

APPEAL COMMITTEE

Kuwait Airways Corporation
v.
Iraqi Airways Company (Body Corporate) and others

Report from the Appeal Committee on the petition of the respondents
praying that the determination by the Clerk of the Parliaments
of the respondents' costs might be reviewed.

Ordered to be printed 16th July 2002

ORDERS OF REFERENCE

DIE MARTIS 20° NOVEMBRIS 2002

Kuwait Airways Corporation (Appellants) v. Iraqi Airways Company (Body Corporate) and others (Respondents)—The petition praying that the determination by the Clerk of the Parliaments of the respondents costs might be reviewed, was presented and referred to an Appeal Committee.

DIE LUNAE 11° FEBRUARII 2002

Kuwait Airways Corporation (Appellants) v. Iraqi Airways Company (Body Corporate) and others (Respondents)—That the petition praying that the determination by the Clerk of the Parliaments of the respondents' costs might be reviewed be referred for hearing.

MINUTES OF PROCEEDINGS

DIE MERCURII 27° FEBRUARII 2002

LORDS PRESENT: Lord Hutton
Lord Hobhouse of Woodborough
Lord Millett

[The Lord Hutton in the Chair]

COUNSEL:

Mr Nicholas Bacon appeared for Kuwait Airways Corporation

Mr Alexander Hutton appeared for Iraqi Airways Company (Body Corporate) and others

Mr Hutton was heard.

Mr Bacon was heard.

Mr Hutton was heard in reply.

The report was adjourned *sine die*.

The Committee was adjourned.

REPORT FROM THE APPEAL COMMITTEE

on the petition of the respondents praying that the determination by the Clerk of the Parliaments of the respondents' costs in the Cause *Kuwait Airways Corporation v. Iraqi Airways Company (Body Corporate) and others* might be reviewed.

ORDERED TO REPORT:

1. This Report has been agreed to by all members of the Committee.
2. This costs appeal has arisen out of an exceptional situation. The parties concerned are the Kuwait Airways Corporation and the Iraqi Airways Company who will be referred to respectively as 'Kuwait Airways' and 'Iraqi Airways'. The origin of the dispute between the parties goes back to the invasion of Kuwait by Iraq on 2nd August 1990. The Iraqi forces overran the airport at Kuwait where there were 10 commercial airliners belonging to Kuwait Airways having an insured value of some US\$ 630 million. The Iraqi forces took possession of the aircraft and, between 2nd and 22nd August, removed them to Bagdad. On 17th September, pursuant to a resolution of the Revolutionary Command Council of Iraq, the possession and control of the aircraft were transferred to Iraqi Airways with the intent that they should form part of Iraqi Airways' commercial fleet. The resolution also purported to dissolve Kuwait Airways and transfer all its assets to Iraqi Airways. By a writ issued by Kuwait Airways on 11th January 1991 in the High Court in London naming the Republic of Iraq and Iraqi Airways as defendants, Kuwait Airways claimed damages for wrongful interference with their property, i.e. the aircraft. It will not be necessary to refer further to the Republic.
3. Iraqi Airways applied to set aside the writ on grounds which included a claim that it was entitled to rely on state immunity. This application was the subject of a hearing in the Commercial Court before Evans J with oral evidence from several witnesses, including from a Mr Saffi the Director General of Iraqi Airways. One of the factual issues was whether Iraqi Airways had interfered with the aircraft so as to commit an actionable wrong after the aircraft had been removed to Iraq and before 17th September. This issue was relevant to the extent to which Iraqi Airways might be entitled to rely on state immunity. The issue was finally determined on an appeal to this House in July 1995 ([1995] 1 WLR 1147). The leading speech was that of Lord Goff of Chieveley. Basing himself upon the oral evidence which had been given at the hearing before Evans J, in particular that of Mr Saffi, which was incorporated into the statement of agreed facts for the purpose of that appeal, Lord Goff concluded that the basic maintenance carried out after the aircraft were removed to Iraq was of little or no significance and that, prior to 17th September 1990, Iraqi Airways neither asserted title to the aircraft nor any possession or right to possession of them and made no use of them. Stress was placed upon the aircraft not having been painted in the Iraqi Airways livery prior to 17th September. Lord Goff held that Iraqi Airways did not cease to be entitled to rely on state immunity until 17th September 1990. The significance of this was that in the following stages of the litigation between the parties the liability of Iraqi Airways had to be based upon what had happened after 16th September and created difficulties for Kuwait Airways in proving what, if any, recoverable further loss had been caused to it after that date. The success of Iraqi Airways on that appeal had very considerable financial consequences for the parties.
4. In the substantive litigation, discovery was given by Iraqi Airways and documentary and oral evidence was adduced on its behalf. Kuwait Airways alleges that this further material shows that the evidence relied upon by Iraqi Airways before Evans J and in the subsequent appeals was perjured, particularly that of Mr Saffi, and a letter had been forged. On 17th May 2000 Kuwait Airways petitioned this House praying that the order of the House of 24th July 1995 be varied so as to hold that Iraqi Airways were not entitled to rely on state immunity during the period ending 16th September 1990. The Petition was (as was appropriate in the circumstances) detailed and specific in the allegations which it made against Iraqi Airways. It runs to 21 pages of print. It

