. I do not think, however, that the defects under consideration can affect the rights of the petitioning creditor and the debtor companies inter se, or mean that the documents are not customary hire purchase agreements within S.2(3) of the 1931 Amendment.

For the reasons which I have given, my conclusion is that orders for winding-up must be made and are hereby made in respect of Bateman T.V. Hire Ltd. and Bateman Television Ltd., and the order will be in the form prescribed by the winding-up rules and will include an order

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that the petitioning creditors do have their costs out of the assets of the companies as taxed and allowed by the Registrar of the Court.

(Note: His Honour went on to say that for the reasons already given he was not prepared to make a winding-up order in relation to Star T.V. Limited upon the basis of non-compliance with the notice which purported to be under S.218 of the Act; but he adjourned the matter until 2.15 p.m. for further submissions by counsel).

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Solicitors:

For the petitioning creditors:

A. H. Cavell, Leitch & Pringle,
Christchurch

For the debtor companies:

Gough, Clark & Bisphan,
Christchurch

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 10

Reasons for
Judgment of
Macarthur J.

12th December
1968
(continued)

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No.11

ORDER FOR WINDING-UP BATEMAN T.V.
HIRE LIMITED 12th December 1968

IN THE MATTER of Section 234 of the Companies
Act 1955

- and -

No. 11

Order for
Winding-up of
Bateman T.V.
Hire Limited

IN THE MATTER of a petition for the winding
up of BATEMAN T.V. HIRE LIMITED
presented by COLERIDGE FINANCE
COMPANY LIMITED

12th December
1968

Before the Honourable Mr. Justice Macarthur
Thursday the 12th day of December, 1968

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UPON the petition of COLERIDGE FINANCE COMPANY
LIMITED a creditor of the above named Company
on the 30th day of September 1968 preferred unto
the Court AND UPON HEARING Mr. P.T. Mahon and Mr.
J.R. Fox for the petitioner, and Mr. K.A. Gough
for Bateman T.V. Hire Limited AND UPON READING
the said petition, an affidavit of Andrew
Alexander Moore of Christchurch Company Director
filed herein, verifying the said petition, 20
an affidavit of Ian Alexander Pringle filed the
17th day of October 1968, the New Zealand Gazette
of the 10th day of October 1968, the Press
newspaper of the 3rd day of October 1968, each
containing an advertisement of the said petition
AND UPON HEARING the evidence adduced THIS COURT
DOETH ORDER that the said Company be wound up by
this Court under the provisions of the Companies
Act 1955 and that the Official Assignee at
Christchurch be constituted provisional liquidator 30
of the affairs of the Company AND IT IS ORDERED
that the costs of Coleridge Finance Company
Limited of the said petition be taxed and paid
out of the assets of the said Company

BY THE COURT

'W. L'Estrange'
Deputy Registrar

(L.S.)

NOTE: It will be the duty of such of the persons as are liable to make out or to concur in making out a statement of affairs as the Official Assignee may require to attend upon the Official Assignee at such time and place as the Official Assignee may appoint and to give him all information he may require.

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 11

Order for
Winding-up of
Bateman F.V.
Hire Limited

12th December
1968
(continued)

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No.12
ORDER FOR WINDING-UP BATEMAN
TELEVISION LIMITED dated 12th
December, 1968

IN THE MATTER of Section 234 of the
Companies Act 1955

No. 12

- and -

Order for
Winding-up of
Bateman Tele-
vision Limited

IN THE MATTER of a petition for the
winding-up of BATEMAN
TELEVISION LIMITED
presented by COLERIDGE
FINANCE COMPANY LIMITED

12th December
1968

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Before the Honourable Mr. Justice Macarthur

Thursday the 12th day of December 1968

UPON the petition of COLERIDGE FINANCE COMPANY
LIMITED a creditor of the above named Company
on the 30th day of September 1968 preferred
unto the Court AND UPON HEARING Mr. P.T. Mahon
and Mr. J.R. Fox for the petitioner, and Mr.
K.A. Gough for Bateman Television Limited AND
UPON READING said petition, an affidavit of
Andrew Alexander Moore of Christchurch, Company
Director filed herein, verifying the said
petition, an affidavit of Ian Alexander Pringle
filed the 17th day of October 1968, the New
Zealand Gazette of the 10th day of October 1968,
the Press newspaper of the 3rd day of October
1968, each containing an advertisement of the
said petition AND UPON HEARING the evidence
adduced THIS COURT DOTH ORDER that the said
Company be wound up by this Court under the
provisions of the Companies Act 1955 and that
the Official Assignee at Christchurch be
constituted provisional liquidator of the
affairs of the Company AND IT IS ORDERED that
the costs of Coleridge Finance Company Limited
of the said petition be taxed and paid out of
the assets of the said Company

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BY THE COURT

(L.S.)

'W. L'Estrange' Deputy Registrar

NOTE: It will be the duty of such of the persons as are liable to make out or to concur in making out a statement of affairs as the Official Assignee may require to attend upon the Official Assignee at such time and place as the Official Assignee may appoint and to give him all information he may require.

In the
Supreme
Court of
New Zealand,
Canterbury
District,
Christchurch
Registry

No. 12

Order for
Winding-up of
Bateman Tele-
vision Limited

12th December
1968
(continued)

In the
Court of
Appeal of
New Zealand

No.13

NOTICE OF MOTION ON APPEAL BY
BATEMAN T.V. HIRE LIMITED dated
19th DECEMBER 1968

No.13

Notice of
Motion on
Appeal by
Bateman T.V.
Hire Limited
19th December
1968

IN THE COURT OF APPEAL OF NEW ZEALAND

IN THE MATTER of the Companies Act 1955

B E T W E E N: BATEMAN T.V. HIRE LIMITED (in
liquidation) a duly incorporated
Company having its Registered
Office at Christchurch Appellant

- and -

COLERIDGE FINANCE COMPANY LIMITED
a duly incorporated Company
having its Registered Office at
Christchurch Respondent

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TAKE NOTICE that this Honourable Court WILL BE MOVED
at the first sittings thereof to be held after the
date of service of this Notice or so soon thereafter
as Counsel may be heard by Counsel on behalf of the
above-named Appellant BY WAY OF APPEAL from the
whole of the decision of the Supreme Court of New
Zealand pronounced on Thursday the 12th day of
December 1968 by the Honourable Mr. Justice Macarthur
making a winding-up order against the above-named
Appellant on the petition of the above-named
Coleridge Finance Company Limited filed under Number
142/68 in the Christchurch Registry of the Supreme
Court UPON THE GROUNDS:-

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1. THAT the decision was erroneous both in fact and
in law
2. THAT the Appellant is dissatisfied with the
decision of the Court

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DATED this 19th day of December 1968

'J.R.B. Menzies'

Solicitor for the above-named Appellant

To: The Registrar of the Court of Appeal of New
Zealand

And to: The Registrar of the Supreme Court of New
Zealand at Christchurch

And to: The above-named Respondent

No.14

NOTICE OF MOTION ON APPEAL BY
BATEMAN TELEVISION LIMITED dated
19th DECEMBER 1968

In the
Court of
Appeal of
New Zealand

IN THE COURT OF APPEAL OF NEW ZEALAND

No.14

No. C.A. 2/69

IN THE MATTER of the Companies Act 1955

Notice of
Motion on
Appeal by
Bateman
Television
Limited
19th
December
1968

BETWEEN: BATEMAN TELEVISION LIMITED (in
liquidation) a duly incorporated
Company having its Registered
Office at Christchurch Appellant

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- and -

COLERIDGE FINANCE COMPANY LIMITED
a duly incorporated Company having
its Registered Office at
Christchurch Respondent

TAKE NOTICE that this Honourable Court WILL BE
MOVED at the first sittings thereof to be held
after the date of service of this notice or so
soon thereafter as Counsel may be heard by
Counsel on behalf of the above named Appellant
BY WAY OF APPEAL from the whole of the decision
of the Supreme Court of New Zealand pronounced
on Thursday the 12th day of December 1968 by
the Honourable Mr. Justice Macarthur making a
winding up Order against the above-named
Appellant on the petition of the above-named
Coleridge Finance Company Limited filed under
Number 143/68 in the Christchurch Registry of
the Supreme Court UPON THE GROUNDS:

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1. THAT the said decision was erroneous both in
fact and in law
2. THAT the Appellant is dissatisfied with the
decision of the Court

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DATED this 19th day of December 1968

'J.R.B. Menzies'

Solicitor for the above-named Appellant

To: The Registrar of the Court of Appeal of New
Zealand

And to: The Registrar of the Supreme Court of New
Zealand at Christchurch

And to: The above-named Respondent.

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In the
Court of
Appeal of
New Zealand

No.15
JUDGMENT OF THE COURT OF APPEAL OF
NEW ZEALAND dated 8th May 1969

No.15

Judgment
8th May 1969

IN THE MATTER of the Companies Act 1955

BETWEEN BATEMAN TELEVISION LIMITED (in
liquidation) and BATEMAN T.V.
HIRE LIMITED (in liquidation)
Appellants

- and -

COLERIDGE FINANCE COMPANY LIMITED
Respondent

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Coram: North P.
Turner J.
McCarthy J.

Hearing: 18, 19, 20 and 21 March 1969

Counsel: Patterson & Gascoigne for Appellants
Mahon & Fox for Respondent

NORTH P.

Judgment: 8 May 1969

JUDGMENT OF NORTH P.

This is an appeal from two orders of Macarthur J. directing that both the appellant companies be wound up by the Court under the provisions of the Companies Act 1955

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The two petitions, together with a third petition with which we are not concerned, were by consent heard together, the hearing occupying several days. The facts leading up to the presentation of the three petitions seeking winding up orders are reviewed at considerable length by Macarthur J. in the reasons he has given for his judgment. As he records he heard lengthy evidence and a very large number of documents were put in evidence. For the purposes of this appeal I think it will be sufficient to make mention of the following facts which are directly relevant to the argument we heard from Mr. Patterson, counsel for the two appellant companies.

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The two appellant companies are members of a group of companies having common shareholders and common directors which carry on business connected with television. It will be convenient to refer to the first company Bateman Television Limited as the "T.V. Company" and the second as the "Hire Company". The T.V. Company at all relevant times was engaged in selling television sets for cash or on hire purchase to members of the public. The T.V. Company from time to time needed finance and this it secured from the respondent, Coleridge Finance Company Limited, which it will be convenient to refer to as the "Finance Company". Accordingly the Finance Company from time to time discounted hire purchase agreements executed in favour of the T.V. Company by its customers. The Hire Company, on the other hand, was engaged in a different class of business, namely, the hiring of sets to members of the public for long or short periods. In order to carry on its hiring business the Hire Company used the T.V. Company as the source of supply of the sets which in due course it proposed to hire out to its customers. The Hire Company did not possess sufficient liquid funds to purchase the sets for cash, so the T.V. Company and the Hire Company entered into a series of conditional purchase agreements under which the Hire Company bound itself to pay to the T.V. Company the purchase price by monthly instalments. Usually these conditional purchase agreements covered a number of sets. The T.V. Company then assigned to the Finance Company by way of mortgage each of these conditional purchase agreements. Both the T.V. Company and the Hire Company got into financial difficulties with the result that on 26th March 1968 the Finance Company served on the T.V. Company a demand calling upon it to pay forthwith the sum of £8,704.46c. and informing the T.V. Company that the demand was made pursuant to s.218 of the Companies Act 1955 and if for three weeks after the receipt of the notice the T.V. Company neglected to pay this sum or to secure or compound for it to the reasonable satisfaction of the Finance Company a petition would be presented to the Supreme Court at Christchurch for the winding up of the company on the grounds that the company was unable to pay its debts. A similar notice was served by the Finance Company on the Hire Company,

In the
 Court of
 Appeal of
 New Zealand

No.15

Judgment
 8th May 1969

North P.
 (continued)

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

the demand in this case requiring payment forthwith of the sum of \$166,354.54c. Both these notices were signed as follows: "Coleridge Finance Co. Ltd. by its solicitor and authorised agent Wynn Williams and Co. 'A.D. Holland'." Neither the T.V. Company nor the Hire Company paid the amounts stated in the notice and petitions for winding up orders accordingly were brought.

On the hearing of these two petitions, Macarthur J. was first confronted with a submission that the two notices to which I have just referred did not comply with the provisions of s.218 (a) by reason of the fact that they were not signed by the Finance Company itself but by an agent. Macarthur J., for the reasons he gave, came to the conclusion that this objection was well taken but he nevertheless came to the clear conclusion that it had been proved to his satisfaction that the T.V. Company was insolvent and was unable to pay its debts unless (presumably) it acquired assets sufficient to pay its debts by reason of one of the special defences raised by the Hire Company prevailing. The learned Judge rejected a submission that the debt of \$8,704.46c. was a disputed debt and therefore on that ground an order for the winding up of the company should be withheld. He then went on to consider the position of the Hire Company and expressed the view that apart from the two specific defences which had been raised in opposition to the making of an order for the compulsory winding up of that company it had been plainly shown that this company, too, was insolvent and unable to pay its debts. The first defence turned on whether there was a binding agreement in relation to the giving and acceptance of a debenture by the Hire Company to the Finance Company to secure the Hire Company's indebtedness. He rejected this submission for the reasons he gave and this defence was not raised again in this Court. He then went on to consider the second defence, namely, that the debt claimed to be due to the Finance Company by the Hire Company was irrecoverable on the grounds that the conditional purchase agreements entered into by the T.V. Company with the Hire Company, which were assigned by way of mortgage to the Finance Company, were not protected by s.2 of the Chattels

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Transfer Amendment Act 1931 for the reason that these conditional purchase agreements were not customary hire purchase agreements with the result that the Finance Company was caught by the provisions of the Moneylenders Act 1908. For the reasons he gave he rejected this submission too and accordingly he made orders for the compulsory winding up of both the appellant companies. These appeals are from these orders.

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

In this Court Mr. Patterson, who with Mr. Gascoigne, appeared for the appellants, made a number of submissions which I shall endeavour to deal with in the order in which they were made. It requires to be mentioned that neither counsel appeared for the appellants in the Court below.

Mr. Patterson's first submission was that the learned Judge in the Court below was right in holding that the two demands served by the Finance Company did not conform with the provisions of paragraph (a) of s.218 of the Companies Act 1955. In view of the fact that Macarthur J. found that both the T.V. Company and the Hire Company were in fact insolvent and thus unable to pay their debts it does not really matter whether the two demands were valid or not, but as we had the benefit of a full argument on this question it is desirable that I should state my conclusion, particularly so as, with respect, I am of opinion that Macarthur J. was in error in construing the paragraph in the limited way he did. The crucial words in the paragraph are "a demand under his hand". Do these words require that the creditor should personally sign the demand or is it sufficient, as was the case here, that the demand be signed on the creditor's behalf by its authorised agent? Macarthur J. to begin with thought that a signing by an authorised agent would suffice but appears to have been weaned away from this view when it was pointed out to him that in the companion section in the Australian Act the words used were "a demand under his hand or under the hand of his agent there unto lawfully authorised", but with all respect in my opinion it is unsafe to interpret the section in the New Zealand Act by having regard to the more expansive language used in

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

the Australian Act. Draftsmen vary in the way they express themselves. No doubt the draftsman of the Australian Act thought it desirable to make sure certain by making it plain that the signature of a lawfully authorised agent would suffice but in my opinion that provides no reason at all why I should conclude that the words in the New Zealand section should not be given their full meaning and effect. Unfortunately counsel did not cite to Macarthur J. a case which, in my opinion, is very much in point. This is In re Whitley Partners Limited (1886) 32 Ch.D. 337, a judgment of the English Court of Appeal. The facts in that case were that an intending subscriber to the Memorandum of Association of a company authorised an agent to sign the Memorandum on his behalf. When the company was later wound up the subscriber whose name had been put on the list of contributories applied to have his name removed on the ground that he had never signed the Memorandum nor agreed to take the shares. It was held that there being nothing in the Companies Act 1862 to shew that the Legislature intended anything special as to the mode of signature of the Memorandum, the ordinary rule applied that the signature by an agent was sufficient. Section 6 of the Companies Act 1862 provided that "any seven or more persons associated for any lawful purpose may by subscribing their names to a Memorandum of Associationform an incorporated company". Section 11 provided that the Memorandum of Association "shall be signed by each subscriber in the presence of, and attested by, one witness at least". Cotton L.J. had this to say (p.339 - 340):

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"The Appellant contends that as nothing is said in the statute about signature by an agent, these expressions must mean that the signature is to be affixed by the subscriber himself.....I think it would be wrong to hold that an enactment simply referring to signature is not satisfied by signature by means of an agent". 40

Bowen L.J. said (p.340 - 341):

"In every case where an Act requires a signature it is a pure question of construction on the terms of the particular Act whether its words are satisfied by signature by an agent.

In some cases on some Acts the Courts have come to the conclusion that personal signature was required. In other cases on other Acts they have held that signature by an agent was sufficient. The law on the subject is thus summed up by Blackburn J., in Reg. v. Justices of Kent: "No doubt at common law, where a person authorizes another to sign for him, the signature of the person so signing is the signature of the person authorizing it; nevertheless there may be cases in which a statute may require personal signature". Quain J., then says, "We ought not to restrict the common law rule, qui facit per alium facit per se, unless the statute makes a personal signature indispensable".

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

In my opinion the common law rule should be applied in this case. If authority be needed for the view that a requirement in a statute that a notice "under the hand" of the person giving it does not need the actual physical signature of such person it will be found in In re Diptford Parish Lands (1934) 1 Ch. 151, 161, a case which I see was cited to Macarthur J. in the Court below. As Mr. Fox pointed out there is no prescribed form of notice and the whole object of the demand was to warn the debtor of an impending petition and accordingly whether the notice be signed by the creditor personally or by another on his behalf adds nothing to the value of the notice. In elaboration, Mr. Fox pointed to In re New Zealand Gum-Machines Co. Ltd. (1922) N.Z.L.R. 23, where Adams J. held that the fact that the petition was not signed by the petitioner but was presented by a solicitor on his behalf did not constitute a valid ground of objection. There is force, I think, in the submission of Mr. Fox that if the petition does not require to be signed by the creditor in person there is no reason why a more stringent rule should be applied in regard to the demand. I am accordingly of opinion that the demands served by the Finance Company on the T.V. Company and the Hire Company did conform with the requirements of s.218 (a).

Mr. Patterson's next submission was that the

In the
Court of
Appeal of
New Zealand

—
No.15

Judgment
8th May 1969

North P.
(continued)

Finance Company did not establish that it was a creditor of the T.V. Company for the sum of \$8,704.46c. He argued that the evidence showed that during the year prior to the presentation of the demand the T.V. Company had paid the Finance Company some \$74,000 and accordingly in the absence of proof of the appropriation of payments made by the T.V. Company the Court could not conclude whether or not any particular items had been paid. In reply Mr. Mahon informed the Court that this suggestion had never been made in the Court below and that in point of fact the \$74,000 represented repayments of instalments due by the Hire Company. He contended that the Finance Company had given the T.V. Company sufficient particulars of the debt and he said that in addition the Finance Company had offered to allow a professional accountant engaged by the T.V. Company, a Mr. Evans, to examine its books of accounts and supporting documents. Mr. Evans had made an inspection but on the hearing of the petition was not called as a witness by the T.V. Company. In these circumstances Mr. Mahon submitted there were no grounds for setting aside the express finding of Macarthur J. that the T.V. Company was insolvent and unable to pay its debts. For myself I am prepared to accept Macarthur J's conclusion that "the evidence is ample to show a prima facie case that the whole of the debt, as claimed, is owing". Accordingly I reject Mr. Patterson's second submission.

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Mr. Patterson next submitted that the conditional purchase agreements between the T.V. Company and the Hire Company, which were assigned by way of mortgage to the Finance Company, were shams got up by the three parties in a vain attempt to disguise ordinary money-lending transactions as dealings in customary chattels. This submission was not made in the Court below but was advanced for the first time by Mr. Patterson in this Court. Mr. Patterson conceded that if the conditional purchase agreements entered into between the T.V. Company and the Hire Company were genuine customary hire purchase agreements then it could not be contended by him that the assignments by way of mortgage from the T.V. Company to the Finance Company were caught by the Moneylenders Act 1908

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(see s.2 Chattels Transfer Amendment Act 1931). But he argued that when the documents are examined and the surrounding circumstances considered it is plain that the Hire Company and the Finance Company were engaged in an ordinary moneylending transaction. The approach that the Court should adopt when an allegation of this nature is made was discussed by Lord Hanworth M.R. in In re George Inglefield Ltd. (1933) Ch. 1, 17 - 22. He said:

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

"It is old law, and plain law, that in transactions of this sort the Court must consider whether or not the documents really mask the true transaction. If they do merely mask the transaction, the Court must have regard to the true position, in substance and in fact, and for this purpose tear away the mask or cloak that has been put upon the real transactionI have therefore to consider these documents as they stand, treating them fairly, and approaching them without a sinister desire to impute to them something which they do not contain.... There are, no doubt, provisions, such as that in s.79, which require a charge to be registered, but if you enter into a transaction outside these provisions which require registration as a condition of validity, you are unaffected by the law. It is not a question of evasion. A transaction is either within or without the law, and malice is not to be attributed to a person who so carries out a transaction that it remains outside the law."

A case which is often cited on this topic is Olds Discount Co. Ltd. v. Playfair, Ltd. (1938) 3 All E.R. 275, and particularly this passage in the judgment of Branson J. (p.280)

"The result of the whole thing is that I have before me formal agreements formally entered into and signed by the parties on both sides, and those agreements, if they represent the true agreement between the parties, are clearly not moneylending agreements. Unless there was evidence upon which it would be proper for the court to act that the parties had deliberately entered into those documents knowing that they did not represent what had been agreed between them, but that what

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

had been agreed between them was something quite different, it seems to me that the proper course for the court to take is to accept the formal agreements between the parties, and to decide their rights according to those agreements".

For the general line of authority see Cash Order Purchases Limited v. Brady (1952) N.Z.L.R. 898.

Mr. Patterson drew the attention of the Court to ten points, the sum of which in his submission showed quite clearly that the true nature of the transaction was that the Finance Company made loans to the Hire Company rather than to the T.V. Company. I have considered all the points that Mr. Patterson raised but I am left quite unconvinced that there are any grounds which would justify this Court accepting his submission. I think it is plain that there were legitimate commercial reasons why the persons in control decided that it would be advantageous if the T.V. Company operated as a selling organisation and the Hire Company as one engaged in the hiring of television sets to persons who were not willing to purchase sets. Once this course of business was decided upon then as both companies had common shareholders and directors there was no reason at all that I can see why the Hire Company should not look to the T.V. Company as the source of supply of the television sets it proposed to hire out to members of the public. By this method the common shareholders could expect to receive the whole of the profits arising from both enterprises. In the next place I can see no reason why the Hire Company should not purchase its supply of television sets on terms for it is plain that it had insufficient funds of its own to pay in cash. If this be so then I can see nothing surprising or unusual in the T.V. Company protecting its own interests by taking conditional purchase agreements from the Hire Company. Mr. Patterson drew attention to the fact that usually both the conditional purchase agreements and the assignments by way of mortgage were prepared by the manager of the Finance Company, a Mr. Hintz, but I am certainly not prepared to conclude that this circumstance provides any evidence that the transactions as recorded were not genuine. I can think of many reasons which

would make it likely that the Finance Company should think it safer to have control of the whole transaction: (see Portland Holdings Limited v. Cameo Motors Ltd. (1966) N.Z.L.R. 571). Then Mr. Patterson pointed to the fact that in a number of instances the inventory of chattels was inadequately recorded. This may be so but in my opinion carelessness in the preparation of the conditional purchase agreements provides no evidence that they were not genuine documents. Then Mr. Patterson turned to the subsequent course of conduct between the two parties and, in particular, placed reliance on the fact that the Finance Company had looked to the Hire Company for repayment of the advances from time to time made by the Finance Company to the T.V. Company. In my opinion, however, it is plain from an examination of the assignment by way of mortgage that the Finance Company was entitled in the first instance to call upon the Hire Company to meet the instalments due from time to time under the conditional purchase agreement, for the T. V. Company had assigned "all moneys now or hereafter payable under the said agreement". In concluding my observations on this submission, as I have earlier said, all in all then I am in no way satisfied that Mr. Patterson has shown that the documents under consideration were shams and it is perhaps relevant that I should add that none of the evidence called on behalf of the appellants in any way suggested that the parties had deliberately entered into these conditional purchase agreements knowing that they did not represent what had been agreed between them. This submission then, in my opinion, also fails.

I turn now to consider Mr. Patterson's next submission which in my opinion contains the nub of the case. He submitted that the Finance Company was not entitled to claim the benefit of s.2 of the Chattels Transfer Amendment Act 1931 for the reason that the T.V. Company was to be regarded as a wholesale dealer and the Hire Company as a retail dealer (see s.s. (5)). Mr. Mahon conceded that if this submission was made out then the Finance Company must be regarded as a moneylender within the meaning of the Moneylenders Act 1908 and as it was not registered as required by the statute the debt it claimed to be due to it from the Hire Company

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(Continued)

was irrecoverable. In order to appreciate this submission I think it will be convenient if I record in full the provisions of s.2. It reads thus:

"2. (1) In this section, unless the context otherwise requires, -

"Customary chattels" means chattels described in the Seventh Schedule to the principal Act or of a description added to that Schedule by Order in Council as provided by the principal Act:

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"Finance corporation" means a corporate body engaged in financing transactions in relation to purchases of customary chattels on hire purchase terms or conditional sale.

(2) A finance corporation shall be deemed for all the purposes of section fifty-seven of the principal Act to be a dealer engaged in the trade or business of selling or disposing of customary chattels, and a deed of agreement of hire purchase between a finance corporation and a conditional purchaser of a customary chattel in relation to such customary chattel shall for those purposes be deemed to be a customary hire purchase agreement.

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[(3) The Moneylenders Act 1908, except section three thereof, shall have no application in respect of any of the provisions of -

(a) Any customary hire purchase agreement;
or

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(b) Any instrument by way of security given over any customary chattels to secure the cost of repairs, additions, alterations, or improvements to those chattels; or

(c) Any assignment to a finance corporation of any such agreement or instrument, or of the chattels the subject of any such agreement or instrument whether absolute or by way of mortgage, -

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and, except for the purposes of the said section three, a finance corporation shall not, in respect of any such agreement, instrument, or assignment, be deemed to be a moneylender within the meaning of the Moneylenders Act 1908.⁷

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

(4) Customary chattels the property of a wholesale dealer in the possession of a retail dealer for the purposes of sale, hire, or demonstration shall not be deemed to be in the order and disposition of the retail dealer with the consent of the true owner thereof within the meaning of any law relating to bankruptcy or insolvency.

(5) An agreement in relation to customary chattels, made between the manufacturer of or a wholesale dealer in such chattels or a finance corporation and a retail dealer in such chattels, by which possession of the chattels is given to such dealer, shall not be deemed to be a customary hire purchase agreement.

(6) "

Section 2 plainly was introduced to overcome the effect of the decision of this Court in General Motors Acceptance Corporation v. Traders Finance Corporation Ltd. which is reported in (1932) N.Z.L.R. 1. Thus s. 2(2) provides that a finance company is to be deemed for all the purposes of s.57 of the Principal Act to be a dealer engaged in the trade or business of selling or disposing of customary chattels. Prior to the passing of s.2 a customary hire purchase agreement was defined in s.57 as being an "agreement in writing made between the owner or a dealer in certain chattels and a conditional purchaser of those chattels". The chattels which could be the subject of a customary hire purchase agreement were those described in the Seventh Schedule to the Chattels Transfer Act 1924 as amended by Order in Council from time to time. Among these chattels are television sets and equipment. No doubt for good and sufficient reasons agreement in relation to customary chattels made between a wholesale dealer in such chattels and a retail

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

dealer in such chattels are not to be deemed to be customary hire purchase agreements (s.s. (5)). Accordingly an assignment whether absolute or by way of mortgage of chattels which are not the subject of a customary hire purchase agreement are not protected (s.s.(3)). The question then which we are called upon to determine is whether it has been shown that the T.V. Company is a wholesale dealer and the Hire Company is a retail dealer within the meaning of that subsection. Mr. Patterson submitted that the intention of the Legislature was to divide all dealers in customary chattels into two classes, namely, wholesale dealers and retail dealers and accordingly all commercial dealings between dealers were caught by s.s. (5). In making this submission counsel drew our attention to the observations made by two members of this Court in Provident Life Assurance Ltd. v. Official Assignee (1963) N.Z.L.R. 961, where in the joint judgment of Turner J. and myself we said (p.965):

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"There is, we think, no doubt that a wholesaler is a person who, by way of business, deals only with persons who buy to sell again, whilst a retailer is one who deals with consumers".

Mr. Patterson submitted that the Hire Company should be regarded as a retail dealer notwithstanding the fact that the nature of its business was not that of selling television sets to members of the public but merely the hiring of sets to members of the public for long or short terms. He emphasized that the word used in s.s. (5) was "dealer" not "seller". Mr. Mahon, on the other hand, submitted that the key to the meaning of the word "dealer" was to be found in s.57 which showed that the word "dealer" referred exclusively to persons who were engaged in the business of selling customary chattels to another; thus s.57(2) provided that a customary hire purchase agreement might be either "an actual contract for sale and purchase or a contract of bailment under which the purchaser has an option of purchase". The point is indeed a very narrow one but on the whole I prefer Mr. Mahon's more limited interpretation of s.2(5) of the Chattels Transfer Amendment Act 1931, for his construction of this section in my

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opinion is consistent with the intention of the Legislature disclosed in s.57 that the words "a retail dealer" should be limited to persons engaged in selling customary chattels to members of the public. I am accordingly of opinion that while undoubtedly in a general way a person engaged in hiring customary chattels could be regarded as a trader or a dealer yet in the Chattels Transfer Act the words have a more limited meaning and should extend no further than to persons engaged in the business of selling customary chattels. I am, therefore, of opinion that this crucial submission by Mr. Patterson fails and accordingly the series of conditional purchase agreements entered into between the T.V. Company and the Hire Company are to be regarded as customary hire purchase agreements and therefore the assignments of these agreements to the Finance Company by way of mortgage are not affected by the provisions of the Moneylenders Act 1908.

I pass on now to consider Mr. Patterson's next submission which was that even if these conditional purchase agreements did not fall within s.2(5) of the Chattels Transfer Amendment Act 1931 they nevertheless contravened Regulation 3 of the Hire Purchase and Credit Sales Stabilisation Regulations 1957 and accordingly are void. This is a new argument not raised in the Court below. In developing this submission Mr. Patterson pointed out that in none of the agreements was the cash price set out. The Regulations in question certainly do require, in respect of the description of goods, a statement of the cash price of the goods of that description. For some obscure reason these conditional purchase agreements speak of the "value" of the goods, not of their cash price. Mr. Mahon argued that the use of the term "value" in all the circumstances should be regarded as constituting a statement of the cash price. I am afraid I cannot agree. In my opinion the purpose of this requirement was to enable the purchaser when signing the agreement to see at a glance what price he could purchase the goods for if he was prepared to pay cash as compared with the price he would be required to pay if he accepted the dealer's instalments terms. Mr. Patterson further submitted that in

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

any event the deposits did not comply with the minimum deposits required under the Regulations as they stood at the time. I am not satisfied that this submission was made out but for Mr. Patterson's purposes it is sufficient that he was able to point to a failure on the part of the T.V. Company to state the cash price of the goods.

That, however, is not the end of the matter because Regulation 2(3) provides "Nothing in these Regulations shall apply in respect of or in connection with the purchase or sale or disposal of any goods: (a) otherwise than at retail". For the reasons I have earlier given I am of opinion that the conditional purchase agreements made between the T.V. Company and the Hire Company are not to be regarded as sales "at retail". As I indicated in the course of argument, in my opinion, these agreements were entered into simply as a matter of convenience between two companies having common shareholders and common directors. In my opinion it would be quite unreal to regard these conditional purchase agreements as constituting sales "at retail". I, therefore, reject this submission as well.

I do not require to deal with Mr. Patterson's fifth submission which depended on the success of his earlier submission that the alledged debts arising from the assignments by way of mortgage to the Finance Company were caught by the Money-lenders Act 1908. If his earlier submissions had prevailed then I think there is no doubt that both the T.V. Company and the Hire Company would not have been shown to be insolvent. The TV Company would remain the owner of the television sets sold to it on terms to the Hire Company and would be under no obligation to the Finance Company under the terms of the various assignments by way of mortgage in favour of the Finance Company. Likewise the alleged debts due to the Finance Company by the Hire Company would be irrecoverable.

