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Tuesday, 27th January 2004

(12.05 pm)

MR MEESON: Sir, I have one piece of housekeeping before the next witness, and that is that a very short statement from a Mr Andrew Kirby has been circulated and put in bundle AG10 at page 128.

MR JUSTICE DAVID STEEL: That will go in in due course, will it?

MR MEESON: It will.

MR JUSTICE DAVID STEEL: Thank you.

MR MEESON: The next witness is Mr Waller.

MR ROY WALLER (sworn)

Examination by MR MEESON

MR MEESON: Could you tell the court your full name, please.

A. Roy Waller.

Q. Mr Waller, I think you were skipper, is that right, of the vessel the Invincible?

A. Yes.

Q. And you were skipper of the Invincible in 1972?

A. 1971.

Q. 1971. You have described in a statement that I think you may have given for the purposes of a television programme; is that right --

A. Yes.

Q. -- how your vessel was used by the Navy for a particular

1 purpose other than fishing; is that right?

2 A. Yes.

3 Q. And you think that was in 1971, do you?

4 A. Well, I am going back on my notes because I cannot
5 remember, actually, but I have got it down as
6 March 1971.

7 Q. Could it have been March 1972?

8 A. I do not really know. I cannot remember, actually.
9 This was in 1995 when I wrote this, so I think this
10 would be right.

11 Q. We have had some other evidence that suggests that this
12 mission that you were on took place in 1972, so it could
13 have done; is that right?

14 A. Well, it could have. As I say, my note says 1971.

15 Q. Could you perhaps describe to us in your own words what
16 happened and what you were doing?

17 A. Yes. About four days prior to sailing on 25th March,
18 Mr Hellyer, who was our managing director, sent for me
19 and asked if I would do a favour for the company, which
20 was to take a higher end commander and search for an
21 underwater camera that had been lost. The reason being
22 they were asking me was because they were putting this
23 satellite navigator on board with a huge aerial
24 construction which had to be put up before we sailed.
25 So I agreed, and at that particular time there was only

1 the naval commander and myself knew, and that was how it
2 stood until we got to sea.

3 It was a designated area where it had been lost,
4 which was 200 to 300 miles past where we would normally
5 fish in March. So I sort of fished my way along there
6 to get to this area which was known as the Duck's Back,
7 about 50 miles north of the Russian coast.

8 We spent five days going up and down in the same
9 spot, trying to locate, as I knew, the underwater
10 camera. We were unsuccessful, so after about five days,
11 when everybody was fed up to the teeth, we got extremely
12 bad weather, a westerly force 10, so we left.

13 Q. Do you still believe that you were looking for a camera?

14 A. Yes.

15 Q. Would it surprise you at all to learn that you may in
16 fact have been looking for a Russian test missile?

17 A. Well, it does surprise me because actually he should
18 have told me that in the first place because I would
19 have probably altered the fishing rig. I would not have
20 minded what I had gone looking for provided I knew. And
21 it was not until, what, 1996/97 that someone told me it
22 had been a missile.

23 Q. What were you doing in February 1974? Were you at sea
24 at all then?

25 A. No, they were building a new ship, the Norse, and I was

1 ashore waiting to take command.

2 Q. Apart from what you have just told us about your time on
3 the Invincible, do you have any other evidence that you
4 can tell us relating to the Gaul at all?

5 A. Not really. As I say, I was not at sea so I could not
6 add anything to that.

7 MR MEESON: Well thank you very much. If you would wait
8 there, other counsel may have some questions for you.

9 Examination by MR SALOMAN

10 MR SALOMAN: Good morning Skipper Waller. I represent the
11 Gaul crew families except for the skipper and mate.

12 The Duck's Back is an area relatively near the
13 Russian coast; is that right?

14 A. Well, it is 50 miles -- 50 to 70 miles north of the
15 Russian coast.

16 Q. Thank you. And the arrangements that were made before
17 the trip were made between Mr Hellyer and yourself
18 initially?

19 A. Yes. If I had have refused to do it, he would have let
20 it go.

21 Q. Yes. Was anyone other than Graham Hellyer involved in
22 briefing you about the mission?

23 A. No.

24 Q. Was anyone other than yourself from the crew briefed
25 about the mission?

1 A. No.

2 Q. Where were you in fact briefed about the mission? Was
3 that in Mr Hellyer's office?

4 A. In Mr Hellyer's office on St Andrews Dock, Hull.

5 Q. At what stage did you come to learn that the mission was
6 not to find an American camera?

7 A. Well, as I say, about seven or eight years ago.

8 Q. So throughout the actual trip you were blissfully
9 oblivious of the true nature of the mission?

10 A. Yes.

11 Q. You have now realised that it was a mission to recover
12 a Soviet test --

13 A. You say I have now realised. No one has actually told
14 me that it was not. I think it was a young reporter
15 from the Hull Daily Mail that first told me.

16 Q. But now that you know that the mission was probably
17 different from what you understood, you are surprised,
18 you told us?

19 A. Well yes, because it was explained to me how the camera
20 was lost. I fully appreciated how it could have been
21 lost. I mean it was an American submarine towing an
22 underwater camera 2 mile astern of it which lost it.
23 And also the satellite navigator put aboard the ship, my
24 ship, the Invincible, was supposed to be from the exact
25 submarine, the same one, so that we could be possibly

1 exact to a few yards.

2 Q. Your surprise, you explained to us, was really because
3 it affected your choice of fishing tackle?

4 A. Yes, well -- well, I would have probably altered the
5 trawl structure to contain a missile, if that is what
6 I was looking for.

7 Q. Precisely. But for that fact, it would not really have
8 mattered what the mission was; you would have done it
9 all the same?

10 A. Yes. That is fair to say.

11 Q. And if Graham Hellyer had asked you in his office to
12 assist in the recovery of a Soviet --

13 A. It was not a Soviet. As far as I knew, I was looking
14 for an American camera.

15 Q. But if he had told you that it was a Soviet missile,
16 would you have done the trip or would you have not done
17 the trip?

18 A. I went out on a normal fishing voyage in any case.
19 I mean, I completed the voyage after -- long after we
20 had put the commander ashore. Incidentally, the
21 commander was from the hydrographic side of the Navy; he
22 was not, shall we say, the military commander.

23 Q. The commander who went on board?

24 A. Yes. He was thought of as, you know, the chart-making
25 people of the Navy.

1 Q. Just to clarify absolutely, if you had been told at the
2 outset that it was not a mission to find a camera of the
3 Americans but a mission to find a Soviet missile, you
4 would have said, what, "I see, well, that is fine by me,
5 I will do it"?

6 A. Yes.

7 Q. It was work that you were willing to do for your Queen
8 and your country?

9 A. Oh yes, very patriotic.

10 Q. As you said in your statement.

11 A. Hmm.

12 Q. The satellite navigation system was installed during the
13 days or weeks before the voyage; is that right?

14 A. It was installed the moment I gave the permission. It
15 was installed then because it needed higher aerials and
16 that put up.

17 Q. Can you recall, at this length of time from the events,
18 how long before she sailed this mission would have been
19 agreed with Mr Hellyer?

20 A. About four days.

21 Q. Who would have known about the installation of the
22 satellite navigation system?

23 A. Well, the rigging side of the company, it was their duty
24 to put it up but they did not know what they were
25 putting it up for. A few curious looks, you know.

1 Q. Would the mate necessarily have known?

2 A. Sorry?

3 Q. Would the mate necessarily have known that there was
4 specialist satellite navigation system --

5 A. No.

6 MR SALOMAN: Thank you, those are my questions. There will
7 be more questions from somebody else.

8 A. Thank you.

9 Examination by MR MUNYARD

10 MR MUNYARD: That is me, Mr Waller. And there will not be
11 very many.

12 Just on this question of, first of all, the
13 equipment that was put into the ship. You have made it
14 clear that that would be the job of shore workers to
15 install it but they would not necessarily know what it
16 was they were installing, or what for?

17 A. No, all they installed was the aerial arrangements. The
18 commander brought the satellite navigator and he
19 installed it.