petitions that the earlier order be varied because “it is now clear that parts of Mr Saffi’s evidence, upon which the House relied, were false and perjured in material respects”.

5. This was a Petition which Iraqi Airways and its legal advisers could not treat as being other than extremely serious. It made serious particularised allegations, including allegations of criminal conduct, against it and its former Director General. It would, if the allegations were accepted, quite possibly have a major impact upon the ultimate outcome of the litigation. The solicitors on whom the Petition had been served concluded in conjunction with the counsel acting for Iraqi Airlines in the continuing litigation that they must take instructions from their client and find out what the individuals concerned had to say about the allegations which had been made. This in practical terms necessitated a visit by an appropriate lawyer or lawyers to Iraq. The lack of satisfactory facilities for telephonic communication exacerbated by language difficulties and the need to consider original documents left those concerned with no practical alternative. Accordingly, on 10th July 2000 Iraqi Airlines’ solicitor, Mr Kosky (a partner in the firm Landau & Scanlan of North Audley St, W1), and Mr Nathan QC, one of the barristers acting for it in the litigation, left London by air for Iraq. Their purpose was two-fold: to take instructions on the allegations in the perjury Petition and further instructions regarding the so-called ‘spares’ action, a related action between the same parties also arising out of aftermath of the Iraqi invasion of Kuwait.

6. Meanwhile there had been correspondence between Howard Kennedy of Cavendish Square, W1, the solicitors for Kuwait Airways, and the Principal Clerk of the Judicial Office of the House. The background was that from the first it was appreciated on all sides that the Petition was unusual in that it included allegations of fact which, if not admitted, would have to be proved. The parties had been told that the Petition had been referred to an Appeal Committee. On 6th July 2000, Howard Kennedy wrote to the Principal Clerk telling him what stage had been reached in the substantive action then being heard in the Court of Appeal and continuing:

“We are keen to progress the Petition irrespective of the outcome in the Court of Appeal and would be content for the matter to be dealt with as their Lordships deem appropriate with a listing as soon as possible.”

7. The Principal Clerk replied that there would have to be a further (sic) hearing and asking whether the evidence given by Mr Saffi was in dispute, indicating that if it was it might be necessary for Mr Saffi to appear before the House and be examined. Howard Kennedy replied on 10th July:

“I do not believe that either party suggests that the transcripts of Mr Saffi’s oral evidence are an inaccurate record of the evidence he gave. So far as KAC’s position on the veracity of that evidence, we hope that this is sufficiently clearly set out in our Petition.

I do not know the current position of IAC with regard to the veracity of Mr Saffi’s evidence and have passed your letter to Messrs Landau & Scanlan asking them to clarify their position direct to you with a copy to me. I believe that both Mr Kosky, the partner at Landau & Scanlan, and Mr Nathan QC are currently in Baghdad. I will ask Mr Kosky’s office to ensure that your letter and my reply are faxed to them there.”

8. This they did on the 11th. On the 12th Howard Kennedy sent Mr Kosky in Bagdad a further fax telling him that the Judicial Office had informed him that the Appeal Committee would hold a preliminary hearing of the Petition on the 26th requiring the parties to lodge observations upon how the House should address the issues set out in the Petition by the 24th.

9. On the 13th, Mr Kosky, having been informed of the above, faxed the Principal Clerk explaining the very considerable practical problems facing those travelling to and in Iraq and saying: “Until we have obtained instructions with regard to the Claimant’s [Kuwait Airways’] petition, I am not in a position to indicate what my client’s position is.” Later that day it was possible for Mr Kosky to speak to the Judicial Office and was advised that the hearing on the 26th would be in the form of a summons for directions. Mr Kosky and Mr Nathan continued to employ

themselves on conducting the interviews which had been the purpose of their trip to Bagdad travelling back to London the following weekend so as to be in time for the hearing.