It remains for me to deal with Mr. Patterson's final submission. He submitted that even if this Court was unwilling to accept that as the evidence presently stands, the conditional agreements entered into between the T.V. Company and the Hire Company were not customary hire purchase agreements within the meaning of s.2(3) of

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In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

the Chattels Transfer Act 1931 either because:
(a) they were shams; or (b), alternatively, they
fall within s.2(5) of the Act as agreements
between a wholesale dealer and a retail dealer;
or (c), alternatively, they contravened
Regulation 3 of the Hire Purchase and Credit
Sales Stabilisation Regulations 1957 and are
illegal and void, yet there was at least
sufficient doubt in the matter to entitle the
appellants to the dismissal of the petitions
on the ground that a winding up order will
not be made on a creditor's petition raised
upon a disputed debt. The way the submission
is framed in my opinion rather overstates the
position. It is clearly not sufficient for the
appellant companies to say that they dispute
the debt; they must show some reasonable ground
for doing so: see In re London and Paris Banking
Corporation (1874) L.R. Eq. 444, per Sir George
Jessel M.R. page 447. In Niger Merchants Company
v. Capper reported as a footnote in (1881) 1 Ch.
D. 557, 559, this same Judge seems to have
expressed the opinion that where a company is
insolvent it is reasonable to wind up the company
even where the debt is disputed. This was the
view expressed by Johnston J. too in In re a
Private Company (1935) N.Z.L.R. 120, but apart
from the statement of Sir George Jessel there is
little authority to support the view he expressed.
For after all it is of the essence of a right
by a particular creditor to present a petition
that he should show himself to be a creditor and
if the debt is in dispute it cannot be predicted
that he is creditor. I am inclined then to think
that the better view was expressed in the recent
case of Mann v. Goldstein (1968) 2 All E.R. 769,
where Ungood-Thomas J., after citing the opinion
of Sir George Jessel M.R. in the Niger Merchants
Company case, said (p.772):

"The statement, however, is tentatively phrased
in an apparently unreserved judgment, unreported
at the time, in the early period of the
development of the jurisdiction, and, so far
as I know, stands alone. Naturally judges have
referred, with due regard to the facts of the
particular cases before them, to a company's
solvency or insolvency, as the case might be,
as emphasising the desirability of the dismissal
of an application to restrain winding-up
proceedings or of granting an injunction to

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

restrain such proceedings, as the case might be. There is no authority, however, so far as I have been able to ascertain, to support the suggestion that a company might be wound up on a creditor's petition where the company is insolvent, though the debt on which the petition is founded is disputed. It seems to me to be neither in accordance with the requirements of the Companies Act nor the practice recognised by Lord Greene M.R. and I do not consider it justifiable to treat Sir George Jessel M.R.'s observations as other than the incidental and tentative observation which it appears to me to be."

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For myself I am prepared to accept the view expressed by Ungood-Thomas J. that even if it be shown that a company is insolvent in that it is unable to pay all its just debts nevertheless if the petitioning creditor's debt is disputed on substantial grounds the usual course would be to adjourn the petition or in some circumstances dismiss it. In my opinion, however, while that is the general rule it is not as rigid a rule as Mr. Patterson suggested. There are cases where the Court has thought it right to decide a legal question on the hearing of the petition. An example is Re Imperial Silver Quarries Company Limited (1868) 16 W.R. 1220, where Malins V.C. said this (p.1221):

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"It is against the principles of this Court to wind up a company either (1) upon a disputed debt, or (2) if it is clear that on the debt being established it will be paid. But as to the first point, the dispute must be one in which the Court feels that there is substance, so that it cannot be decided on an interlocutory application.... Here the company admit the debt itself, but say that it is only payable out of profits; and even that defence is not set up till after the presentation of the petition. Under the circumstances, I do not think this so substantial a dispute that it ought to be referred elsewhere, and I intend to decide it now."

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Again in In re Great Britain Mutual Life Assurance

Society (1880) 16 Ch. 246, Jessel M.R. said (p.253):

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

North P.
(continued)

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"But the Petitioner, by anticipation, has produced evidence - very strong evidence if not met - to shew that the representation made as to the sobriety of the assured was correct. That has not been met at present by any evidence at all, and in my opinion it is not sufficient for the Respondents, upon a petition of this kind, to say, "We dispute the claim". They must bring forward a prima facie case which satisfies the Court that there is something which ought to be tried, either before the Court itself, or in an action, or by some other proceedings."

Another case to the same effect is In re King's Cross Industrial Dwellings Company (1870) 11 L.R. Eq. 149, where Sir R. Malins V.C. said (p.151):

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"It is said that this is a bona fide question, whether there is or not a debt of the company; but, in my opinion, the Court is bound in such a case to see that the question is a substantial one before directing an action to be brought. I entertain no doubt that this is a debt of the company, and I should be doing the greatest possible injustice if I allowed any further litigation. "

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A more recent case is In re Russian and English Bank (1932) 1 Ch. 663, where Bennett J. in quite different circumstances than obtain here refused to apply the general rule. In my opinion even if there be a general rule as claimed by Mr. Patterson that in a case of a disputed debt the Court usually either adjourns or dismisses the petition and requires the creditor to establish his debt by a writ of summons in the ordinary way, there are a number of reasons which have caused me to think it right that these three matters should be disposed of by this Court on the present appeal. To begin with in the Court below counsel for the two debtor companies made no application in this direction. The hearing of the petition occupied a number of days, a considerable body of viva voce evidence was called and the unusual step was taken

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In the
Court of
Appeal of
New Zealand

—
No.15

Judgment
8th May 1969

North P.
(Continued)

of obtaining full discovery and inspection of all documents in the possession of the respondent. In these circumstances, in my opinion, it would be quite contrary to the interests of justice if at this late stage the respondent was denied the relief it seeks and was obliged to embark on new and no doubt lengthy proceedings. Adopting if I may the words of Sir R. Malins V.C. in one of the cases I have cited: "I should be doing the greatest possible injustice if I allowed any further litigation". The allegation of sham was not raised in the Court below although the counsel for the two debtor companies had every opportunity to question the witnesses on this topic. For the reasons I have given I am satisfied that there is no substance in this allegation.

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So far as the other two defences are concerned they largely raised questions of law which require to be determined on the documents before the Court. We have all the necessary information to decide both these questions. For the reasons I have given I am satisfied that both these contentions, too, fail.

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This being the view I take, I am of opinion that these appeals should be dismissed.

The Court being unanimously of that opinion the two appeals accordingly are dismissed with costs to the respondent \$500.00 and all proper disbursements.

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Solicitor for the Appellants:

J.R.B. Menzies Esquire, CHRISTCHURCH

Solicitors for the Respondent:

A.H. Cavell, Leitch & Pringle, CHRISTCHURCH

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TURNER J.

JUDGMENT OF TURNER J.

These are appeals by two companies, Bateman Television Ltd. and Bateman T.V. Hire Ltd., against whom orders for winding-up by the Court were made by Macarthur J., sitting at Christchurch, on

creditors' petitions presented by the same party in each case, viz. Coleridge Finance Co. Ltd. The transactions traversed in the evidence were finance transactions, and one of the principal matters for consideration is whether, and how far, these transactions were money-lending transactions and on this account void inter partes for the reasons set up by appellant companies. It will be convenient to refer to the three companies as "the TV Company", "the Hire Company" and "the Finance Company" respectively. The TV Company and the Hire Company were two of a group of companies known as the Bateman Group, as is also a third company which figures in the narrative which I am about to relate, viz. Star T.V. Ltd. The TV Company and the Hire Company have identical shareholdings and directors. The TV Company was engaged in Christchurch in the business of selling TV sets to the public by way of outright sale and by way of sale on hire-purchase; the Hire Company confined its business exclusively to the hire of TV sets to the public. Neither company manufactured sets, and those sets which it sold or hired were made by various manufacturers outside the Bateman Group.

In each of the cases before us the ground on which the petition to wind up was presented, and prosecuted in the Court below, was that provided by section 217 (e) of the Companies Act 1955 - that the company is unable to pay its debts. The ground furnished by section 217 (f) - that it is just and equitable that the company should be wound up - was not put forward on either petition, and Mr. Mahon conceded before us that it was not relied upon before Macarthur J. He is consequently precluded, in my opinion, from relying upon this ground in this Court as one on which Macarthur J's order could if necessary be sustained, for the factual basis upon which such a submission might have been made has been insufficiently investigated.

Section 218 lays down rules for the guidance of the Court when considering whether a company is to be deemed to be unable to pay its debts. That section provides:

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

Turner J.
(continued)

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

Turner J.
(continued)

"A company shall be deemed to be unable to pay its debts -

(a) If a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving it at the registered office of the company, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; or

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(b) If execution or other process issued on a judgment, decree, or order of any Court in favour of a creditor of the company is returned unsatisfied in whole or in part; or

(c) If it is proved to the satisfaction of the Court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company."

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In this case there is no question of any judgment having been obtained against either of the appellant companies by the Finance Company. Subsection (b) therefore has no application. But it was submitted before Macarthur J. and again before us that the tests provided by subsections (a) and (c) were satisfied on the facts.

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I will for the moment pass over the argument as to liability, and as to quantum of liability, for the debt alleged against each company. I will treat these for the moment as established and will return to these questions later. Assuming liability and quantum as for the moment satisfactorily proved, I will first consider whether the Finance Company is in this case to be regarded as having given a sufficient notice pursuant to Section 218 (a). In the case of the TV Company the debt alleged in the petition was \$8704.46 and in the case of the Hire Company it was

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10 \$166,354.54. In each case a notice, conceded to be sufficient in all other respects, was duly served upon the debtor company requiring payment in terms of section 218 (a); and it is acknowledged that if the notice was sufficient the debtor company in each case thereafter neglect to pay or secure in terms of the subsection. The sole point in respect of which it was submitted to Macarthur J. that the notice was insufficient was that each notice was signed by the solicitor for the company. The notice was typed in form, and at the foot or end it contained in type the words:

"COLERIDGE FINANCE COMPANY LIMITED
by its Solicitor and authorised agent:"

20 To this the solicitor for the Finance Company, Mr. A.D. Holland, added in his own handwriting the signature "Wynn Williams & Co. A.D.Holland". It was submitted to Macarthur J. for the debtor companies - and he accepted the submission - that this was an insufficient execution of the notices.

30 It will be remembered from the text of the subsection which has been cited above that what is required is the service by the creditor of a "demand under his hand". Macarthur J., acknowledging that while listening to the argument he had formed a preliminary view that the notice signed by Mr. Holland was sufficient, on second thoughts upheld the submission made for the debtor companies. He seems to have been particularly influenced by the fact that section 222 of the Australian Companies Act 1961 contains a provision, on the same point, that

"a demand under his hand or under the hand of his agent thereunto lawfully authorised"

40 is sufficiently executed. Having listened to the argument of Counsel on both sides in this Court I am satisfied that Macarthur J. was unduly influenced by the words of this Australian provision, which seemed to me to be irrelevant to the point under discussion. I find myself completely unpersuaded that the extra words in the Australian section were not included by the

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

Turner J.
(continued)

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

Turner J.
(continued)

draftsman purely ex abundantia cautelae. It is plain that the words "under his hand" in section 218 (a) cannot apply literally to a company, which has no hands, and that if a company is able at all to take advantage of the procedure specified in the subsection it can do so only by virtue of a notice under the seal of the Company or signed by some real person, an officer or other agent of the company itself. For myself I am of the opinion that in the case of a real person who is a creditor it is sufficient if, for instance, his duly appointed attorney executes the notice; and indeed that the words of the subsection are apt to include a notice under the hand of any agent sufficiently shown to have authority from the creditor company to sign the same. One of the cases cited by Macarthur J. in his judgment - but in a different statutory context - seems to me indeed to go some distance towards confirming the opinion which I have formed - In re Diptford Parish Lands (1934) Ch. 151. By Section 11 of the Charitable Trusts Act 1869 it was provided that a petition should not be presented to the Court of Chancery before the expiration of 21 days after written notice "under the hand of the appellant" had been served on the Attorney-General. The appellants in the particular case did not sign the notice, but it was signed by their solicitors on their behalf. Luxmoore J., before whom the matter came, did not find it necessary expressly to decide the point, as he had already disposed of the appeal against the petitioners on another question; but he thought it desirable to give his opinion upon it and at page 161 he said:

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"It is convenient that I should deal with the second point, as it has been raised. It was also said that the petition was not properly presented, because the notice, which is a condition precedent to the presentation of the petition, was not under the hands of the appellants. I do not think that it would be correct to read s. 11 of the Act of 1869 as requiring actual physical signature by an appellant. I think it is quite sufficient if an appellant signs the notice by his duly authorised agent. There might be reasons which made it impossible for a person to sign, or even to make his mark. The appellant in the present case is a

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Parochial Church Council. How can such a body sign under its own hand? I think there is no substance in the second objection."

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

Turner J.
(continued)

- For myself I would respectfully approve and follow what Luxmoore J. said obiter and in a different context, and I am prepared to hold that Macarthur J. was wrong when he held that the notices given by the Finance Company to the two appellant companies were insufficiently executed. In my
10 opinion the notices were sufficient; and it follows that if the liability of the appellant companies to the Finance Company and its quantum are sufficiently established, then the two appellant companies are both to be deemed to be unable to pay their debts. But in the Court below, and in this Court again, it was disputed for the TV Company and the Hire Company that these companies were liable to the Finance Company in the amounts claimed, or in any amount.
- 20 I will deal with the contentions made for each company separately, and will first consider the submission that no liability was established on the part of the Hire Company. It was argued that the transactions set up as the foundation of liability were in reality moneylending transactions, and that if this situation were accepted they were illegal and void for lack of the formalities prescribed by the Moneylenders Act. It was not disputed by Mr. Mahon, for the Finance Company, that if the
30 transactions were transactions governed by the Moneylenders Act the requisite formalities had not been complied with. But it was contended by him (and this submission was accepted in the Court below by the learned trial Judge) that the transactions were not caught by the Moneylenders Act at all. It was accepted that all the transactions whose totality was invoked in this proceeding to support a total indebtedness of £166,354.54 were essentially the same in nature, and that an examination of one
40 typical transaction would suffice to justify or invalidate all. In each case what happened - and there is no dispute as to the facts - was this. As often as the Hire Company required further stock - which was the case whenever it had let out on hire all or substantially all of its existing stock of sets - it was arranged that the TV Company should purchase from some manufacturer or wholesaler a number of television sets suitable for hire. The TV

In the
Court of
Appeal of
New Zealand

—
No.15

Judgment
8th May 1969

Turner J.
(continued)

Company purchased these in the ordinary way, then, from some manufacturer or wholesaler, being debited with the ordinary wholesale price, and paying in the usual manner against invoice or statement on the usual trade terms. The funds with which it paid were lent to it by the Finance Company. As and when the TV Company purchased the sets it disposed of them to the Hire Company under hire-purchase agreements which were drawn and treated by the parties in every way as customary hire-purchase agreements. The hire-purchase agreements thus obtained were not registered. They were then assigned by way of security to the Finance Company by the TV Company. The Hire Company, having possession of the sets, upon which it still owed the instalments to the TV Company under the hire-purchase agreements, was now able to let them out on hire to the public, from which it received payments for hire. With these it hoped to meet its liability to the TV Company under the hire-purchase agreements.

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It was first argued by Mr. Patterson that the form of a customary hire-purchase agreement and assignment adopted by the parties to these transactions was a "sham" and that the "reality" of the transactions was that of moneylending transactions requiring the formalities prescribed by the Moneylenders Act. I decline to accept this submission, which I think involves a misconception of the meaning of the word "sham". I think that the occasions on which courts have set aside the form of a transaction as a "sham" are confined to cases in which, really doing one thing, the parties have resorted to a form which does not fit the facts in order to deceive some third person, often the revenue authorities, into the belief that they were doing something else. Thus where in a lease both parties prescribe a rent in excess of what is really to be paid, so as to deceive those who collect taxes as to the quantum of a deduction to be allowed, this is a sham; but I cannot agree that the term is applicable to the form of a transaction into which the parties are legally at liberty to enter, and into which they do in fact enter, if what they do is simply to prefer this form of transaction to some other into which they might have entered, but did not. I accept therefore the form of the transaction here

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appearing as indicating the true nature of that into which the parties in fact and in law entered; and unless they were incapable of entering into such a transaction their liability to each other must be determined upon the basis of the documents which they signed.

In the
Court of
Appeal of
New Zealand

—
No.15

Judgment
8th May 1969

Turner J.
(continued)

10 But it is said that the document into which the TV Company and the Hire Company entered as security for the purchase price as between these parties was not a "customary hire-purchase agreement" at all. The significance of this submission is, of course, to be found in section 2(3) of the Chattels Transfer Amendment Act 1931; for if the agreement is not a customary hire-purchase agreement the transaction loses the statutory exemption from the provisions of the Money-lenders Act given by that section.

20 It therefore becomes necessary to examine with some care Mr. Patterson's submission that the documents are not customary hire-purchase agreements. Counsel based this submission on the text of section 16 of the Statutes Amendment Act 1931 and section 23 of the Chattels Transfer Act 1924. The former of the two sections provides:

30 "The provisions of section twenty-three of the Chattels Transfer Act 1924 shall apply to customary hire purchase agreements as defined in section fifty-seven of that Act to the same extent as if such agreements were instruments within the meaning of that Act."

Section 23 of the Chattels Transfer Act 1924 provides:-

40 "Every instrument shall contain, or shall have endorsed thereon or annexed thereto, a schedule of the chattels comprised therein, and, save as is otherwise expressly provided by this Act, shall give a good title only to the chattels described in the said schedule, and shall be void to the extent and as against the persons mentioned in sections eighteen and nineteen hereof in respect of any chattels not so described."

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

Turner J.
(continued)

Mr. Patterson contended that the effect of these two provisions, read together, was to exclude any document from the definition of a customary hire-purchase agreement which does not contain a schedule of chattels sufficient for their satisfactory identification. I unhesitatingly reject this submission. What the sections do is to require every customary hire-purchase agreement to contain such a schedule, and to provide that if it does not the result may be to strip the vendor of his title as against the persons mentioned in sections 18 and 19 of the Act; not to disqualify the agreement from being regarded as a customary hire-purchase agreement, but merely to deprive it of part of its effect as such. In my opinion it remains a customary hire-purchase agreement so long as it complies with the requirements of section 2 (3) of the Chattels Amendment Act 1931. These agreements comply with those requirements, and I therefore reject Mr. Patterson's submission.

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But the matter does not end there. Mr. Patterson submitted, as an independent ground of appeal, that notwithstanding that his first submission might be rejected, the hire-purchase agreements into which the TV Company and the Hire Company entered failed to qualify as customary hire-purchase agreements under the statutory definition, on the second and independent ground that they were agreements between a whole-sale dealer (the TV Company) and a retail dealer (the Hire Company) and therefore by virtue of section 2 (5) of the Chattels Transfer Amendment Act 1931 deprived of the status of customary hire-purchase agreements, with of course the same consequences as regards the Moneylenders Act as followed from his first submission.

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Section 2 (5) of the Chattels Transfer Amendment Act 1931 provides:

"An agreement in relation to customary chattels, made between the manufacturer of or a wholesale dealer in such chattels or a finance corporation and a retail dealer in such chattels, by which possession of the chattels is given to such dealer, shall not be deemed to be a customary hire purchase agreement."

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It is to be remembered that the agreements in question were made between the TV Company as conditional vendor and the Hire Company as conditional purchaser. The TV Company was certainly not a manufacturer; nor was it a finance corporation. The question is therefore whether the agreement between these parties was one "between a wholesale dealer in customary chattels . . . and a retail dealer" in them. I do not think that it was such an agreement. I might have been brought to the conclusion, if the Hire Company had been selling the sets retail to individual members of the public, that the TV Company had acquired them at wholesale rates from the manufacturer and had then sold them to a "retail dealer". Before I so concluded I would probably have required to know more than we have been told about the status of the TV Company; I feel unable on the evidence as it stands to come to a thoroughly satisfactory final conclusion that at the material times that company was a "wholesale dealer". I am confident, however, that the Hire Company was not a "retail dealer" in the sets. Its business is conceded to have been exclusively the hire of sets, and this business did not include even the conditional sale of sets, or their disposal by way of hire-purchase under hire-purchase agreements. It did nothing more than hire out sets, the property in which it never relinquished or agreed to relinquish. I cannot accept the submission that such a business is the business of a "retail dealer". This term to my mind necessarily involves the idea of sale to members of the public, and I think that the context of the words in the subsection 5 of section 2 thoroughly supports this view. I am prepared therefore to hold that the subsection is not applicable to the agreements before us, and does not avail to deprive the agreements of their status as customary hire-purchase agreements.

Mr. Patterson's final submission as to the validity of the agreements between the TV Company and the Hire Company was based upon the provisions of the Hire Purchase and Credit Sales Stabilisation Regulations 1957. He submitted that the agreements were void by

In the
Court of
Appeal of
New Zealand

No. 15

Judgment
8th May 1969

Turner J.
(continued)

In the
Court of
Appeal of
New Zealand

No.15
Judgment
8th May 1969

Turner J.
(continued)

virtue of regulation 10 of those Regulations
in that

- (a) The agreements did not provide for the deposit specified in Regulation 6 and
- (b) The cash price of the chattels dealt with was not set forth in the agreement as required by paragraph 2 of the First Schedule to the Regulations.

I reject the first of these submissions on the ground that the agreements appear to provide for deposits complying with the Regulations, and the evidence, such as it is, that these deposits were not in fact paid is quite unsatisfactory. The second of the submissions is more serious, however; and but for the defence to it which I shall presently mention I would for myself have been inclined to regard this submission as fatal to the agreements, which do not appear to me to comply with the plain requirements of paragraph 2 of the First Schedule. But it was said by Mr. Mahon in reply to the submission that the Regulations as a whole have no application to the transaction before us, because of Regulation (2) (3) which provides:

"Nothing in these Regulations shall apply in respect of or in connection with the purchase or sale or disposal of any goods -

(a) otherwise than at retail . . ."

I have previously observed, in dealing with an earlier submission of Mr. Patterson, that the transaction between the TV Company and the Hire Company might possibly have been regarded as one between a wholesale dealer and a retail dealer (and therefore as a wholesale transaction) but for the fact that I would not accept the submission that the Hire Company was a "retail dealer". But whether this is so or not I have not the slightest doubt that this transaction was not a transaction "at retail". If I had to choose whether it was a "wholesale" or a "retail" transaction I must choose "wholesale"; not that this choice is necessary, for I do not accept that there is no tertium quid, and that all transactions are either wholesale or else

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retail. But if I were faced with this choice, then I would have to hold that this transaction was wholesale rather than retail. I accept Mr. Mahon's defence to Mr. Patterson's submission and I reject the latter.

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

Turner J.
(continued)

10 The effect of what I have so far written is that the transactions evidenced by the agreements between the TV Company and the Hire Company are valid, and are not vitiated by the provisions either of the Moneylenders Act or of the Regulations No. 1967/192. I understood it to follow by concession that the Hire Company owed the Finance Company the amount of \$166,354.54 as claimed, or some lesser sum of much the same order. It therefore follows that it is shown to be indebted in a sum exceeding \$100 to the Finance Company. I have already held that the notice requiring it to pay the sum set up in these proceedings as due was a good notice; and nothing turns on the point that the amount set forth in the notice may not be the precise amount owing, for it was not contested that the rule in Re Tweed's Garage Ltd. 1962 1 All E.R. 121 must apply to cure this objection. I am therefore of opinion, for the reasons which I have given, that the provisions of section 218(a) dispose of this appeal as against the Hire Company, and that its appeal should be dismissed accordingly.

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30 It has been convenient to consider first the case of the application to wind up the Hire Company, leaving the application against the TV Company for subsequent consideration. This company does not directly set up in its own favour, as against the Finance Company, any of the arguments advanced by the Hire Company as to the submitted invalidity of the transactions on which the Finance Company's claim is based. What is said for the TV Company is simply

40 that although that company at one stage owed the Finance Company the amounts the total of which is set out in the pleadings of this appeal is \$8704.40, yet because of sundry payments and cross-payments it is impossible to say at this stage that that particular sum or any of it is now owing. Mr. Patterson cited the recent decision of Ungood-Thomas J. in Mann v. Goldstein 1968 2 All E.R. 769 and contended that the proper course, in the event of the bona fide dispute as

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

Turner J.
(continued)

to the existence of a debt by virtue of which the Finance Company would rank as a "creditor", was not to determine the question of liability in such proceedings as these, but to adjourn the petition and direct an action to be instituted between the parties. I reject this submission, for two inter-connected reasons. First, the application is too late; it might have commended itself to Macarthur J. in the Court below, but it was not made to him. When the petitions were brought on before Macarthur J., appellant companies were well content to submit their case upon them to him, and an elaborate hearing resulted, complete with discovery and inspection, lengthy viva voce evidence being taken. And it is interesting to notice that the principal defence advanced before Macarthur J. seems to have been, not that submitted to us by Mr. Patterson, but the quite different one that the debt had been compounded by an agreement to give and take a debenture. This defence was rejected on the facts by Macarthur J.; and for it, in this Court, was substituted the defence that the debt was not satisfactorily proved - a defence which had been taken only half-heartedly, if at all, in the Court below. It is now, in my opinion, too late, in these circumstances, for appellant company to attempt to change its ground and to suggest that the order made by Macarthur J. should be vacated in order to enable all the matters in dispute to be retried in a separate action still to be instituted. The President has cited a number of cases in which it was held that the question of liability may, if it be thought just, be decided in liquidation proceedings. I agree with what he has said. The second and inter-connected point is this. Once the debt is prima facie proved, as it has been proved here, it must fall upon the debtor to show that any payments made between the parties since the relevant date have been properly appropriated towards the debt by either creditor or debtor. In this case, though the debtor had every opportunity to lead satisfactory evidence in this regard, if it could, the evidence which is advanced was vague and unsatisfactory in the extreme. The accountant who had charge of the matter for the debtor was not even called as a witness, the principal witness for the TV Company being the company's solicitor,

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whose evidence as to matters of account was vague and secondhand to the point of being almost valueless. The TV Company must now accept the consequence of failing to accept the responsibility of proving facts necessary to sustain the defence now advanced. That consequence in my opinion must be that, failing proof to the contrary, the debts prima facie proved by the Finance Company to have been due must be deemed still owing at the date of the proceedings. Once this conclusion is reached, the rest of Mr. Patterson's argument, as to the validity of the notice given and the presumption that the company is unable to pay its debts, goes against the TV Company almost by default, by the same process as has availed against the Hire Company. I am therefore of opinion that the TV Company's appeal must also be dismissed.

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20 Solicitors for Appellants: J. R. B. Menzies
CHRISTCHURCH

Solicitors for the Respondent: A. H. Cavell,
Leitch & Pringle,
CHRISTCHURCH

JUDGMENT OF MCCARTHY J.

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The appellants are two of a group of companies with common shareholders and directors, engaged in television and allied business in Canterbury. They were collectively referred to during argument as "the Bateman Group". The respondent is a finance company also operating in Canterbury.

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In September last, the respondent lodged petitions in the Supreme Court at Christchurch for the winding-up by the Court of the two appellants. It alleged that the first-named appellant, called by counsel "the Television Company" was (a) indebted to it in the sum of \$8704.46 which it had failed and neglected to pay upon application for payment being made in terms of s.218 (a) of the Companies Act; (b) was insolvent and unable to pay its debts.

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

Turner J.
(continued)

MCCARTHY J.

In the
Court of
Appeal of
New Zealand

—
No.15

Judgment
8th May 1969

McCarthy J.
(continued)

A further allegation that it was just and equitable that the company should be wound up was also included but no reliance was placed on that ground at any time and it may be disregarded. The allegations in respect of the second-named appellant, referred to as "the Hire Company", were similar, except that in this instance the debt alleged was \$166,354.54, an amount which the evidence showed was climbing rapidly with the result that by the time the petition came for hearing at the end of November, it had reached \$247,300.54. These two petitions and another lodged by the respondent for a winding-up order in respect of another member of the Bateman Group, Star T.V. Ltd., came for hearing before Macarthur J. and were heard over a period of five days, from 27th November to 10th December, 1968, an oral judgment being delivered by the Judge on 12th December in which he dismissed the petition against Star T.V. Ltd. but made winding-up orders on those applying to the two appellants. The present appeals are against those two winding-up orders. There is no cross appeal by the respondent in respect of the learned Judge's rejection of the petition against Star T.V. Ltd.

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At the hearing before Macarthur J. the appellants were represented by Mr. K. A. Gough of Christchurch. In this Court they were represented by different counsel. As there appeared to be a number of differences between the way the defence was conducted by Mr. Gough in the Supreme Court and the submissions made by appellants' counsel in this Court, it is important, I think, to state, if only briefly, the grounds upon which Mr. Gough took his stand. The first related to the notices given pursuant to s.218 of the Companies Act 1955, demanding payment. It was argued that this section required the personal signature of the creditor to the notice, and as these particular notices were signed by the creditor's solicitor as authorised agent, they were invalid. The second was that the debt alleged to be owing by the Television Company (\$8704.46) was a disputed debt. The third, and this seems to have been one of the two main planks of the defence, was that some time previously a binding agreement had been

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arrived at between the parties whereby the debts owing were to be secured by a debenture with the result that the debts were no longer immediately payable. The fourth and other important plank was that the debtor companies were not liable because the debts were irrecoverable, being rendered so by the Moneylenders Act 1908.

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

McCarthy J.
(continued)

10 To deal with these issues, the proceedings were allowed to take a course closer to that of an action on a writ of summons than that usually followed in a winding-up petition. There were the normal affidavits in support, but there was far more than that. In particular the appellants obtained discovery and inspection of the respondent's accounting system, and when the petitions came to court, extensive oral evidence was called for each side and there was lengthy cross-examination. Indeed, as I have
20 already said, the hearing extended over several days. In his oral decision, Macarthur J. upheld the appellants' objection to the form of the notice, and as there was no evidence aliunde that Star T.V. Ltd. was unable to pay its debts, dismissed the petition against that company; but insofar as the two appellant companies were concerned, he was satisfied that there was "ample evidence that those companies were unable to pay their debts" and, putting
30 aside in the meantime the two defences based on the alleged arrangement for a debenture and the effect of the Moneylenders Act, were "insolvent and unable to pay their debts". He then discussed those two defences, and having held against the appellants on each of them made the winding-up orders.

40 Mr. Patterson in this Court did not repeat the submission that there had been an arrangement for a debenture. He accepted the Supreme Court's view of that matter. But he did make six separate submissions of varying relation to but not identical with Mr. Gough's other points. I propose to say something of each of these.

The first submission was that the notices were ineffectual because they were signed by the creditor's solicitor as authorised agent,

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1968

McCarthy J.
(continued)

whereas the statute, s.218 (a) of the Companies Act 1955, required the personal signature of the creditor, this because of the words "under his hand" in the section. This particular question has been discussed at some lengths by the President and my brother Turner. I agree with their conclusion and their view of the authorities and I think it unnecessary to repeat them. If I had any doubt which I have not, I would lean strongly in favour of the efficacy of an agent's signature. The practical advantages of that view of the situation are obvious and in a procedural matter such as this are entitled to weight.

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Mr. Patterson's second submission related only to the petition against the Television Company. It was, in broad terms, that it was not clear that \$8704.46 was owing. It is at this point that I must explain the different activities of the two appellant companies. The Television Company was purely a selling organisation, it bought television equipment from manufacturers and sold. Its main customer was the Hire Company which bought from it under what was claimed to be customary hire purchase agreements. The Hire Company, on the other hand, did not sell. It let out television equipment on short and long term hirings. Should a hirer wish to purchase a set which he had had on hire, that set was sold him by the Television Company, not by the Hire Company, and he entered into an appropriate agreement with the former company. In order to finance these arrangements, the hire purchase agreements were assigned by way of mortgage by the Television Company to the respondent, who, as it seems is now common practice in this class of financing, took over the collection of the instalments payable by the conditional purchasers under the agreements, the amount advanced by the respondent to the Television Company being generally, if not always, equal to the balance of the instalments payable under the agreement. Assignments were effected not only of agreements relating to equipment sold to the general purchasing public, but also that sold to the Hire Company. Now the debated amount \$8704.46, was said by the respondent to be the total of a number of deficiencies on repossession effected by the respondent under its assignments,

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deficiencies arrived at after credits had been given for the appropriate amounts required to be credited as a result of repossession. Mr. Patterson's point here was that there had been insufficient accounting to his client in respect of all the dealings between the Television Company and the respondent, that having regard to the substantial amounts which had been paid by the two companies to the respondent over the past 12 months, a sum of something like \$74,000, it was by no means certain that the amount claimed was outstanding, and that there being this objection to the quantum of the debt, the Supreme Court should not have ordered a winding-up but should instead have required the respondent to establish its debt by action on a writ.