20 Q. Very well. Where was the commander when he was on
21 board?

22 A. He was in -- we carry -- in the freezers we carried --
23 we had an owner's berth, owner's accommodation, which
24 was a berth adjacent to mine, and he lived there.

25 Q. The fact that somebody was in that accommodation would

1 be obvious to who?

2 A. Well, only to the crew.

3 Q. Only to the crew, all right.

4 A. After we had towed away.

5 Q. Do you mean all of the crew or just certain of the crew?

6 A. Well all of the crew, because after we had been away
7 24 hours and had all the crew in the mess, they can
8 explain to them exactly what we were going to do.

9 Q. So all of the crew knew within 24 hours --

10 A. Yes.

11 Q. -- what the unusual nature of this particular voyage
12 involved?

13 A. Yes.

14 Q. When you say that all of the crew knew, can I just be
15 clear about this, does that include people even such as
16 the factory hands?

17 A. Oh yes, everyone.

18 Q. So from the mate down, everyone knew?

19 A. Yes.

20 Q. Right. What sort of equipment would you use, or how
21 would you adapt your trawl if in fact you had known that
22 you were looking for a missile rather than a camera?

23 A. Well, I would have reinforced the lower portion of the
24 trawler because there is no doubt, if we had have got
25 it, we would have probably lost it. It would have gone

1 through what we call the belly part of the trawler.

2 Q. Whereas you had fixed the trawler in such a way that you
3 were fairly sure you would have been able to get
4 a camera if you had netted it?

5 A. Well, the camera was a different thing because there was
6 a couple of mile of cable with the camera, was there
7 not?

8 Q. Yes. The mate on that particular voyage was
9 Maurice Spurgeon; is that right?

10 A. Yes, that is correct.

11 Q. How well did you know him?

12 A. How well did I know Maurice Spurgeon?

13 Q. Yes.

14 A. I went to school with him. We was at junior school
15 together. So I would say I have known him 65 years --
16 or 65 years since I knew him.

17 Q. What kind of man was he?

18 A. A nice chap, a very pleasant chap.

19 Q. Was he cooperative with you as skipper?

20 A. Oh yes.

21 Q. Would he ever try and persuade you to do something you
22 were not inclined to do?

23 A. No, no one did.

24 Q. I think that probably says more about you than him.

25 A. Yes.

1 Q. Did he strike you as the kind of person who might try to
2 persuade his skipper to do something against the
3 skipper's will or intentions?

4 A. No. That was not the first ship he had sailed with me
5 in. He had actually been with me in side trawlers as
6 well.

7 Q. So you knew him really about as well as anyone could,
8 from school right through to those voyages?

9 A. Yes.

10 MR MUNYARD: Thank you very much.

11 MR COOPER: No questions, thank you, sir.

12 MR MEESON: Sir, I have no further questions.

13 Questions by the ASSESSORS

14 MR HOPPER: Alan Hopper, one of the assessors.

15 I want to pick your brains on a slightly general
16 subject, if I may, rather than specifics. Obviously
17 I think you are experienced with North Cape Bank?

18 A. Yes.

19 MR HOPPER: Can you tell me the accuracy of the Decca system
20 on North Cape Bank; is it good or indifferent or is it
21 dependent on weather, or whatever?

22 A. It was inaccurate, because the funny thing about having
23 this naval commander on board, from the Norwegian coast
24 upwards we corrected all the positions, and we found
25 that the Norwegian Decca system was between 1.8 and

1 0.8 mile out all the way round.

2 MR HOPPER: Sorry, can you just repeat the numbers?

3 A. 1.8 to 0.8 of a mile out all the way round.

4 MR HOPPER: The reason I am asking the question is that you
5 mentioned you knew Mr Spurgeon, but Mr Brayshaw of the
6 Swanella, in his evidence the first time round, gave
7 a position which -- just worry about the latitude: 72/25
8 north. He then last saw the Gaul six miles to the west
9 of that; therefore, we assume, roughly on the same
10 latitude.

11 A. Yes.

12 MR HOPPER: But the actual wreck was found in 72/04 north,
13 which is 20 miles south. Would you think that is
14 possibly a mistake of Decca coordinates, or would you
15 have any explanation as to why, in a sense, the wreck
16 was 20 miles south of the last reported position by
17 Mr Brayshaw?

18 A. All I can say is that the dead reckoning positions was
19 out because the Decca was very unreliable, especially at
20 that time of year. Snow, storm or anything, your Decca
21 just goes off for about an hour -- or longer.

22 MR HOPPER: So you put it down to inaccuracy of dead
23 reckoning rather than anything else?

24 A. Yes.

25 MR HOPPER: Thank you very much. Have you actually been

1 skipper, or mate maybe, of a factory trawler as opposed
2 to just a straight freezer?

3 A. Yes.

4 MR HOPPER: Could you tell us a little bit about the factory
5 hands? I am not trying to denigrate them, but were they
6 fishermen, maybe older fishermen who wanted a job below
7 the decks, or were they people maybe not experienced in
8 the sea at all who maybe wanted to get to sea? Could
9 you tell us a little bit about the sort of people that
10 were recruited for the factory deck?

11 A. Yes. When I took the Dane, which was the old factory,
12 we had a crew of 47 and we had to recruit fishermen, but
13 of course there was not the fishermen available, not to
14 go on factory trawlers. So what they did, they
15 interviewed so many people, shall we say, who had worked
16 in the fish houses in Hull, and on the maiden voyage
17 I had got 50 per cent elder fishermen who preferred to
18 be below decks and 50 per cent who had never been to sea
19 before but could fillet.

20 MR HOPPER: The point is, although one can say and leave
21 notices up, "Beware of loose water or free surface on
22 the factory deck", to most of those people that might be
23 a fairly meaningless thing like, "Shut the gate"
24 or, "Keep off the grass".

25 A. Yes. Of course that would come with experience. A week

1 in the factory deck and they would know what it was all
2 about.

3 MR HOPPER: Thank you. One other question which again is
4 related to general knowledge about the hull industry at
5 that time: have you sailed in a vessel with a steering
6 Kort nozzle such as on the Gaul?

7 A. Yes, the Dane and the Norse.

8 MR HOPPER: Both had steering nozzles?

9 A. Yes.

10 MR HOPPER: Did you have to have any special awareness when
11 manoeuvring the ship, or was there anything special in
12 manoeuvring a ship with a steerable nozzle as opposed to
13 a conventional rudder system?

14 A. Well, it assisted us, did the Kort nozzle, in going
15 astern.

16 MR HOPPER: In going astern?

17 A. Yes.

18 MR HOPPER: But what about turning? I meant turning.

19 A. I did not see any noticeable distance in the circle of
20 turning, no. We would go around just as quick without
21 a Kort nozzle as we did with one.

22 MR HOPPER: Thank you very much for those answers.

23 MR JUSTICE DAVID STEEL: During your days as skipper of
24 factory or factory filleter vessels, did you have
25 reports of problems with water on the factory deck at

1 any time?

2 A. No.

3 DR ALDWINCKLE: David Aldwinckle, another assessor.

4 Referring back to Mr Hopper's question regarding the
5 Kort nozzle, could I ask you if you at different speeds
6 when turning noticed any inclination, angle of heel, due
7 to turning, both initially and afterwards, in moving to
8 port or to starboard?

9 A. No, not really.

10 DR ALDWINCKLE: You did not heel?

11 A. No.

12 DR ALDWINCKLE: What sort of speeds would you turn at?

13 A. Well, normally you was only turning once you had
14 retrieved your gear or you may be heaving a big bag of
15 fish in and you would turn then but you would only turn
16 very slowly.

17 DR ALDWINCKLE: What sort of speed were you talking about,
18 5 knots?

19 A. 2/3.

20 DR ALDWINCKLE: So you never put the helm on, maximum helm,
21 for higher speeds?

22 A. Oh yes. I have done, but that was when we were mackerel
23 fishing. When we went mackerel fishing they were pretty
24 lively type fish and we had to get after them.

25 DR ALDWINCKLE: But you cannot remember what the angle of

1 heel would be?

