

24th February, 1986.

Independent Factors Limited

-v-

Metropolitan Distribution Limited

**COMMISSIONER DOREY:** We are satisfied that the Court has adequate power under Rule 6/10/(9) to make Cap Ten Limited Plaintiff in substitution for Independent Factors Limited.

This would have the advantage that the issue to be determined would be determined between the real parties to the contract; that is the original creditor and the original debtor. We think that the Greffier was in error in doubting the validity of the re-assignment. As regards the supposed counterclaim we find that what the defendant pleaded in the prayer to his answer was not a counterclaim but a set-off, which would not support a separate claim against the plaintiff, but would merely act as a defence up to the limit of the plaintiffs claim.

We therefore grant the appeal against the Greffiers decision subject to the payment by Lloyds and Scottish PLC of the sum of £3,000 as security for the defendants costs, to be held by the plaintiffs advocates. We direct that each party pay their own costs of and incidental to the present application and the appeal.