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

McCarthy J.
(continued)

It is true that, normally speaking, the procedure of petition for a winding-up order is not a satisfactory one to dispose of the question whether a particular debt is or is not owing; but there is authority, and not a little of it, to the effect that though there may be a bona fide dispute concerning the precise indebtedness of the debtor, if it is patent that there is sufficient owing to found a petition and that the company is insolvent, an order will be made. A recent illustration of this proposition is In re Tweed's Garages Ltd. 1962 Ch. 406. The proposition should not, however, be taken too far, and, generally speaking, I share the President's view that if there is a bona fide substantial challenge to the debt the better course is to require establishment by action in the normal way. A fortiori, when the challenge is to the whole amount: Mann v. Goldstein 1968 2 All E.R. 769.

I am satisfied, however, that in the present instance the course taken by Macarthur J. cannot now be said to be wrong. First, because the appellants made no request to the Court below for a direction that proceedings be taken by writ. Had they made such a request, I have no doubt that Macarthur J. would have entertained it sympathetically. Second, one cannot disregard the fact that the proceedings in the Court below assumed in their course very much of the character

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

McCarthy J.
(continued)

of an action on a writ. There was, it will be remembered, discovery, inspection, the calling of witnesses and extensive cross-examination. I doubt whether the appellants could have got a great deal more had Macarthur J. directed action by writ. And so I take the view that it is now too late for Mr. Patterson to raise this objection.

In any event on an overall view of this case I am not at all satisfied that the appellants have, setting aside for a moment the legal questions which I shall discuss later, a bona fide substantial defence to the claim. I say this because it seems reasonably clear that of the figure of \$74,000 quoted by Mr. Patterson, almost the whole, if not the whole, was paid by the Hire Company to the respondent, and so affected barely, if at all, the amount of the debt of \$8704.46 of the Television Company. When he came to deal with that debt specifically, all Mr. Patterson could say was that his clients were not satisfied that the figure was correct; perhaps sufficient had not been credited when repossessions were made. But this objection is hardly sustainable in this Court. The respondent gave the public accountant employed by the Television Company access to its records relating to these repossessions. If he received inadequate information or if he found anything wrong with the figures, he should have been called. But as I have already pointed out, he was not. In these circumstances, Macarthur J. was satisfied that there was sufficient proof of a debt large enough to support a petition. I would not disagree with that.

Mr. Patterson's third submission was that the conditional purchase agreements between the Television Company and the Hire Company were not valid customary hire purchase agreements within the meaning of s.2 (3) of the Chattels Transfer Amendment Act 1931 because -

- (a) They were shams got up by the parties in a vain attempt to disguise moneylending transactions as dealings in customary chattels
- (b) Alternatively, if not shams, they fell within s.2 (5) as agreements between a wholesale

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dealer (the Television Company) and a retail dealer (the Hire Company)

- (c) Again alternatively, they contravened regulation 3 of the Hire Purchase and Credit Sales Stabilisation Regulations 1957 and were therefore illegal and void

These require separate consideration.

10 He took us through a detailed analysis of the dealings between the parties with the object of convincing the Court that the set up of the two separate companies, the Television and the Hire Companies, was designed so that finance could be provided by a finance organisation which was not registered as a moneylender but which sought to charge rates of interest which ordinarily would bring such financing within the operation of the moneylending legislation. In order to avoid the penalties of that legislation and still obtain the desired rates of interest, such a finance company could advance only against customary hire purchase agreements, for s.2(3) of the 1931 Act expressly excludes assignments of such agreements from the strictures of the Moneylending Act 1908. Mr. Patterson's point then was that the transactions were not in truth dealings in customary chattels, but were moneylending transactions deliberately concealed by the facade of the structure of the two separate companies. They were, in his view, straight out loans to the Hire Company to provide it with funds to carry out its operations of hiring. Therefore, he argued, they were money-lending transactions.

40 I was unconvinced by this analysis and submission. The two companies were legally constituted entities. One should assume, until the contrary is proved, that they were incorporated for legitimate commercial purposes. I agree that between themselves in their accounting systems there was an absence of accounting patterns which one might have expected their individual identities to call for, but that may have been due to their having common shareholders and directors, and it seems to me to fall short by a long way of establishing that the arrangement

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

McCarthy J.
(continued)

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

McCarthy J.
(continued)

was a sham entitling the Court to disregard form and find something else underneath. Of course, the Court does on occasions go behind form and seek substance. Especially is that so when it is concerned with a prosecution for a breach of a statutory provision. Cash Order Purchases Ltd. v. Brady 1952 N.Z.L.R. 898. But in all cases, and emphatically so when a litigant cries sham in an attempt to avoid the repayment of money which it has borrowed, there must be evidence on which it is proper for the Court to act. If that proposition needs authority I would adopt what was said by Branson J. in Olds Discount Co. Ltd. v. Playfair Ltd. 1938 3 All E.R. 275. See also Metropolitan Discounts and Investments Co. Ltd. v. Bowra Radio and Electrical Co. Ltd. (in liquidation) (1944) 18 A.L.J. 88. Diplock L.J. in Snook v. London and West Riding Investments Ltd. 1967 2 Q.B. 786 said, and I respectfully concur, that whatever else is accepted as being involved in the concept of a sham one thing is clear in legal principle, morality and authority, namely that for acts or documents to be a sham all the parties thereto must have a common intention that the acts or documents are not to create legal rights and obligations which they give the appearance of creating. I see no evidence in the present case that the parties had that intention. I think the proper deduction from their conduct is to the contrary.

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There is another aspect of this submission which I might at this point discuss. It is that the description in a number of these documents was so inadequate that the particular goods intended to be covered by the agreement could not be identified. This raises in part at least a question of fact, one not raised in the Court below. I do consider, that in some instances, the descriptions are inadequate. There is no evidence, however, that this criticism is applicable to those agreements under which the repossession were effected and out of which the amount claimed from the Television Company arises. So it does not affect the order in respect of that company. So far as the Hire Company is concerned, even if I were to assume that some of the agreements were unenforceable against it for this particular reason, the amount owing is still

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so substantial that the company is nonetheless hopelessly insolvent, unless, of course, the legal defences raised in this case are upheld. I should point out, in this connection, that in neither of the two appellate companies have the shareholders invested any money at all. The issued capital of the Television Company is 1,000 £1 Shares, but that is wholly uncalled. The capital of the Hire Company is 100 £1 shares, again all uncalled. Of course if it is established that the amounts owing to the respondent are irrecoverable, the shareholders obtain a bonanza without putting up any capital. From their point of view, no doubt, an attractive proposition.

In the
Court of
Appeal of
New Zealand

—
No.15

Judgment
8th May 1969

McCarthy J.
(continued)

The next subdivision of Mr. Patterson's third submission raises his contention that the Television Company was a "wholesale" dealer and the Hire Company a "retail" dealer within the terms of the Chattels Transfer Amendment Act 1931. If that were the position, then having regard to s.2(5) the agreements will not be deemed to be customary hire purchase agreements. His argument ran this way: In relation to the transactions between the Television Company and the Hire Company the former must be seen as a wholesale dealer and the latter as a retail dealer for there is no tertium quid. The Hire Company whilst it did not sell sets, dealt with them at the retail level and thus came within the broad scope of the dictionary definition of the term "dealer" because it hired, and of "retail dealer" because its dealings were with the general public. The Television Company was a wholesale dealer because it sold in quantities to a dealer who in turn dealt with the public.

This is all very well, but in order to ascertain the meaning of the words "retail dealer" as appearing in s.2 we must consider the purpose of the words in the particular legislation. As I understand that legislation, the object of the introduction of the provisions relating to customary hire purchase agreements, first introduced by s.57 of the 1924 Act, was to avoid the necessity for registration of documents effecting sales of chattels suitable for sale by hire purchase. Lest this led to too great a

In the
Court of
Appeal of
New Zealand

—
No.15

Judgment
8th May 1969

McCarthy J.
(continued)

laxity, the Legislature limited the classes of chattels which might be the subject of customary hire purchase agreements, to those listed in the Schedule to the Act. Moreover, the seller had to be some one engaged in the trade of selling or disposing of those particular chattels. But events proved that unregistered dispositions of chattels by hire purchase agreements between manufacturers or wholesalers, on the one hand, and retailers, on the other, could lead to danger to the public because a purchaser from a retail dealer might find later that the article purchased was not owned by the retailer but merely held under a hire purchase document with the property in the article remaining in a manufacturer or wholesaler. Thus the general public did not receive sufficient protection. To give that protection, certain amendments were introduced by the Amendment Act of 1931. They included the provision with which we are now concerned. I believe that the purpose of subs. (5) was to protect people purchasing from a retailer, and I think the key is to be found in the words of s.57. I do not consider that s.25 was intended to apply to situations such as the present. I prefer to think that a retail dealer for the purposes of subs. (5) must be one who does something more than hire out without transferring ownership. I would hold that it has not been established that the customary hire purchase agreements in this present case were affected by subs. (5).

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The third subdivision of submission 3 alleges a breach of Regulation 3 of the Hire Purchase and Credit Sales Stabilisation Regulations 1957. This regulation demands compliance with the First Schedule to the Regulations which in turn requires, inter alia, a statement in the agreement itself of the cash price of the goods and also the payment of a prescribed minimum deposit. The first observation to be made regarding this submission is that it was not raised in the Court below where it could have been investigated. Insofar as the matter of inadequate deposit is concerned this Court is in no position to investigate whether the appropriate deposits were paid in individual cases as would be necessary. I would dismiss that complaint out of hand. The other, namely that there was no

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adequate statement of the cash price in the agreements is capable of determination on the faces of the agreements. Mr. Mahon contends that the requirement is complied with because each agreement sets out, in its schedule, what it calls the "value" of the goods sold, and when that part of the agreement is read along with the earlier provisions which state the "terms price" (which is seen to be the value plus charges for insurance, interest, etc.) it is realised that "value" is equivalent to and means "cash price". I incline to the view that this may be so, but I must record my lack of sympathy for this slovenly form of drafting. Surely people engaged in these trades or their advisers should take the care to read the statute and use the specified terms. But whether the cash price is adequately stated or not in these agreements does not seem to me to matter for, as the President has pointed out in his judgment, the regulations apply to sales "at retail" only. On no basis so it seems to me can that term be applied to the dealings between the Television Company and the Hire Company.

Mr. Patterson's fourth submission was that if his third was accepted, then the debts claimed to arise in favour of the respondents out of the assignments by way of mortgage were illegal because they were not assignments of a hire purchase agreement, and consequently, having regard to the rates of interest charged, involved the respondent in the provisions of the Moneylenders Act 1908. This does not need discussion because I have rejected the third submission. I could add, however, that Mr. Mahon concedes that if the agreements were not customary hire purchase agreements, then this fourth submission should succeed.

Mr. Patterson's fifth submission, as I understand it, was merely a formal one and dependent upon our acceptance of his earlier submissions relating to the nature of the hire purchase agreements. As I have rejected his earlier submissions there is no need for me to consider it.

It was in his sixth submission that Mr. Patterson mainly attacked the procedure in the Court below and the Judge's reliance upon In re Tweed's Garages Ltd. (supra). I have already

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969

McCarthy J.
(continued)

In the
Court of
Appeal of
New Zealand

No.15

Judgment
8th May 1969
McCarthy J.
(continued)

expressed my view upon this aspect of the case
and for the reasons which I have already given,
I would dismiss this submission too.

These reasons I reject all Mr. Patterson's
submissions, and so favour the dismissal of the
appeal.

Solicitors for Appellants: J.R.B. Menzies
Christchurch

Solicitors for Respondent: A.H.Cavell, Leitch and
Pringle
Christchurch

175.

No.16

FORMAL JUDGMENT OF THE COURT OF APPEAL
DATED 8th MAY 1969

In the
Court of
Appeal of
New Zealand

Nos. C.A. 2/69 and 3/69

No.16

IN THE COURT OF APPEAL OF NEW ZEALAND

Formal
Judgment
of the
Court of
Appeal

I N T H E M A T T E R of the Companies
 Act 1955

8th May 1969

B E T W E E N:

BATEMAN TELEVISION LIMITED (in liquidation)
and BATEMAN T.V. HIRE LIMITED (in liquidation)
 Appellants

- and -

COLERIDGE FINANCE COMPANY LIMITED Respondent

THURSDAY the 8th day of May 1969

Before:

THE RIGHT HONOURABLE MR, JUSTICE NORTH,
PRESIDENT

THE RIGHT HONOURABLE MR. JUSTICE TURNER

THE RIGHT HONOURABLE MR. JUSTICE McCARTHY

THIS APPEAL coming on for hearing on the 18th,
19th, 20th and 21st days of March 1969 AND
UPON HEARING Mr. C. I. Patterson and Mr. D.R.K.
Gascoigne of Counsel for the Appellants and Mr.

In the
Court of
Appeal of
New Zealand

No.16

Formal
Judgment
of the
Court of
Appeal

8th May 1969
(continued)

P.T. Mahon and Mr. J. R. Fox of counsel for the
Respondent THIS COURT HEREBY ORDERS that the
appeals brought by the Appellants against the
judgments of the Supreme Court of New Zealand
delivered by the Honourable Mr. Justice Macarthur
at Christchurch on the 12th day of December 1968
be and the same are HEREBY DISMISSED and this
Court DOTH FURTHER ORDER that the Appellants
shall pay to the Respondent the sum of \$500
for costs and the sum of \$24.50 for disburse-
ments

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BY THE COURT

"G. J. Grace"

Registrar

(L.S.)

No.17

ORDER GRANTING FINAL LEAVE TO APPEAL
TO HER MAJESTY IN COUNCIL TO BATEMAN
T.V. HIRE LIMITED DATED 4th AUGUST 1969

In the
Court of
Appeal of
New Zealand

IN THE COURT OF APPEAL OF NEW ZEALAND

No. C.A. 3/69

BETWEEN:

BATEMAN T.V. HIRE LIMITED (in liquidation)
Appellant

- and -

10 COLERIDGE FINANCE COMPANY LIMITED Respondent

BEFORE THE RT. HONOURABLE MR. JUSTICE NORTH,
PRESIDENT
BEFORE THE RT. HONOURABLE MR. JUSTICE TURNER
BEFORE THE RT. HONOURABLE MR. JUSTICE MCCARTHY

No.17

Order
granting
final
leave to
Appeal to
Her Majesty
in Council
to Bateman
T.V. Hire
Limited

4th August
1969

MONDAY the 4th day of August, 1969

20 UPON READING the Notice of Motion filed herein
and the Affidavit of Douglas Alan Webb of
Wellington, Solicitor and UPON HEARING Mr.
C.I. Patterson of counsel for the Appellant
and Mr. M. Hardie Boys of counsel for the
Respondent THIS COURT DOTH ORDER that final
leave to appeal to Her Majesty in Council
from the judgment of this Honourable Court
delivered on Thursday the 8th day of May 1969
be and is hereby granted to the Appellant.

BY THE COURT

"G.J. Grace"

Registrar

(L.S.)

In the
Court of
Appeal of
New Zealand

No.18

ORDER GRANTING FINAL LEAVE TO APPEAL TO HER
MAJESTY IN COUNCIL TO BATEMAN TELEVISION
LIMITED DATED 4th AUGUST 1969

No.18

Order
granting
final leave
to Appeal
to Her
Majesty in
Council
to Bateman
Television
Limited

4th August
1969

IN THE COURT OF APPEAL OF NEW ZEALAND

No. C.A. 2/69

BETWEEN:

BATEMAN TELEVISION LIMITED (in liquidation)
Appellant

- and -

COLERIDGE FINANCE COMPANY LIMITED Respondent

BEFORE THE RT. HONOURABLE MR. JUSTICE NORTH,
PRESIDENT
BEFORE THE RT. HONOURABLE MR. JUSTICE TURNER
BEFORE THE RT. HONOURABLE MR. JUSTICE MCCARTHY

MONDAY the 4th day of August 1969

UPON READING the Notice of Motion filed herein and
the Affidavit of Douglas Alan Webb of Wellington,
Solicitor and UPON HEARING Mr. C.I. Patterson of
counsel for the Appellant and Mr. M. Hardie Boys
of counsel for the Respondent THIS COURT DOTH ORDER
that final leave to appeal to Her Majesty in
Council from the judgment of this Honourable
Court delivered on Thursday the 8th day of May
1969 be and is hereby granted to the Appellant

BY THE COURT

"G.J. Grace"

Registrar

(L.S.)

E X H I B I T SEXHIBIT "A"

CONDITIONAL PURCHASE AGREEMENT BETWEEN BATEMAN
TELEVISION LIMITED AND BATEMAN T.V. HIRE
LIMITED dated 2nd June 1966

Petitioner's
Exhibits

Exhibit "A"

Conditional
Purchase
Agreement
between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

CONDITIONAL PURCHASE AGREEMENT

An Agreement made the 2nd. day of June 1966
BETWEEN Bateman T.V.Ltd.

a Company duly incorporated or Firm and having its registered office at Christchurch being a person (within the meaning of "The Chattels Transfer Act 1924" as amended by the Chattels Transfer Amendment Act 1931) who is engaged in the trade or business of selling or disposing of the Chattels mentioned and described

in the schedule hereto (hereinafter called "the owner") of the one part AND
Bateman T.V Hire Ltd. of Box 2333, Ch. Ch.
Full Name Place of Residence

being a person over twenty-one years of age (hereinafter called
Occupation "the Conditional purchaser") of the other part WHEREBY IT IS AGREED AS FOLLOWS—

A. IN consideration of the Agreements by the conditional purchaser hereinafter contained the Owner will sell to the conditional purchaser and the conditional purchaser will purchase from the Owner the Chattels described in the Schedule hereto (hereinafter called "The said Chattels") subject to determination of this Agreement as hereinafter mentioned for the price of

£2161.14.9 wherefore the sum of £ 1000 has been paid by
terms price

the conditional purchaser to the owner by way of deposit (the receipt whereof is hereby acknowledged).

B. THE CONDITIONAL PURCHASER agrees—

(1) Until the Deferred Balance of £1161.14.9 is paid
to the owner, to pay the owner or its duly authorised agent without demand 23 instalments of
£ 48.1 and one of £ 46.4.9 on the 2nd. day of each
month the first of such payments to be made on the
2nd. day of July 1966 or
instalments as follows:—

(2) That the conditional purchaser shall take proper care of the said Chattels and shall keep the same in good order and condition and substantial repair and under cover and thoroughly protected from the weather and shall be responsible for all damages thereto and shall not alter or deface same nor the trade or identification marks or numbers now fixed or stamped or hereafter to be fixed or stamped thereon AND if the said Chattels shall require to be repaired the conditional purchaser shall at once notify the owner and shall allow the owner or the owner's nominees alone to execute the repairs at the conditional purchaser's expense and the owner shall be entitled to the possession of the said chattels for such purpose AND IN no case will the conditional purchaser do any act whereby any third person may be entitled to claim any lien on the said chattels or any of them.

(3) That the conditional purchaser shall not during the currency of this agreement part with the said Chattels but shall retain sole custody thereof and keep the same at his said address and shall not permit the same to be taken out of New Zealand without the previous written consent of the owner first being obtained and shall not assign this agreement or sell or attempt to sell or pledge mortgage charge or sublet or part with the possession of the said chattels or any part thereof without a like written consent as aforesaid and shall give the owner notice at least two days previous of any intention to change his address or of the removal of the said Chattels.

(4) If the conditional purchaser shall fail to observe and perform the conditions and terms herein contained or any of them or shall fail to pay on due date any of the moneys payable hereunder or if he shall commit any act of bankruptcy become bankrupt or in the case of a company go into liquidation other than for reconstruction purposes compound with or execute any assignment for the benefit of creditors or allow a judgment against him to remain unsatisfied or shall permit an execution (including execution for non payment of rent) to be levied or threatened against his goods then and in any case the conditional purchaser shall be deemed to have made default hereunder and thereupon the whole of the deferred balance and other moneys outstanding hereunder shall become immediately due and payable notwithstanding that the time for actual payment thereof may not then have arrived and the owner may forthwith or at any time after such default proceed to exercise successively or concurrently the following remedies, namely proceed to recover and enforce judgment for the whole of the outstanding deferred balance and other moneys and/or immediately and without notice retake possession of the said chattels whereupon all the rights of the conditional purchaser hereunder and in the said chattels shall terminate absolutely and for the purpose of retaking

possession of the said chattels the conditional purchaser hereby irrevocably authorizes the owner his servants and agents to enter upon any premises wherein the said chattels may be and to take and remove the same and leave and license is hereby granted to the owner his servants and agents to break open and enter any premises whereof the conditional purchaser is the owner occupier or tenant for the purpose of retaking possession of the said chattels as aforesaid without being liable to any suit action or other proceedings by the owner of the premises to anyone claiming through or under such owner.

(5) If this agreement is determined under sub-clause (4) hereof or in the event of any of the payments due hereunder not being promptly paid and being in arrears the owner may notwithstanding seizure of the said Chattels recover by action from the conditional purchaser all moneys payable under this agreement whether the same shall then have accrued or not and also all damage for any injury to the said Chattels and damages for breach of this agreement and any costs and expenses and payments incurred or made by the owner in connection with obtaining possession of the said Chattels and the conditional purchaser shall not on any ground whatever be entitled to any allowance return or set-off.

(6) Upon demand to give the owner as collateral security for the payment of the said purchase money his duly signed separate promissory notes payable at such place as the owner shall direct. The conditional purchaser further agrees that the delivery by the conditional purchaser and the receipt by the owner of any promissory note or promissory notes for the whole or any part of the said purchase money whether the said promissory notes shall be afterwards discounted or not shall not prejudice or affect the rights or powers of the owner under this agreement.

(7) That the conditional purchaser shall permit the owner by the owner's officers or agents at all times during the continuance of this agreement to have access to the said chattels to inspect or to test the condition thereof and to affix any further trade or identification marks or numbers which the owner may deem to be necessary more effectually to identify the said Chattels or any of them.

(8) That if the said Chattels are removed seized or taken out of the possession of the conditional purchaser he shall within twenty-four hours give a written notice to the owner of such removal seizing or taking and also give to the owner the address of the place to which same is removed.

(9) That in the event of a variation in the payment of any instalments of the said purchase money at the times and in the manner hereinbefore provided being agreed by the owner during the currency of this agreement such variation shall not prejudice or affect any of the other provisions hereof.

(10) That all payments to be made hereunder shall be made at Christchurch without demand free of exchange or other deduction whatsoever and shall be made to the owner at its registered office or to such other person firm or Company and at such other places as the owner shall direct.

(11) Time shall be in all things of the essence of this contract and all the rights and powers of the owner hereunder shall remain in full force notwithstanding any neglect or forbearance or delay in the enforcement thereof.

(12) That if during the currency of this agreement the conditional purchaser shall make default in payment of any sum or sums or of any of the promissory notes payable under the provisions hereof or of any insurance premiums requiring to taxes fees or other payments and outgoings paid by the owner on behalf of the conditional purchaser or occasioned by the default of the conditional purchaser or for the protection of the owners rights under the agreement, such sum or sums promissory notes premiums costs charges taxes fees, shall bear interest at the rate of Ten Pounds per centum per annum until payment thereof.

(13) That delivery of possession of the said chattels to the conditional purchaser is made upon the express condition that the property in the same shall not pass to the conditional purchaser until the completion of the payments to be made by him in pursuance of this agreement and until all moneys due and owing to the owner for repairs, arrears of insurance premiums have been paid.

(14) If the owner retakes possession of the said Chattels under the terms of this agreement the conditional purchaser shall have the right to re-delivery and to reinstate this agreement by complying with the following alternative conditions—

(a) By paying within seven days after the owner's retaking the whole balance outstanding under this agreement;

(b) By paying within the like period all instalments then in arrear and any other moneys then payable by the conditional purchaser to the owner and further furnishing a guarantee to the satisfaction of the owner by a surety approved by the owner for the due payment of all instalments and other moneys thereafter to become payable under this agreement and the due performance of all the conditional purchaser's obligations thereunder; AND in either case by paying within the period aforesaid all expenses of and incidental to the retaking removal repair and re-delivery of the said chattels.

(15) If the said chattels or any part thereof are or is lost damaged injured removed seized or taken out of the possession of the Conditional Purchaser he shall within twenty-four hours give written notice to the owner of such loss damage injury removal seizure or taking and of the address where such loss damage or injury has been incurred or whence the said chattels have been removed seized or taken and where they then were.

C. THE OWNER AGREES:

(1) That until either a breach by the conditional purchaser of this agreement or the occurrence of any other event terminating this agreement and entitling the owner to immediate possession of the said chattels the conditional purchaser is to be entitled at any time during the currency of this agreement to complete the purchase of the said Chattels by paying the whole of the money still owing under this agreement.

D. The words "the owner" and "the conditional purchaser" as used herein shall include their and each of their respective executors administrators and successors and shall further include in the case of the owner the owner's assigns and in the case of the conditional purchaser the conditional purchaser's permitted assigns AND words in the singular shall include the plural and vice versa and the masculine gender where used throughout shall include the feminine and shall apply to companies firms and corporations and all obligations to be performed on the part of the conditional purchaser if there shall be more than one shall be joint and several.

E. THE OWNER gives no warranty express or implied and all implied warranties are hereby expressly excluded.

F. MARGINAL notes shall not be construed as forming part of these presents.

Petitioner's Exhibits

Exhibit "A"

Conditional Purchase Agreement between Bateman Television Limited and Bateman T.V. Hire Limited

2nd June 1966
(continued)

Conditional
Purchaser Not
Subject to
Legal Disabili-
ty

Implied Covenants

1. THE covenants powers provisos and agreements directed to be implied in instrument by way of security over chattels by virtue of the Chattels Transfer Act 1924 and its amendments shall be implied herein negatived however in so far as same are contradictory to and modified and extended in so far as same are inconsistent with the terms hereof.

Petitioner's
Exhibits

Exhibit "A"

Conditional
Purchase
Agreement
between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966
(continued)

Description of Goods	Number	Value
10 T.V.Sets.	25977	2000 - -
	25489	
	25706	
	26063	
	25709	
	25271	
	25288	
	25694	
	25988	
	25652	

Signed for and on behalf of

p.p. Bateman T.V.Ltd.

in the presence of

Witness

Occupation

Address

SIGNED by the said

p.p. Bateman T.V Hire Ltd.

Signature _____

as Conditional Purchaser in the presence of

Witness

Occupation²**Address**

Stamp
1/3

ASSIGNMENT BY WAY OF MORTGAGE OF CONDITIONAL PURCHASE AGREEMENT

Petitioner's
Exhibits

THE within-named: **Bateman T.V Ltd.**

(hereinafter together with his/their

Executors Administrators and Assigns called "the Owner") IN CONSIDERATION of £ 1000 this day advanced to the Owner by a duly incorporated Company having its registered office at Christchurch where it carries on the business of a Finance Company and Dealer (hereinafter called "The Company") HEREBY ASSIGNS TRANSFERS AND SETS OVER BY NEVERTHELESS WAY OF MORTGAGE ONLY unto the Company but as separate Assignments (a) All that the Owner's right title interest and demand in to and

under the annexed Conditional Purchase Agreement made between the Owner of the one part and

Bateman T.V.Hire Ltd. Deals 2921-2930

(Name)

Box 2333. Ch.Ch.

of (Address) **2nd.** day of **June** (Occupation) **1966**

of the other part dated the _____ day of _____ 1966 hereinafter referred to as "the said Agreement") and the Owner's title and property in and to all moneys now or hereafter payable under the said Agreement (the Promissory Notes, if any, collaterally securing same being contemporaneously endorsed to or made in favour of the Company) and (b) All that the Owner's title to and property in the chattel or chattels described in the said Agreement for the purpose of securing to the Company the repayment or payment of the above advance and other moneys set out in the Schedule underwritten and all other moneys whatsoever for the time being and from time to time owing or payable by the Owner to the Company whether due or not on any account whatsoever AND FOR THE CONSIDERATION aforesaid the Owner covenants and agrees with the Company to repay or pay to the Company without any demand the said advance and other moneys set out in the Schedule hereunder in the amounts and at the times in and at which the Conditional Purchaser under the said Agreement agrees to pay the moneys therein mentioned AND FOR THE CONSIDERATION aforesaid the Owner guarantees and becomes surety for the due and proper performance by the Conditional Purchaser of all the other covenants on the part of the Conditional Purchaser contained or implied in the said Agreement the intention being that the Owner shall be deemed to be jointly and severally liable with the Conditional Purchaser to the Company for such payment observance and performance and the Owner will also upon demand pay to the Company all amounts reasonably incurred in restoring the chattels the subject of the said Agreement to good order and condition and making the same saleable and also all insurance premiums or other moneys which shall have been paid or incurred by the Company for the protection of its security or in making good any defaults by the said Conditional Purchaser or by the Assignor AND ALL EXPENSES OF AND INCIDENTAL TO ANY SUCH DEFAULTS AND THE EXERCISE OF ANY POWERS AND REMEDIES BY THE COMPANY AND ALSO ANY DEFICIENCY IN RESPECT OF THE COMPANY'S SECURITY and also all amounts paid by the Company to the Conditional Purchaser in settlement of any claim by or rights of such Conditional Purchaser under the Hire Purchase Agreement Act 1939 or any statutory modification amendment or re-enactment thereof together with all costs, charges and expenses incurred by the Company in connection with or arising out of any such claim or settlement of such rights together with interest at the rate mentioned in the said Agreement on all such moneys calculated as from the date of such moneys being expended up to the date of payment thereof PROVIDED ALWAYS that the Owner shall not while any moneys remain unpaid under the terms of the said Agreement execute any other assignment or charge of the subject matter hereof or any part thereof and the Owner waives his/their rights (if any) to appropriate all credits and payments howsoever and agrees that all appropriations shall be in the Company's discretion and may be applied or retained by the Company in or towards the repayment or payment of an amount payable or unpaid whether due or not whether directly or contingently by the Owner and the taking of any promissory note or negotiable instrument shall not be deemed payment until met and received in cash by the Company or in any way prejudice or impair the rights of the Company AND for the purpose of more effectually securing the Company the Owner IRREVOCABLY APPOINTS the Company and its Manager for the time being at Christchurch (jointly and severally) the attorneys or attorney of the Owner for the Owner in the name of the Owner or otherwise to exercise all and singular the Owner's rights powers and remedies under the said Agreement and in particular but without limiting the generality of the foregoing to demand sue for recover receive and to give effectual discharges for all or any of the moneys owing under the said Agreement and to enforce by legal proceedings or other lawful act or procedure the duties and obligations imposed upon the Conditional Purchaser by the said Agreement and to execute and do all such deeds acts and things as may be expedient for the exercise of all or any of the said rights and powers the Owner hereby ratifying and confirming and agreeing to ratify confirm whatever the Company may so execute and do AND although as between the said Conditional Purchaser and the Owner the latter may be a surety only the Owner shall for all purposes be deemed to be a principal debtor to the Company and accordingly the Owner's liability shall not be discharged or impaired by any time or other indulgence given by the Company without the knowledge or consent of the Owner. ALL or any actions or suits which either of the parties to these presents shall institute against the other in connection with or arising out of these presents shall notwithstanding any law rule or regulation to the contrary be instituted proceeded with and completed in either the Magistrate's Court or the Supreme Court at Christchurch according to the respective jurisdiction of such Courts and not in any other Court or courts.

THE SCHEDULE.

Amount of Advance as above	1000.-
Insurance Premiums, Stamps, Valuation and Bank Charges	1.10.-
Interest	160.4.9
Total	1161.14.9

DATED THIS **2nd.** day of **June**, 19**66**

FOR USE WHEN OWNER IS A LIMITED LIABILITY COMPANY.

FOR USE WHEN OWNER NOT A LIMITED LIABILITY COMPANY.

The Common seal of _____ was hereto affixed in the presence of:-

Owner's Signature:

Signature of Witness:

Occupation of Witness:

Address of Witness:

Director.

Director.

Secretary.

GUARANTEE.

I/WE do in consideration of the Owner having entered into the within Conditional Sale Contract at my/our request hereby jointly and severally guarantee to the Owner and his assigns payment of the moneys payable under the said Contract and the due and proper performance of each and every obligation on the part of the Conditional Purchaser contained or implied therein. I/WE agree that this Guarantee shall be a continuing one and shall remain in full force and effect notwithstanding that any time or other indulgence may be granted from time to time by the Owner or his assigns to the Conditional Purchaser or any other person.

Dated this _____ day of _____, 19____

Guarantor's Signature and Address _____

Exhibit "A"

Conditional
Purchase
Agreement
between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966
(continued)

Notices

G. ALL NOTICES requiring to be given hereunder shall be effectually given if sent through the post in a prepaid letter addressed to the last known place of address or abode or place of business of the party to be served therewith.

Conditional
Purchaser Not
Subject to
Legal Disability

II. THE conditional purchaser hereby certifies and warrants that he is twenty-one years of age or over and that no application for the adjustment of his liabilities under "The Mortgagees' and Lessees Rehabilitation Act 1936" is pending and that no notice for the adjustment of his liabilities (given either by himself or any mortgagee) and no stay order under the Rural Mortgagees' Final Adjustment Act 1934-5 is subsisting or in force and that he has made no application for revaluation of Rural Crown Land under Sections 216 or 246 of the Land Act 1924.

implied
covenants

I. THE covenants powers provisos and agreements directed to be implied in instrument by way of security over chattels by virtue of the Chattels Transfer Act 1924 and its amendments shall be implied herein negated however in so far as same are contradictory to and modified and extended in so far as same are inconsistent with the terms hereof.