2 A. No.

3 DR ALDWINCKLE: So there could have been an angle of heel?

4 A. Oh, there was an angle of heel of maybe 2 or 3 degrees.

5 DR ALDWINCKLE: And that is in fact what model tests have

6 revealed. Thank you for that.

7 A. Okay.

8 MR JUSTICE DAVID STEEL: Thank you, Skipper Waller, very

9 much indeed.

10 (The witness withdrew)

11 MR MEESON: Sir, there is a pause before we have another

12 live witness, but I could take this opportunity to read

13 some statements.

14 MR JUSTICE DAVID STEEL: Certainly.

15 MR MEESON: I will hand over to Miss Cunningham to do that.

16 MISS CUNNINGHAM: Sir, the first witness statement is

17 a statement of Mr Radford. It is in bundle AG10, at

18 page 64.

19 MR JUSTICE DAVID STEEL: Yes.

20 MISS CUNNINGHAM: It is a two-page statement from

21 John Michael Radford, dated 16th January 2002. It reads

22 as follows:

23 "I, John Michael Radford ... will say as follows:

24 that on Castor the hours were 12 hours on followed by

25 6 off throughout when fishing. As the ship was built

1 for 72 crew, most four berth cabins were only occupied
2 by two crew. Whatever time you got up (apart from
3 midnight) it always coincided with meal times. Even at
4 midnight there was always something to eat. After
5 eating we'd pick up our oil skins and wellies then go to
6 the factory. No water ever came in through the offal
7 chute that I can remember. It takes about three hours
8 to clear a good catch of about 200 baskets.

9 "When the fish loading hatches were open they would
10 be secured with a locking bar. When closed, locking
11 keys wouldn't be used usually. When these hatches were
12 closed no water came down through. Once these hatches
13 were closed I never saw them open by themselves through
14 deck movement. The oil skin store was not used as far
15 as I am concerned. The factory hands kept their oil
16 skins in the dressing room on the factory deck.

17 "When laid and dodging and the factory was clear,
18 a watch would work for the first six hours either
19 mending nets or on the bridge. If there was nothing on
20 the next six hours (easy six) could be spent relaxing,
21 playing cards et cetera. When nobody was on the deck,
22 the factory door was always shut. In heavy weather, the
23 mate, bosun and third hand were responsible for checking
24 the deck was secure depending who was on watch. I don't
25 think an officer would have changed the doors in bad

1 weather. The pelagic net was stowed on the after
2 gantry; it was nylon and white in colour. She would
3 have been using nylon polypropylene with a white
4 cod-end. The wire from the doors to the Dan Leno was
5 a bit thicker than the rest. I can remember a brass
6 clock being in the radio room marked with the three
7 minute listening periods. If there was a party it would
8 normally be held in the cabins on the port side of the
9 factory deck.

10 "During my trip on the Gaul we were buzzed by
11 a Soviet aircraft in the daylight. Its markings were
12 a red star on a greeny-yellow background. It was very
13 close and passed down the port side on two occasions.
14 On about the 15th, 16th, 17th December it was dark and
15 we heard somebody on a loudspeaker and a bang which we
16 took to be a shot being fired. I went up on the bridge
17 to see if I could see anything and was instructed to get
18 down below. Afterwards we were told we had been fishing
19 among Norwegian long-liners and had been escorted clear
20 of the area."

21 Sir, the next statement is at page 81 of the same
22 bundle and it is a statement from Ben Ashcroft, dated
23 21st November 2003:

24 "I, Ben Ashcroft, will say as follows.

25 "At the time of the loss of the Gaul I was employed

1 by British United Trawlers, her owners, as a ship's
2 husband and my responsibility was to make sure that the
3 vessel was fit to sail and has all her necessary
4 equipment on board at departure.

5 "To the best of my recollection Dick Sabberton was
6 the marine surveyor in Hull responsible for all BUT
7 vessels based in Hull and he would be responsible for
8 all matters in relation to her hull and machinery.

9 "Arthur Walker was I believe the head marine
10 surveyor at Hull but he unfortunately died some years
11 ago. I myself have now been retired some seven years.

12 "In addition to the large stern trawlers BUT also
13 had a number of side trawlers based in Hull and these
14 were the responsibility of Cyril Bert who was the ship's
15 husband for those vessels. He also unfortunately has
16 been dead for some time.

17 "I started with Hellyer Brothers after I left school
18 in 1946 as a decky learner and went to sea on a number
19 of vessels. After a number of years as a decky learner
20 I applied for the post of bosun, having obtained my
21 bosun certificate, issued by the Mutual Insurance
22 Company, following a written test. This test includes
23 navigation, watch keeping and other duties. The bosun's
24 certificate allows you to carry out watch keeping duties
25 whilst on passage to and from the fishing grounds.

1 "I served as bosun and sea and was then able to
2 apply and take my mate's certificate, which I did. The
3 mate's certificate is a Board of Trade qualification
4 which requires you to study and pass written tests on
5 navigation, seamanship and all aspects of watch keeping.
6 I took and passed this Board of Trade examination having
7 attended local nautical college. Some of the studying
8 could be done whilst at sea but I think I also had to
9 attend college for six weeks in 1953 before obtaining
10 the certificate. Following that I went to sea as mate,
11 fishing all areas for Hellyer Brothers.

12 "I went on to obtain my skippers certificate in 1956
13 at the age of 21. I was the youngest skipper to have
14 obtained this certificate with Hellyer Brothers.
15 I remained at sea as skipper until December 1973, when
16 I was offered the post of ship's husband. One of the
17 requirements to be ship's husband is that you must have
18 served at sea for a number of years.

19 "Whilst at sea between 1956 and December 1973 I was
20 the skipper of numerous trawlers but never served on
21 board the Gaul or any of her sister ships. I was
22 however on the Lord Nelson during the 60s and after the
23 cod wars served on board the Cassio for I believe about
24 a year.

25 "I also served on the Coriolanus that was a similar

1 size, I believe, to that of the Gaul and was also
2 a factory filleter ship. She also I believe had duff
3 and offal chutes but these were situated on either side
4 of the vessel. I do not have any knowledge of the duff
5 and offal chutes on the Gaul.

6 "My colleague, Ron Dry, was also on the Coriolanus
7 class and on that class of vessel I believe that the
8 duff and offal chutes were connected by conveyor to the
9 outside of the vessel and this had water running through
10 it which assisted in getting the duff and offal over the
11 side.

12 "I have been asked whether I can recall water being
13 on the factory deck at any time and whilst I have not
14 served on the Gaul there was always water on the factory
15 deck when fishing and recovering the catch and the water
16 was primarily used to get rid of the waste products and
17 to wash the fish. On the vessels with factory decks the
18 water was usually pumped out using Turo pumps which were
19 fine until they became blocked when the filters would
20 have to be removed before the pumps were restart.

21 "The work carried out on the factory which would
22 obviously include cleaning the fish, filleting and
23 packing was the responsibility of the factory manager
24 and he would also supervise the operation and cleaning
25 of the pumps if they became blocked.

1 "In January 1974 I came ashore as an assistant
2 ship's husband. I was on probation for this job and
3 part of the job was to make sure that the vessels were
4 turned around and ready to depart in a seamanlike
5 manner. The ship's husband had a shore gang of about 30
6 men and this crew would need to do everything to do with
7 stores, equipment and anything the ship needed before
8 she could again depart for the fishing grounds.

9 "I cannot recall whether it was my uncle or
10 Cyril Bert who saw the Gaul prior to her last voyage and
11 I also cannot recall now whether we were called
12 regarding the substitution of Mr Petty as mate when he
13 had to leave the Gaul through illness.

14 "In 1974 the fishing vessel would normally contact
15 the company when they were returning to port so that
16 they could tell the company what tide they were expected
17 to catch so that the shore party could be ready for them
18 when they arrived. I had a VHF radio in my office, set
19 I think to channel 28, and I could hear the skippers
20 calling in, although I have to say they did not always
21 do this and sometimes they would turn up unexpectedly.
22 If I did receive a call indicating that a skipper was
23 trying to catch a particular tide then I would usually
24 go down to see the vessel docked.