10. Counsel for Kuwait Airways, Mr Greenwood QC and two juniors, put in written submissions for the hearing contemplating that the House would be proceeding to a substantive hearing of the Petition as soon as Iraqi Airways had responded to the Petition. They said (paragraph 5):

“KAC currently has no idea what IAC’s response to the Petition will be. Indeed KAC has been keen that the hearing of 26th July 2000 should take place to enable IAC to indicate the nature of that response so that there can be an orderly preparation for a substantive hearing. IAC’s legal advisers have just been in Iraq for the purpose of taking instructions in relation to the Petition.”

11. Mr Donaldson QC and Mr Nathan QC, counsel for Iraqi Airways, also lodged written submissions on behalf of their client. These submissions commented upon the factual content of the Petition pointing to what they described as inaccuracies; they disputed the allegations made in the Petition: “The allegation that the substance of Mr Saffi’s evidence in 1991–1992 was false is denied.” The submissions referred to “more detailed evidence obtained only in recent days”; they denied that the evidence given by the three witnesses named in the Petition was given dishonestly or for any dishonest purpose as Kuwait Airways had alleged; they referred to the difficulties which Mr Kosky and Mr Nathan had faced during their visit to Iraq from which they had just returned. They made several submissions for the future of the Petition which included leaving Kuwait Airways to pursue their remedy (if any) in a fresh action to set aside the order of the House on the grounds of fraud. They concluded by referring to the necessity of some tribunal, be it the House or a judge at first instance, to give detailed consideration to the evidence.

12. On 27th July, the Appeal Committee having heard the parties and considered their written and oral submissions decided that the Petition be dismissed with costs. Their Lordships gave their reasons later, the leading speech being that of Lord Slynn with which the other members of the Committee agreed. Having set out the history of the matter, Lord Slynn summarised the factual allegations of Kuwait Airways and the response of Iraqi Airways to them describing the issues raised by them as relevant, serious and substantial. He referred to the authorities which say that the primary remedy for perjury is to impeach the relevant judgment in a separate action although there is jurisdiction to move for a new trial in the original action. But he declined to exercise that jurisdiction. He said (paragraph 27):

“The facts are complex. It would be necessary to investigate the evidence both written and oral provided in 1991 and 1992 and the new evidence which it is said was obtained later. ... It is not in my view appropriate for five of your Lordships to undertake such an inquiry not would it be convenient for the House to refer the matter to one member or three members for an investigation and report.”

13. It is plain that had not Iraqi Airways persuaded the Committee that (contrary to the submission of Kuwait Airways) there were substantial factual issues which would have to be tried the outcome might have been different.

14. The narrative set out in the preceding paragraphs was not in controversy at the hearing and was accepted for the purposes of this appeal. It provides the essential factual basis for the matters which the Committee has had to consider arising out of the costs order made on 27th July 2000.

The Taxation

15. In judicial proceedings in the House, the formal inter partes costs order made provides “the amount thereof to be certified by the Clerk of the Parliaments if not agreed between the parties”. This sets in train the process of either the receiving party and paying party agreeing the receiving party’s recoverable costs or the taxation of the receiving party’s bill of costs carried out by the Principal Clerk as the Taxing Officer in accordance with the Rules for Judicial Taxations in the House of Lords, the presently relevant rules being those published on 1st January 1997. An aggrieved party may apply to the Clerk of the Parliaments to review the Taxing Officer’s taxation

on a question of principle but not of quantum. A party dissatisfied with the decision of the Clerk of the Parliaments may petition the House which will refer the petition to an Appeal Committee. The structure is therefore similar to that which applies to Taxations in the High Court and Court of Appeal – taxation – review – appeal. But the structure does not include provision for the involvement of assessors at any stage nor does the review stage include the involvement of a judicial officer with specific experience of the taxation of the costs of litigation.

16. The legal principles to be applied are those also applicable to an inter partes taxation in the High Court and Court of Appeal. The order for the payment of costs is paramount and governs the taxation. If a party wishes to dispute the order for costs which has been made, he must exercise any rights of appeal or challenge which may be open to him outside the taxation. In the taxation the order for costs is decisive. If the order is expressly or by implication for the payment of costs taxed on the standard basis (as was the case here) that means costs reasonably incurred and reasonable and proportionate in amount. What was reasonable and proportionate is a matter for the Taxing Officer to consider and assess.