SCHEDULE OF CHATTELS HEREINBEFORE REFERRED TO

[illegible]

IN WITNESS whereof these presents have been executed the day and the year first hereinbefore written.

Signed for and on behalf of

p.p. Bazeman T.V.Co.Ltd.

in the presence of

Witness

Occupation

Address

p.p. Bateman T.V. Hire Ltd.

Signature _____

is Conditional Purchaser in the presence of

Witness

Occupation

Address

Stamp
1/3

Petitioner's
Exhibits

Exhibit "A"

Conditional
Purchase
Agreement
between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1968
(continued)

Page 3 of
Conditional
Purchase
Agreement
referring to
Deals 2051-2060

Petitioner's
Petitioner's
Exhibits

Exhibit "A"

Conditional
Purchase
Agreement
between
Bateman Tele-
vision Limite
and Bateman
T.V. Hire
Limited

2nd June 1968
(continued)

Page 3 of
Conditional
Purchase
Agreement
referring to
Deals 2356-23

Notices

G. ALL NOTICES requiring to be given hereunder shall be effectually given if sent through the post in a prepaid letter addressed to the last known place of address or abode or place of business of the party to be served therewith.

Conditional
Purchaser Not
Subject to
Legal Disabili-
ty

H. THE conditional purchaser hereby certifies and warrants that he is twenty-one years of age or over and that no application for the adjustment of his liabilities under "The Mortgagees' and Lessees Rehabilitation Act 1936" is pending and that no notice for the adjustment of his liabilities (given either by himself or any mortgagee) and no stay order under the Rural Mortgagees' Final Adjustment Act 1934-5 is subsisting or in force and that he has made no application for revaluation of Rural Crown Land under Sections 216 or 246 of the Land Act 1924.

Implied
Covenants

I. THE covenants powers provisos and agreements directed to be implied in instrument by way of security over chattels by virtue of the Chattels Transfer Act 1924 and its amendments shall be implied herein negatived however in so far as same are contradictory to and modified and extended in so far as same are inconsistent with the terms hereof.

SCHEDULE OF CHATTELS HEREINBEFORE REFERRED TO

Description of Goods	Number	Value
25 T.V. Sets	65113	800
	65114	
	65115	
	65116	
	65117	
	65118	
	65202	
	65203	
	65204	
	65205	
	65206	
	65207	
	65208	
	65209	
	65212	
	65213	
	65214	
	65215	
	65216	
	65217	
	65218	
	65219	
	65220	
	65221	
	65223	

IN WITNESS whereof these presents have been executed the day and the year first hereinbefore written.

Signed for and on behalf of

p.p. Bateman T.V. Co. Ltd.

in the presence of

Witness

Occupation

Address

SIGNED by the said

p.p. Bateman T.V. Hire Ltd.

Signature

Conditional Purchaser in the presence of

Witness

Occupation

Stamp
1/3

Page 3 of
Conditional
Purchase
Agreement
referring to
Deals 671-720

EXHIBIT "A" (continued)

CONDITIONAL PURCHASE AGREEMENT BETWEEN BATEMAN
TELEVISION LIMITED AND BATEMAN T.V. HIRE
LIMITED dated 2nd June 1966

**Petitioner's
Exhibits**

Exhibit "A"
(continued)

10 Surname Husband Wife
Present Address
.....
Length of Residence Previous Address
Husband's Occupation
Where Employed Now How Long There
House Owned or Rented Married or Single
Name and Address of Near Relative
.....
Business References
.....

Conditional
Purchase
Agreement
between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

CONDITIONAL PURCHASE AGREEMENT

20 AN AGREEMENT made the 2nd day of June 1966 BETWEEN
Bateman T.V. Ltd. a Company duly incorporated or
Firm and having its registered office at Christ-
church being a person (within the meaning of "The
Chattels Transfer Act 1924" as amended by the
Chattels Transfer Amendment Act 1931) who is engaged
in the trade or business of selling or disposing of
the Chattels mentioned and described in the schedule
hereto (hereinafter called "the owner") of the one
part AND Bateman T.V. Hire Ltd. of Box 2333, Ch.Ch.
being a person over twenty-one years of age (herein-
after called "the Conditional purchaser") of the
other part WHEREBY IT IS AGREED AS FOLLOWS -

30 A. IN consideration of the Agreements by the
conditional purchaser hereinafter contained the
Owner will sell to the conditional purchaser and
the conditional purchaser will purchase from the
Owner the Chattels described in the Schedule hereto
(hereinafter called "the said Chattels") subject to
determination of this Agreement as hereinafter men-
tioned for the price of £2161. 14. 9 wherefore the

Petitioner's
Exhibits

Exhibit "A"
(continued)

Conditional
Purchase
Agreement
between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

Care of
Chattels

Repairs

Custody

Default

sum of £1000 has been paid by the conditional purchaser to the owner by way of deposit (the receipt whereof is hereby acknowledged).

B. THE CONDITIONAL PURCHASER agrees -

(1) Until the Deferred Balance of £1161.14. 9 is paid to the owner, to pay the owner or its duly authorised agent without demand 23 instalments of £48.10. - and one of £46. 4. 9 on the 2nd day of each month the first of such payments to be made on the 2nd day of July 1966 or instalments as follows:-

10

(2) That the conditional purchaser shall take proper care of the said Chattels and shall keep the same in good order and condition and substantial repair and under cover and thoroughly protected from the weather and shall be responsible for all damages thereto and shall not alter or deface same nor the trade or identification marks or numbers now fixed or stamped or hereafter to be fixed or stamped thereon AND if the said Chattels shall require to be repaired the conditional purchaser shall at once notify the owner and shall allow the owner or the owner's nominees alone to execute the repairs at the conditional purchaser's expense and the owner shall be entitled to the possession of the said chattels for such purpose AND IN no case will the conditional purchaser do any act whereby any third person may be entitled to claim any lien on the said chattels or any of them.

20

(3) That the conditional purchaser shall not during the currency of this agreement part with the said Chattels but shall retain sole custody thereof and keep the same at his said address and shall not permit the same to be taken out of New Zealand without the previous written consent of the owner first being obtained and shall not assign this agreement or sell or attempt to sell or pledge mortgage charge or sublet or part with the possession of the said chattels or any part thereof without a like written consent as aforesaid and shall give the owner notice at least two days previous of any intention to change his address or of the removal of the said Chattels.

30

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(4) If the conditional purchaser shall fail to observe and perform the conditions and terms herein

10 contained or any of them or shall fail to pay on
 due date any of the moneys payable hereunder or if
 he shall commit any act of bankruptcy become bank-
 rupt or in the case of a company go into liquidation
 other than for reconstruction purposes compound with
 or execute any assignment for the benefit of
 creditors or allow a judgment against him to remain
 unsatisfied or shall permit an execution (including
 execution for non payment of rent) to be levied or
 threatened against his goods then and in any case
 the conditional purchaser shall be deemed to have
 made default hereunder and thereupon the whole of
 the deferred balance and other moneys outstanding
 hereunder shall become immediately due and payable
 notwithstanding that the time for actual payment
 thereof may not then have arrived and the owner may
 forthwith or at any time after such default proceed
 to exercise successively or concurrently the follow-
 20 ing remedies, namely proceed to recover and enforce
 judgment for the whole of the outstanding deferred
 balance and other moneys and/or immediately and
 without notice retake possession of the said chattels
 whereupon all the rights of the conditional pur-
 chaser hereunder and in the said chattels shall
 terminate absolutely and for the purpose of retaking
 possession of the said chattels the conditional
 purchaser hereby irrevocably authorises the owner
 his servants and agents to enter upon any premises
 wherein the said chattels may be and to take and
 30 remove the same and leave and license is hereby
 granted to the owner his servants and agents to
 break open and enter any premises whereof the
 conditional purchaser is the owner occupier or
 tenant for the purpose of retaking possession of
 the said chattels as aforesaid without being liable
 to any suit action or other proceedings by the
 owner of the premises to anyone claiming through or
 under such owner.

40 (5) If this agreement is determined under sub-
 clause (4) hereof or in the event of any of the
 payments due hereunder not being promptly paid and
 being in arrears the owner may notwithstanding
 seizure of the said Chattels recover by action from
 the conditional purchaser all moneys payable under
 this agreement whether the same shall then have
 accrued or not and also all damage for any injury to
 the said Chattels and damages for breach of this
 agreement and any costs and expenses and payments
 incurred or made by the owner in connection with

Petitioner's
Exhibits

Exhibit "A"
 (continued)

Conditional
 Purchase
 Agreement
 between
 Bateman Tele-
 vision Limited
 and Bateman
 T.V. Hire
 Limited

2nd June 1966

Power of
 Owner to
 recover not-
 withstanding
 seizure

Petitioner's
Exhibits

Exhibit "A"
(continued)

Conditional
Purchase Agree-
ment between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

Collateral
Security

Give Owner
Access

Notice of
Seizure or
Removal

Variations

Where payments
to be made

obtaining possession of the said Chattels and the conditional purchaser shall not on any ground whatever be entitled to any allowance return or set-off.

(6) Upon demand to give the owner as collateral security for the payment of the said purchase money his duly signed separate promissory notes payable at such place as the owner shall direct. The conditional purchaser further agrees that the delivery by the conditional purchaser and the receipt by the owner of any promissory note or promissory notes for the whole or any part of the said purchase money whether the said promissory notes shall be afterwards discounted or not shall not prejudice or affect the rights or powers of the owner under this agreement.

(7) That the conditional purchaser shall permit the owner by the owner's officers or agents at all times during the continuance of this agreement to have access to the said chattels to inspect or to test the condition thereof and to affix any further trade or identification marks or numbers which the owner may deem to be necessary more effectually to identify the said Chattels or any of them.

(8) That if the said Chattels are removed seized or taken out of the possession of the conditional purchaser he shall within twenty-four hours give a written notice to the owner of such removal seizing or taking and also give to the owner the address of the place to which same is removed.

(9) That in the event of a variation in the payment of any instalments of the said purchase money at the times and in the manner hereinbefore provided being agreed by the owner during the currency of this agreement such variation shall not prejudice or affect any of the other provisions hereof.

(10) That all payments to be made hereunder shall be made at Christchurch without demand free

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of exchange or other deduction whatsoever and shall be made to the owner at its registered office or to such other person firm or Company and at such other places as the owner shall direct.

Petitioner's
Exhibits

Exhibit "A"
(continued)

Conditional
Purchase Agree-
ment between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

(11) Time shall be in all things of the essence of this contract and all the rights and powers of the owner hereunder shall remain in full force notwithstanding any neglect or forbearance or delay in the enforcement thereof.

Time of
Essence of
Contract

10 (12) That if during the currency of this agree-
ment the conditional purchaser shall make default
in payment of any sum or sums or of any of the
promissory notes payable under the provisions
hereof or of any insurance premiums requiring to
taxes fees or other payments and outgoings paid by
the owner on behalf of the conditional purchaser or
occasioned by the default of the conditional pur-
chaser or for the protection of the owners rights
under the agreement, such sum or sums promissory
20 notes premiums costs charges taxes fees shall bear
interest at the rate of Ten Pounds per centum per
annum until payment thereof.

Interest on
Overdue
Payments

30 (13) That delivery of possession of the said
chattels to the conditional purchaser is made upon
the express condition that the property in the same
shall not pass to the conditional purchaser until
the completion of the payments to be made by him in
pursuance of this agreement and until all moneys due
and owing to the owner for repairs, arrears of
insurance premiums have been paid.

Property not
to pass until
full payment

(14) If the owner retakes possession of the
said Chattels under the terms of this agreement
the conditional purchaser shall have the right to
re-delivery and to reinstate this agreement by

Conditional
Purchaser's
Right to re-
delivery after
Seizure

Petitioner's
Exhibits

Exhibit "A"
(continued)

Conditional
Purchase Agree-
ment between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

complying with the following alternative conditions -

- (a) By paying within seven days after the owner's retaking the whole balance outstanding under this agreement: or
- (b) By paying within the like period all instalments then in arrear and any other moneys then payable by the conditional purchaser to the owner and further furnishing a guarantee to the satisfaction of the owner by a surety approved by the owner for the due payment of all instalments and other moneys thereafter to become payable under this agreement and the due performance of all the conditional purchaser's obligations thereunder; 10

AND in either case by paying within the period aforesaid all expenses of and incidental to the retaking removal repair and re-delivery of the said chattels.

Notice of
Loss, Damage
or Seizure

- (15) If the said chattels or any part thereof are or is lost damaged injured removed seized or taken out of the possession of the Conditional Purchaser he shall within twenty-four hours give written notice to the owner of such loss damage injury removal seizure or taking and of the address where such loss damage or injury has been incurred or whence the said chattels have been removed seized or taken and where they then were. 20

C. THE OWNER AGREES:

Conditional
Purchaser's
Right to
complete
Purchase

- (1) That until either a breach by the conditional purchaser of this agreement or the occurrence of any other event terminating this agreement and entitling the owner to immediate possession of the said chattels the conditional purchaser is to be entitled at any time during the currency of this agreement to complete the purchase of the said Chattels by paying the whole of the money still owing under this agreement. 30

Definition
of Terms

- D. The words "the owner" and "the conditional purchaser" as used herein shall include their and each of their respective executors administrators and successors and shall further include in the 40

case of the owner the owner's assigns and in the case of the conditional purchaser the conditional purchaser's permitted assigns AND words in the singular shall include the plural and vice versa and the masculine gender where used throughout shall include the feminine and shall apply to companies firms and corporations and all obligations to be performed on the part of the conditional purchaser if there shall be more than one shall be joint and several.

Petitioner's
Exhibits

Exhibit "A"
(continued)

Conditional
Purchase Agree-
ment between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

E. THE OWNER gives no warranty express or implied and all implied warranties are hereby expressly excluded.

No Warranties

F. MARGINAL notes shall not be construed as forming part of these presents.

Marginal
Notes

G. ALL NOTICES requiring to be given hereunder shall be effectually given if sent through the post in a prepaid letter addressed to the last known place of address or abode or place of business of the party to be served therewith.

Notices

H. THE conditional purchaser hereby certifies and warrants that he is twenty-one years of age or over and that no application for the adjustment of his liabilities under "The Mortgagors' and Lessees Rehabilitation Act 1936" is pending and that no notice for the adjustment of his liabilities (given either by himself or any mortgagee) and no stay order under the Rural Mortgagors' Final Adjustment Act 1934-5 is subsisting or in force and that he has made no application for revaluation of Rural Crown Land under Sections 216 or 246 of the Land Act 1924.

Conditional
Purchaser not
Subject to
Legal
Disability

I. THE covenants powers provisoes and agreements directed to be implied in instrument by way of security over chattels by virtue of the Chattels Transfer Act 1924 and its amendments shall be implied herein negatived however in so far as same are contradictory to and modified and extended in so far as the same are inconsistent with the terms hereof.

Implied
Covenants

Petitioner's
Exhibits

SCHEDULE OF CHATTELS HEREINBEFORE REFERRED TO

Exhibit "A"
(continued)

Conditional
Purchase Agree-
ment between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

Description of Goods

Number

Value

10 T.V. Sets. Pye

25977

2000 - -

25489

25706

26063

25709

25271

25288

25694

25988

25652

10

2nd June 1966

IN WITNESS whereof these presents have been executed
the day and the year first hereinbefore written

Signed for and on behalf of } p.p. Bateman T.V.Ltd.

in the presence of } 'G.I. Thomas'

Witness (signature illegible)

Occupation Public Accountant

Address Christchurch

SIGNED by the said

as Conditional Purchaser

in the presence of

p.p. Bateman T.V.Hire Ltd.

'G.I. Thomas'

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Witness (signature illegible)

Occupation Public Acct.

Address Christchurch

ASSIGNMENT BY WAY OF MORTGAGE OF
CONDITIONAL PURCHASE AGREEMENT

Petitioner's
Exhibits

Exhibit "A"
(continued)

Conditional
Purchase Agree-
ment between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

THE within-named Bateman T.V. Ltd. (hereinafter together with his/their Executors Administrators and Assigns called "the Owner") IN CONSIDERATION of £1000 this day advanced to the Owner by

a duly incorporated Company

having its registered office at Christchurch where it carries on the business of a Finance Company and Dealer (hereinafter called "The Company")

10 HEREBY ASSIGNS TRANSFERS AND SETS OVER BY NEVERTHE-
LESS WAY OF MORTGAGE ONLY unto the Company but as separate Assignments (a) All that the Owner's right title interest and demand in to and under the annexed Conditional Purchase Agreement made between the Owner of the one part and Bateman T.V. Hire Ltd. Deals 2921-2930 of Box 2333. Ch.Ch. of the other

20 part dated the 2nd day of June 1966 (hereinafter referred to as "the said Agreement") and the Owner's title and property in and to all moneys now or hereafter payable under the said Agreement (the Promissory Notes, if any, collaterally securing the same being contemporaneously endorsed to or made in favour of the Company) and (b) All that the Owner's title to and property in the chattel or chattels described in the said Agreement for the purpose of securing to the Company the repayment or payment of the above advance and other moneys set out in the Schedule underwritten and all other

30 moneys whatsoever for the time being and from time to time owing or payable by the Owner to the Company whether due or not on any account whatsoever AND FOR THE CONSIDERATION aforesaid the Owner covenants and agrees with the Company to repay or pay to the Company without any demand the said advance and other moneys set out in the Schedule hereunder in the amounts and at the times in and at which the Conditional Purchaser under the said Agreement agrees to pay the moneys therein mentioned AND FOR THE

40 CONSIDERATION aforesaid the Owner guarantees and becomes surety for the due and proper performance by the Conditional Purchaser of all the other covenants on the part of the Conditional Purchaser contained or implied in the said Agreement the intention being that the Owner shall be deemed to be jointly and severally liable with the Conditional Purchaser to the Company for such payment observance and performance and the Owner will also upon demand pay to the Company all amounts reasonably incurred

Petitioner's
Exhibits

Exhibit "A"
(continued)

Conditional
Purchase Agree-
ment between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

in restoring the chattels the subject of the said Agreement to good order and condition and making the same saleable and also all insurance premiums or other moneys which shall have been paid or incurred by the Company for the protection of its security or in making good any defaults by the said Conditional Purchaser or by the Assignor AND ALL EXPENSES OF AND INCIDENTAL TO ANY SUCH DEFAULTS AND THE EXERCISE OF ANY POWERS AND REMEDIES BY THE COMPANY AND ALSO ANY DEFICIENCY IN RESPECT OF THE COMPANY'S SECURITY and also all amounts paid by the Company to the Conditional Purchaser in settlement of any claim by or rights of such Conditional Purchaser under the Hire Purchase Agreement Act 1939 or any statutory modification amendment or re-enactment thereof together with all costs, charges and expenses incurred by the Company in connection with or arising out of any such claim or settlement of such rights together with interest at the rate mentioned in the said Agreement on all such moneys calculated as from the date of such moneys being expended up to the date of payment thereof PROVIDED ALWAYS that the Owner shall not while any moneys remain unpaid under the terms of the said Agreement execute any other assignment or charge of the subject matter hereof or any part thereof and the Owner waives his/their rights (if any) to appropriate all credits and payments howsoever and agrees that all appropriations shall be in the Company's discretion and may be applied or retained by the Company in or towards the repayment or payment of an amount payable or unpaid whether due or not whether directly or contingently by the Owner and the taking of any promissory note or negotiable instrument shall not be deemed payment until met and received in cash by the Company or in any way prejudice or impair the rights of the Company AND for the purpose of more effectually securing the Company the Owner IRREVOCABLY APPOINTS the Company and its Manager for the time being at Christchurch (jointly and severally) the attorneys or attorney of the Owner for the Owner in the name of the Owner or otherwise to exercise all and singular the Owner's rights powers and remedies under the said Agreement and in particular but without limiting the generality of the foregoing to demand sue for recover receive and to give effectual discharges for all or any of the moneys owing under the said Agreement and to enforce by legal

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proceedings or other lawful act or procedure the duties and obligations imposed upon the Conditional Purchaser by the said Agreement and to execute and do all such deeds acts and things as may be expedient for the full exercise of all or any of the said rights and powers the Owner hereby ratifying and confirming and agreeing to ratify and confirm whatever the Company may so execute and do AND although as between the said Conditional Purchaser and the Owner the latter may be a surety only the Owner shall for all purposes be deemed to be a principal debtor to the Company and accordingly the Owner's liability shall not be discharged or impaired by any time or other indulgence given by the Company without the knowledge or consent of the Owner.

ALL or any actions or suits which either of the parties to these presents shall institute against the other in connection with or arising out of these presents shall notwithstanding any law rule or regulation to the contrary be instituted proceeded with and completed in either the Magistrate's Court or the Supreme Court at Christchurch according to the respective jurisdiction of such Courts and not in any other Court or courts.

THE SCHEDULE

	£.	s.	d.
Amount of Advance as above	1000.	-.	-
Insurance Premiums, Stamps, Valuation and Bank Charges	1.	10.	-
Interest	160.	4.	9
Total	1161.	14.	9

DATED THIS 2nd day of June 1966

The Common seal of BATEMAN)
TELEVISION LIMITED was)
hereto affixed in the)
presence of:-)

L.S.

'G.I. Thomas'
Director

Petitioner's
Exhibits

Exhibit "A"
(continued)

Conditional
Purchase Agree-
ment between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

Petitioner's
Exhibits

Exhibit "A"
(continued)

Conditional
Purchase Agree-
ment between
Bateman Tele-
vision Limited
and Bateman
T.V. Hire
Limited

2nd June 1966

GUARANTEE

I/WE do in consideration of the Owner having entered into the within Conditional Sale Contract at my/our request hereby jointly and severally guarantee to the Owner and his assigns payment of the moneys payable under the said Contract and the due and proper performance of each and every obligation on the part of the Conditional Purchaser contained or implied therein. I/WE agree that this Guarantee shall be a continuing one and shall remain in full force and effect notwithstanding that any time or other indulgence may be granted from time to time by the Owner or his assigns to the Conditional Purchaser or any other person.

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Dated this day of 19

Guarantor's Signature and Address:

EXHIBIT "A" (continued)Petitioner's
ExhibitsANALYSIS OF 156 CONDITIONAL PURCHASE AGREEMENTS PRODUCED AS EXHIBIT "A"Exhibit "A"
(continued)

"Assignment by way of Mortgage"

"Conditional Purchase Agreement"

	Date of Assignment	Amount of Advance £	Finance Charges £	Date of Agreement	"Terms Price" £	"Deposit" £	"Deferred Balance" £	Number of Sets	"Schedule of Chattels" is similar to:-	Agreements in Currie's bundle marked "Fictitious" (see p.82) are marked F.
10	30.10.64	2000.0.0	321.14.9	30.10.64	2521.14.9	200.0.0	2321.14.9	20	page 193	F.
	30.10.64	3500.0.0	561.14.9	30.10.64	4411.14.9	350.0.0	4061.14.9	35	page 193	
	3. 2.65	2000.0.0	321.14.9	3. 2.65	2521.14.9	200.0.0	2321.14.9	20	page 193	
	15. 2.65	2000.0.0	321.14.9	15. 2.65	2721.14.9	400.0.0	2321.14.9	20	page 192	
	15. 2.65	2000.0.0	321.14.9	15. 2.65	2721.14.9	400.0.0	2321.14.9	20	page 193	
	22. 2.65	5000.0.0	802.14.9	22. 2.65	6802.14.9	1000.0.0	5802.14.9	50	page 193	
	1. 3.65	1000.0.0	161.14.9	1. 3.65	1661.14.9	500.0.0	1161.14.9	10	page 193	
	12. 3.65	3000.0.0	381.14.9	12. 3.65	3681.14.9	300.0.0	3381.14.9	30	page 193	
	19. 3.65	3000.0.0	481.14.9	19. 3.65	3781.14.9	300.0.0	3481.14.9	30	page 193	
	15. 4.65	2000.0.0	311.14.9	15. 4.65	2511.14.9	200.0.0	2311.14.9	20	page 193	
20	26. 4.65	1000.0.0	161.14.9	26.4.65	1261.14.9	100.0.0	1161.14.9	10	page 193	F.
	7. 5.65	1500.0.0	241.14.9	7. 5.65	1891.14.9	150.0.0	1742.14.9	15	page 193	
	21. 5.65	1000.0.0	161.14.9	21. 5.65	1361.14.9	200.0.0	1161.14.9	10	page 192	
	3. 6.65	1000.0.0	164. 0.0	3. 6.65	1364. 0.0	200.0.0	1164. 0.0	10	page 193	
	4. 6.65	1000.0.0	161.14.9	4. 6.65	1361.14.9	200.0.0	1161.14.9	10	page 193	
	2. 7.65	1000.0.0	164. 0.0	2. 7.65	1664. 0.0	500.0.0	1164. 0.0	10	page 191	
	13. 7.65	1000.0.0	164. 0.0	13. 7.65	1664. 0.0	500.0.0	1164. 0.0	10	page 192	
	13. 7.65	1000.0.0	164. 0.0	13. 7.65	1664. 0.0	500.0.0	1164. 0.0	10	page 192	
	Aug. 65	1000.0.0	161.14.9	5. 8.65	1361.14.9	200.0.0	1161.14.9	10	page 193	
	20. 8.65	1000.0.0	161.14.9	20. 8.65	1361.14.9	200.0.0	1161.14.9	10	page 193	
30	7.10.65	500.0.0	81.14.9	7.10.65	681.14.9	100.0.0	581.14.9	5	page 192	F.
	7.10.65	1000.0.0	161.14.9	7.10.65	1361.14.9	200.0.0	1161.14.9	10	page 193	
	7.10.65	1000.0.0	161.14.9	7.10.65	1361.14.9	200.0.0	1161.14.9	10	page 193	
	10.12.65	500.0.0	41.12.4	10.12.65	641.12.4	100.0.0	541.12.4	5	page 191	
	10.12.65	1000.0.0	81.12.4	10.12.65	1281.12.4	200.0.0	1081.12.4	10	page 191	
	10.12.65	1000.0.0	81.12.4	10.12.65	1281.12.4	200.0.0	1081.12.4	10	page 191	

Analysis of
156 Conditional
Purchase
Agreements
produced as
Exhibit "A"

(Undated)

Petitioner's Exhibits	"Assignment by way of Mortgage"			"Conditional Purchase Agreement"						Agreements in Currie's bundle marked "Fictitious" (see p.82) are marked F.
	Date of Assignment	Amount of Advance £	Finance Charges £	Date of Agreement	"Terms Price" £	"Deposit" £	"Deferred Balance" £	Number of Sets	"Schedule of chattels" is similar to:-	
Exhibit "A" (continued) Analysis of 156 Conditional Purchase Agreements produced as Exhibit "A" (Undated)	10.12.65	1000.0.0	81.12.4	10.12.65	1281.12.4	200.0.0	1081.12.4	10	page 191	F.
	24.12.65	1000.0.0	81.12.4	24.12.65	1281.12.4	200.0.0	1081.12.4	10	page 191	
	24.12.65	500.0.0	41.12.4	24.12.65	641.12.4	100.0.0	541.12.4	5	page 191	
	24.12.65	500.0.0	41.12.4	24.12.65	641.12.4	100.0.0	541.12.4	5	page 191	
	24.12.65	1000.0.0	81.12.4	24.12.65	1281.12.4	200.0.0	1081.12.4	10	page 191	
	21. 1.66	1500.0.0	241.14.9	21. 1.66	2241.14.9	500.0.0	1741.14.9	15	page 191	F.
	21.1. 66	1000.0.0	161.14.9	21. 1.66	2161.14.9	1000.0.0	1161.14.9	10	page 191	
	21. 1.66	4000.0.0	641.14.9	21. 1.66	5641.14.9	1000.0.0	4641.14.9	40	page 192	
	17. 2.66	500.0.0	81.14.9	17. 2.66	681.14.9	100.0.0	581.14.9	5	page 191	
	17. 2.66	1000.0.0	161.14.9	17. 2.66	2161.14.9	1000.0.0	1161.14.9	10	page 192	
	17. 2.66	1000.0.0	161.14.9	17. 2.66	2161.14.9	1000.0.0	1161.14.9	10	page 192	F.
	17. 2.66	1000.0.0	161.14.9	17. 2.66	2161.14.9	1000.0.0	1161.14.9	10	page 192	
	1. 3.66	500.0.0	81.14.9	1. 3.66	681.14.9	100.0.0	581.14.9	5	page 191	
	1. 3.66	1000.0.0	161.14.9	1. 3.66	2161.14.9	1000.0.0	1161.14.9	10	page 191	
	1. 3.66	500.0.0	81.14.9	1. 3.66	681.14.9	100.0.0	581.14.9	5	page 191	
	1. 3.66	500.0.0	81.14.9	1. 3.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	6. 4.66	2500.0.0	401.14.9	6. 4.66	3201.14.9	300.0.0	2901.14.9	25	page 192	
	6. 4.66	2500.0.0	401.14.9	6. 4.66	3201.14.9	300.0.0	2901.14.9	25	page 191	
	7. 4.66	1500.0.0	241.14.9	7. 4.66	2241.14.9	500.0.0	1741.14.9	15	page 192	
	7. 4.66	2500.0.0	401.14.9	7. 4.66	3201.14.9	300.0.0	2901.14.9	25	page 192	
	14. 4.66	2000.0.0	321.14.9	14. 4.66	2721.14.9	400.0.0	2321.14.9	20	page 192	F.
	18. 4.66	2500.0.0	401.14.9	18. 4.66	3201.14.9	300.0.0	2901.14.9	25	page 192	
		2500.0.0	401.14.9	19. 4.66	3201.14.9	300.0.0	2901.14.9	25	page 192	
	19. 4.66	500.0.0	81.14.9	19. 4.66	631.14.9	50.0.0	581.14.9	5	page 192	
	2. 5.66	2000.0.0	321.14.9	2. 5.66	2521.14.9	200.0.0	2321.14.9	30	page 192	
	2. 5.66	2000.0.0	321.14.9	2. 5.66	2521.14.9	200.0.0	2321.14.9	20	page 192	F.
	3. 5.66	500.0.0	500. 0.0	3. 5.66	681.14.9	100.0.0	581.14.9	5	page 192	
	3. 5.66	1000.0.0	161.14.9	3. 5.66	1261.14.9	100.0.0	1161.14.9	10	page 192	

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F.

Petitioner's Exhibits	"Assignment by way of Mortgage"			"Conditional Purchase Agreement"						Agreements in Currie's bundle marked "Fictitious" (see p.82) are marked F.
	Date of Assignment	Amount of Advance £	Finance Charges £	Date of Agreement	"Terms Price" £	"Deposit" £	"Deferred Balance" £	Number of Sets	"Schedule of Chattels" is similar to:-	
Exhibit "A" (continued) Analysis of 156 Conditional Purchase Agreements produced as Exhibit "A" (Undated)	26. 6.66	1000.0.0	161.14.9	26. 6.66	1261.14.9	100.0.0	1161.14.9	10	page 191	
	27. 6.66	1000.0.0	161.14.9	27. 6.66	2161.14.9	1000.0.0	1161.14.9	10	page 192	
	27. 6.66	1000.0.0	161.14.9	27. 6.66	2161.14.9	1000.0.0	1161.14.9	10	page 192	
	27. 6.66	1000.0.0	161.14.9	27. 6.66	1261.14.9	100.0.0	1161.14.9	10	page 192	F.
	27. 6.66	1000.0.0	161.14.9	27. 6.66	1261.14.9	100.0.0	1161.14.9	10	page 192	F.
	27. 6.66	1000.0.0	161.14.9	27. 6.66	1261.14.9	100.0.0	1161.14.9	10	page 192	F.
	27. 6.66	1000.0.0	161.14.9	27. 6.66	1261.14.9	100.0.0	1161.14.9	10	page 192	F.
	27. 6.66	1000.0.0	161.14.9	27. 6.66	1261.14.9	100.0.0	1161.14.9	10	page 191	
	27. 6.66	1000.0.0	161.14.9	27. 6.66	1261.14.9	100.0.0	1161.14.9	10	page 191	
	12. 7.66	1500.0.0	241.14.9	12. 7.66	1941.14.9	200.0.0	1741.14.9	15	page 191	F.
	13. 7.66	500.0.0	81.14.9	13. 7.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	13. 7.66	500.0.0	81.14.9	13. 7.66	681.14.9	100.0.0	581.14.9	5	page 191	
	13. 7.66	1000.0.0	161.14.9	13. 7.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	2. 8.66	1000.0.0	161.14.9	2. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	2. 8.66	1000.0.0	162.14.9	2. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	2. 8.66	1000.0.0	161.14.9	2. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	3. 8.66	1000.0.0	161.14.9	3. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	3. 8.66	1000.0.0	161.14.9	3. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	3. 8.66	1000.0.0	161.14.9	3. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	3. 8.66	1000.0.0	162.14.9	3. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	5. 8.66	1000.0.0	162.14.9	5. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	5. 8.66	1000.0.0	162.14.9	5. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	16. 8.66	1000.0.0	161.14.9	16.8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	16. 8.66	2500.0.0	401.14.9	16. 8.66	3401.14.9	500.0.0	2901.14.9	25	page 191	F.
	18. 8.66	1500.0.0	241.14.9	18. 8.66	1941.14.9	200.0.0	1741.14.9	15	page 191	F.
	18. 8.66	1000.0.0	161.14.9	18. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	
	25. 8.66	1000.0.0	161.14.9	25. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	25. 8.66	1000.0.0	161.14.9	25. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	25. 8.66	1000.0.0	161.14.0	25. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.