25 "The vessel's crew were always very keen to get off

1 at the end of the voyage and the shore party would put
2 on a watchman immediately" -- I presume that is supposed
3 to read "immediately as she docked" -- "and he would be
4 responsible for the immediate security of the vessel.
5 The skipper or the mate would usually come to the office
6 either the date the vessel arrived or the following day
7 with a log containing all the necessary paperwork and
8 manifest, together with any requisition sheets
9 containing orders for equipment, repairs or any other
10 matters which required attention before the vessel could
11 depart again.

12 "The requisition forms for equipment would come into
13 the ship's husband department and I would go through
14 these and consider whether all things requested were
15 really necessary for the operation of the vessel.

16 "After I had received the requisition forms they
17 would then go up to the manager's office who would hack
18 the requisitions to death. However, main items
19 concerning fishing equipment would be dealt with and
20 operationally the vessels were not put to sea if they
21 had any serious deficiencies.

22 "The Gaul departed I believe on 13th January 1974
23 and I believe she was adequately maintained and fuelled
24 with a full ship's compliment to allow her to fish in
25 the Barents Sea. I believe I would have followed my

1 usual practice which was to arrange for the vessel to be
2 ready 18 hours before departure so that the vessel was
3 ready when the skipper arrived.

4 "I can recall going on the Gaul a number of times
5 before she departed. I would have probably seen the
6 watch keeper on board the vessel and we would check
7 whether all the departments were ready to go. I would
8 also have gone down to the factory deck to see whether
9 all gear was properly stowed. I can recall doing this
10 with the Gaul and she seemed to be ready for departure.

11 "I do not believe that I would have checked the
12 bunkers, engine or water on board. That was I believe
13 the responsibility of the superintendent at the
14 engineering department, Dick Sabberton.

15 "In addition to having a look round all her various
16 decks I would finish up looking around the factory deck
17 and gear on the trawl deck to make sure everything was
18 in order.

19 "Prior to departure also the vessel would have been
20 checked by the shipwrights department to see whether
21 there were any problems, including seized doors or
22 machinery that didn't work, and I would have expected
23 that if any of her watertight doors required attention
24 these would be released prior to departure. It of
25 course might well be that if a watertight door was

1 seized in the open position that I would just look at
2 this as I went past since all doors were normally open
3 whilst in dock.

4 "If I had followed my usual practice leading up to
5 the departure of the Gaul then some two hours before she
6 was due to set sail I would have gone on board and do
7 believe that I did this at about midnight and would have
8 spoken to whoever was on board at the time. I regret
9 however that I cannot be sure that I actually spoke to
10 anyone. It was not the responsibility of the ship's
11 husband to check the crew and this would have been the
12 responsibility of the shipping office. I believe at the
13 time the shipping office would have been run by
14 a Bob Daubney, a former Kingston's man, who I believe
15 may live in Hessle. If it was not him then it was
16 possibly Harry Kible who has now died.

17 "In addition to the shipping office the outfitters
18 department would also have been on the vessel and they
19 would report to me once all the crew were on board. The
20 ship's runner I believe did speak to me on the evening
21 in question and I believe he told me that he had been in
22 the wheelhouse speaking to Skipper Nellist.

23 "So far as I recall there was nothing untoward on my
24 inspection and I believe I would have normally checked
25 that the fish hatches were dogged down and I believe

1 that I did carry out this on the day in question using
2 the key which is located in its cradle near the hatches.

3 "I did not see any additional equipment on board the
4 Gaul nor did I see or [was] made aware of any extra crew
5 who were not fishermen being on board the vessel at
6 departure. I would also have gone into the wheelhouse
7 during my final inspection and would have turned on any
8 equipment so that it would be operational when the
9 skipper came on board. After this length of time
10 I cannot recall whether I actually did turn on any
11 equipment.

12 "I knew Skipper Nellist who was the mate on the
13 Cassio with me for about a year. I believe in 1968 to
14 1969. At that time I was skipper of the vessel. I did
15 not really know him socially but knew him quite well
16 whilst we were serving together at sea. He was a first
17 class mate and a first class seaman.

18 "I stayed as ship's husband at BUT until 1977 when
19 I was made redundant. Thereafter I started work with
20 the White Fish Authority as master fisherman on research
21 and development primarily into research on fishing gear.
22 I worked for the White Fish Authority until my
23 retirement in 1997.

24 "This statement is true to the best of my knowledge
25 and belief."

1 MR JUSTICE DAVID STEEL: Thanks very much. I assume
2 Mr Ashcroft is too unwell to give evidence; is that
3 right?

4 MR MEESON: Sir, he is unable to give evidence for some
5 reason or other that I am not presently in a position to
6 explain.

7 MR JUSTICE DAVID STEEL: Thank you.

8 MISS CUNNINGHAM: Sir, the next statement is a slightly
9 shorter one. It is that of Mr Webster and it is at
10 page 92 of the bundle. It is a statement of Mr Webster
11 dated 21st November and signed on 25th November 2003:

12 "This statement consisting of two pages each signed
13 by me is true to the best of my knowledge.

14 "I went to sea in side trawlers between the ages of
15 16 and 21. This would be between 1964 and 1969. The
16 trawlers were owned by Newington and Hellyer Brothers,
17 but apart from the Somerset Maughan I cannot remember
18 any of the other names. I then stopped fishing and
19 joined the Merchant Navy for just over a year. I then
20 had a shore job before sailing on two trips in freezer
21 trawlers in 1973. I sailed on the Ranger Boreas and
22 also the Ranger Castor on a trip which ended in
23 September 1973. Both these ships were operated by
24 George Purdy of North Shields on behalf of Ranger
25 Fishing Company Limited. During the last two trips on

1 freezers I acted as starboard doorman.

2 "When hauling in we would see the board coming up
3 and indicate to the winchman to slow the winch speed
4 down. When the door was tight up to the aft gantry we
5 would then suspend it to the gantry by a chain and then
6 connect the net to the second winch wire for hauling
7 onto the deck.

8 "As far as the ramp gates were concerned, if you
9 were intending to shoot again they would be left open,
10 but if you were steaming to another fishing ground they
11 could be closed. However, different practices occurred
12 with different skippers and mates.

13 "I am unable to comment on whether the fish hatches
14 were always dogged. After hauling and any repair work
15 to the fishing gear I would then go into the factory.
16 I am unable to comment on the operation of the duff and
17 offal chutes. I do not believe that the Gaul would have
18 been fishing in those conditions at the time of loss.
19 It would have been very dangerous for the deck crew.
20 During my time as a fisherman I experienced several
21 'one-enders', most on side trawlers, but I believe one
22 occurred whilst I was on the Ranger Boreas. I believe
23 that if a one-ender had occurred in those conditions the
24 best option would have been to chop the gear. This
25 would have been the decision of the skipper or mate."

1 Sir, the next statement is on page 94. It is
2 a statement of Mr Ian Sheppard dated 24th October 2003
3 and signed on 12th November 2003:

4 "This statement consisting of three pages each
5 signed by me is true to the best of my knowledge.

6 "I was employed on trawlers for two trips of
7 approximately 17 weeks duration per trip. The first
8 trip was aboard the Ranger Boreas, a factory stern
9 trawler, which was owned by the Ranger Company,
10 South Shields. Following this trip I was employed
11 ashore fish filleting. My second trip was on the Gaul
12 (previously named the Ranger Castor and owned by British
13 United Trawlers Limited) and was two trips prior to the
14 fatal one.

15 "On the Ranger Boreas I was port side doorman. On
16 the Gaul I was employed as deckhand/port side winchman
17 and, as such, was involved in the shooting and hauling
18 operations during my watch. On both trips I was on the
19 mates watch. I have seen the DVD taken during 'Gaul
20 Survey 2002' provided to me by the Max Gold Partnership
21 showing the winches on the Gaul. On looking closely at
22 these images I would say that the Gaul could not have
23 been fishing, as the port side main winch barrel is full
24 of warp. I cannot suggest a reason why the starboard
25 winch is not so full. During the time I was employed on

1 trawlers, either as port side doorman or port side
2 winchman. I have never encountered a 'one-ender'.