17. In the present matter, the order made was that the Petition of Kuwait Airways was dismissed with costs. This meant that Kuwait Airways were ordered to pay to Iraqi Airways Iraqi Airways' costs of that Petition to be taxed, if not agreed, upon the standard basis. Thus it was for Iraqi Airways to satisfy the Taxing Officer that they were reasonably incurred in relation to the Petition and reasonable and proportionate in amount. The jurisdiction and function of the Taxing Officer was to rule whether the costs claimed by Iraqi Airways were such costs. On the taxation, the relevant dispute between the parties was whether Iraqi Airways were entitled to include an appropriate proportion (50%) of the costs they had incurred in having the advice and assistance of Mr Nathan and Mr Kosky in Iraq between 10th and 21st July 2000. For Mr Kosky the item was £14,575 (110 hours at £265 per hour); for Mr Nathan the item was £12,350 (vouched counsel's fees); plus £3,240 being half the travelling and hotel expenses: total £30,165. This was a substantial sum. The profit cost item for Mr Kosky had been included in the original bill lodged by Mr Kosky for Iraqi Airways. The remainder of the items, i.e. the disbursements, were only added by an amended bill. The Taxing Officer refused to admit the amended bill in its entirety; he only allowed 3 out of the 110 hours claimed for Mr Kosky and he reduced the hourly rate to £185. Iraqi Airways sought a review by the Clerk of the Parliaments but he simply upheld the taxation. Iraqi Airways have now petitioned the House submitting that the Taxing Officer was wrong in principle to disallow the items claimed, that the amended bill should have been admitted and that the disputed items should have been allowed. Kuwait Airways submit that the Taxing Officer's decision was correct and that this petition should be dismissed.

18. There were two hearings before the Taxing Officer, the first on 15th March 2001 and an adjourned hearing on 19th July 2001. For the purposes of this appeal there was placed before the Committee a note of what had been said on 19th July prepared by one of the solicitors for Kuwait Airways. The parties accepted that for the purposes of this appeal it could be taken as substantially correct. On the first hearing only the unamended bill had been lodged. The first thing to be considered on the adjourned hearing was whether the amended bill should be admitted. This was dealt with summarily:

“TO. We last met on 15th March and I see we now have a new bill. Does KA object to this new bill?

KA. I have submissions to make. We object to the bill. The costs are part and parcel of the trip to Baghdad. I appreciate you have a discretion to allow this new bill but I would say that even if you do IA cannot sustain the sums sought. The bill has now gone from £42,000.00 to £58,000.00, the inclusions being Mr Nathan's fees.

TO. The new bill is not allowed. We will proceed on the old bill.

IA. I have submissions to make.

TO. I have read the submissions and I have made up my mind that I would I only allow it if the Paying Party did not object and they clearly do.”

[TO = Taxing Officer; KA = Kuwait Airways representative; IA = Iraqi Airways representative.]

19. So, the amended bill was not admitted.

20. Proceeding on the basis of the unamended bill, the Taxing Officer turned to the question of the item for Mr Kosky's visit to Iraq. The note continues:

“KA. The first preliminary point, which is where we left off at the last hearing, is whether the hearing in July could have proceeded to a substantive hearing.

TO. Yes, IAC need to sum up the justification for the sums sought for a one 2 hour hearing. You consider you had reason to believe it might have developed into a full hearing if it had gone a different way. I could understand if it had gone another way but, as it did not, I cannot.

IA. I have submissions to make. The position was that the trip had been arranged at an earlier time for another purpose. Whilst there, in fact en route, the Courts made an appointment for a Directions hearing. We had gone for the dual purpose of dealing with the Spares Action and to deal with the Petition and during the course of the visit we received notification from the Judicial Office. Our aim whilst in Baghdad was to take instructions and to give advice on the Petition and not in connection with the Directions hearing. There is a letter from Mr Nathan, tab 6 page 57, which explains why he went to Baghdad and what he did there.

TO. There was no need to take detailed instructions if the hearing was a matter of law as to which was the correct way to proceed if the 1995 Judgment had been arrived at as a result of fraudulent evidence. The House had to review and consider the cross-examination of Saffi or whether the law required that the Claimant start again.

IA. You cannot determine the issue with hindsight.

TO. I am not.