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"Assignment by way of Mortgage"				"Conditional Purchase Agreement"						Petitioner's Exhibits
Date of Assignment	Amount of Advance £	Finance Charges £	Date of Agreement	"Terms Price" £	"Deposit" £	"Deferred Balance" £	Number of Sets	"Schedule of Chattels" is similar to:-	Agreements in Currie's bundle marked "Fictitious" (see p.82) are marked F.	Exhibit "A" (continued)
10	26. 8.66	500.0.0	81.14.9	26. 8.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	26. 8.66	500.0.0	81.14.9	26. 8.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	26. 8.66	500.0.0	81.14.9	26. 8.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	26. 8.66	500.0.0	81.14.9	26. 8.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	27. 8.66	1000.0.0	161.14.9	27. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	27. 8.66	1000.0.0	161.14.9	27. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	27. 8.66	1000.0.0	161.14.9	27. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	27. 8.66	500.0.0	81.14.9	27. 8.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	27. 8.66	500.0.0	81.14.9	27. 8.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	28. 8.66	1000.0.0	161.14.9	28. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
20	28. 8.66	1000.0.0	161.14.9	28. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	28. 8.66	1000.0.0	161.14.9	28. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	28. 8.66	1000.0.0	161.14.9	28. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	28. 8.66	1000.0.0	161.14.9	28. 8.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	30. 8.66	500.0.0	81.14.9	30. 8.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	16. 9.66	1000.0.0	161.14.9	16. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	19. 9.66	1000.0.0	161.14.9	19. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	22. 9.66	1000.0.0	161.14.9	22. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 192	F.
	22. 9.66	1000.0.0	161.14.9	22. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	22. 9.66	1000.0.0	161.14.9	22. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
30	22. 9.66	500.0.0	81.14.9	22. 9.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	22. 9.66	500.0.0	81.14.9	22. 9.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	22. 9.66	500.0.0	81.14.9	22. 9.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
	23. 9.66	1000.0.0	161.14.9	23. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	23. 9.66	1000.0.0	161.14.9	23. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	23. 9.66	1000.0.0	161.14.9	23. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	26. 9.66	1000.0.0	161.14.9	26. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	26. 9.66	1000.0.0	161.14.9	26. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
	27. 9.66	1000.0.0	161.14.9	27. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 192	F.
	27. 9.66	1000.0.0	161.14.9	27. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 192	F.

Analysis of 156 Conditional Purchase Agreements produced as Exhibit "A" (Undated)

Petitioner's
Exhibits

Exhibit "A"
(continued)
Analysis of
156 Conditional
Purchase
Agreements
produced as
Exhibit "A"

(Undated)

"Assignment by way of Mortgage"

"Conditional Purchase Agreement"

Date of Assignment	Amount of Advance £	Finance Charges £	Date of Agreement	"Terms Price" £	"Deposit" £	"Deferred Balance" £	Number of Sets	"Schedule of Chattels" is similar to:-	Agreements in Currie's bundle marked "Fictitious" (see p.82) are marked F.
28. 9.66	500.0.0	81.14.9	28. 9.66	681.14.9	100.0.0	581.14.9	5	page 191	
28. 9.66	1000.0.0	161.14.9	28. 9.66	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
28.10.66	500.0.0	81.14.9	28. 9.66	681.14.9	100.0.0	581.14.9	5	page 191	F.
8. 2.67	1000.0.0	161.14.9	8. 2.67	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
8. 2.67	1000.0.0	161.14.9	8. 2.67	1361.14.9	200.0.0	1161.14.9	10	page 191	
8. 2.67	1000.0.0	161.14.9	8. 2.67	1361.14.9	200.0.0	1161.14.9	10	page 191	
8. 2.67	1000.0.0	161.14.9	8. 2.67	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
9. 2.67	1000.0.0	161.14.9	9. 2.67	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
22. 2.67	1000.0.0	161.14.9	22. 2.67	1361.14.9	200.0.0	1161.14.9	10	page 191	
2. 3.67	500.0.0	81.14.9	2. 3.67	681.14.9	100.0.0	581.14.9	5	page 191	
2. 3.67	1000.0.0	161.14.9	2. 3.67	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
2. 3.67	1000.0.0	161.14.9	2. 3.67	1361.14.9	200.0.0	1161.14.9	10	page 191	F.
1. 5.67	7000.0.0	841.10.0	1. 5.67	-	-	7841.10.0	50	page 191	(refinanced)
31. 5.67	1000.0.0	121.10.0	31. 5.67	1621.10.0	500.0.0	1121.10.0	10	page 191	
31. 5.67	1000.0.0	121.10.0	31. 5.67	1621.10.0	500.0.0	1121.10.0	10	page 191	
31. 5.67	4000.0.0	481.10.0	31. 5.67	5481.10.0	1000.0.0	4481.10.0	40	page 191	

Total of "Advances"

\$364,000

Total of the "Advances" under the 17 documents like page ¹⁸⁵193

\$ 64,000

Total of the "Advances" under the 56 documents marked "F"

\$112,000

Total of the "Advances" under the remaining 83 documents
(see Currie's evidence page 82)

\$188,000

\$364,000

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EXHIBIT "C"SCHEDULE OF ARREARSBATEMAN TV HIRE LIMITEDARREARS AS PER DEMANDPetitioner's
Exhibits

Exhibit "C"

Schedule of
Arrears

(Undated)

	<u>DEAL NO.</u>	<u>AMOUNT</u>
	601-620	582-00
	621-640	344-00
	671-720	1470-00
10	761-770	291-00
	781-800	582-00
	801-830	1128-00
	851-880	870-00
	961-980	582-00
	1001-1010	291-00
	1051-1065	292-00
	1241-1250	291-00
	1291-1300	194-00
	1341-1350	291-00
	1381-1390	291-00
20	1391-1400	291-00
	1561-1570	194-00
	1611-1620	582-00
	1871-1880	485-00
	1881-1890	485-00
	2051-2060	360-00
	2061-2070	360-00
	2071-2080	360-00
	2081-2085	180-00
	2116-2120	180-00
30	2121-2130	360-00
	2131-2140	360-00
	2151-2190	5820-00
	2191-2200	971-00
	2201-2215	1460-00
	2241-2250	970-00
	2251-2260	970-00
	2261-2270	970-00
	2291-2300	1455-00
	2311-2315	576-00
40	2316-2320	576-00
	2351-2355	2684-00
	2356-2380	2440-00
	2381-2415	2440-00
	2416-2430	1460-00
	2461-2465	432-00
	2466-2490	2178-00
	2491-2515	2178-00

Petitioner's Exhibits	DEAL NO.	AMOUNT	
	2591-2600	970-00	
	2631-2640	1067-00	
Exhibit "C"	2651-2660	970-00	
	2661-2670	873-00	
Schedule of	2671-2680	873-00	
Arrears	2681-2700	2134-00	
(Undated)	2701-2720	2134-00	
(continued)	2731-2740	873-00	
	2751-2760	1547-48	10
	2761-2770	1265-52	
	2771-2775	612-52	
	2796-2815	2910-00	
	2851-2860	970-00	
	2861-2870	970-00	
	2871-2880	1067-00	
	2881-2890	970-00	
	2891-2900	1067-00	
	2901-2910	1067-00	
	2911-2915	528-00	20
	2916-2920	528-00	
	2931-2940	1067-00	
	2941-2950	1067-00	
	2951-2955	527-00	
	2956-2965	1067-00	
	2991-3000	1067-00	
	3011-3015	528-00	
	3036-3045	1067-00	
	3046-3055	1067-00	
	3056-3065	1067-00	30
	3066-3075	1067-00	
	3076-3085	1067-00	
	3086-3095	1067-00	
	3096-3105	1067-00	
	3106-3115	1067-00	
	3116-3125	1067-00	
	3126-3135	1067-00	
	3136-3145	1067-00	
	3146-3155	1067-00	
	3176-3180	528-00	40
	3181-3185	528-00	
	3186-3195	1067-00	
	3206-3215	1067-00	
	3216-3225	1067-00	
	3251-3260	970-00	
	3261-3270	970-00	
	3271-3280	970-00	
	3301-3310	970-00	
	3341-3350	776-00	

	<u>DEAL NO.</u>	<u>AMOUNT</u>	<u>Petitioner's Exhibits</u>
	3361-3375	1305-00	
	3376-3390	1450-00	
	3391-3415	2178-00	Exhibit "C"
	3426-3455	1164-00	
	3446-3455	970-00	Schedule of
	3466-3475	873-00	Arrears
	3476-3485	873-00	(Undated)
10	3486-3495	873-00	(continued)
	3496-3500	480-00	
	3501-3505	480-00	
	3506-3510	480-00	
	3511-3515	480-00	
	3516-3520	480-00	
	3521-3530	1067-00	
	3531-3540	1067-00	
	3541-3550	1067-00	
	3551-3555	576-00	
20	3556-3565	1168-52	
	3566-3575	1071-53	
	3576-3585	1071-52	
	3586-3595	1071-53	
	3616-3620	672-00	
	3621-3630	1261-00	
	3631-3640	873-00	
	3671-3680	1067-00	
	3681-3690	1067-00	
	3691-3700	1067-00	
30	3701-3705	528-00	
	3706-3710	528-00	
	3711-3720	1067-00	
	3721-3730	1067-00	
	3731-3740	1067-00	
	3741-3750	970-00	
	3751-3760	970-00	
	3791-3800	1067-00	
	3801-3810	1067-00	
	3811-3815	635-48	
40	3816-3825	1164-00	
	3826-3835	1256-48	
	3836-3840	635-48	
	3851-3860	679-00	
	3861-3870	679-00	
	3871-3880	582-00	
	3881-3890	679-00	
	3891-3900	674-48	
	3901-3905	384-00	
	3906-3915	873-00	
	3916-3925	776-00	

<u>Petitioner's Exhibits</u>	<u>DEAL NO.</u>	<u>AMOUNT</u>
	3926-3935	776-00
Exhibit "C"	3936-3990	5472-00
	3991-4060	12180-00
Schedule of Arrears	4061-4100	3968-00
	4101-4110	992-00
	4111-4120	992-00
(Undated)	4121-4170	4983-00
(continued)	4171-4190	1993-00
	4191-4200	993-00
	4201-4207	691-00
		<u>166354-54</u>

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Exhibit "D"EXHIBIT "D"

Schedule of
Re-possession
including
Details of
Amount owing to
Petitioner by
Bateman Tele-
vision Limited

SCHEDULE OF REPOSSESSIONS INCLUDING DETAILS
OF AMOUNT OWING TO COLERIDGE FINANCE COMPANY
LIMITED BY BATEMAN TELEVISION LIMITED

REPOSSESSIONS AS PER SCHEDULE PROVIDED
TO BATEMAN TV LTD.

\$8706-46

(Undated)

DETAILS OF LIST ALREADY GIVEN
TO BATEMAN TV LIMITED

20

<u>NAME</u>	<u>AMOUNT</u>
G. Cameron	\$128-00
B. Craig	\$ 21-00
W.A. Davis	\$225-00
W.A. Dennett	\$292-00
M. Dick	\$276-00
E.A. Diehl	\$229-50
R.E. Dodd	\$235-30
R. Duncan	\$61 -00
A.G. Dunnage	\$ 13-00
R.G. Fairclough	\$210-00
E.J. Freeman	\$ 85-70
A.J. Hamilton	\$ 19-00
G.E. Holtham	\$123-50

30

	<u>NAME</u>	<u>AMOUNT</u>	Petitioner's <u>Exhibits</u>
	C.C. Hoskin	\$ 12-00	
	L.W. Hutton	\$240-00	
	W.T. Jacob	\$250-00	Exhibit "D"
	A.J. Lambie	\$272-00	
	C. LeBreton	\$257-25	Schedule of
	P. LeBreton	\$194-00	Repossessions
	M. Lowe	\$333-78	including
10	G. McAlister	\$216-00	Details of
	D.P. McIlroy	\$241-50	Amount owing to
	L.R. McKurick	\$228-00	Petitioner by
	E.B. Martin	\$296-00	Bateman Tele-
	A. Moighan	\$143-00	vision Limited
	K. Millward	\$ 19-00	
	A. Norwell	\$192-25	(Undated)
	A. Oliver	\$ 28-70	(continued)
	T.S. Owen	\$ 10-00	
	R.H. Perriton	\$ 21-25	
	R. Prior	\$239-26	
20	A. Rimmer	\$ 22-00	
	V.H. Roberts	\$313-02	
	P.C. Roberts	\$318-00	
	B. Skudder	\$ 1-00	
	B. Smolenski	\$147-00	
	G. Stalle	\$ 19-63	
	A. Stewart	\$260-00	
	S. Sullivan	\$342-90	
	A.W. Tait	\$401-33	
	P.J. Taylor	\$342-36	
30	L.M. Terris	\$ 39-23	
	I.W. Thain	\$252-00	
	W. Tuuta	\$ 10-00	
	A. Van de Stolpe	\$260-00	
	M.F. Waihape	\$101-50	
	A.J. Watkins	\$ 10-00	
	J.L. Watson	\$ 29-50	
	C.H. Williams	\$168-00	
	E. Williams	\$110-00	
	W.A. Woods	\$238-00	
40	F.J. Gibbs	\$208-00	

Petitioner's
Exhibits

EXHIBIT "G"(1)

Exhibit "G"(1)

LETTER COLERIDGE FINANCE COMPANY LIMITED
TO BATEMAN TELEVISION LIMITED dated 2nd
February 1968

Letter
Coleridge
Finance Company
Limited to
Bateman Tele-
vision Limited

2nd February
1968

COLERIDGE FINANCE CO. LTD.

2nd February, 1968.

The Directors,
Bateman Television Limited,
CHRISTCHURCH.

Dear Sirs,

10

Further to our discussions of yesterday with Mr. E.N. Thomas of Credit Services Limited and yourselves, we wish to advise that the following would be the terms required by Credit Services Ltd. for the refinancing of the amount owing on your hire sets. The new securities are to be taken in the name of Coleridge Finance Company Limited.

1. Schedule of rental sets to be provided, showing the make, date of manufacturing, serial number and location. 20
2. New security drawn providing for a specific charge over the sets and a form of debenture over Bateman T.V. Hire Limited supported by guarantees from the other companies in the group.
3. New advance to be at the rate of 10% flat per annum and to provide for monthly repayments of \$8,500 from either revenue or sales of sets. A rebate of 2% is to be allowed where this minimum target is reached or exceeded. 30
4. A monthly schedule of hire sets sold to be provided and a master schedule as specified in (1) to be provided each three months.
5. The debenture is to be supported by a specific charge over the hire debtors ledger.
6. Proceeds of sale of sets subject to charge, less any hire refunds must be accounted for within seven days.

Yours faithfully,
COLERIDGE FINANCE COMPANY LIMITED

40

EXHIBIT "G"(2)SCHEDULE OF PROPOSED TERMS OF
SETTLEMENT (undated)Petitioner's
Exhibits

Exhibit "G"(2)

SCHEDULE OF TERMSSchedule of
proposed terms
of settlement

(undated)

1. A specific charge to be taken over 1650 television sets and to be supported by debentures over the companies holding these sets, together with a debenture over Bateman Television Limited and a specific charge over the respective Hire Debtors Ledgers. The debentures are to contain the normal terms of a commercial debenture. In addition to the foregoing security a specific charge is to be given over the inter-company debt of \$35,000 representing the debt due on 350 television sets to Bateman Television Hire Limited in terms of the agreement dated the first day of December 1967. A monthly schedule of sets sold is to be provided to Credit Services Investments Limited, and each three months a master schedule covering all sets under charge, including 350 sets relating to the inter-company debt of \$35,000 is to be provided incorporating the following details: Make, date of manufacture, serial number and location.
2. The debt to be repayable over ten years at a rate of not less than \$4,500 per month and to bear interest at the rate of 8% flat such interest at 8% to be recalculated on the principal outstanding at the end of each two year period.
3. Television sets under security must be paid out upon sale. The payout price being \$170 for the sets under specific charge and \$100 for the sets relating to the inter-company debt.
4. Interest on the inter-company debt to be charged at the rate of 8% per annum on the balance outstanding at the start of each $\frac{1}{2}$ year. The various companies will carry on business in the normal manner, and inter-company Current Accounts will only be created in the normal course of business.
5. Terms for service contracts with Bateman Television Service Limited to be approved by the

Petitioner's <u>Exhibits</u>	lender and failing agreement by arbitration. Service contract charges are to be charged proportionately throughout the year.	
Exhibit "G"(2)		
Schedule of proposed terms of settlement		
(undated) (continued)		
	6. The following cars, together with any liabilities charged thereon are to be transferred to Bateman Television Service Limited:- Two Daimler Cars, two Morris 1100 cars, one Holden Station Wagon. The cars to be transferred at current market value and the net value to be applied in repayment of the debt between Bateman Television Hire Limited and Bateman Television Service Limited.	10
	7. The lease held by Bateman Television Limited for the premises at 710 Colombo Street is to be transferred to a Company nominated by Messrs. Bateman and Thomas. It is to be transferred at a value fixed by an independent valuer and the consideration to be applied in reduction of the debt due by Bateman Television Hire Limited to Bateman Television Service Limited.	20
	8. All companies in the Bateman group are to pay their direct overhead costs and a reasonable proportion of the overhead costs of the group.	
	9. Discounting of all Hire Purchase sales to be guaranteed by Credit Services during term of debenture.	
	10. Funds to be provided for the repayment of the Bateman T.V. Hire bank overdraft and the amount so provided to be added to the total owing under the debenture.	30
	11. Any overpayments in a month to be carried forward as a credit towards the following month or months.	
	12. Document charges and insurance on Credit Services agreements to be adjusted in line with those of Coleridge Finance.	
	13. Bateman T.V. Service Limited to do all servicing of the group.	
	14. Cost of debenture to be met by Coleridge Finance.	
	15. All conditions would be subject to the debt being checked out and any amount owing by Bateman Television Limited for reposessions also being checked out and payment satisfactorily arranged.	40

EXHIBIT "G"(3)

LETTER WYNN WILLIAMS & CO. TO CAVELL LEITCH
& PRINGLE dated 19th March 1968

Petitioner's
Exhibits

Exhibit "G"(3)

WYNN WILLIAMS & CO.

19th March, 1968

Letter Wynn
Williams & Co.
to Cavell
Leitch & Pringle

19th March 1968

Messrs. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH.

10 Dear Sirs,

re: Credit Services Investments Ltd
& Hinz Finance Group

20 We enclose herewith seven new Heads of Agree-
ment for completion by the shareholders of the
various companies. We also enclose seven uncom-
pleted forms to enable you to have copies. We
have not inserted the effective date as we are not
aware of which date is appropriate for each company
and would be grateful if you would insert this in
Clause 1, Clause 6 (twice), Clause 7 and Clause 12.

30 We have today seen Mr. Menzies and we enclose
for your information a copy of a letter which we
gave to him and recorded what the writer stated to
him. In view of the fact that your clients have
been told by Mr. Thomas of Batemans that the company
will not sign the Debenture, we consider that your
clients should instruct repossession agents to
seize such of the television sets as are in the
possession of Batemans or Star T.V. Limited at
3 p.m. on Monday 25th March. We consider that,
provided the sets are identified as being subject
to agreements in respect of which there are arrears,
no liability can attach in respect of the seizure.
Even if we are wrong we consider that the damages
would be small as the claimant would be pleading
as an illegality in order to support the claim for
damages. We think it important that Batemans are
shown on Monday that the threat given today was a
genuine one and, even if the seizure is unsuccess-
40 ful, it might well force Batemans' to sign the
Debenture.

Petitioner's
Exhibits

Exhibit "G"(3)

Letter Wynn
Williams & Co.
to Cavell
Leitch & Pringle

19th March 1968
(continued)

Would you also please ask Mr. Rundle to obtain for us an accurate list of arrears of instalments showing the amounts owing to each company, such list to be made available by Monday next.

As soon as we hear anything from Batemans we will advise you. In the meantime, we suggest that you should arrange for the shareholders to sign the enclosed Agreements. We hope to be able to forward you the necessary form of Guarantee tomorrow.

Yours faithfully,
WYNN WILLIAMS & CO.

Per: 'A.D. Holland'

10

Exhibit "G"(4)

Letter Wynn
Williams & Co.
to J.R.B.
Menzie

19th March 1968

EXHIBIT "G"(4)

LETTER WYNN WILLIAMS & CO. TO J.R.B. MENZIES
dated 19th March 1968

WYNN WILLIAMS & CO.

19th March, 1968.

J.R.B. Menzie Esq.,
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

20

Dear Sir,

re: Bateman T.V. Ltd, Bateman T.V. Hire
Ltd and Credit Services Investments Ltd.

We wish to confirm our interview with you today whereby we indicated to you that, in order to avoid immediate action being taken against the above two companies by the finance companies in respect of the debts owing to them by your client companies, it will be necessary on or before 3 p.m. on Monday 25th March, for your clients to agree to re-finance the entire debt by accepting an advance from Credit Services Investments Ltd for this purpose on the following terms and conditions:-

30

1. A Debenture to be given by Bateman T.V.Limited and Bateman T.V. Hire Ltd over all their assets;

Petitioner's
Exhibits

2. The security is to be supported by a separate schedule showing the full description and whereabouts of at least 2,000 television sets;

Exhibit "G"(4)

3. The Debentures are to be guaranteed by all associated or subsidiary companies;

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

4. Interest is to be at a flat rate of 8% per annum;

19th March 1968
(continued)

5. There are to be minimum monthly repayments of \$6,300 or the total of monthly sales of television sets, allowing for \$170 for each television set, whichever sum is to be the greater;

6. The assets of the companies are to include all book debts and, in particular, the rental hire accounts;

7. The companies are to provide within seven days of the end of each month a statement of sales for the month;

8. The companies are to provide a quarterly master schedule setting out the full description and whereabouts of the television sets still subject to the security;

9. The companies are to provide quarterly a copy of the control account of rental debtors.

In all other respects the Debenture is to include the usual terms for debentures to be agreed between the Solicitors for both parties and in the event of their failing to agree, is to contain the terms set out in the standard printed form of Debenture by the Australia & New Zealand Bank Limited, except for the provisions herein specifically covered.

Yours faithfully,
WYNN WILLIAMS & CO.

per: 'A.D. Holland'

Petitioner's
Exhibits

EXHIBIT "G"(5)

Exhibit "G"(5)

LETTER J.R.B. MENZIES TO WYNN WILLIAMS & CO.
dated 25th March 1968

Letter J.R.P.
Menzies to
Wynn Williams &
Co.

J.R.B. MENZIES

25th March, 1968.

25th March 1968

Messrs. Wynn Williams & Co.,
Solicitors,
P.O. Box 631,
CHRISTCHURCH

(Attention Mr. Holland)

Dear Sirs,

10

re: Bateman T.V. Ltd., Bateman T.V.
Hire Ltd. and Credit Services
Investments Ltd.

The offer contained in your letter of the 19th
inst has been considered by the directors of my
client companies.

I have been instructed to advise you that in
view of the impossibility of satisfactorily carry-
ing on business under the terms stipulated the
offer is declined.

20

Should your clients be disposed to submit
proposals appreciably less impracticable from my
clients' point of view they would, no doubt, be
prepared to consider them.

My clients desire it recorded that the claims
of your clients are disputed, that any precipitate
attempt to exercise any rights which may be
thought to be vested in any of the companies which
you represent are likely to be harmful to my
clients in the conduct of their business and they
will not hesitate to seek the appropriate remedies
for any rights infringed.

30

Yours faithfully,

'J.R.B. Menzies'

EXHIBIT "G"(6)

LETTER WYNN WILLIAMS & CO. TO CAVELL LEITCH
& PRINGLE dated 25th March 1968

Petitioner's
Exhibits

Exhibit "G"(6)

WYNN WILLIAMS & CO.

25th March, 1968.

Messrs. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH.

Attention Mr. Pringle.

Letter Wynn
Williams & Co.
to Cavell
Leitch &
Pringle

25th March
1968

10 Dear Sirs,

re: Credit Services Investments Ltd.
& Hintz Finance Companies

20 We enclose for your information a copy of a
letter which we have today received from Mr. Menzies.
We have discussed this letter with our client. We
have been instructed to advise you that our client
is still willing to proceed with the purchase of the
shares in the various companies, provided that it is
satisfied as to the existence of 2,000 television
sets under the control of the Bateman Group and some
acknowledgment by way of security is given by the
Bateman Group in respect thereof. The terms pro-
posed to the Bateman Group were as generous as our
client company is prepared to give. The Bateman
Group has indicated that it is not prepared to give
the Debenture.

30 In the circumstances the only way in which the
purchase of the shares can proceed is if the vendors
produce further guarantees for an additional \$200,000.
These guarantees will have to be satisfactory to our
clients so that we are satisfied that the same is
amply covered.

In those circumstances it appears to us that
you might well have to call a meeting, but it is
no, doubt, for your clients to decide what they
should do in this regard.

We fully agree that Notices under the Companies
Act should be served on Batemans and these Notices
may be successful in persuading Batemans to sign the

Petitioner's
Exhibits

Exhibit "G"(6)

Letter Wynn
Williams & Co.
to Cavell
Leitch &
Pringle

25th March 1968
(continued)

Debenture. If the Debenture is completed, our clients will complete the purchase of shares. If the Debenture is not completed, the further guarantees are required, or the whole transaction will have to be cancelled.

We are arranging for this letter to be delivered to you this afternoon because the writer has a meeting at 4 p.m. and it has been impossible to discuss the position with you. We would be pleased to discuss the position tomorrow at any convenient time.

10

Yours faithfully,
WYNN WILLIAMS & CO.

per: 'A.D. Holland'

Exhibit "G"(7)

EXHIBIT "G"(7)

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

LETTER WYNN WILLIAMS & CO. TO J.R.B. MENZIES
dated 26th March 1968

WYNN WILLIAMS & CO.

26th March 1968

26th March, 1968.

J.R.B. Menzies Esq.,
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

20

Dear Sir,

re: Bateman Companies & Hintz Finance
Companies & Credit Services
Investments Ltd.

We enclose herewith copies of Notices which have been served on the registered office of Bateman T.V. Limited, Bateman T.V. Hire Limited and Star T.V. Limited. These demands have been issued under Section 218 of the Companies Act 1955 as a preliminary step to winding up the companies.

30

We note from your letter that you suggest that

the proposed terms of the Debenture are impracticable from your clients' point of view. We had understood that these terms had been negotiated with a view to their being practicable. As an indication of the sincerity of your clients' approach, it appeared to us that they should state what terms they deemed to be practicable.

10 Further remedies are open to our respective clients in respect of the defaults under the Agreements. Action may well have to be taken quickly and we would therefore be grateful if you would let us have your reply by noon on Friday next 29th March as to what terms your clients are prepared to give by way of security.

We hasten to say that we are not indicating that our clients will automatically accept the terms proposed by your clients, but they are certainly prepared to consider them.

20 Yours faithfully,
WYNN WILLIAMS & CO.

per: 'A.D. Holland'

EXHIBIT "G"(8)

LETTER J.R.B. MENZIES TO WYNN WILLIAMS & CO.
dated 29th March 1968

J.R.B. MENZIES

29th March, 1968

30 Messrs. Wynn Williams & Co.,
Solicitors,
P.O. Box 631,
CHRISTCHURCH.

Without Prejudice
(Attention Mr. Holland)

Dear Sirs,

re: Bateman T.V. Ltd., Bateman T.V.
Hire Ltd. and Credit Services
Investments Ltd.

I acknowledge your letter of the 26th inst. together with three copies of notices under Section

Petitioner's
Exhibits

Exhibit "G"(7)

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

26th March 1968
(continued)

Exhibit "G"(8)

Letter J.R.B.
Menzies to Wynn
Williams & Co.

29th March 1968

Petitioner's Exhibits 218 of the Companies Act, 1955.

Exhibit "G"(8) As mentioned to you in our discussion on the 19th inst., certain terms had been discussed by Messrs. Hintz and Rundle of the one part and the directors of my client companies of the other. However, a point was reached when no progress was being made, largely, I understand, for the reason that Messrs. Hintz and Rundle would not agree to provide any assistance in the pressing problem of meeting the obligatory reductions in the hire company's bank overdraft of some \$10,000, and at this stage Mr. Hintz wrote advising that the negotiations were terminated.

Letter J.R.B.
Menzies to Wynn
Williams & Co.

29th March 1968
(continued)

10

Any suggestion that my client companies are not trying to find a solution on the broad lines proposed in your letter of the 19th inst. is deprecated, and I am sure that they will be happy to accept any scheme which will, on a realistic appraisal of all relevant matters, give them a reasonable prospect of surviving.

20

I have been directed to enclose with my reply the attached schedule indicating lines on which settlement could possibly be reached. The terms included are broadly those previously under discussion with Messrs. Hintz and Rundle, but with a number of modifications which are essential to my client companies.

It will be observed that the terms in the schedule differ in some material respects (notably the period for repayment and the minimum monthly instalment) from those under discussion with Messrs. Hintz and Rundle, and from those mentioned in your letter of the 19th inst. However, you will appreciate that, from my client companies' point of view, at least, no useful purpose would be served by their agreeing to commitments which, all factors considered, they would not have a reasonable prospect of meeting.

30

At this point, with the benefit of additional advice, and with further observation of the tempo of trading, they feel that a repayment programme such as that discussed with Messrs. Hintz and Rundle premised an unjustifiably optimistic view of future trends and conditions. On the other hand, they feel that, failing any unexpectedly

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severe downturn, there is a reasonable possibility of their being able to comply with the terms which they are now putting forward, granted, of course, that the dice are not loaded against them in regard to the terms on which they are to trade - hence Paragraph 12 of the schedule. You, of course, will appreciate that under the terms which they are suggesting they would have every incentive to reduce the balance as speedily as possible.

Petitioner's
Exhibits

Exhibit "G"(8)

Letter J.R.B.
Menzies to Wynn
Williams & Co.

29th March 1968
(continued)

10 While my client companies would be happy to see the matter resolved on the lines they suggest, it should be remembered that, as previously advised, the claims against them are disputed, and their willingness to enter upon these negotiations is not to be taken as a recognition of such claims.

Yours faithfully,

'J.R.B. Menzies'

EXHIBIT "G"(9)

Exhibit "G"(9)

20 LETTER WYNN WILLIAMS & CO. TO CAVELL LEITCH
& PRINGLE dated 29th March 1968

Letter Wynn
Williams & Co.
to Cavell
Leitch &
Pringle

WYNN WILLIAMS & CO.

29th March, 1968.

Messrs. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH.

29th March 1968

Dear Sirs,

re: Credit Services Investments Ltd.
& Hintz Finance Group

30 We enclose for your information a copy of a letter and enclosure which we have today received from Mr. Menzies. We do not think for one moment the terms proposed, or anything like them, would be satisfactory to our clients.

Yours faithfully,
WYNN WILLIAMS & CO.

per: 'A.D. Holland'

Petitioner's
Exhibits

EXHIBIT "G"(10)

Exhibit "G"(10)

LETTER CAVELL LEITCH & PRINGLE TO P.T. MAHON
dated 30th April 1968

Letter Cavell
Leitch &
Pringle to
P.T. Mahon

A.H. CAVELL, LEITCH & PRINGLE

30th April, 1968

30th April 1968

P.T. Mahon, Esq.
Barrister,
84 Hereford Street,
CHRISTCHURCH.

Dear Sir,

10

re: BATEMAN

We enclose draft Agreement being submitted to
Mr. J.R.B. Menzies.

Yours faithfully,

A.H. CAVELL, LEITCH & PRINGLE

Per: '.A. Pringle'

Enc

Exhibit "G"(11)

EXHIBIT "G"(11)

Letter J.R.B.
Menzies to
R.G. Hintz

LETTER J.R.B. MENZIES TO R.G. HINTZ
dated 1st May 1968

20

1st May 1968

J.R.B. MENZIES

1st May, 1968.

Mr. R.G. Hintz,
152 Hereford St.,
CHRISTCHURCH, 1.