3 "As far as the general conditions on the trawl deck
4 were concerned, I can say that once we had reached the
5 fishing grounds and started fishing the ramp gates were
6 kept open until such time as we steamed for home.
7 A message would come over the tannoy, 'Shut the gates
8 lads -- we are going home'.

9 "Likewise, the hatches were never dogged during this
10 period. It was considered that the weight of them would
11 keep them in place and, in any case, some of them were
12 hydraulically operated, as they were on the Gaul.

13 "I can also say that there was in operation a system
14 for displaying different lights to all other shipping
15 when we were shooting, towing or hauling. I cannot
16 recall if these lights were sometimes kept on after
17 a particular operation had been completed as the person
18 on the bridge did this task and my duty was to
19 concentrate and complete my job on the winch before
20 going into the factory.

21 "During shooting/hauling operations there would be
22 two winchmen (one port side and one starboard) in
23 addition to three or four others at each side of the
24 deck. There would also be whoever was in charge of the
25 watch, i.e. the mate, the bosun or the third hand, who

1 would be overall responsible for their watch and thus in
2 charge of the operation.

3 "It has been suggested that the Gaul could have been
4 fishing at the time of loss in spite of the very bad
5 weather. It is true that at times trawlers did fish in
6 bad weather, but this would only be possible up to
7 a certain limit as it was virtually impossible to haul
8 the gear aboard in during the type of weather conditions
9 as were reported when the Gaul was lost. Hauling the
10 gear in board in such weather conditions would certainly
11 have involved too much of a risk to the lives of the men
12 working on deck and the vessel. Also, in view of the
13 main port winch barrel being full of cable, as seen on
14 the DVD of the Gaul Survey 2002, I do not believe that
15 the Gaul could have been fishing at the time of loss.

16 "I also recall seeing on an earlier video of the
17 search (as seen on one of the previous viewings of the
18 survey of the wreck at the Guild Hall) you could clearly
19 see the port side main cable tight up, which means that
20 the port side door must have been locked in place and
21 the winch turned off, i.e. not fishing.

22 "After we had completed hauling, the catch would be
23 dropped into the factory deck and the factory hatch
24 closed. The trawl gear would be shot away to start
25 another trawl and those involved on the trawl deck would

1 then go into the factory and help process the catch.
2 The bridge is then responsible for controlling that tow.

3 "I have also been asked if I thought that the plug
4 hatches to the fish hold and fishmeal hold could have
5 been left open. I can say with certainty that the plug
6 hatch to the fish hold would never have been left open
7 as the fish hold was refrigerated and, therefore, was
8 closed as quickly as possible.

9 "I do not have specific knowledge of the hatch to
10 the fishmeal hold as I never noticed the existence of
11 this hatch during the times I was working in the
12 factory."

13 Sir, the next statement is a statement of
14 Mr Jeffrey Good. It is at page 99 of the bundle. It is
15 dated 1st December 2003 and signed on
16 16th December 2003:

17 "This statement consisting of three pages each
18 signed by me is true to the best of my knowledge.

19 "I was born on 29th April 1941 and so I was 33 years
20 old when the Gaul was lost.

21 "In 1965 or 1966 I started working as a fitter at
22 Drypool Engineering and Dry Dock Company Limited. The
23 title of my job was always a fitter -- there was no
24 distinction between junior or senior.

25 "The general manager of the repair yard was a man

1 called Alan Kraker, he is now deceased having died in
2 the year 2002.

3 "My job was to be involved with the general
4 maintenance of engineering works on ships which came in
5 for refitting or repairs to engines and pipes. I did
6 not specialise in anything, simply working on whatever
7 job I was allocated to do. This was the general
8 practice in the yard.

9 "In all, I worked there for approximately nine years
10 until the firm went into liquidation and then I worked
11 self employed working as a property repairer and also
12 running a shop.

13 "In 1973, I worked on the Gaul before her last
14 voyage. On the night before she left the yard I was on
15 generator watch, i.e. keeping an eye on the one
16 generator that was running that was supplying power and
17 lighting for the ship. Nobody else was on board the
18 vessel that night and I was the last one fulfilling the
19 company's responsibility to look after the ship until
20 she went on trials the next morning.

21 "She had been in the yard for engine survey and
22 alterations and it was while she was in St Andrews wet
23 dock that she had the work carried out on her, and
24 having previously been in St Andrews Dock when she first
25 came in from her previous voyage.

1 "I know there is no corroboration, but in a coffee
2 shop, the day before she sailed, I met a member of the
3 crew called Dudding, who I knew. He told me they were
4 only going out on a short voyage -- probably for
5 18 days. The Gaul was anchored in the river just on the
6 edge of the dock, as I mentioned before. Whilst I had
7 been working on her I noticed that there was an awkward
8 trip wire to the engine and on one occasion I caught my
9 foot on it. The effect of this trip wire caused the
10 generator to cut out. I had mentioned this bad position
11 to my charge hand, Alan Kraker, because I felt it might
12 be likely to cause an accident.

13 "When I tripped over the wire and the generator cut
14 out I was able to restart it even though it had left the
15 ship in darkness, I went out to get a torch in order to
16 do so. This event occurred on the night before she
17 sailed. I reported it when he came to relieve me at
18 7.30 am on the morning of her sailing.

19 "In my opinion, and this is based on the fact that
20 I had worked on boats for nine years at that time, I did
21 not think she was in a particularly good state. I was
22 surprised if she had a Lloyd's certificate and a Board
23 of Trade pass. I remember the main fitter on the job,
24 i.e. the one who mainly worked the engine, Alan McKinley
25 (I do not know whether he is alive or not) said to me

1 that the engines were a load of rubbish. Just to make
2 the position clear, Alan McKinley was the charge hand on
3 the ship i.e. he had the effective daily control of us
4 doing our work and the manager over him was Alan Kraker.

5 "Some time after the Gaul was lost I went to see
6 Frank Dudding, the brother of the lost crew member, and
7 I told him about the trip wire and my opinion of the
8 state of the engine, and he asked me if he could see
9 Alan Kraker or if I could get in touch with him to
10 arrange a meeting. I rang Kraker and, subsequently,
11 Dudding told me that he had spoken to Kraker and that
12 Kraker was not willing to help.

13 "I also noticed what I considered to be excessive
14 vibration on the engines when I was working on them and
15 they were being tested. These engines were made by
16 General Electric, I believe, and engines on similar
17 vessels I had worked on previously were made by other
18 companies -- Listers, Docksford and also built by
19 Drypool under contract for another company. It was in
20 comparison with these that I felt there was excessive
21 vibration. All diesel engines at the time tended to
22 vibrate, but these were more than most of the others.

23 "Working with other fitters, in total there were 8
24 to 10 of us, we noticed the vibration and McKinley was
25 'upset' about the engines and regularly criticised them

1 to us.

2 "I do not know where McKinley lived or whether he is
3 still alive, but he could probably give a better
4 assessment of the state of the engines before she sailed
5 than anyone else in the city.

6 "During the work on the vessel of which I was
7 a part, I would anticipate that there would have been
8 a Lloyd's or Board of Trade survey. Pistons should have
9 been checked on the engines to see how much wear there
10 was and on the bores. I did notice that the boat rode
11 high on the water as if she had a tight load on her and,
12 again, I base this comment purely on my experience
13 having worked dozens of trawlers during my employment at
14 the yard in question.

15 "I have read the above statement and I am aware that
16 I can alter, add or amend anything I wish into it. I am
17 satisfied with the statement as it is and I believe it
18 to be true."

19 Sir, just a few more statements. The next one is at
20 page 121 of the bundle, the statement of Mrs Sheila
21 Doone, signed and dated 6th January 2004:

22 "This statement consisting of one page each signed
23 by me is true to the best of my knowledge.

24 "At the time of the loss of the Gaul I had been
25 married to John Doone for almost 11 years and had known

1 him previously for approximately 10 years.

2 "I can state categorically that John Doone did not
3 ever suffer from an arthritic hip or any other form of
4 arthritis."