IA. We were faced with a Petition with serious issues.

KA. The judgment was obtained by fraud. What Saffi said is irrelevant and the only relevant matter is what the law is.

IA. The Petitioner sought an earlier hearing date for substantive hearing and had this gone their way we would have had a very short time to prepare between the Directions hearing and the full substantive hearing.

TO. You consider that had they won the initial argument, it would have flowed straight into substantive argument, but there was never any question of that. It would have been different if you had to proceed immediately to substantive argument but you did not.

IA. We were told it was a Directions hearing for setting down purposes etc. We were not told it could not go onto a substantive hearing. We understood that what was being decided was whether this was an appropriate way of dealing with the matter.

TO. If it had been decided that the proper way to deal with the matter was what you were arguing, you cannot assume that it would go straight into a substantive hearing. Had it gone a different way, the date would have been fixed for hearing for a few days in October.

IA. I accept that.

TO. So how is it justifiable to expect the paying party to pay for the costs of the Baghdad trip or even part of the trip (half)?

IA. Because we were awarded the costs of the Petition. We were only aware of the extent of the hearing (that it was only a directions) when we got to Baghdad. We went there prepared to give advice and take instructions on the Petition and we took the opportunity to do so whilst in Baghdad. When we arrived in Baghdad we agreed that we would continue to do what we had planned to do.

TO. Your presence in Baghdad was not required for the Directions hearing - you just happened to be there.

IA. Yes, to deal with Spares and to give advice and for evidence-gathering for this Petition.

TO. According to page 59, on the day you arrived you got notification of the Directions hearing, so you cannot say that you were in Baghdad for that purpose because you were already there.

IA. The Petition was served some time previously and we went to Baghdad in connection with that.

TO. One could reasonably have assumed, for example, with the Petition for leave to appeal, that no serious costs would be allowed until provisional leave for the thing to go ahead had been granted. The Directions hearing was listed for that purpose. It was a preliminary hearing for a Petition seeking leave and had they been granted leave you would have had to prepare yourself. It is difficult to understand how that preparation could be justified at this stage.

IA. The client is a State-owned airline which means I have to meet with the Government as well to advise IAC, and to do that I have to meet with them.

TO. That is a matter for you and your clients. It is a question of whether KAC should pay. They were not successful and if you thought they would be you have to consider whether you think the Petition would have been dealt with at that time.

IA. I went there to seek instructions on the Petition issue, which the other side were dealing with on short order. KAC maintained its submission that the matter should go ahead. They did not accept that the proper course was to issue fresh proceedings.

KA. It is hardly unusual for [Mr Kosky] to go to Iraq – he has done so at least three times this year alone.

KA. Referring to tab 6 page 21, it is clear that on 13th July JK was aware of the nature of the hearing and clear beyond doubt that it is not sustainable to contend as he asserts. [KA reads attendance note: “Attending Mr Vallance White of the House of Lords. The House of Lords were determined to have a preliminary hearing on 26th July. This was to be in the form of a Summons for Directions when the House would decide how matters were to be dealt with. Submissions should be delivered to the House of Lords as soon as possible i.e. by 25th July. Mr Vallance White had spoken to Lord Slynn of Hadley and explained our position which was understood.” [sic]. He knew full well the nature of the hearing. If he was in any doubt, he should have made the necessary enquiries. This is not looking at it in hindsight. It is plain from the documentation and the Opening Submissions of Mr Nathan that the hearing was dealing with a point of law.

IA. That attendance note is a note of a conversation I had with you (VW) and I am sure we can both recall what was said. There was no indication that this was a hurdle and the panel had to decide whether KAC could leap it, and I could not have asked you what was in the minds of their Lordships. If you look at the Judgment, and in particular that of Lord Slynn, he refers to new evidence which is relevant to the

allegations we dealt with whilst in Baghdad. (Time taken on continuation of preliminary issue 11:00am to 11:55am.)

TO. I find against you in respect of moiety of 110 hours and I disallow it in its entirety.”

21. These passages contain the essence of the Taxing Officer’s reasons for disallowing the moiety of the costs of the trip of Mr Kosky to Iraq and which would have led him to disallow the fee of Mr Nathan in any event even if he had allowed the amended bill to be put in.

22. Substantially the rest of the hearing on 19th July was taken up with the question of what uplift on the hourly rates should be allowed. The Taxing Officer reduced various of the rates charged. He summarised his reason for doing so in the following words:

“I am treating this as a straightforward interlocutory matter and applying standard rates and there will be no departure from that.”