Without Prejudice

Dear Sir,

Bateman Companies and Hintz Finance Group

Messrs. Bateman and Thomas have instructed me
to write to you concerning the "Heads of Agreement"
recently received from you.

30

I should record at the outset, what has been said before, namely that my clients, although advised that they have a good defence to the claims by your group, are willing to enter into any arrangement for the payment of whatever amount may be found to be payable, provided always that the terms of such arrangement are such that, all relevant factors taken into account, their companies will genuinely have a reasonable prospect of being able to carry out the obligations imposed by such arrangement.

Petitioner's
Exhibits

Exhibit "G"(11)

Letter J.R.B.
Menzies to
R.G. Hintz

1st May 1968
(continued)

In this connection I would record that, in the same spirit, my clients directed that I write to Messrs. Wynn, Williams & Co., who, I understand, were then authorised to negotiate on your behalf, indicating the terms on which they were prepared to enter into an arrangement and that I have not yet received a reply to the letter which I wrote on 29th March last pursuant to such instructions.

Broadly, the terms of the document received from you relating to the nature and extent of the securities to be given and the "machinery" provisions are acceptable. However, certain of the points raised with Messrs. Wynn, Williams & Co. are considered to be essential and my clients feel that provision must be made for them in any arrangement now entered into.

The point of prime importance is, as you are aware, that my clients must be assured by Credit Services Investments Ltd. in a manner equally as binding as that covering the other terms of the arrangement, that facilities will be available to them for discounting at least fifteen credit-worthy deals per week on the same terms as applied with Coleridge Finance Company Ltd. Provision could possibly be made for a ruling by an arbitrator in the event of any difference of opinion as to the credit-worthiness of any purchaser.

Other points which would have to be covered are:-

(a) Document charges and insurances payable by purchasers would have to be in line with those applying in Coleridge Finance agreements.

(b) It should be understood that all pay-outs due

Petitioner's
Exhibits

Exhibit "G"(11)

Letter J.R.B.
Menzies to
R.G. Hintz

1st May 1968
(continued)

at the time of the execution of the debentures are to be included in the sums secured by the debentures and payable accordingly and not on demand.

- (c) Provision is to be made for the early liquidation of the companies' existing bank overdraft which is subject to personal guarantees by the directors. This end it is suggested that the first monthly instalment be not payable until the expiry of two months from the date of execution of the debentures, that the preparation of the schedule referred to in Paragraph 2 be deferred until one month after the execution of the debentures and that the minimum number of sets be reduced to 1900. 10
- (d) The provisions restricting the directors' rights to engage in similar businesses should not apply in the event of either or both directors severing their connections with the present companies or in the event of the present companies being wound up. 20
- (e) In view of the recent ruling of the Magistrates' Court rebates for the purposes of the agreement are to be calculated on an equitable and proportionate basis rather than in accordance with the "rule of 78".
- (f) All costs relating to the debentures are to be met by Coleridge Finance Co. Ltd.
- (g) Any arrangement is to be conditional on the debt (including amounts due on reposessions) being checked out to the satisfaction of both parties. 30

I am further instructed to advise you that in the event of it not being possible to reach agreement on the foregoing lines and your deciding to proceed with a winding up petition, such action would be opposed, the grounds of defence not being limited to the Moneylenders Act as mentioned by your advisers.

In conclusion I would repeat that while my client companies would be prepared to agree to the matter being settled on the lines they suggest, it

should be remembered that the claims against them are disputed and their willingness to enter upon these negotiations is not to be taken as a recognition of such claims.

Yours faithfully,

'J.R.B. Menzies'

Petitioner's
Exhibits

Exhibit "G"(11)

Letter J.R.B.
Menzies to
R.G. Hintz

1st May 1968
(continued)

EXHIBIT "G"(12)

LETTER CAVELL LEITCH & PRINGLE TO J.R.B. MENZIES
dated 3rd May 1968

Exhibit "G"(12)

Letter Cavell
Leitch &
Pringle to
J.R.B. Menzies

10 A.H. CAVELL, LEITCH & PRINGLE

"WITHOUT PREJUDICE"

3rd May 1968

3rd May, 1968.

J.R.B. Menzies Esq.
Barrister & Solicitor,
No. 1 Armagh Court,
78 Armagh Street,
CHRISTCHURCH.

Dear Sir,

re: BATEMAN COMPANIES AND HINTZ FINANCE GROUP

20 Your letter of 1st instant addressed to Mr.
R.G. Hintz has been referred to us for a reply and
further to our telephone conversation we now have to
advise as follows:

30 As regards paragraph 5 of your letter, we are
anticipating receiving later today written assurance
from Credit Services Investments Ltd., Wellington,
that facilities will be available to the Bateman
Companies for providing discounting arrangements.
Your figure of at least fifteen credit-worthy deals
per week has, we understand, been mentioned by Mr.
Hintz to Mr. E.N. Thomas of Credit Services

Petitioner's
Exhibits

Exhibit "G"(12)

Letter Cavell
Leitch &
Pringle to
J.R.B.Menzies

3rd May 1968
(continued)

Investments Ltd. and this figure is quite acceptable. The Finance Company, however, insists as with any other finance company or lender, in making its own decisions as to which specific risks it will undertake. We are assured that the Finance Company will not behave in an arbitrary manner to reject purchasers and will in good faith accept all purchasers which it would normally accept in course of business, but is not prepared to have a decision as to credit-worthiness of any particular purchaser determined by an arbitrator. You will appreciate from a practical point of view the credit-worthiness or otherwise of a particular purchaser may be impossible to establish and something may be known by repute to officers of the company regarding a particular purchaser without their being able to establish anything concrete enough to satisfy an arbitrator. We do not think from a practical point of view that this will cause any difficulty and we think you will concede that by accepting hire purchase debtors to facilitate reduction of the Bateman T.V. Hire Ltd. liabilities will spread the risk for the Finance Company and a liberal interpretation will be as much in the interests of the Finance Company as to the Bateman T.V. Group.

10

20

As regards the other points mentioned in your letter, we comment as follows:-

- (a) We confirm that your client company's requirements in these respects will be met.
- (b) Same as (a).
- (c) The Hintz Group of Companies will nominate Credit Services Investments Ltd. as the Debenture-Holder and Mr. Hintz discussed this request with Mr. E.N. Thomas who cannot agree to this departure from their standing lending arrangements. We understand that the problem is the Bank of New South Wales' overdraft and that the reduction requirements of the Bank have been unrealistically heavy, particularly while discounting arrangements have not been available in recent weeks. But for this, due to the lapse of time since the earlier negotiations, we imagine the Bank overdraft would by now have been virtually liquidated. We can understand the Bank's concern so long as the Bateman Companies had

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no long-term financing arrangements but now they are to be financed (subject to settlement of the relatively minor points still at issue) by Credit Services Investments Ltd., we think the Bank should be able to be persuaded to take a different view and to allow an extension of time and reduction of repayments to enable the Bateman Companies to reduce the overdraft from current income over the winter months. We think an application to the Bank accordingly should be made urgently and if necessary the local Victoria Street Branch could be asked to telephone Wellington for an urgent decision.

Petitioner's
Exhibits

Exhibit "G"(12)

Letter Cavell
Leitch &
Pringle to
J.R.B.Menzies

3rd May 1968
(continued)

- (d) Your suggestion is acceptable.
- (e) We understand that you are involved in a part-heard case in the Magistrate's Court before Mr. W.F. Brown, S.M., but we imagine you will be able to persuade the Magistrate as to established commercial practice as to the "Rule of 78". Irrespective of the Court's decision the Debenture-Holder will require the "Rule of 78" to apply. We are confident, however, that this will solve itself almost immediately.
- (f) In the course of the earlier "Without Prejudice" negotiations Coleridge Finance Company Ltd. offered, providing the Bateman Companies agreed to its then other requirements, to meet the costs of the preparation of the Debenture, but as the Bateman Companies did not accept the then requirements of the Hintz Group of Companies this offer has lapsed. It was anticipated, however, at that stage that Debentures would be taken in the name of Cambridge Credit Corporation Limited, for whom we act, and the preparation charges could have been absorbed in our bill of costs to the Hintz Group of Companies. However, as it is now proposed that the Debentures be given to Credit Services Investments Ltd. the legal costs will now be payable to Messrs. Wynn, Williams & Co. We concede it may have been possible to have taken them in the name of Cambridge Credit Corporation Limited and have them then assigned to Credit Services Investments Ltd. This is, however, considered

Petitioner's
Exhibits

Exhibit "G"(12)

Letter Cavell
Leitch &
Pringle to
J.R.B. Menzies

3rd May 1968
(continued)

undesirable by Messrs. Wynn, Williams & Co. who are advising Credit Services Investments Ltd. and in any event we consider it desirable from the point of view of the Bateman Companies to have registration gazetted in the name of Credit Services Investments Ltd. which will be public notice that they have the backing of a large public company which must therefore have confidence in them rather than the relatively unknown private finance company. We think this will carry more weight with the Bank and will certainly help to dispel the unfortunate rumours which have been circulating in Christchurch in recent months that the Bateman Companies were about to crash. We have, however, discussed this difficulty with Mr. A.D. Holland. We note that the scale fee on a single Debenture for \$300,000 is \$655.25 and that with a collateral Debenture guaranteed by associated companies and ancillary documents the total scale charges would come, we anticipate, to between \$700 and \$800. Mr. Holland has indicated his firm's willingness in the circumstances to charge the Bateman Companies \$400 plus disbursements and the balance of the fees otherwise payable are to be charged by our firm to the Hintz Group of Companies. The effects of this, therefore, is that the Hintz Group of Companies would be meeting the Bateman Companies roughly half way in respect of the preparation costs of the Debentures. All other costs must of course be met by the various parties with their individual Solicitors.

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(g) Noted.

We shall be grateful if you will let us have an urgent reply. We appreciate you will be engaged in Court this morning but if possible we would like a reply later in the day.

Yours faithfully,

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A.H. CAVELL, LEITCH & PRINGLE

per: 'I.A. Pringle'

EXHIBIT "G"(13)

LETTER CAVELL LEITCH & PRINGLE TO J.R.B.
MENZIES dated 7th May 1968

Petitioner's
Exhibits

Exhibit "G"(13)

CAVELL, LEITCH & PRINGLE

Letter Cavell
Leitch &
Pringle to
J.R.B.Menzies

"Without Prejudice"

7th May 1968

7th May, 1968.

J.R.B. Menzies Esq.
No. 1 Armagh Court,
78 Armagh Street,
CHRISTCHURCH.

10

Dear Sir,

re: BATEMAN COMPANIES AND HINTZ GROUP OF
COMPANIES

We enclose photostated letter sent by Credit
Services Investments Limited, Wellington, on
Thursday, May 2nd, but not received until this
morning on account of the present interruption in
normal North Island mails, together with Hire
Purchase Charts for Electrical Appliances for 12
months and 18 months terms. We understand these
are virtually the same terms as those previously
enjoyed with the Hintz Group of Companies.

20

We shall be glad if you will let us have
confirmation as to execution of the Heads of
Agreement this afternoon.

Yours faithfully,
A.H. CAVELL, LEITCH & PRINGLE

per: 'I.A. Pringle'

Encls.

Petitioner's
Exhibits

EXHIBIT "G"(14)

Exhibit "G"(14)

Heads of Agree-
ment between
Bateman Tele-
vision Limited,
Bateman T.V.
Hire Limited,
Star T.V.
Limited, Bateman
Records Limited,
Bateman T.V.
Service Limited,
Noel Desmond
Bateman and
Graham Irving
Thomas

HEADS OF AGREEMENT BETWEEN BATEMAN TELE-
VISION LIMITED, BATEMAN T.V. HIRE LIMITED,
STAR T.V. LIMITED, BATEMAN RECORDS LIMITED,
BATEMAN T.V. SERVICE LIMITED, NOEL DESMOND
BATEMAN AND GRAHAM IRVING THOMAS dated
9th May 1968

HEADS OF AGREEMENT

In consideration of Coleridge Finance Company
Limited and Cambridge Credit Corporation Limited
and its associate companies forbearing to sue for
one day from the date hereof, BATEMAN T.V. LIMITED,
BATEMAN T.V. HIRE LIMITED, STAR T.V. LIMITED,
BATEMAN RECORDS LIMITED and BATEMAN T.V. SERVICE
LIMITED and NOEL DESMOND BATEMAN and GRAHAM IRVING
THOMAS, both of Christchurch, Company Directors,
hereby agree as follows:-

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9th May 1968

1. BATEMAN T.V. Limited, Bateman T.V. Hire
Limited and such other of the above companies being
used for the purpose of hiring T.V. Sets will give
forthwith a debenture over all their respective
assets to Cambridge Credit Corporation Limited or
its nominee or nominees. The debentures are to
secure an amount equivalent to the amount owing to
Coleridge Finance Company Limited, Cambridge Credit
Corporation Limited and their associate companies
by Bateman T.V. Limited, Bateman T.V. Hire Limited
and Star T.V. Limited in respect of hire sets and
including amounts owing by conditional purchasers
in respect of repossessed sets and the contingent
liability of Bateman T.V. Limited, Bateman T.V.
Hire Limited and/or Star T.V. Limited in respect of
assigned hire purchase debts and including interest
at the effective rate of 8% flat on the arrears and
the bad debts account of Bateman T.V. Limited,
Bateman T.V. Hire Limited and Star T.V. Limited
with the Hintz Group of Finance Companies, being
the unpaid payouts, less interest rebate on the
"Rule of 78" basis for the unexpired portion of
the hire set accounts.

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2. THE securities are to be supported by a
separate schedule showing the full description and
whereabouts of all sets used or intended to be used
for hire purposes and understood to be approximately

1950 sets but in any event to be not less than 1925 television sets plus the repossessed sets at present held on behalf of the Hintz Group of Finance Companies, which are to be returned on the signing of the debentures, and payment of the balance due by the conditional purchasers of such sets is to form part of the debt by the Bateman companies.

3. THE debentures are to be guaranteed by all associate or subsidiary companies.

10 4. INTEREST is to be at a flat rate of 8% per annum and it is understood that this is to be assessed as on a six year term and is to allow for interest on such arrears (at the effective rate of 8% flat) as would accrue at such rate of repayment by the sixth anniversary of the date of such debentures.

20 5. THERE are to be minimum monthly repayments of \$5,500.00 or the total of monthly sales of television sets, allowing for \$170.00 for each television set whichever sum is to be the greater. In the event of repayments exceeding the foregoing minimum monthly repayment rebate in accordance with the "Rule of 78" is to be allowed on the repayment of the debentures.

30 6. THE assets of the companies are to include all book debts and in particular the rental hire accounts, and it is understood that such assets are to be substantially the same as shown in the respective balance sheets of the companies as at 31st March 1967.

7. THE companies are to provide within seven (7) days of the end of each month a statement of sales for the month.

8. THE companies are to provide a quarterly master schedule setting out the full description and whereabouts of television sets still subject to the security.

9. THE companies are to provide quarterly a copy of the control account of rental debtors.

40 10. THE number of sets being used for hire purposes is not to be reduced to below 1,000 sets.

Petitioner's
Exhibits

Exhibit "G"(14)

Heads of Agreement between
Bateman Television Limited,
Bateman T.V. Hire Limited,
Star T.V. Limited, Bateman
Records Limited, Bateman T.V.
Service Limited, Noel Desmond
Bateman and Graham Irving
Thomas

9th May 1968
(continued)

Petitioner's
Exhibits

Exhibit "G"(14)

Heads of Agree-
ment between
Bateman Tele-
vision Limited,
Bateman T.V.
Hire Limited,
Star T.V.
Limited, Bateman
Records Limited,
Bateman T.V.
Service Limited,
Noel Desmond
Bateman and
Graham Irving
Thomas

9th May 1968
(continued)

11. IN all other respects the debentures are to include the usual terms for debentures to be agreed upon between the solicitors for both parties and in the event of their failing to agree are to contain the terms set out in the standard printed form of debenture by the Australia and New Zealand Bank Limited except for the provisions herein specifically covered.

12. ALL the Bateman companies are to supply debenture holders with their respective balance sheets for each year ending 31st March during the currency of the debentures or any of them within six weeks of such balance dates and no new T.V. companies or businesses are to be formed or engaged in by Messrs. Bateman or Thomas or any of the Bateman companies.

12. THE above is subject to correspondence between the parties' solicitors and receipt by Bateman companies of \$1500.00 by 3 p.m. 12/5/68 on agreements held for discounting.

DATED at Christchurch this 9th day of May 1968.

THE COMMON SEAL of BATEMAN T.V.)
LIMITED was hereunto duly)
affixed in the presence of:)

L.S.

'N.D. Bateman'
Director

'G.I. Thomas'
Director

THE COMMON SEAL of BATEMAN T.V.)
HIRE LIMITED was hereunto)
affixed in the presence of:)

L.S.

'N.D. Bateman'
Director

'G.I. Thomas'
Director

THE COMMON SEAL of STAR T.V.)
LIMITED was hereunto duly)
affixed in the presence of:)

L.S.

'N.D. Bateman'
Director

'G.I. Thomas'
Director

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THE COMMON SEAL of BATEMAN
RECORDS LIMITED was hereunto
duly affixed in the presence of)

L.S.

Petitioner's
Exhibits

Exhibit "G"(14)

'N.D. Bateman'
Director

'G.I. Thomas'
Director

Heads of Agree-
ment between
Bateman Tele-
vision Limited,
Bateman T.V.
Hire Limited,
Star T.V.
Limited, Bateman
Records Limited,
Bateman T.V.
Service Limited,
Noel Desmond
Bateman and
Graham Irving
Thomas

10 THE COMMON SEAL of BATEMAN T.V.)
SERVICE LIMITED was hereunto
duly affixed in the presence of)

L.S.

'N.D. Bateman'
Director

'G.I. Thomas'
Director

SIGNED by the said NOEL DESMOND)
BATEMAN in the presence of:)

'N.D. Bateman'

9th May 1968
(continued)

'J.R.B. Menzies
Solicitor
Christchurch'

20 SIGNED by the said GRAHAM
IRVING THOMAS in the presence)
of:)

'G.I. Thomas'

'J.R.B. Menzies
Solicitor
Christchurch'

30 SIGNED by COLERIDGE FINANCE)
COMPANY LIMITED & CAMBRIDGE)
CREDIT CORPORATION LIMITED by)
their authorised agent REGINALD)
GEORGE HINTZ in the presence of)

'R.G. Hintz'

'I.A. Pringle
Solicitor
Christchurch'

Petitioner's
Exhibits

Exhibit "G"(15)

EXHIBIT "G"(15)

SUGGESTED AMENDMENTS TO HEADS OF
AGREEMENT (undated)

Suggested
amendments to
Heads of
Agreement

(Undated)

Bateman Group Companies and Hintz Group Companies

SUGGESTED AMENDMENTS & ADDITIONS TO
HEADS OF AGREEMENT

(Pursuant to Conference on 9.5.68)

Clause 2:- Substitute "1900" for "all" in 2nd line.
Delete the phrase commencing "and
understood ..." and ending "... tele-
vision sets" in 3rd 4th and 5th lines.

10

Clause 12:- ADD "PROVIDED ALWAYS that no such
restriction shall apply to either the
said Noel Desmond Bateman or the said
Graham Irving Thomas after the date
when none of the said Bateman group
companies shall any longer be in exist-
ence or after the date when such person
shall no longer be a shareholder in or
a director of any of the said companies." 20

ADD further clauses:-

13. Coleridge Finance Company Limited and Cambridge
Credit Corporation Limited warrant that Credit
Services Investments Limited will discount each
month during the terms of the said debentures at
least fifteen credit-worthy deals from among the
deals submitted to it during such month by companies
of the Bateman group, such company's right of
rejection to be exercised equitably and in accord-
ance with the principles on which it normally
assesses credit-worthiness.

30

14. The companies of the Bateman group will not be
required to impose upon their customers more
onerous document charges or insurance premiums than
those heretofore customarily required by Coleridge
Finance Limited in its dealings with the Bateman
companies.

15. No payouts unpaid at the date of execution of
the said debentures are to be payable immediately

but such amounts (less interest rebates on the "Rule of 78" basis are to form part of the principal sum to be secured by the said debentures.

Petitioner's
Exhibits

Exhibit "G"(15)

Suggested
amendments to
Heads of
Agreement

(Undated)
(continued)

16. Apart from the costs of their own solicitor the liability of the said companies of the said Bateman group and of the said Noel Desmond Bateman and Graham Irving Thomas for costs of and incidental to the settling, preparation and execution of these presents and of any debenture or debentures executed pursuant to these presents shall not exceed the sum of \$400.

17. Any agreement among the parties hereto pursuant to the foregoing "Heads of Agreement" is conditional upon the principal sum to be secured by the said debentures being checked out and agreed upon by all parties hereto.

EXHIBIT "G"(16)

Exhibit "G"(16)

DRAFT DEBENTURE BATEMAN TELEVISION LIMITED TO
CREDIT SERVICES INVESTMENTS LIMITED (Undated)

Draft Debenture
Bateman Tele-
vision Limited
to Credit
Services
Investments
Limited

(undated)

BATEMAN T.V. LIMITED DEBENTURE

This Debenture is issued under the Companies Memorandum and Articles of Association and in pursuance of a resolution by the Directors passed on the day of 1968.

BATEMAN T.V. LIMITED a duly incorporated company having its registered office at Christchurch (hereinafter called "the Company") IN CONSIDERATION of the sum of this day lent and advanced to it by CREDIT SERVICES INVESTMENTS LIMITED a duly incorporated company having its registered office at Wellington and carrying on business there and elsewhere as a finance company (hereinafter together with its successors and assigns called "the Lender") and of any future loans or advances which may at the discretion of the Lender be given to the Company DOETH HEREBY COVENANT for itself its successors and assigns with the Lender as follows:-

Petitioner's
Exhibits

Exhibit "G"(16)

Draft Debenture
Bateman Tele-
vision Limited
to Credit
Services
Investments
Limited

(Undated)
(continued)

1. THE Company shall and will pay to the Lender the said sum of _____ and interest thereon as hereinafter provided by monthly payments of _____ or the total of sales of television sets made by the Company in the preceding month allowing for \$170 per television set whatever price was received or provided for in the sale whichever amount shall be the greater the first of such payments to be made on the _____ day of 1968

10

2. THE Company will pay to the Lender interest upon the principal sum at a flat rate of eight per cent per annum to be assessed on a six-year term from the date of the advance secured hereunder allowing for monthly repayments on account of principal and interest at \$ _____ per month. In the event of the Company making monthly repayments pursuant to paragraph 1 hereof in excess of \$ _____ and there being no instalment pursuant to paragraph 1 hereof in arrear then the Company shall be entitled to a rebate of interest calculated according to the "Rule of 78".

20

3. THE Company will pay to the Lender interest on any instalments or payments in arrear hereunder at the effective rate of sixteen per cent per annum payable "upon demand".

4. THAT the Company will from time to time "upon demand" pay to the Lender all moneys expended by the Lender in carrying out or protecting this security or in any way incidental thereto.

30

5. WITHOUT in any way derogating from the charge given by the Company to the Lender hereunder over all its property it is hereby acknowledged and declared that the charge includes the television sets described in the Schedule hereto and all moneys payable by any person to the Company in respect thereof and includes all book debts and the rental hire accounts.

6. THE Company warrants that the book debts and rental hire accounts are substantially the same as the figures shown in the Balance Sheets of the company as at 31st March, 1967.

40

7. THE Company covenants and agrees to supply to the Lender:-

(a) Within 7 days of the end of each and every month a statement of sales of the Company for the month including a description of the make model and serial number of each set sold and full particulars of the terms of sale indicating whether for credit or for cash;

Petitioner's
Exhibits

Exhibit "G"(16)

(b) A quarterly master schedule setting out the full description and whereabouts of all television sets owned by the Company and included in this security such quarterly statement to be given 7 days after the end of the months of March June September and December;

Draft Debenture
Bateman Tele-
vision Limited
to Credit
Services
Investments
Limited

(c) On the same days as hereinbefore provided for the Company to supply quarterly master schedules to supply a copy of the control account of rental debtors of the Company;

(Undated)
(continued)

(d) On or before the 15th day of May in each and every year a copy of the statements of account for the Company in each year ending 31st March immediately preceding such date.

8. THE Company covenants and agrees that it will not be a shareholder or own or have any interest in any Company or organisation concerned with television sets other than during the currency of this security.

9. THE Company hereby covenants and agrees that in the event of either of the present directors of the Company namely NOEL DESMOND BATEMAN or GRAHAM IRVING THOMAS during the currency of this security engaging as an employee or having shares in any companies associated with the selling or hiring of television sets other than the companies described in paragraph 8 hereof without the prior consent in writing of the Lender then and in such case all moneys owing hereunder shall immediately become due and payable to the Lender.

10. NOTWITHSTANDING anything hereinbefore contained the Company shall and will pay to the Lender all moneys owing hereunder on the day of
1974.

Usual covenants in Debenture.

Petitioner's
Exhibits

EXHIBIT "G"(17)

Exhibit "G"(17)

LETTER WYNN WILLIAMS & CO. TO J.R.B. MENZIES
dated 20th May 1968

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

WYNN WILLIAMS & CO.

20th May, 1968.

20th May 1968

J.R.B. Menzies, Esq.
Solicitor,
P.O. Box 2517,
CHRISTCHURCH

Dear Sir,

10

re: Credit Services Investments Ltd
& Batemans

We enclose the principal clauses of a draft Debenture which we have prepared for your perusal and urgent attention. We are anxious that the documents should be prepared as soon as possible. We would accordingly be grateful if you would immediately advise us of the schedule of television sets and the amount to be secured under debenture by each company.

20

The writer is going to Auckland on Thursday and we are anxious to have the documents in final form before this date if possible.

We have sent a copy of this letter to Messrs. Cavell, Leitch & Pringle for their attention and information.

Yours faithfully,
WYNN WILLIAMS & CO.

Per: 'A.D. Holland'

EXHIBIT "G"(18)

LETTER WYNN WILLIAMS & CO. TO CAVELL LEITCH
& PRINGLE dated 20th May 1968

Petitioner's
Exhibits

Exhibit "G"(18)

WYNN WILLIAMS & CO.

20th May, 1968

Messrs. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH.

Letter Wynn
Williams & Co.
to Cavell
Leitch &
Pringle

20th May 1968

10 Dear Sirs,

re: Credit Services Investments Ltd,
Hintz & Bateman

We enclose for your information a copy of a letter and draft clauses of a debenture which we have today sent to Mr. Menzies. We should be grateful if we could have the opportunity of conferring with you on the question of the amount to be inserted in the debenture.

20

Yours faithfully,
WYNN WILLIAMS & CO.

Per: 'A.D. Holland'

Petitioner's
Exhibits

EXHIBIT "G"(19)

Exhibit "G"(19)

LETTER WYNN WILLIAMS & CO. TO J.R.B. MENZIES
dated 12th July 1968

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

WYNN WILLIAMS & CO.

12th July, 1968.

12th July 1968

J.R.B. Menzies Esq.,
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

Dear Sir,

10

re: Bateman Group, Hintz Group &
Credit Services Investments Ltd.

We are instructed that at long last terms have practically been agreed between Credit Services Investments Limited and the Hintz Group. These terms are entirely dependent upon the Bateman Group giving a Debenture to the satisfaction of Credit Services Investments Limited.

The writer has advised Credit Services Investments Limited that this transaction would be a money-lending transaction and should be entered into by a registered money-lender. As we understand that none of the Hintz Group finance companies are now registered money-lenders it has been decided that the advance should be made by Credit Services Investments Limited to the Bateman Group to eliminate the debt of the Bateman Group to the Hintz Group and the Debenture should accordingly be given to Credit Services Investments Limited.

20

30

The reason why we have advised that this is a money-lending transaction is that it appears to us that it is a loan of moneys and not an assignment of hire purchase debts as was the case in the original advances between the Bateman Group and the Hintz Group.

We have been concerned that for some months we have been awaiting information as to the description of the television sets and which of the Bateman

Group companies would be giving security in respect of which sets. We also require information as to the exact amount of the advances which would be required to each of the companies in the Bateman Group.

Petitioner's
Exhibits

Exhibit "G"(19)

10 In the absence of the information sought in the immediately preceding paragraph there appears to be little point in preparing the actual Debenture. We are concerned however, that there could possibly be some ambiguity in the Heads of Agreement relating to the Debenture drawn between the Bateman Group and Coleridge Finance Co. Limited. We have accordingly prepared a draft of the first seven clauses of the Debenture with a view to clarifying the position. We enclose this draft herewith. The draft is not in lieu of the Heads of Agreement, but is merely by way of explanation of it and all other matters in the Heads of Agreement will be included in the Debenture.

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

12th July 1968
(continued)

20 Negotiations relating to this matter have necessarily been protracted and we are not endeavouring to attach any blame on any side, but we are anxious that the matter be brought to finality. Our client has accordingly decided that it must have its acceptance to its proposals by the end of next week, namely 5 p.m. on Friday 19th July, 1968.

30 We would be grateful, therefore, if you would forthwith arrange to give us the descriptions of the television sets and the amounts of the loans required to be given to each company. We will also require your confirmation that the terms of the debenture submitted herewith are acceptable to your clients. We have sent a copy of this letter and the draft clauses in the Debenture to Messrs. Cavell, Leitch & Pringle.

Yours faithfully,
WYNN WILLIAMS & CO.

Per: 'A.D. Holland'

Petitioner's
Exhibits

EXHIBIT "G"(20)

LETTER WYNN WILLIAMS & CO. TO CAVELL LEITCH &
PRINGLE dated 12th July 1968

Exhibit "G"(20)

Letter Wynn
Williams & Co.
to Cavell
Leitch &
Pringle

WYNN WILLIAMS & CO.

12th July, 1968.

12th July 1968

Messrs. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799.
CHRISTCHURCH.

Dear Sirs,

10

re: Bateman Group, Hintz Group & Credit
Services Investments Ltd

We enclose herewith a copy of a letter and
draft clauses in a Debenture which we have today
sent to Mr. Menzies.

We understand that it has now been agreed
that the total consideration for the purchase by
our clients of the Hintz Group will be \$120,000
to be paid by the issue of 100,000 ordinary shares
at a premium of 15c. and the issue of \$55,000 of
debenture stock for a term of six years at 7½%
per annum.

20

We understand that your clients are to
calculate how much of this purchase price is to be
payable to each company and we would be grateful
for your urgent attention to this matter so that
we may prepare further Heads of Agreement and
transfers of shares. Although payment of the
purchase price is deferred for six months we take
it that there is no dispute that the shares are
to be transferred and all existing Directors will
resign as soon as the documents have been signed.

30

Yours faithfully,
WYNN WILLIAMS & CO.

Per: 'A.D. Holland
per M.G.'

EXHIBIT "G"(21)DRAFT CLAUSES OF DEBENTURE REFERRED
TO IN "G"(20) (Undated)Petitioner's
Exhibits

Exhibit "G"(21)

Draft clauses
of Debenture
referred to in
"G"(20)

(Undated)

10 3. THAT the Company will pay to the Lender minimum monthly repayments of \$5,500 on account of principal and interest PROVIDED ALWAYS that should the Company in any month sell or dispose of other than by way of hire in its ordinary course of business any television sets of a value in excess of \$5,500 calculated in the manner hereinafter set out then and in such case the Company will in addition to the said sum of \$5,500 pay to the Lender the excess of the value of the sale or disposition of television sets for the month calculated in the manner hereinafter set out.

Method of ascertaining value of television sets sold or disposed of for the purposes of this paragraph:

- 20 (a) Television sets sold and disposed of and replaced with new television sets purchased by the Company in place of the set or sets sold or disposed of: Nil
- (b) Television sets sold and disposed of and not replaced as aforesaid and listed in the schedule hereto as trade-ins:

The trade-in value for
the set listed in the
schedule.

- 30 (c) All other television sets sold and disposed of and not replaced as aforesaid:

\$170 per set.

Petitioner's
Exhibit

EXHIBIT "G"(22)

Exhibit "G"(22)

LETTER J.R.B. MENZIES TO WYNN WILLIAMS & CO.
dated 23rd July 1968

Letter J.R.B.
Menzies to
Wynn Williams
& CO.

23rd July 1968

J.R.B. MENZIES

23rd July, 1968.

Messrs. Wynn Williams & Co.,
Solicitors,
P.O. Box 631,
CHRISTCHURCH.

(Attention Mr. Holland)

Dear Sirs,

10

Bateman Group and Credit Services

As discussed, I attach my suggested amendments
to your draft of the first seven clauses for the
debenture.

Yours faithfully,

'J.R.B. Menzies'

Exhibit "G"(23)

EXHIBIT "G"(23)

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

24th July 1968

LETTER WYNN WILLIAMS & CO. TO J.R.B. MENZIES
dated 24th July 1968

WYNN WILLIAMS & CO.

20

24th July, 1968.

J.R.B. Menzies Esq.,
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

Dear Sir,

re: Bateman Group & Credit Services
Investments Ltd.