5 Sir, you recall that Mr Doone was the radio operator
6 on board the Gaul.

7 The next statement is a statement of Mr Smith. It
8 is at page 123 of the bundle. The statement of
9 Mr Stephen Smith, signed and dated 12th December 2003:

10 "This statement consisting of five pages each signed
11 by me is true to the best of my knowledge.

12 "I am a former crew member of the Ranger Castor
13 which was later renamed Gaul. I sailed on her on trips
14 both from North Shields and Hull.

15 "Initially I worked for United Towing Company on
16 tugs -- I did this from 15 years of age for about six
17 years. Then I sailed on supply boats sailing from
18 Great Yarmouth and Aberdeen and I did this for about two
19 years until I joined the trawling industry.

20 "I did five trips in all on trawlers. They were
21 Ranger Castor trips from Shields and Hull, Gaul and two
22 trips on the Kelt -- sister ship. One of the trips on
23 the Ranger Castor was supposed to be for six weeks, but
24 lasted four and a half months; I was then sailing as
25 a factory hand, but I spent most of my work actually on

1 the deck and not in the factory. I also then did
2 another trip on the Ranger Castor/Gaul -- this was
3 a short trip for a few weeks and then again I sailed as
4 factory hand, but because I had my ticket from the tugs
5 I sailed mainly working on the trawl deck.

6 "The next trip I did was on the Kelt, a sister ship
7 of the Gaul, because I had wanted to have a trip off as
8 I got married. This was a three month trip and then
9 I did a second trip again on the Kelt when I had been
10 supposed to go back on the Gaul. I had intended to go
11 on the Gaul and actually take my brother with me.
12 I could not do this because my father in law,
13 Tom Sheppard, was going to retire, but then didn't, and
14 I would not get on it. In fact, the terrible irony is
15 that it would have been Tom's last trip as he was going
16 to retire and, sadly, this was when the Gaul was lost.

17 "It was at this time that I made my last trip on the
18 Kelt sailing as a factory hand, but also worked as part
19 of the trawler deck crew; because of my experience I was
20 used to deck conditions. On that last trip the Kelt was
21 involved in the search. There was a lot of trouble with
22 the crew on that search, they were unnerved by the loss
23 of the Gaul and several of them were new to the industry
24 and working as factory hands. It was made worse by the
25 fact that during the search in conditions of winds of 8

1 or even 9, the skipper still ordered us to fish, which
2 we did.

3 "Those who were upset decided they did not want to
4 participate further and because the boat was heading for
5 the coast to drop me off because I was under pressure of
6 having a father in law on the Gaul and my wife was in
7 the middle of a difficult pregnancy, a few asked if they
8 could leave the boat and they did. I also came home.
9 I never actually sailed on trawlers after that and
10 reverted back to supply boats. I had, in fact, from the
11 firm received a telegram giving me the option of coming
12 home.

13 "I would again emphasise that whilst engaged in the
14 search, even though the weather conditions were force 8
15 or 9, the Kelt fished. This was off the Norwegian
16 coast. Usually factory hands were the first step on a
17 trawling career. You might have held any type of job in
18 shore based life and they were set to work in the
19 factory until they had got used to being at sea.
20 I should also make it clear that my experience is that
21 I believe that trawlers will fish in almost any
22 conditions, i.e. 8, 9 or even 10 and I have been on
23 trawlers when they have fished in heavy weather --
24 conditions that the average person would think
25 dangerous.

1 "I am used to bad weather because in the tugs which
2 are small boats, you feel it much more and I had been on
3 hurricanes on them so I am used to being in that kind of
4 weather.

5 "I remember the start of the last voyage of the
6 Gaul. I went to the docks to see them off because my
7 father in law and friends were on board the boat. She
8 left and came back within a few hours because she had
9 problems with her steering. I know this because I was
10 due to sail a few days later and I had gone to see my
11 father in law off on his trip, and to my amazement he
12 was home that night. He said there were problems with
13 the steering, as there had been before.

14 "On the trips I sailed on her there had been trouble
15 with the hydraulic which gave problems with the
16 transition to autopilot and the boat then had to be
17 steered manually. This happened twice on the trips
18 I was on her. This is what I suspect happened at the
19 end of the Gaul. I suspect that she took a heavy wave
20 which moved broadside and the power steering at this
21 point failed and before it could be corrected by hand it
22 was too late.

23 "This was a consistent fault on the Gaul.

24 "The conditions on the Gaul were reasonable. She
25 would take a lot of water in heavy weather on the top

1 deck where you fetch the trawl in because she would be
2 rolling on bit.

3 "The fish hatch would usually be closed, but not
4 dogged. In fact, it was extremely rare for them to be
5 dogged and until such time as a catch was hauled in. At
6 that point the hydraulics would be used to open the
7 hatches and push against them. I do not think that they
8 are attached, but it is the way the hatches are opened.

9 "With regard to the rear ramp doors at the stern of
10 the trawler it was almost inevitable that they were open
11 because it was a matter of convenience while you were
12 steaming around the fishing grounds. Usually, when you
13 were on the way home they were closed, but I have even
14 known trips where they have been left open almost to the
15 time they got into Hull, even in bad weather.

16 "With regard to the water on the vessel, let me deal
17 first with the trawl deck. When were you dodging into
18 the wind you would take water, because not only are you
19 going up and down, but you are also rolling. The
20 scuppers should be able to deal with this, but they were
21 not very effective on the Gaul. However, I was not
22 worried because having sailed on trawlers and tugs I was
23 used to taking water. You could get some, but not
24 a vast amount of water on the factory deck in normal
25 circumstances. Usually after the fish is being dropped

1 into the factory deck, then the hatches would be closed,
2 but not dogged. This would be for the trawl deck to get
3 ready for shooting the trawl again. I never noticed
4 water coming in from the duff or offal chutes, but if
5 they were open it could do.

6 "I cannot comment about the fishmeal plant hatches
7 because I was only in it once -- I did not like the
8 smell.

9 "With regard to the winches at the rear of the
10 vessel. They were operating the braking system which
11 I think was hydraulic based and also had a cog wheel to
12 turn. Once braked they could not pull loose. I am not
13 sure, but there may have been a device for pinning them
14 once the brake was applied.

15 "I must add, however, that the winches operated
16 individually. It would be possible to haul one otter
17 door in fully and if the other otter door was snagged on
18 something -- the so-called 'one-ender' or even if
19 a trawl twisted somewhat so that they were coming in
20 unevenly the winches would not necessarily pull in at
21 the same rate on both sides.

22 "The practice was that if this was happening you
23 would slow down to even up both sides i.e. stop one and
24 continue to pull in the other. As I have said, however,
25 if one otter door was snagged it would not prevent the

1 other winch cable from being pulled in totally.

2 "With regard to the otter door, i.e. the one that is
3 not properly hauled in, I suppose it is possible that if
4 the brakes have corroded and the wreck has been trawled
5 over then that door could have been pulled out. If the
6 brakes have not corroded then there is a mystery and it
7 may be possible that she snagged on something.

8 "I can confirm that at the time the Gaul was lost
9 the conditions were very bad and because of that I doubt
10 if she was fishing, although as I have said earlier in
11 my statement it was not impossible because I have seen
12 trawlers fish in appalling conditions. In the end it
13 just came down to a judgment call by the skipper of the
14 vessel."

15 Sir, the last statement that we need to read out is
16 a statement of Mr Kirby. It is at page 128 of the
17 bundle. It is a statement of Andrew Kirby dated
18 22nd January 2004:

19 "I am the scientific support manager for the
20 Staffordshire Police. I have been involved with the
21 Gaul inquiry since 1999. In June/July I was a member of
22 the expedition on board the MV Seisranger. My
23 responsibilities included the recording, photographing
24 and safe storing of all items recovered from the wreck
25 of the Gaul and brought to the surface.

1 "I can say from documents in my possession that the
2 crew escape hatch was brought onto the deck at
3 1925 hours on 20th July 2002. I designated this article
4 as item AK16 and made an entry to that effect in my
5 logbook. I specifically remember this hatch because the
6 next two items recorded in my logbook relate to swabs
7 taken from the hatch.