23. This follows the same logic as that which he had adopted in relation to the earlier issues.

Discussion

24. Kuwait Airways submit that the proceedings on 19th July disclose no error of principle and the taxation should accordingly be upheld. Their Lordships do not agree. The Taxing Officer approached the taxation in the same way as if the costs order had simply been for the costs of the hearing of 26th July 2000 alone and not of Kuwait Airways’ Petition in its entirety. He did not take into account what it was reasonable for those acting for Iraq Airways to have done in order to rebut the allegations made against their clients and protect their interests and to defend the Petition. No adequate grounds were given for refusing to admit the amended bill; and the refusal was clearly coloured by the view that the additional disbursements were not recoverable any way. The assessment of the allowable hourly rates was similarly guided by the view that what the taxation was concerned with was just the costs of preparing for a straightforward interlocutory hearing.

25. The costs order made was for the costs of the Petition which had been dismissed. As previously noted the Petition made very serious allegations of dishonesty against Iraqi Airways and its witnesses, in particular Mr Saffi. The lawyers acting for Iraqi Airways in the litigation were clearly under a duty to take their clients’ instructions in respect of such allegations and investigate what evidence there was to rebut them. That this was essential was further demonstrated by the attitude of Kuwait Airways who were stating that they did not know what, if any, response Iraqi Airways would make to what they had said in their Petition. Further, Kuwait Airways were saying that there was no scope for disputing what they were saying and that the Petition should be allowed and the 1995 decision of this House should accordingly be set aside. Iraqi Airways needed to demonstrate to the Appeal Committee that there were serious factual issues to be tried and that the Petition could not be dealt with on the basis that the allegations were substantially undisputed. It was on this basis that Iraqi Airways were successful in achieving the dismissal of the Petition. It cannot, and was not at the hearing of the present costs appeal, be disputed that for this purpose it was reasonable for the lawyers of Iraqi Airways to travel to Iraq to take instructions and collect evidence. Iraqi Airways were entitled to include these costs. To exclude them disclosed a failure to appreciate the breadth of the costs order made and the extent of the work on the factual allegations which a proper response to the Petition necessitated as a matter of urgency. Costs reasonably incurred in preparing to defend a claim are recoverable on taxation whether or not the claimant’s writ (or claim form) has already been actually issued at the time. The apportionment of the relevant costs on a 50:50 basis has not been criticised as a division if the costs are in principle recoverable, as they are.

26. The fact that the disbursement for counsel’s fees and some minor expenses of the trip to Iraq were not included in the bill originally lodged (although the profit costs item was) was the subject of justified comment. But it was not argued on the hearing of this appeal that Mr Kosky was not acting in good faith in including them in an amended bill nor was it suggested that Kuwait Airways would suffer any prejudice as a result of the admission of the amended bill out of time. Under these circumstances there was no basis for refusing to admit the amended bill unless it be that the further claims were, in the opinion of the Taxing Officer, bound to be disallowed. Indeed

it seems probable that this was his primary reason for summarily refusing to admit the amended bill as he did.

27. The Taxing Officer's decision as to the uplift on the hourly rates to be allowed was guided by his view of the restricted scope of the work properly to be done at that stage and his characterisation of the interlocutory hearing as straightforward. As already explained, his view was mistaken; the Taxing Officer should now reconsider in the light of this Report whether the uplifts which he used are still appropriate having regard to the scope of work which it has been held may properly be charged for. Different uplifts may of course be appropriate for different items of work. All this is a matter for the Taxing Officer.

Conclusion

28. The appeal should be allowed. The refusal of the Taxing Officer to admit the amended bill should be set aside. The items in the original and the amended bills relating to the trip to Iraq between 10th and 21st July 2000 should be allowed subject to quantum: that is to say the items which are numbered 12 to 18 in the amended bill. The Taxing Officer's disallowance of those items should be set aside. The taxation should be remitted to the Taxing Officer to consider and determine any remaining issues of quantum in accordance with this Report, to complete the taxation and the certification of the taxed costs of Iraqi Airways pursuant to the order of the House dated 27th July 2000. Iraqi Airways should have the costs of this appeal, to be taxed if not agreed; any order made by the Taxing Officer or the Clerk of the Parliaments as to the costs of the taxation or the review should be set aside and these costs should be in the discretion of the Taxing Officer taking into account the final outcome of the taxation.