Thank you for your letter of 23rd July. The
proposed amendments included in your letter are
satisfactory except for the proposed amendment to

30

paragraph 3.

We do not agree that sales of television sets not covered by the security should be excluded from the provision. It would be very easy for your client, every time it made a sale, to arrange for the supply of a new machine to complete the sale and your client would receive the profit on the sale, but there would be no repayment to our client. We, therefore, must insist that paragraph 3 remain as drawn.

Petitioner's
Exhibits

Exhibit "G"(23)

Letter Wynn
Williams & Co.
to J.R.B.
Menzie's

24th July 1968
(continued)

Our clients were very concerned to have it suggested that the number of television sets available for the security might now be only 1,840. In March, 1968 it was represented that there were approximately 2,000 sets under the control of the Bateman Group and at that stage the anticipated indebtedness was only just over £300,000. It later turned out that the 2,000 television sets estimate was too high and we agreed that a security over 1,900 would be sufficient. We understood that this 1,900 sets was a matter that had been fairly carefully calculated and this is confirmed by your statement that schedules were previously taken out. We are now told there are probably only 1,840 television sets available and we can only assume that 60 sets must have been sold. If this is the position then we will require an immediate repayment in cash of 60 x £170 i.e. £10,200.

If, on the other hand, your explanation is that the calculations were wrong and there were not 1,900 sets under the control of the company at the end of March, 1968, then we will require further guarantees from the Hintz group. Your immediate reply to this letter and the schedules which you have promised would be appreciated. We confirm that it would be preferable for the Debenture to be given by one company and guaranteed by the others.

Yours faithfully,
WYNN WILLIAMS & CO.

Per: 'A.D. Holland'

Copy to
Messrs. Cavell, Leitch & Pringle

(For your information)

'A.D.H.'

Petitioner's
Exhibits

EXHIBIT "G"(24)

Exhibit "G"(24)

LETTER CAVELL LEITCH & PRINGLE TO WYNN WILLIAMS
& CO. dated 26th July 1968

Letter Cavell
Leitch &
Pringle to
Wynn Williams
& Co.

A.H. CAVELL, LEITCH & PRINGLE

26th July, 1968

26th July 1968

Messrs. Wynn-Williams & Co.,
Solicitors,
P.O. Box 631,
CHRISTCHURCH.

Attention: Mr. A.D.Holland

Dear Sirs,

10

re: Bateman Group and Credit Services
Investments Limited and Hintz
Group of Companies

We note from your letter of 24th instant to J.R.B. Menzies, that Batemans have been asked by C.S.I. for security over 1900 sets only. We note, however, that under the Heads of Agreement dated 9th May last, between the Hintz companies and the Bateman companies, and we presume you hold a copy, that the Bateman companies were under clause 2, to give security over 1925 sets. We had ourselves understood, that the C.S.I. would accept 1900 but as between the Hintz companies and the Bateman companies the figure of 1925 (+ the repossessed sets returned of which there were 5 in number) was made, as these additional sets would provide additional security as far as the guarantors were concerned.

20

We realise your negotiations with Mr.Menzies have already been prolonged and difficult and we do not wish to create any additional difficulty particularly if you have already made a settlement on a certain basis with Mr. Menzies. In other words, if you feel you have made a binding commitment with Menzies and there is no room for negotiation on this point, we, as having left it to you to complete the negotiations with Menzies, will accept the situation with good grace. If however, the point can still be negotiated by pointing out the departure from the Heads of Agreement, we feel that this should be used to bring pressure to bear

30

40

either for a cash payment in respect of a reasonable portion of the sets, and/or negotiating a settlement on the problems raised in clause 2 of your letter of 24th instant to Menzies.

Petitioner's
Exhibits

Exhibit "G"(24)

10 The intention was that they account for hired sets only. We concede the C.S.I.'s general interpretation of the Heads of Agreement is advantageous to the Hintz Group of companies but we feel that now, if you consider it feasible, pressure should be brought to bear on the Bateman companies to renew hired sets at a rate of not less than 150 per annum, and this figure has already been intimated to Mr. Currie by Messrs. Hintz & Rundle as a concession by Bateman to our conceding the 25 + 5 sets or a portion of this number.

Letter Cavell
Leitch &
Pringle to
Wynn Williams
& Co.

26th July 1968
(continued)

20 We note it is now proposed only to take one debenture supported by guarantees from the other companies but we are not certain into which company it is proposed that the television sets should be transferred and the debenture taken. It is certainly, we think, essential that Batemans T.V. Limited give a debenture as this company has the lease of the premises in the High Street triangle and the retail facilities which would enable the business to be continued by a receiver plus the equity in numerous vehicles, and there may be certain problems of having no debenture from Batemans T.V. Hire Limited as we would have thought
30 it more convenient to keep the hired sets in the name of this company particularly as regards future hired sets. It has been indicated to us by Mr. Currie that retention of the hired sets in the hire company would have certain considerable tax advantages.

Yours faithfully,
A.H. CAVELL, LEITCH & PRINGLE

Per: 'I.A. Pringle'

Petitioner's
Exhibits

EXHIBIT "G"(25)

Exhibit "G"(25)

LETTER WYNN WILLIAMS & CO. TO J.R.B. MENZIES
dated 26th July 1968

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

WYNN WILLIAMS & CO.

26th July, 1968

26th July 1968

J.R.B. Menzies, Esq.
Solicitor,
P.O. Box 2517
CHRISTCHURCH

Dear Sir,

10

re: Bateman Group & Credit Services
Investments Ltd.

Further to our letter to you of 24th July we have had the opportunity of discussing the matter with Messrs. Hintz and Rundle.

Firstly, we regret that we were in error in saying in our letter that we had agreed that a security over 1900 sets would be sufficient. The agreement as shown in the Heads of Agreement shows that the figure was 1925. We are told that more sets have now been found and it appears that you will be able to give security over 1891 sets and make payment in respect of the nine short.

20

This means, however, that the security is 25 sets less than was anticipated.

We recognise the difficulties with which your client would be faced if it had to make a repayment of £170 in respect of every television set sold, although we contend that this is what the Heads of Agreement provides. Our client would be prepared to waive this provision on the following terms:-

30

1. A covenant that the Bateman Group will replace at least 150 television sets covered by the security by new sets per annum and an acknowledgment that such new sets will be included in the security.
2. The monthly repayments are to remain at the

same figure, but in the event of the Bateman Group making sales of television sets at \$170 per set which would total more than \$5,500 each month (excluding the replacement sets referred to above) then repayments of the greater sum will be made.

Petitioner's
Exhibits

Exhibit "G"(25)

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

26th July 1968
(continued)

10 We stated in our letter of 24th July that we agreed that it would be preferable for the debenture to be given by one company and guaranteed by others. We did this because of a telephone conversation with you in which we understood you to say that all the assets of the several companies were to be transferred into one company and all the liabilities to the Hintz Group would also be transferred to the one company.

20 On reflection we do not see that it would be possible to achieve this and we must, therefore, return to the original proposal which requires a joint debenture by Bateman T.V. Limited, Bateman T.V. Hire Limited and Star T.V. Limited over all of the assets of each of those three companies to be substantially the same as set out in the Balance Sheets of the companies as at 31st March, 1967. The debentures are to be guaranteed by Bateman Records Limited and Bateman T.V. Service Limited and any other associated company.

In all other respects the Heads of Agreement as varied by the correspondence between us are to apply.

30 The position is now becoming extremely critical. We appreciate that it will take a few days to have the documents executed, but we must have your acknowledgment that the above terms are acceptable given to us in writing by 5 p.m. on Monday 29th July or we are instructed to state that the Hintz Group will take steps to have your client companies wound up. In addition, we must be supplied with the television sets by that time.

40 Yours faithfully,
WYNN WILLIAMS & CO.

Per: 'A.D. HOLLAND
per MG.'

Petitioner's
Exhibits

EXHIBIT "G"(26)

Exhibit "G"(26)

LETTER WYNN WILLIAMS & CO. TO J.R.B. MENZIES
dated 30th July 1968

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

WYNN WILLIAMS & CO.

30th July, 1968.

30th July 1968

J.R.B. Menzies, Esq.
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

Dear Sir,

10

re: Bateman Group & Credit Services
Investments Limited

Further to our letters to you of 24th and 26th July and our telephone conversation with you yesterday we are very concerned at the lack of finality and the apparent lack of agreement which still exists.

When you wrote to us on 15th July you presumed that we were aware of the schedule of amendments to the Heads of Agreement which was agreed to by Mr. Pringle on 21st May. We were not aware of any such amendments and have since discussed the position with Mr. Pringle. He tells us he received from you, after the Heads of Agreement had been signed, a schedule purporting to explain and enlarge the Heads of Agreement including a reduction in the security to 1900 sets from a minimum of 1925 as agreed. He instructs us that these matters were discussed between you but that there was no agreement in his part.

20

30

As we understand the position Heads of Agreement were signed on or about 9th May, 1968 by all your client's associated companies with Coleridge Finance Limited and Cambridge Credit Limited offering a debenture supported by approximately 1950 sets but not less than 1925 sets plus repossessed sets.

On 20th May we forwarded to you the principal preliminary clauses of a draft debenture for your

perusal and urgent attention. We received no reply to this but presumably you took the matter up direct with Mr. Pringle. (The writer was in Auckland from 23rd to 27th May).

Petitioner's
Exhibits

Exhibit "G"(26)

At the end of June we heard further from the Hintz group that difficulties which had previously existed appeared to be disappearing and that the transaction might be completed.

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

10 We wrote to you to this effect on 12th July suggesting that the Debenture would have to be to Credit Services Investments Limited and that there were certain matters in the Heads of Agreement requiring clarification. We accordingly enclosed for your perusal a further seven draft clauses. On 23rd July you forwarded amendments to these draft clauses which we accepted except for paragraph 3. In a wish to meet your clients over paragraph 3 and the lower number of sets available by way of security we wrote on the 26th July with
20 further proposed amendments.

30th July 1968
(continued)

We were advised yesterday that our proposals were unacceptable and that your clients would stand by the Heads of Agreement. We presume you mean the Heads of Agreement as signed. These Heads of Agreement are unacceptable to Credit Services Investments Limited unless they include the amendments proposed by us.

30 It appears to us that the Heads of Agreement as signed by Coleridge Finance Limited and Cambridge Credit Limited provided for security of approximately 1950 sets with a minimum of 1925 sets plus repossessed sets. Please immediately let us have a schedule describing these sets.

40 If, however, your client companies are prepared to give the debenture to Credit Services Investments Limited please advise by return mail in what respects you consider the Heads of Agreement as varied by correspondence between you and us does not correctly record the terms. On receipt of this information by return we are prepared to resubmit the matter to our clients for consideration.

Yours faithfully,
WYNN WILLIAMS & CO.

per: 'A.D. Holland'

Petitioner's
Exhibits

EXHIBIT "G"(27)

Exhibit "G"(27)

LETTER J.R.B. MENZIES TO WYNN WILLIAMS & CO.
dated 1st August 1968

Letter J.R.B.
Menzies to
Wynn Williams
& Co.

J.R.B. MENZIES

1st August, 1968.

1st August 1968

Messrs. Wynn Williams & Co.,
Solicitors,
P.O. Box 631,
CHRISTCHURCH.

Dear Sirs,

10

re BATEMAN GROUP, HINTZ GROUP, and
CREDIT SERVICES INVESTMENTS LIMITED

Last night, at a conference between Messrs.
Pringle and Rundle and the Writer, agreement was
reached on the following outstanding matters:-

- A. With the exception of the alteration to Clause
(2) of the Heads of Agreement dated 9th May
1968, the validity and binding nature of the
arrangements listed in the document submitted
by me to Mr. Pringle on 21st May 1968 and
referred to in paragraph (2) in your letter
of 30th ult. was accepted - the document simply
recording the points covered by the writer's
letter of 1st May 1968 to Messrs. Cavell,
Leitch & Pringle and their letter of 3/5/68
in reply, and subsequently confirmed at the
conference of 9/5/68. 20
- B. The schedule of Hire Hire sets referred to in
Clause (2) Of the Heads of Agreement show a
total of 1900 sets. 30
- C. The Bateman Group to undertake that all T.V.
Sets from time to time retained by the Bateman
Group and used by it for hire purposes and all
sets acquired by way of replacement of any
such sets shall remain in one or other of the
Companies giving a debenture to Credit Services
Investments Ltd. or from time to time engaged
in T.V. hire work.

D. There is to be no obligation upon the Bateman Group to replace in any one year any specific number of schedule Sets.

Petitioner's
Exhibits

E. The obligation imposed by Clause (5) of the Heads of Agreement to account for \$170 in respect of each set sold is not to apply to Sets which are sold and replaced with new Sets. ("new" for this purpose not including a "trade-in" set or any other set previously used).

Exhibit "G"(27)

Letter J.R.B.
Menzies to
Wynn Williams
& Co.

1st August 1968
(continued)

F. The total debt is agreed at \$425,000.

G. Mr. Pringle, on behalf of the Hintz Group is to undertake that the Group will furnish to the Bateman Group with all reasonable speed all information available to it and necessary to enable the question of re-possessed Sets to be fully clarified (including in particular, disposal of all sets repossessed, and details of action taken towards recovery of balances owing after repossessions). Mr. Pringle is to give his undertaking that he will use his best endeavours to ensure that such information is furnished promptly.

H. As discussed earlier with you, Credit Services Investments Ltd. is to furnish an undertaking regarding the question of re-financing on expiry of the six year term.

Presumably you will let me see a draft of a full document before engrossment.

I have been asked to record at this stage that there has been in force for some years an arrangement between the Hintz Group and the Bateman Group whereby the latter was to receive \$1 in respect of each 10% deal. It is understood that the amount due to the Bateman Group is in the vicinity of \$1800 and that Mr. Hintz has undertaken to arrange early payment of the amount due.

Yours faithfully,

'J.R.B. Menzies'

Messrs. Cavell, Leitch & Pringle,
Solicitors,
CHRISTCHURCH.

Copy for your information

Petitioner's
Exhibits

EXHIBIT "G"(28)

Exhibit "G"(28)

LETTER CAVELL, LEITCH & PRINGLE TO WYNN WILLIAMS
& CO. dated 2nd August 1968

Letter Cavell,
Leitch &
Pringle to
Wynn Williams
& Co.

A.H. CAVELL, LEITCH & PRINGLE

2nd August, 1968.

2nd August 1968

Messrs. Wynn Williams & Co.,
Solicitors,
P.O. Box 631,
CHRISTCHURCH.

Dear Sirs,

re: Bateman Group, Hintz Group and
Credit Services Investments Ltd.

We enclose copy of letter delivered this morning to Mr. J.R.B. Menzies, together with copy of the memorandum submitted by him subsequent to the meeting of 9th May last, purporting to set out the terms of the correspondence then in existence between us and him, but which we did not imagine until earlier this week, was considered as being accepted in any way, but upon which it has now been necessary to comment formally as some modification of the documents may be necessary.

Yours faithfully,
A.H. CAVELL, LEITCH & PRINGLE

Per: 'I.A. Pringle'

EXHIBIT "G"(29)

LETTER CAVELL, LEITCH & PRINGLE TO
J.R.B. MENZIES dated 2nd August 1968

Petitioner's
Exhibits

Exhibit "G"(29)

A.H. CAVELL, LEITCH & PRINGLE

2nd August, 1968.

Letter Cavell,
Leitch &
Pringle to
J.R.B.Menzies

2nd August 1968

J.R.B. Menzies Esq.,
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

10 Dear Sir,

re: Bateman Group, Hintz Group and
Credit Services Investments Limited

20 We are in receipt of the carbon of your letter of 1/8/68 to Messrs. Wynn Williams & Co., and we confirm that the same correctly sets out the terms of the conference between ourselves and Mr. Rundle on 31st ult., except the last paragraph of your letter which was not raised at the meeting, and except also, as to certain points arising out of the suggested amendments and conditions to Heads of Agreement submitted to us by you after your conference with the writer on 9th May last, but which on account of difficulties arising almost immediately thereafter, we did not have occasion to reply to and further take up in detail.

30 As regards the last paragraph of your letter to Messrs. Wynn Williams & Co., of 1st instant, Mr. Hintz advises that the amount which would have been due to the Bateman Group under the arrangements referred to, was considerably less than \$1800, but as a considerable sum is being waived by way of overdue interest, it was as part of this arrangement conceded by Batemans that in consideration therefor, any claim by the Bateman Group in respect of the dollar per 10% deal would be abandoned.

40 We think you will agree that the terms of the conference of 9th May were that Messrs. Bateman and Thomas were to be precluded from setting up in competing businesses in the T.V. Field, but were

Petitioner's
Exhibits

Exhibit "G"(29)

Letter Cavell,
Leitch &
Pringle to
J.R.B.Menzies

2nd August 1968
(continued)

not to be prevented from engaging in other types of business during the currency of any debentures. As your clause 12 stands, Bateman and Thomas could transfer their shares to a man of straw during the currency of the debenture and then set up business again in Christchurch in the T.V. field, and it would therefore be necessary to add to your clause - "provided further that no share transfer shall be registered in any of the said Bateman Group companies without the consent in writing of Cole-ridge Finance Co. Ltd., and Cambridge Credit Corporation Ltd., or their successors.

10

Clause 13 is approved subject to the following words appearing after the word 'group' in line 6:- "so long as the said Bateman Group companies shall not be in default under any debenture to Credit Services Investments Ltd."

To avoid any possible misunderstanding, we require the following words be added to Clause 14:- "or than those documents charges and insurance premiums set out in the schedule submitted by Credit Services Investments Ltd." It is understood that Credit Services Investments Ltd., shall be entitled to vary such charges and premiums in accordance with future market conditions and in accordance with their general scale of charges throughout the country and no doubt, the Bateman Group of companies will accept that the extent of Credit Services Investments Ltd. operations is sufficient protection.

20

30

Clause 15:- the unpaid pay outs scheduled by the schedules provided by the Hintz Group of companies are to form part of the principal (i.e. \$425,000) but any other unpaid pay outs when subsequently ascertained, are not to form part of the principal sum. We imagine there will be no dispute regarding this but we think it desirable to have the point clarified.

Clause 16:- it was agreed that the words "plus normal disbursements" be added.

40

We have sent a copy of this letter to Messrs. Wynn Williams & Co., and we shall be grateful if you will let us have confirmation as soon as possible as we imagine Mr. Holland is now proceeding with preparation of the documents.

Yours faithfully,
A.H. CAVELL, LEITCH & PRINGLE

Per: 'I.A. Pringle'

EXHIBIT "G"(30)

LETTER WYNN WILLIAMS & CO. TO J.R.B. MENZIES
dated 5th August 1968

Petitioner's
Exhibits

Exhibit "G"(30)

WYNN WILLIAMS & CO.

5th August, 1968.

J.R.B. Menzies Esq.,
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

Letter Wynn
Williams & Co.
to J.R.B.
Menzies

5th August 1968

10 Dear Sir,

re: Credit Services Investments Ltd &
Bateman Group

We enclose herewith for your consideration
draft Debenture and Agreement which will be signed
by Credit Services Investments Limited. Would you
please urgently let us have your comments as we
wish to have the documents engrossed.

Yours faithfully,
WYNN WILLIAMS & CO.

20

per: 'A.D. HOLLAND
per MG'

Encl

Messrs. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH. (Copy for your information)

Petitioner's
Exhibits

EXHIBIT "G"(31)

Exhibit "G"(31)

LETTER CAVELL LEITCH & PRINGLE TO J.R.B.
MENZIES dated 8th August 1968

Letter Cavell,
Leitch &
Pringle to
J.R.B. Menzies

A.H. CAVELL, LEITCH & PRINGLE

8th August, 1968.

8th August 1968

J.R.B. Menzies, Esq.
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

Dear Sir,

10

re: Bateman Group, Hintz Group and
Credit Services Investments Ltd.

Further to our letter of 2nd instant, we understand Mr. Hintz has now conferred with Messrs. Bateman and Thomas and substantial agreement has now been reached on the relatively minor points now outstanding, and we trust you will be able to confirm so that Mr. Holland can complete his documents.

As regards paragraph 2 of our letter, we understand that the Bateman group has now agreed that the dollar per 10% deal is to be absorbed in the waiver of overdue interest. We mention in passing, although not now important, that there were 1011 deals from March, 1966, to March, 1968, some of which were at 8%.

20

We confirm your verbal advice that the additional words in paragraph 1 of page 2 of your letter are agreed to and we understand from Mr. Hintz that paragraph 2 of page 2, will not now cause any difficulty. We understand that the Bateman group have already been operating for over two months with Credit Services insurance scheme but this has not impeded their sales.

30

We also confirm your verbal advice that the words - "plus normal disbursements" in clause 16 of the suggested amended Heads of Agreement are acceptable.

Mr. Hintz advises that all unpaid payouts as at 3rd May, 1968, are included in the principal \$425,000. We enclose photostat of letter from Coleridge Finance Co. Ltd. listing the repossessions included in the refinancing debt and we understand this has been agreed to.

Petitioner's
Exhibits

Exhibit "G"(31)

Letter Cavell,
Leitch &
Pringle to
J.R.B. Menzies

8th August 1968
(continued)

10 We appreciate your clients' concern that immediately the documents are completed, immediate demand could be made on them for a substantial number of payouts which, with limited liquidity, could cause an immediate crisis. We have been asked to give an assurance and we expect Mr. Holland will be willing to confirm this, that unpaid payouts will be dealt with as they arise and in the normal course of business and will not be dealt with arbitrarily so as to embarrass the Bateman companies. We understand there are at present, two sets to be paid out and there are another 6 hirers "gone no address" which are
20 potential unpaid payouts, and these will be dealt with in the same manner as previously.

The two matters at present outstanding and upon which we think, ground can be given by each party, are the matters referred to in paragraph 3 of page 1 in our letter of 2nd inst., which we acknowledge should now be modified in terms of paragraph D of page 2 of your letter of 1st May last, and the lump sum payment required under the terms of the draft debenture in respect of any set
30 sales.

We understand you agree that it is the spirit of the Agreement as set out in clause 12 of the Heads of Agreement that no new T.V. companies or businesses are to be formed or engaged in by Messrs. Bateman or Thomas or any of the Bateman companies, but as is mentioned in the correspondence, Bateman and Thomas are not necessarily to be precluded from obtaining employment elsewhere in appropriate circumstances. We could not agree to Messrs.
40 Bateman and Thomas competing directly with the Bateman companies but if for certain reasons, they were no longer with the companies, we acknowledge they should not be denied employment (providing such employment is not directly or indirectly a business of their own) in the T.V. field in Christchurch. We think you agree with our proposition as to the possibility of a man of straw

Petitioner's
Exhibits

Exhibit "G"(31)

Letter Cavell,
Leitch &
Pringle to
J.R.B. Menzies

8th August 1968
(continued)

holding the shares in the Bateman companies, which had not previously been adverted to, and perhaps you can let us have a draft clause for consideration along lines which you think would be acceptable to all parties.

In return for this we think the debenture should stand as it is as regards lump sum payments on sales of any sets, but if acceptable to Mr. Holland, a letter be given permitting sales of sets other than hired sets, or sets already owned, to be made without compulsory principal reductions, so that if a group of sets were bought by one of the Bateman companies, they could then be resold without incurring liability for a resulting payment under the terms of the debenture.

10

We shall be pleased to hear from you in the matter urgently.

Yours faithfully,
A.H. CAVELL, LEITCH & PRINGLE

Per: 'I.A. Pringle'

20

Encl.

Exhibit "G"(32)

EXHIBIT "G"(32)

Letter Wynn
Williams & Co.
to Cavell,
Leitch &
Pringle

LETTER WYNN WILLIAMS & CO. TO CAVELL, LEITCH
& PRINGLE dated 10th August 1968

WYNN WILLIAMS & CO.

10th August, 1968.

10th August
1968

Messrs. Cavell, Leitch &
Solicitors, Pringle,
P.O. Box 799,
CHRISTCHURCH.

30

Dear Sirs,

re: Credit Services Limited - Bateman
and Hintz Group

We have not heard from Mr. Menzies since we sent him the draft Debenture nor have we been supplied with a schedule of television sets.

We are anxious, however, to complete the Heads of Agreement with the shareholders in the Hints Group.

Would you please urgently advise us how the total purchase price is to be apportioned amongst each of the seven companies.

Yours faithfully,
WYNN WILLIAMS & CO.

Per: 'A.D. Holland'

Petitioner's
Exhibits

Exhibit "G"(32)

Letter Wynn
Williams & Co.
to Cavell,
Leitch &
Pringle

10th August
1968
(continued)

EXHIBIT "G"(33)

LETTER J.R.B. MENZIES TO CAVELL, LEITCH &
PRINGLE dated 16th August 1968

Exhibit "G"(33)

Letter J.R.B.
Menzies to
Cavell, Leitch
& Pringle

10 J.R.B. MENZIES

16th August, 1968.

Messrs. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH.

16th August
1968

Dear Sirs,

re: Bateman Group and Credit Services
Investments Ltd.

20 My client's instructions were that debentures generally on the lines of the draft prepared by Mr. Holland would be signed provided that the debentures were clear on the following two points:-

- (a) That there be no payouts whatsoever in respect of sales of traded in sets.
- (b) That the restrictions on the present directors engaging in business and associated activities be modified in accordance with our letters dated the 1st and 3rd of May respectively.

I understand that these instructions still stand.

30

Yours faithfully,

'J.R.B. Menzies'

Petitioner's
Exhibits

EXHIBIT "G"(34)

Exhibit "G"(34)

LETTER WYNN WILLIAMS & CO. TO CAVELL, LEITCH &
PRINGLE dated 22nd August 1968

Letter Wynn
Williams & Co.
to Cavell,
Leitch &
Pringle

WYNN WILLIAMS & CO
Barristers & Solicitors

22nd August, 1968.

22nd August
1968

Messrs. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH.

10

Dear Sirs,

re: Credit Services Investments Ltd.,
Hintz Group and Bateman Group

As explained to Mr. Menzies last week, no approval was obtained from us to permit Messrs. Bateman and Thomas to be employed or engaged in television in the event of their ceasing to be shareholders in the present companies. As we explained to Mr. Menzies such a provision is quite unacceptable to us.

20

We did, however, undertake to refer the matter to our client and to obtain instructions. We have now received a cable from the Managing Director of our client, who is at present in Australia, as follows:-

"Cannot relax restriction Bateman Thomas trading."

In those circumstances we do not see that the matter can proceed any further until this provision is resolved.

The only other matter outstanding in relation to the Debenture is the question of whether any payment should be made in respect of the trade-in sets. We think this matter has been resolved between the parties, and, although one clause of the Debenture will require alteration, we do not anticipate that there will be any difficulty in this regard.

30

Yours faithfully,
WYNN WILLIAMS & CO.

Per: 'A.D. Holland'

/COPY OF LETTER SENT TO J.R.B. MENZIES ESQ./

40

EXHIBIT "G"(35)

LETTER CAVELL, LEITCH & PRINGLE TO J.R.B.
MENZIES dated 9th September 1968

Petitioner's
Exhibits

Exhibit "G"(35)

A.H. CAVELL, LEITCH & PRINGLE

September 9, 1968

Letter Cavell,
Leitch &
Pringle to
J.R.B. Menzies

9th September
1968

J.R.B. Menzies, Esq.,
Solicitor,
78 Armagh Street,
CHRISTCHURCH

10 "Without Prejudice"

Dear Sir,

Further to our telephone conversation earlier this morning we have to advise that the clause as to employment as submitted in the draft Debenture must remain as is to comply with Credit Services requirements but we understand a letter can be made available intimating that any application to waive the provisions of such clause will be considered by the Debenture holder at the time on its merits.

20 We appreciate that this requires a departure from the Heads of Agreement but would also point out that overdue interest has accrued during the period since the principal sum was first fixed at \$425,000 some weeks ago during negotiations and due to delays also arising on account of the absence from town of various parties.

30 Messrs. Bateman and Thomas have had ample warning that their presence will be required at this time and it is considered highly irresponsible for them now to depart for Australia for a week without explanation.

You will appreciate that this is impossible for us to explain to the shareholders, particularly in Coleridge Finance Co., who are becoming restive at the protracted delays. Mr. Moore of Coleridge Finance Company is an elderly man on whom these matters have placed a great deal of strain and we are concerned as to the effect on his health. He is also concerned that the trip to Australia

Petitioner's
Exhibits

Exhibit "G"(35)

Letter Cavell,
Leitch &
Pringle to
J.R.B. Menzies

9th September
1968
(continued)

may be for the purpose of improper disposal of funds and we should like to be put in a position where we could set his mind at rest on this point.

The Finance Companies would be prepared to waive claims for overdue interest from the date of fixing of the principal provided that in consideration of their so doing, Messrs. Bateman and Thomas will agree to allow the proposed arrangement to stand as regards the Employment Clause at the rate at which overdue interest is accruing. The sum involved is a formidable one and constitutes a major concession by the Finance Companies, but we consider the cesser of interest should only operate until this week.

10

We should be pleased to hear from you in the matter this afternoon if possible.

Yours faithfully,
A.H. CAVELL, LEITCH & PRINGLE

per: 'I.A. Pringle'

Exhibit "G"(36)

Letter P.T.
Mahon to
J.R.B. Menzies

16th September
1968

EXHIBIT "G"(36)

LETTER P.T. MAHON TO J.R.B. MENZIES
dated 16th September 1968

P.T. MAHON

16th September 1968.

J.R.B. Menzies, Esq.,
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

Dear Sir,

Bateman Group, Hintz Group and
Credit Services Ltd.

20

30

Mr. Pringle has referred to me the impasse which has arisen in relation to the execution of the proposed debenture by the Bateman Companies. As I understand the position, Credit Services Investments Ltd. will not agree to the suggested

variation of the terms of Clause 12 of the Heads of Agreement dated 9th May, 1968. Mr. Holland made it clear to you in August that his client would not agree to the proposal that Mr. Bateman and Mr. Thomas would be at liberty to be employed or engaged in television in the event of their ceasing to be shareholders in the present Companies and he subsequently obtained specific confirmation of his client's attitude on this point and notified Mr. Rundle accordingly by letter dated 22nd August, 1968.

Petitioner's
Exhibits

Exhibit "G"(36)

Letter P.T.
Mahon to
J.R.B. Menzies

16th September
1968

I am instructed that this is the one point holding up execution of the debenture. It seems to me that the point is rightly regarded by Mr. Holland and his client as fundamental to the overall plan of taking over the Hintz Group subject to re-financing the debt of the Bateman Group. In any case, the whole scheme will apparently collapse unless the trading restriction referred to in Clause 12 is agreed to.

In these circumstances I have been asked by Mr. Pringle what remedies are available to the Hintz Group in the event of the Bateman Group refusing to agree to Clause 12. I have told him that in my view the Hintz Group can file a winding-up petition based on the notice already given under Section 218 of the Companies Act. There has been no binding agreement or compromise relating to payment of the debt due. The fact that the Hintz Group agreed to a modification of Clause 12 does not affect the situation because it was common ground between the parties to the Heads of Agreement that the terms of that document and any subsequent variations thereof, were subject to the approval of Credit Services Investments Ltd. Mr. Holland's various discussions with you and the tenor of the correspondence between you and him, makes it quite clear, in my opinion, that no contractual term relating to the debenture has any validity as between the Hintz Group and the Bateman Group unless it has been approved by Credit Services Investments Ltd.

On Friday, 13th September, I had a discussion with Messrs. Hintz, Rundle and Henderson. Mr. Henderson was acting as agent for Mr. Moore. Mr. Henderson said that Mr. Moore was not willing to allow this protracted negotiation to drift on any

Petitioner's
Exhibits

further. I was therefore directed to advise you that:-

Exhibit "G"(36)

Letter P.T.
Mahon to
J.R.B. Menzies

16th September
1968

(a) Unless your clients agree to the terms of Clause 12 of the signed Heads of Agreement I am to draft a winding up petition and arrange for Mr. Pringle to file the same either tomorrow or Wednesday.

(b) The proposal contained in the second last paragraph of Mr. Pringle's letter to you of 9th September, 1968 is now withdrawn.

10

I wish to make it as clear as I can that there is no element of pressure or coercion in the notification which I am now giving you pursuant to my instructions. Other shareholders of the Hintz Group share the views of Mr. Moore. They are all alarmed at the delay in this matter coupled with the heavy increase in the indebtedness of the Bateman Group and although they would prefer the takeover to proceed as planned, they have decided that if the takeover cannot be accomplished immediately, they must, in their own interests, wind up the Bateman Companies without delay.

20

As I shall be in Court today, I should be obliged if you would convey your clients' decision in the matter to Mr. Pringle, although I understand he will not be in his office until this afternoon.

Yours faithfully,

'P.T. Mahon'

EXHIBIT "G"(37)

LETTER CAVELL, LEITCH & PRINGLE TO J.R.B.
MENZIES dated 17th September 1968

Petitioner's
Exhibits

Exhibit "G"(37)

A.H. CAVELL, LEITCH & PRINGLE

17th September, 1968.