8 "I have been asked if I can remember whether or not
9 the handles on the hatch were 'free' and could be moved.
10 I can say that I am confident that one of the handles
11 was free and able to be moved in that whilst trying to
12 lift the hatch, I used one of the handles to pick it up.
13 The handle moved freely which caused me to nearly drop
14 the hatch. I am unable to comment on the remaining
15 handles.

16 "I am able to produce a photographic record of this
17 hatch cover and the logbook if required."

18 Sir, they are all the statements that need to be
19 read in this morning.

20 MR JUSTICE DAVID STEEL: Thank you very much.

21 MR MEESON: Sir, the next witness will not be arriving
22 before 2 o'clock.

23 MR JUSTICE DAVID STEEL: Then we will adjourn until 2.00.

24 Thank you very much.

25 (1.10 pm)

1 (The short adjournment)

2 (2.05 pm)

3 MR MEESON: Sir, this afternoon we have Mr Madden, who has
4 very kindly agreed to come today to give evidence, to
5 save us having a blank afternoon, for which we are very
6 grateful, Mr Madden.

7 MR JUSTICE DAVID STEEL: Yes, thank you very much,
8 Mr Madden.

9 MR KENNETH ALFRED MADDEN (sworn)

10 Examination by MR MEESON

11 MR MEESON: Mr Madden, could you tell us your full name,
12 please.

13 A. Kenneth Alfred Madden.

14 Q. Thank you. Before I ask you some questions, I will try
15 and summarise the evidence that you gave in 1974. So if
16 perhaps you listen to it, it may help jog your memory,
17 I hope.

18 Mr Madden gave a deposition which we have in our
19 bundle at AG9, pages 164 to 166. He gave evidence on
20 Day 2, and his evidence appears in the transcript for
21 that day at pages 10 to 69. He has prepared another
22 statement for this inquiry, which we have at AG10, pages
23 31 to 33.

24 Mr Madden joined the Kelt as skipper in
25 January 1974. He spent two days before sailing on the

1 ship familiarising himself with her equipment. He had
2 not been instructed to do so. However according to his
3 oral evidence he had not seen any document concerning
4 stability.

5 He was a personal friend of Mr Nellist in that they
6 had spoken together many times in the company ships. In
7 his oral evidence he described him as a very quiet man,
8 a man who would stick to the skipper's schedule -- he
9 would keep to the book. He also stated that Mr Nellist
10 was far too competent a man to have allowed free surface
11 to get onto the factory although it could have happened
12 on other ships.

13 On 7th February 1974 the Kelt was in company of Gaul
14 in a position 72 degrees 15 minutes north, 24 degrees
15 50 minutes east. He arranged to pace the Gaul because
16 the Gaul was catching more fish. He last spoke to
17 Mr Nellist at about 1800 hours on the 7th but his mate,
18 Mr Ward, told him at the time that he spoke to the Gaul
19 later that same evening. The conversation between
20 Mr Madden and Mr Nellist had lasted about half an hour
21 and was about fishing according to his evidence.
22 Mr Nellist had told Mr Madden that he fancied going to
23 deeper fathoms which Mr Madden took to mean that he was
24 going to go a few miles further north into the deeper
25 water. However, Mr Madden also learned that the Gaul

1 had had some trouble with the steering. Mr Madden was
2 interested because they too had a problem with the
3 automatic steering and had no automatic steering for the
4 whole trip. The problem on the Kelt was in the main
5 line and could not be dealt with, but on the Gaul the
6 fault was apparently only a small fuse and was remedied.

7 In his deposition made on 5th September 1974,
8 Mr Madden described his practice regarding the use of
9 bunkers. He would start by using the bunkers from the
10 fore deep tank. When that was empty he would fill the
11 fore peak ballast tank with seawater and draw bunkers
12 from number 2 port and starboard double bottom tank.
13 When that tank was empty he would use fuel from the
14 number 4 double bottom tank. While consuming fuel in
15 this way the bottom of the stern ramp will lift out of
16 the water and so he would then flood the cod liver oil
17 tanks with seawater to put the stern down again. When
18 the fuel in the number 4 double bottom tanks is consumed
19 he would transfer oil from the number 1 double bottom
20 tanks to help keep the stern down. His aim was to keep
21 the stern ramp down as low as possible.

22 In his oral evidence he said that the manner in
23 which he consumed fuel oil was determined by him and was
24 an instruction that he gave to the chief engineer. He
25 said that the office says keep the forward tanks full,

1 but that each skipper has his own way of working his oil
2 and that Nellist would have worked it out for himself.

3 "On 8th February at 0200 hours the Kelt had to lay
4 in when the wind was easterly force 7-8 and there were
5 erratic or turbulent seas. At that time the Gaul was
6 also laid and dodging, although Mr Madden did not keep
7 in contact with the Gaul after the Kelt had hauled.

8 Mr Madden described reporting to the office and that
9 when steaming the position given would be as accurate as
10 possible, but when fishing the position given would just
11 be the bank on which they were fishing.

12 In his oral evidence Mr Madden described the weather
13 conditions on 8th February 1974. He said that the
14 weather on the 8th was no less than 8 and highest was
15 a full storm, gusting continuously. It would be force 8
16 then go to 9 or 10. It was worse with the snow squalls,
17 then it would drop away, turbulent snow squalls. He
18 said that they had two or three what he described as
19 "freak seas" hit the Kelt. He described erratic seas
20 where you would rise up to one sea and one would come
21 directly up with it. He said you could not find
22 a pattern for it. He said that where they were dodging
23 was where two currents meet and have wind against tide.
24 There were 16, 18 and 20 foot swells and then breaking
25 on top of you -- some were meeting and riding and some

1 breaking, some erratic ones breaking coming from
2 starboard side and port side.

3 At 10.30 on the 8th he was dodging alongside
4 Cordella at a distance of 2 miles. He doubted whether
5 the Gaul could have been fishing in the weather
6 conditions he was experiencing and as far as he was
7 aware, no vessel was fishing in those conditions.

8 He knew Gaul had hauled before Kelt because he
9 believed he was the last to haul. Gaul and others were
10 talking about coming to haul to a deep again. The talk
11 was that Mr Nellist was mending gear and was not going
12 until he was sure what the weather was going to be like.

13 In relation to fish hatches, he says that they would
14 only be open for a maximum of 10 minutes when hauling
15 and that in bad weather the fish hatches were dogged
16 down. When hauling the mate or second mate would be on
17 the trawl deck and the skipper would be on the bridge.

18 In relation to stern ramp gates, he said that when
19 dodging in bad weather the stern ramp gates would be
20 closed. He said that there is very little water on the
21 trawl deck if the ramp gates are closed, but that he has
22 seen 2 or 3 feet of water when they are open and going
23 as far forward as the winch. He said that she takes
24 more water when heading into the seas or when you go
25 fast on something.

1 He gave some evidence about the fact. He said that
2 he went down into the factory often and they did get
3 water building up, mainly water from the machines which
4 can accumulate. He had seen it as deep at 6 to 7 inches
5 in fine weather, extending forward about 7 feet when the
6 ship is rolling but there is no problem.

7 He said that rounds "should be" every hour and it is
8 on his ship, on other ships it may be two hours in
9 practice, and that the engineers go through the factory
10 every four hours.

11 His evidence regarding the operation of the Turo
12 pumps was that they would normally be switched on all
13 the time whilst processing and would be switched off in
14 bad weather when laid and dodging unless there was
15 a need to switch them on. However, he described that
16 the pumps had to be left on in bad weather during the
17 trip before the January 1974 trip when he was laid and
18 dodging because they kept taking on water.

19 I will just add a note there, that in the transcript
20 for Day 2, page 56, question 14, when that evidence was
21 given, the transcript uses the word "no" on two
22 occasions when it appears obvious, to me at least, that
23 it should be using the word "on". There has been
24 a transposition of the letters.

25 As I said, he considered that they were taking on

1 water when they were laid and dodging rather than what
2 was described as "building" water, by which I have
3 assumed that he must have meant from the factory
4 machinery. He said they always had a certain amount of
5 seepage. He was then asked about what were described to
6 him in the question as connections on the side of the
7 factory deck that can be opened to the bilge line. He
8 said that he did not know about that on the Kelt.