Letter Cavell,
Leitch &
Pringle to
J.R.B. Menzies

J.R.B. Menzies, Esq.,
Solicitor,
P.O. Box 2517,
CHRISTCHURCH.

17th September
1968

10 Dear Sir,

BATEMAN, HINTZ GROUP AND CREDIT SERVICES LTD.

Carbon letter dated 16th inst. from Mr. P.T. Mahon to you has been sent to us and following the writer's discussions with Mr. Mahon we now have to advise that any offer contained in such letter is now withdrawn and we shall be in touch with you further as soon as opportunity offers which we anticipate will be within the next two or three days.

20 We regret any inconvenience caused to you but the writer was away skiing over a long weekend and was not available to be present at certain of the discussions.

Yours faithfully,
A.H. CAVELL, LEITCH & PRINGLE

Per: 'I.A. Pringle'

Petitioner's
Exhibits

EXHIBIT "G"(38)

Exhibit "G"(38)

LETTER CAVELL, LEITCH & PRINGLE TO J.R.B.
MENZIES dated 20th September 1968

Letter Cavell,
Leitch &
Pringle to
J.R.B. Menzies

A.H. CAVELL, LEITCH & PRINGLE

20th September, 1968.

20th September
1968

J.R.B. Menzies, Esq.
Solicitor,
78 Armagh Street,
CHRISTCHURCH.

Dear Sir,

10

re: HINTZ GROUP AND BATEMAN GROUP AND
CREDIT SERVICES INVESTMENTS LTD.

We refer to our letter to you of 17th September 1968 and we now place on record the present attitude of our clients in this matter.

Ever since 9th May 1968 when the Heads of Agreement were signed, there have been, as you know, continuous discussions and negotiations with regard to various amendments which your clients have maintained ought to be made to these Heads of Agreement. By the beginning of September, agreement on the different amendments had been reached, with the exception of the very important point contained in the latter part of Clause 12 of the Heads of Agreement which related to the agreement of Messrs. Bateman and Thomas not to go independently into the television business so long as the Bateman Group were still indebted under the proposed debenture. The Hintz Group had agreed to your suggested modification of this term but Credit Services would not agree to the modification and thus an impasse was reached.

20

30

In the light of this situation we wrote to you on the 9th September last in an effort to persuade your clients to accept the original clause 12 as required by Credit Services. Then on 16th September, Mr. Mahon, who had been consulted by us, wrote to you advising that a winding-up petition would be issued unless the proposed debenture was executed by the Bateman Group in

40

terms of the original Clause 12 of the Heads of Agreement. In the meantime, our clients had given further thought to the whole situation and they finally resolved that the negotiations with Credit Services should be discontinued and that in consequence the proposal for execution of the debenture should be abandoned. We were therefore instructed on 17th September to inform you that Mr. Mahon's letter was now to be treated as withdrawn and we advised you accordingly on the same day.

We do not propose to go into detail in giving you the reasons for the decision which our clients have now made. It will suffice to say that they are completely dissatisfied with the apparently interminable progress of the negotiations with your clients coupled with the failure of your clients to make any payments in reduction of their liability since last March. In this regard considerable anxiety is felt at the fact that arrears of instalments due by your clients as at the date when notices were served under Section 218 of the Companies Act amounted to £237,051.92 and the total of arrears outstanding since that time has, of course greatly increased. Our clients have made every endeavour to reconstitute the security for the Bateman liabilities so as to dispose of their own interests to Credit Services on reasonable terms but they have now come to the reluctant conclusion that their best course, in the interests of shareholders and depositors, is to discontinue the Credit Services negotiations and to wind up the Bateman Companies so as to retrieve as much as they can of their advances to the Bateman Group. This course may result in a substantial loss to our clients, but they have considered every alternative over the last few days and they are now resolved to wind up the Bateman Companies.

We have therefore been instructed to proceed under the outstanding notices under Section 218 and to serve a winding up petition. We have no doubt that you will warn Messrs. Bateman and Thomas of the necessity to do nothing to impair or imperil the assets of any of their companies pending the hearing of the winding-up proceedings.

Yours faithfully,
A.H. CAVELL, LEITCH & PRINGLE

Petitioner's
Exhibit

Exhibit "G"(38)

Letter Cavell,
Leitch &
Pringle to
J.R.B. Menzies

20th September
1968
(continued)

Petitioner's
Exhibits

EXHIBIT "G"(39)

LETTER J.R.B. MENZIES TO CAVELL, LEITCH &
PRINGLE dated 23rd September 1968

Exhibit "G"(39)

Letter J.R.B.
Menzies to
Cavell, Leitch
& Pringle

J.R.B. MENZIES

23rd September, 1968.

23rd September
1968

Messrs. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH

(Attention Mr. Pringle)

10

Dear Sirs,

re Hintz Group and Bateman Group

Thank you for your letter received late on
Friday.

You will recall that although my clients have
been prepared, without prejudice, to negotiate in
the hope of arriving at a settlement which would be
fair to all parties I have maintained from an early
stage and have indicated both to you and to Mr.
Holland that, in my view, there is more than a
little doubt as to whether a claim by the Hintz
group could be sustained in Court.

20

On the other hand, you will appreciate that
the filing of the proposed petition would be
damaging in the extreme to my client companies,
and in the event of a petition being lodged and
the alleged debts not being upheld damages could
be considerable.

Yours faithfully,

'J.R.B. Menzies'

30

EXHIBIT "G"(40)

LETTER J.R.B. MENZIES TO CAVELL, LEITCH &
PRINGLE dated 24th September 1968

Petitioner's
Exhibits

Exhibit "G"(40)

J.R.B. MENZIES

24th September, 1968

Messrs. A.H. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH

(Attention Mr. Pringle)

Letter J.R.B.
Menzies to
Cavell,
Leitch &
Pringle

24th September
1968

10 Dear Sirs,

re Hintz Group and Bateman Group

Further to my letter of yesterday's date I
would be grateful if you would make available to me
fully detailed statements disclosing how the several
amounts mentioned in the notices served under
Section 218 are made up.

Yours faithfully,

'J.R.B. Menzies'

EXHIBIT "G"(41)

LETTER J.R.B. MENZIES TO P.T. MAHON
dated 1st November 1968

Exhibit "G"(41)

20

J.R.B. MENZIES

1st November, '68

P.T. Mahon, Esq.
Barrister,
P.O. Box 2184,
CHRISTCHURCH.

Letter J.R.B.
Menzies to
P.T. Mahon

1st November
1968

Dear Sir,

re Bateman Group and Coleridge Finance & Ors.

30

Thank you for making the hire purchase agree-
ments available so promptly. However, as mentioned
earlier today, the agreements on their own will
neither enable my client companies to satisfy

Petitioner's
Exhibits

Exhibit "G"(41)

Letter J.R.B.
Menzies to
P.T. Mahon

1st November
1968
(continued)

themselves as to the arithmetical accuracy of the amounts alleged to be owing nor clarify other questions arising. I would therefore be grateful if you would arrange to have made available for perusal by Mr. C.W. Evans all accounting records of the petitioning companies, Coleridge Finance Company Ltd. and Belmont Finance Ltd. in any way relating to the state of the accounts between them and the three companies named in the petitions respectively.

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More than a month ago I asked the Petitioning companies' solicitor to furnish a statement showing in detail the make-up of the amount claimed to be owing by Bateman Television Ltd. but, although I have mentioned the matter in the interim the statement has not yet come to hand. Similar statements in regard to the alleged indebtednesses of the other two companies would, no doubt, help to bring these matters to an earlier conclusion.

Yesterday my client companies' accountant and I endeavoured to verify the amounts claimed to have been advanced by Coleridge Finance Company Ltd. by a perusal of bank lodgment slips but it proved impossible to find any great degree of correlation between the documents and the cheques lodged. We were left with the impression that in numerous cases where the agreement showed Coleridge Finance Ltd. as the company making the advance the cheque was probably drawn on Cambridge Credit Corporation Ltd. If we were correct in this impression it seems clear that it will be possible to complete our verifying of the advances only if the relevant accounting records of Cambridge Credit Corporation Ltd. and the agreements executed in favour of that company are made available for perusal.

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I appreciate that Cambridge Credit Corporation Ltd. is not a party to the proceedings and that it is, therefore possibly arguable whether discovery may be had in respect of these records and agreements. However, it would seem that the activities of the two companies, have been so closely interwoven that there are grounds for holding that the Cambridge Credit records and agreements come within the category of "documents ... relating to any matter in question on the Petition" particularly if the impression mentioned above is correct.

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Yours faithfully,

'J.R.B. Menzies'

EXHIBIT "2"

LETTER J.R.B. MENZIES TO CAVELL, LEITCH &
PRINGLE dated 16th October 1968

Respondent's
Exhibits

Exhibit "2"

J.R.B. MENZIES

16th October, 1968

Letter J.R.B.
Menzies to
Cavell, Leitch
& Pringle

16th October
1968

Messrs. A.H. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799,
CHRISTCHURCH

10

(Attention Mr. Pringle)

Dear Sirs,

re Bateman Television Ltd. & Ors.

I attach by way of service three copies of
Notices of Motion for Discovery.

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Mr. K.A. Gough, Counsel for my client companies
has reminded me that, despite the obvious need for
an early definition of the Provisional Liquidator's
powers he has not yet sighted a draft of the
relevant Order. Perhaps you could assist in having
the submission of a draft expedited.

Yours faithfully,

'J.R.B. Menzies'

Respondent's
Exhibits

EXHIBIT "3"

Exhibit "3"

LETTER J.R.B. MENZIES TO CAVELL, LEITCH &
PRINGLE dated 18th October 1968

Letter J.R.B.
Menzies to
Cavell, Leitch
& Pringle

J.R.B. MENZIES

18th October, 1968.

18th October
1968

Messrs. A.H. Cavell, Leitch & Pringle,
Solicitors,
P.O. Box 799
CHRISTCHURCH

(Attention Mr. Pringle)

Dear Sirs,

10

re Bateman Group and Hintz Group

I acknowledge receipt this morning of your
letter of yesterday's date.

I note that you mention as the reason for your
request for permission for the Provisional Liquidator
to examine the books of Bateman T.V. Service
Ltd. and Batemans Records Ltd. Mr. Hadlee's desire
to obtain an overall picture of the group. Mr.
Hadlee also wishes to extract a schedule of the
Directors' drawings from the group.

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You will recall that the avowed purpose of
your client companies' seeking the appointment of a
Provisional Liquidator was the protection and con-
servation of the assets of the three companies
affected for the benefit of the creditors of those
companies. For my part I find difficulty in seeing
that an investigation of the past dealings of the
group has any relevance to the purpose for which the
Court appointed Mr. Hadlee and I am not disposed to
advise the companies concerned, namely the Records
and Service companies to comply with your request.

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In passing, I would suggest that questions such
as those now arising could well be obviated if, as
requested in my letter written some days back, the
submitting of a draft of the order for the appoint-
ment of the Provisional Liquidator were expedited.

Yours faithfully,

'J.R.B. Menzies'

EXHIBIT "10"(a)BATEMAN GROUP CONSOLIDATED ACCOUNTS
FOR YEAR ENDING MARCH 1968Respondent's
ExhibitsExhibit "10"(a)

	<u>MUSIC</u>	<u>TELEVISION</u>	<u>TOTAL</u>
Stock 1/4/67	6320-28	17305-24	23625-52
Purchases	<u>17808-00</u>	<u>59449-66</u>	<u>77257-66</u>
	24128-28	76754-90	100883-18
Stock 31/3/68	<u>4751-45</u>	<u>21535-32</u>	<u>26286-77</u>
	19376-83	55219-58	74596-41
10 Sales & Service	<u>25501-01</u>	<u>110569-19</u>	<u>136070-20</u>
	6124-18	55349-61	61473-79
Hire Receipts			<u>155968-07</u>
			217441-86
Advertising	14701-73		
Cartage	27-87		
Cleaning	417-49		
Entertainment	652-00		
Insurance	2346-02		
1. Interest	1007-26		
20 Legal Exes.	357-00		
Motor Exes.	7459-81		
Phone	1947-48		
Postage	618-82		
Power	2079-36		
Rates	164-18		
Repairs & Maintenance	551-88		
Repossession Costs	874-30		
Rent	6789-25		
Service	201-76		
30 Stationery	680-07		
Subscriptions	92-50		
Sundries	3608-92		
Travel	865-80		
Wages	57361-05		
2. Surplus	<u>114574-31</u>		
			<u>217441-86</u>
			217441-86

Draft Bateman
Group Consol-
idated
Accounts for
year ended
31st March
1968

1. Interest to Coleridge excluded approx. \$50000

2. Surplus should be reduced by \$10,000 relating to
depreciated sets sold.

Respondent's Exhibits	<u>ASSETS</u>		
Exhibit "10"(a)	Stock	26286-77	
Draft Bateman Group Consolidated Accounts for year ended 31st March 1968 (continued)	Debtors	20601-30	
	Tax paid	34-78	
	Fixtures & Fittings	683-90	
	Office Equipment	6167-61	
	Furnishings	5085-43	
	Fluorescent Lights	290-91	
	Alterations	6878-72	
	Vehicles	38184-40	10
	Sets (book value £120) (M.V. £180)	226593-54	
	Plant	640-00	
	Tools	58-29	
	A.D.A. shares	200-00	
	Goodwill	5500-00	
	Interest Suspense	65121-02	
	Appropriation Account	6176-57	
		<u>408503-24</u>	

LIABILITIES

	Bank Accounts	10445-08	
1	Creditors	34248-98	
	Deposits	7600-00	
	Cambridge Credit (vehicles)	1152-00	
	Credit Services "	792-00	
	Croydon Finance "	1805-96	
	Alliance Finance "	<u>341-20</u>	4091-16
2	Coleridge Finance	<u>352118-02</u>	
		<u>408503-24</u>	30

1. Creditors estimated on previous year's figures but later ascertained to be £24,708.09.
2. Repayments to finance companies totalling £74,000 taken into account in showing liability of £352,118.00 to Coleridge Finance.

EXHIBIT "10"(b)BATEMAN TELEVISION LTD. TRADING & PROFIT & LOSS
ACCOUNT for year ended 31st March 1967Respondent's
Exhibits

Exhibit "10"(b)

BATEMAN TELEVISION LTD. Year ended 31/3/67Trading & Profit & Loss Account.Bateman Tele-
vision Limited
Trading &
Profit & Loss
Account for
year ended
31st March 1967

	172895	Sales		117978. 5. 0	
	5000	Stock		6908. 6. 0	
	909	Stock	5000. 0. 0		
	154434	Purchases	104979.18.11		
10	22551	Gross Profit	14906.12. 1		
			<u>124886.11. 0</u>	<u>124886.11. 0</u>	
	22551	Gross Profit		14906.12. 1	
	2913	Advertising	1630.11. 2		
	-	Cleaning	55. 6. 2		
	63	Cartage	8. 9. 0		
	34	Entertainment	108. 5.11		
	112	Insurance	126. 8. 4		
	181	Interest	353. 6. 0		
	-	Legal Expenses	30.11. 3		
20	966	Motor Expenses	711.17. 7		
	238	Phone	242.16. 7		
	103	Power	143.11. 3		
	-	Postage	59.10.10		
	-	Repossession Costs	422.12. 4		
	566	Rent	752. 9. 2		
	6844	Salaries & Wages	9060. 9. 3		
	336	Stationery	222.17. 4		
	694	Service	- - -		
30	22	Subscriptions	3. 4. 0		
	233	Sundries	602. 5. 1		
	209	Travel Expenses	271. 1. 6		
	83	Loss on Motor Vehicles	932.15. 8		
	8906	Loss		831.16. 4	
	22551		<u>15738. 8. 5</u>	<u>15738. 8. 5</u>	

Appropriation Account

	2668	Balance brought forward		11484.16. 7	
	8906	Loss for year	831.16. 4		
	89	Taxation Paid	- - -		
40	11484	Balance carried forward	<u>10653. 0. 3</u>		
			<u>11484.16. 7</u>	<u>11484.16. 7</u>	

Respondent's Exhibits	<u>BATEMAN TELEVISION LTD.</u>		<u>Year ended 31/3/67</u>	
Exhibit "10"(b)		<u>Current Assets</u>		
	5000	Stock	6908. 6. 0	
Bateman Tele-	1534	Sundry Debtors	980.10. 9	
vision Limited	16009	Bateman T.V. Hire		
Trading &		Ltd.	- - -	
Profit & Loss	1000	Star T.V. Ltd.	- - -	
Account for	2360	Bateman T.V.		
year ended		Service Ltd.	<u>2317. 5. 7</u>	
31st March 1967				
(continued)				
		<u>Total Current Assets</u>	10206. 2. 4	10
		<u>Fixed Assets</u>		
	13306	Motor Vehicles	14628. 1. 1	
	2083	Office Equipment	2402. 2. 2	
	1825	Furniture	1821.13. 6	
	3232	Alterations	3232. 9.11	
	3	Tools	<u>3.14. 6</u>	
		<u>Total Fixed Assets</u>	22088. 1. 2	
		<u>Investments</u>		
	60	A.D.A. Shares	<u>100. 0. 0</u>	
		<u>Total Investments</u>	100. 0. 0	20
		<u>Intangible Assets</u>		
	2500	Goodwill	<u>2500 .0. 0</u>	
		<u>Total Intangible Assets</u>	2500. 0. 0	
				</

	<u>Current Liabilities</u>		Respondent's <u>Exhibits</u>
9938	Bank N.S.W.	6904.14. 1	
25175	Sundry Creditors	11851.13. 8	Exhibit "10"(b)
1814	Batemens Records Ltd.	2378.18. 9	Bateman Tele- vision Limited
-	Star T.V. Ltd.	1228.15. 5	Trading &
-	Bateman T.V. Hire Ltd.	366. 7. 0	Profit & Loss Account for
-	Broadlands Finance Ltd.	<u>1510.14. 4</u>	year ended 31st March 1967 (continued)
	<u>Total Current Liabilities</u>	24241. 3. 3	
	<u>Shareholders' Funds</u>		
	<u>Authorised Capital</u>		
	1000 Ordinary Shares of £1 each	1000. 0. 0	
	Uncalled Capital	<u>1000. 0. 0</u>	
	Paid Capital	- - -	
11485	Appropriation Account	<u>10653. 0. 3</u>	
	<u>Total Shareholders' Funds</u>	10853. 0. 3	
48412		£ 34894. 3. 6	

In accordance with Sec. 354 (3) of the Companies Act 1955 these accounts have not been audited.

Respondent's
ExhibitsEXHIBIT "10"(c)

Exhibit "10"(c)

BATEMAN T.V. HIRE LTD. TRADING & PROFIT & LOSS
ACCOUNT for year ended 31st March 1967Bateman T.V.
Hire Limited
Trading &
Profit & Loss
Account for
year ended
31st March 1967BATEMAN T.V. HIRE LTD.Year ended 31/3/67Trading & Profit & Loss Account

37322	Receipts		74310. 3. 5	
5449	Advertising	1972.13. 8		
84	Cartage	9.15. 4		
-	Cleaning	51. 7. 0		
44	Entertainment	140.13. 8		10
146	Insurance	164. 6.10		
16663	Interest	17022. 3. 0		
-	Legal Expenses	38. 4. 0		
1288	Motor Expenses	928. 9. 7		
315	Phone	315.11. 5		
133	Power	253.16. 7		
-	Postage	77. 9. 4		
-	Purchases	424.10. 2		
23	Repairs & Maintenance	229. 3. 3		20
731	Rent	865.12. 2		
949	Service	9096. 3. 5		
436	Stationery	289.18. 1		
349	Sundries	839. 0. 1		
-	Subscriptions	13. 1. 0		
6066	Salaries & Wages	4931.17. 6		
125	Travel Expenses	352. 7. 6		
30943	Depreciation	38656. 1. 3		
25424	Loss		2362. 1. 5	

65747		76672. 4.10	76672. 4.10	30
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Appropriation Account.

15829	Balance brought forward	44253.15. 9	
28424	Loss for year	2362. 1. 5	
-	Taxation Paid	407. 3. 8	
44253	Balance carried forward		47023. 0.10
		£ 47023. 0.10	47023. 0.10

BATEMAN T.V. HIRE LTD.Year ended 31/3/67Respondent's
ExhibitsBalance Sheet

Exhibit "10"(c)

Current Assets

-	Debtors	4061.18. 1
18706	Star T.V. Ltd.	28687.14. 1
2009	Batemans Records Ltd.	11645. 9. 4
583	Bateman T.V. Service Ltd.	- - -
10	- Bateman Television Ltd.	<u>366. 7. 0</u>

Bateman T.V.
Hire Limited
Trading &
Profit & Loss
Account for
year ended
31st March 1967
(continued)

Total Current Assets

44761. 8. 6

Fixed Assets

Television Sets -

	Cost Price	191900. 7.11
	Less Depreciation	<u>91870.16. 3</u>
80185		100029.11. 8
34	Fixtures & Fittings	199.17. 5
12	Office Equipment	<u>77. 3.11</u>

Total Fixed Assets

100306.13. 0

Intangible Assets

29560	Interest Suspense Account	32560.10. 2
44353	Appropriation Account	<u>47023. 0.10</u>

Total Intangible Assets

79583.11. 0

175344£ 224651.12. 6

<u>Respondent's Exhibits</u>		<u>Current Liabilities</u>	
Exhibit "10"(c) Bateman T.V. Hire Limited Trading & Profit & Loss Account for year ended 31st March 1967 (continued)	2516	Bank N.S.W.	2728. 9.11
	6969	Sundry Creditors	1162.14. 4
	16008	Bateman Television Ltd.	- - -
	-	Bateman T.V. Service Ltd.	<u>1001.12. 9</u>
		<u>Total Current Liabilities</u>	4892.17. 0
		<u>Term Liabilities</u>	
	149850	Coleridge Finance Co. Ltd.	<u>219758.15. 6</u>
		<u>Total Term Liabilities</u>	219758.15. 6
		<u>Shareholders' Funds</u>	
		<u>Authorised Capital</u>	
		100 Ordinary Shares of £1 each	100. 0. 0
		Uncalled Capital	<u>100. 0. 0</u>
		Paid Capital	- - -
		<u>Total Shareholders' Funds</u>	- - -
<hr/>		<hr/>	
	175344		£ 224651.12. 6
<hr/>		<hr/>	

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In accordance with Sec. 354 (3) of the Companies Act 1955 these accounts have not been audited.

EXHIBIT "10"(d)BATEMANS RECORDS LTD. TRADING & PROFIT & LOSS
ACCOUNT for year ended 31st March 1967Respondent's
Exhibits

Exhibit "10"(d)

BATEMANS RECORDS LTD. Year ended 31/3/67Trading & Profit & Loss Account

10	16144	Sales		10652. 5. 0	
	2335	Stock		3160. 2. 9	
	-	Stock	2335. 0. 6		
	1228	Purchases	8196. 7. 2		
		Gross Profit	<u>3281. 0. 1</u>		
			13812. 7. 9	<u>13812. 7. 9</u>	
	6250	Gross Profit		3281. 0. 1	
	2594	Advertising	1021.18. 0		
	44	Cartage	4. 5. 9		
	102	Cleaning	89. 5. 7		
	24	Entertainment	75. 9.10		
	24	Interest	2.14. 3		
	79	Insurance	77.17.10		
20	710	Motor expenses	477.19. 2		
	61	Phone	169.10. 5		
	-	Postage	41.12. 6		
	114	Power	201. 1. 1		
	65	Repairs & Maintenance	208. 5. 0		
	437	Rent	436.16. 0		
	1765	Salaries	3763. 2.10		
	260	Stationery	131. 1. 6		
	-	Subscriptions	6.15. 8		
	164	Sundries	73.17. 6		
	293	Travel Expenses	189.15. 2		
30	973	Loss		3690. 7.10	
	<u>6324</u>		<u>5571. 7.11</u>	<u>5571. 7.11</u>	

Appropriation Account.

	650	Balance brought forward	1623. 4. 6		
	973	Loss for year	3690. 7.10		
	-	Taxation paid	42. 9. 2		
	1623	Balance carried forward		5356. 1. 6	
			<u>5356. 1. 6</u>	<u>5356. 1. 6</u>	

Bateman
Records Ltd.
Trading &
Profit & Loss
Account for
year ended
31st March
1967

Respondent's Exhibits	<u>BATEMANS RECORDS LTD.</u>	<u>Year ended 31/3/67</u>	
Exhibit "10"(d)	<u>Balance Sheet</u>		
Bateman Records Ltd. Trading & Profit & Loss Account for year ended 31st March 1967 (continued)	<u>Current Assets</u>		
	- Commercial Bank	304. 6. 6	
	2335 Stock	3160. 2. 9	
	1814 Bateman Television Ltd.	2378.18. 9	
	- Star T.V. Ltd.	402.11. 5	
	- Bateman T.V. Service Ltd.	<u>2600. 0. 8</u>	10
	<u>Total Current Assets</u>	8846. 0. 1	
	<u>Fixed Assets</u>		
	98 Office Equipment	125.17. 9	
	21 Carpet	21. 5. 0	
	120 Furnishings	144.14. 0	
	124 Alterations	123.17. 4	
	- Fixtures & Fittings	<u>18.10. 0</u>	
	<u>Total Fixed Assets</u>	434. 4. 1	
	<u>Intangible Assets</u>		
	250 Goodwill	250. 0. 0	20
	1623 Appropriation Account	<u>5356. 1. 6</u>	
	<u>Total Intangible Assets</u>	5606. 1. 6	
	<u>6385</u>	<u>£ 14886. 5. 8</u>	

<u>Current Liabilities</u>			<u>Respondent's Exhibits</u>
371	Bank N.S.W.	2. 2.11	
217	Commercial Bank	- - -	Exhibit "10"(d)
3416	Sundry Creditors	3238.13. 5	
371	Star T.V. Ltd.	- - -	Bateman Records Ltd. Trading & Profit & Loss Account for year ended 31st March 1967
2009	Bateman T.V. Hire Ltd.	<u>11645. 9. 4</u>	(continued)
	<u>Total Current Liabilities</u>	14886. 5. 8	

Shareholders' FundsAuthorised Capital

100 Ordinary Shares of £1 each	100. 0. 0
Uncalled Capital	<u>100. 0. 0</u>
Paid Capital	- - -

Total Shareholders' Funds - - -

<u>6385</u>	<u>£ 14886. 5. 8</u>
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In accordance with Sec. 354 (3) of the Companies Act 1955 these accounts have not been audited.

Respondent's
Exhibits

EXHIBIT "10"(e)

Exhibit "10"(e)

STAR T.V. LIMITED TRADING & PROFIT & LOSS
ACCOUNT for year ended 31st March 1967

Star T.V.
Limited
Trading &
Profit & Loss
Account for
year ended
31st March
1967

STAR T.V. LIMITED

Year ended 31/3/67

Trading & Profit & Loss Account

	Receipts		15712. 0. 0
2743	Advertising	1337.19. 2	
50	Cartage	6.15. 1	
-	Cleaning	83. 8. 2	
27	Entertainment	86.12. 9	10
90	Insurance	111.14. 8	
2621	Interest	2151.18.10	
789	Motor Expenses	569. 9. 6	
150	Phone	186.13.10	
-	Postage	47.12. 8	
301	Power	321.19.11	
2091	Purchases	259. 0.10	
1352	Rent	1352. 0. 0	
59	Repairs & Maintenance	78. 0. 9	20
48	Service	1842. 5. 0	
268	Stationery	178.10. 0	
195	Sundries	316. 5. 0	
-	Subscriptions	1.10. 0	
167	Travel Expenses	216.17. 6	
2022	Wages	3796. 6. 6	
9319	Depreciation	6289. 1. 3	
7807	Loss		3522. 1. 5
<u>22293</u>		<u>17634. 1. 5</u>	<u>17634. 1. 5</u>

Appropriation Account

6833	Balance brought forward	14641. 7. 4	
7808	Loss for year	3522. 1. 5	
14641	Balance carried down		18183. 8. 9
		<u>18163. 8. 9</u>	<u>18163. 8. 9</u>

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STAR T.V. LTD.Year ended 31/3/67Respondent's
ExhibitsBalance Sheet

Exhibit "10"(e)

Current Assets

69	Bank N.S.W.	215. 6. 3	
371	Batemans Records Ltd.	- - -	
-	Bateman Television Ltd.	<u>1228.15. 5</u>	
	<u>Total Current Assets</u>		1444. 1. 8

Star T.V.
Limited
Trading &
Profit & Loss
Account for
year ended
31st March
1967
(continued)

Fixed Assets

10

	Television Sets -		
	Cost Price	35000. 0. 0	
	Less Depreciation	<u>21732.16. 3</u>	
19556		13267. 3. 9	
58	Furnishings	62. 8. 6	
21	Office Equipment	110. 8.10	
83	Alterations	<u>83. 0. 0</u>	
	<u>Total Fixed Assets</u>		13523. 1. 1

Intangible Assets

20

2151	Interest Suspense Account	- - -	
14841	Appropriation Account	<u>18163. 8. 9</u>	
	<u>Total Intangible Assets</u>		18163. 8. 9

36951£ 33130.11. 6

Respondent's Exhibits		<u>Current Liabilities</u>		
Exhibit "10"(e) Star T.V. Limited Trading & Profit & Loss Account for year ended 31st March 1967 (continued)	1906	Sundry Creditors	2392.16. 7	
	1000	Bateman Television Ltd.	- - -	
	18706	Bateman T.V. Hire Ltd.	28687.14. 1	
	-	Batemans Records Ltd.	402.11. 5	
	-	Bateman T.V. Service Ltd.	<u>1647. 9. 5</u>	10
		<u>Total Current Liabilities</u>	33130.11. 6	
		<u>Term Liabilities</u>		
	15339	Coleridge Finance Co. Ltd.	- - -	
		<u>Total Term Liabilities</u>	- - -	
		<u>Shareholders' Funds</u>		
		<u>Authorised Capital</u>		
		1000 Ordinary Shares of £1 each	1000. 0. 0	
		Uncalled Capital	<u>1000. 0. 0</u>	20
		Paid Capital	- - -	
		<u>Total Shareholders' Funds</u>	- - -	
	<u>36951</u>	£	<u>33130.11. 6</u>	

In accordance with sec. 354(3) of the Companies Act 1956 these accounts have not been audited.

EXHIBIT "12"

FORM OF HIRING AGREEMENT USED
BY BATEMAN T.V. HIRE LIMITED
(Undated)

Respondent's
Exhibits

Exhibit "12"

Form of Hiring
Agreement used
by Bateman T.V.
Hire Limited
(Undated)

BATEMAN

SALES 67-692



LIMITED

SERVICE 67-690

NO 5942

710 COLOMBO STREET P.O. Box 2333

AN AGREEMENT made this _____ day of _____ 196
BETWEEN BATEMAN TV HIRE LTD., a duly incorporated company having its registered office at
Christchurch (hereinafter called "the owner" of the one part AND _____

of _____ Occupation _____
Business reference _____
Personal reference _____

Husband's
Employer _____ Private Phone _____ Bus. _____
(hereinafter called "the hirer") of the other part

WHEREBY IT IS AGREED as follows:

1. THE owner will let on hire and the hirer will take on hire the television set more particularly described in the schedule hereto.
2. THE term of the said hiring shall be for a minimum period of _____ weeks.
3. THE Rental for the said hiring shall be the sum of \$ _____ per week and shall be payable four weeks in advance during the term of this Agreement.
4. THE hirer shall immediately on the execution of the Agreement pay to the owner the sum of _____
(Deposit refunded at termination of minimum expiry period as in Clause 2).
See Clauses 5 to 17 on reverse side.

IN WITNESS WHEREOF these presents have been executed the day and year first hereinbefore written.

THE SCHEDULE HEREINBEFORE REFERRED TO

1. One television set including all parts spares and accessories (other than the outside aerial) attached to or used with the same.

Serial No.:

House No.:

Maker:

which set is to be installed and kept at the hirer's premises at:

BATEMAN TV HIRE LTD.

Per: _____
Owner

RENTAL FOUR-WEEKLY \$ _____

Witness: _____

Hirer

Witness: _____

IN THE PRIVY COUNCIL

No. 30 of 1969

O N A P P E A L
FROM THE COURT OF APPEAL OF NEW ZEALAND

B E T W E E N :

BATEMAN TELEVISION LIMITED (in liquidation)
and BATEMAN T.V. HIRE LIMITED (in liquidation)
Appellants

- and -

COLERIDGE FINANCE COMPANY LIMITED Respondent

RECORD OF PROCEEDINGS

LINKLATERS & PAINES,
Barrington House,
59/67 Gresham Street,
London, E.C.2.
Solicitors for the
Appellants.

MACFARLANES,
Dowgate Hill House,
London, E.C.4.
Solicitors for the
Respondent.