9 He said that he had suffered fractured lube oil
10 pipes about three times per year and had to stop the
11 engine to repair at sea but the engine had not stopped
12 involuntarily.

13 He described what was done when the ship had last
14 hauled and was intending to lay for bad weather. He
15 would trim the fish, close the hatches, close the gates,
16 heave the working gate through the middle, secure the
17 bobbins port and starboard and left on the winch,
18 bobbins are chained down and engine room escape hatch
19 and other doors battened down including the factory door
20 and the net store.

21 He said that the net store would only be opened in
22 bad weather to take out a new trawl or something needed
23 for fishing but otherwise it is dogged down. It is the
24 mate's practice to ensure that everything is battened
25 down.

1 He was asked about the Gaul's report at 23.30 that
2 she was "paralysed". He said that this could mean nets
3 torn, ripped or lost. "Laid and mending" means that he
4 has laid the ship to mend his trawl; took his pitch off
5 and the net would be on the trawl deck. He would be
6 mending them on the trawl deck. He said that they would
7 mend on deck whilst laid and dodging. If there was
8 a full set forward then that could be used, but they may
9 have to open the net store but only for the time when
10 the net was lifted out of the hatch. The only time the
11 engine room escape hatch is open is for fresh air and it
12 would be open when trawling.

13 Skipper Madden, I do not know if that helps jog your
14 memory at all about the evidence that you gave in 1974.
15 Maybe not. It was a very long time ago.

16 A. I thought it was the first day I was up, not the second
17 day of the last inquiry.

18 Q. Well, it was the second day that we have the records
19 for.

20 A. It is just I was supposed to sail that morning, on the
21 Wednesday morning.

22 Q. It was probably the first day when there was evidence.
23 You were interposed because you had another ship to go
24 to.

25 A. No, no. As I say, I went in the witness box at 10.10 in

1 the morning and I came out at say 4 o'clock. There was
2 just me on. Mr Petty was the first one, then they put
3 me in.

4 Q. That is right.

5 A. I saw the Gaul -- I was speaking to Peter about midnight
6 on that night and I never spoke to him no more. He
7 never said anything about being paralysed and catching
8 no fish. I do not recall saying that.

9 Q. You do not recall saying that?

10 A. No, no. But I never did see or hear Peter again after
11 that.

12 Q. I think people were asking you general questions about
13 what the phrases meant because you were one of the first
14 witnesses --

15 A. I saw Peter on the trawler deck that night. I passed
16 him from as near as the outside of the room, 5,
17 10 metres, and I was speaking to Peter on the phone and
18 I was actually waving to him from the bridges. The
19 weather was 3, maximum. At that time I was steaming out
20 to the deeper fathoms. There was no fish there where we
21 was, nothing worth it, so we shot through the deeper
22 fathoms. I got shot around about 25 minutes to 1, the
23 mate come onto the bridge, we spoke for about 10 or
24 15 minutes. I went down, did a few -- bit of rating,
25 had a bit of a swill wash, I should say, and then I was

1 laid reading when the mate come down and said come and
2 look at the weather. I went up there and the weather
3 was howling, you know. Full storm. It was not a 7 or
4 a 8; it was a full 9 or 10.

5 Q. Was that when you hauled?

6 A. That was when we was hauling. That was when we come to
7 haul.

8 Q. And did the weather then get worse at all?

9 A. Oh yes, it got worse. That is what we were dodging for.

10 Q. What was it like when you were dodging? Can you
11 remember?

12 A. Yes. It was still 9 or 10. It gusted and died down,
13 come up again in different times with the snow
14 blizzards. We get different weather. You do not just
15 stand there and just say (inaudible) but you do get
16 different strengths of wind coming through at times. It
17 was not fishing weather. We was all dodging.

18 Q. What was the sea state like that you experienced?

19 A. The sea state? Anywhere from 9, 10, 15, 18 metres. We
20 used to call it feet in them days because we had not
21 gone metric. We was not used to metric.

22 Q. No, some of us still are not.

23 Could the witness be given the transcript for Day 2,
24 at page 56, please --

25 A. This Day 2, is that the Thursday or the Wednesday?

1 MR JUSTICE DAVID STEEL: Do you mean Day 2 of the formal
2 investigation or Day 2 of this hearing?

3 MR MEESON: Of the original. It was a Wednesday.

4 A. That is right. Day 2 I was at sea. Because I thought
5 that was the first day.

6 Q. Well, on the first day there were some speeches and
7 a little bit of evidence from Mr Petty, but this was the
8 sort of first main day, I think.

9 A. Well to this day I thought the Wednesday was the first
10 day. According to me, the employers -- I was supposed
11 to sail on the Wednesday morning and they delayed the
12 sail for 24 hours. I sailed on the Thursday morning,
13 8 o'clock in the morning.

14 Q. Right. I think there you should have open the
15 transcript for Day 2, at page 56. If you look about two
16 thirds of the way down the page, you will see
17 a question --

18 A. Page 2?

19 Q. Page 56 it should say at the bottom.

20 A. Yes, which question?

21 Q. If we start halfway down the page at question 10, it
22 says:

23 "Question: During the processing stage the Turo
24 pumps are on, as I gather, to clear away the water that
25 drains below the gratings from the machines?

1 You answered:

2 "That is right."

3 A. It is "Turo pumps".

4 Q. Turo pumps?

5 A. They was Jabsco pumps. "Processing stage", yes.

6 Q. "Question: Are they left on all the time, even when the
7 vessel is laid and dodging, or not?

8 "Answer: They are left on to clear water all the
9 time."

10 A. We were processing.

11 Q. "It has got to be bad weather before they are switched
12 on."

13 A. All the time you are processing those pumps are on. But
14 after you have processed you do not get water down there
15 because all your pumps are stopped. The only time is
16 when you clean your machines down, such like as that,
17 because -- they would be on then. But if you are not
18 processing, or not cleaning your factory, them pumps
19 would not be on.

20 Q. No. And then you were asked:

21 "Have you ever had on your ship a time when the
22 vessel was laid and dodging in bad weather and the Turo
23 pumps switched on?

24 "Answer: Yes."

25 You were then asked:

1 "When was that?"

2 A. That would be up to the factory manager to put them on
3 if there was any water in the factory deck. That would
4 not be up to me.

5 Q. Right, okay. Then you answered:

6 "Last trip."

7 You were then asked:

8 "Why, when laid and dodging, did you have the Turo
9 pumps switched on?"

10 "Answer: Not this trip. It was the last trip when
11 I was laid and dodging. We kept taking on water. The
12 engineer thought it was because we were taking on water,
13 we were not building water. We always had a certain
14 amount of seepage."

15 Do you remember that?

16 A. No.

17 Q. Do you remember any occasions when you were on those
18 vessels when there was water found on the factory deck?

19 A. Yes, when we have had the pumps have a build-up of
20 scales, fish and anything that can clog them up.

21 Q. Do you have any recollection now as to the deepest that
22 that water ever got?

23 A. I have never seen no more than ... I did once on
24 Coriolanus, but no, I have never seen a great amount of
25 water in the factory. You must understand that there is

1 a certain amount of water in the factory all the time
2 because of washes and donkeys go in, and donkeys with
3 hosepipes. You have got to have that water down there.
4 So you would build a certain amount of water up, but
5 nothing excessive.

6 Q. You mention --

7 MR JUSTICE DAVID STEEL: Could I just interrupt. Mr Madden,
8 were there any occasions in which, as you understood it,
9 the water in the factory deck had come in part from some
10 other source than the machines?

11 A. Sir, at times, sometimes when you are hauling and
12 shooting, you will take one up the ramp, which will go
13 down to the ramp hatch. That would automatically seep
14 into the factory deck. But when we take in -- say we
15 take a lot of water, it is not a lot. They would cope
16 with that amount of water right away. Nothing
17 excessive. You would not get tonnages down there. You
18 would not get 3, 4, 5 foot sweeping along the factory
19 deck. You would get inches.

20 MR JUSTICE DAVID STEEL: That is helpful. Let me make sure
21 I have understood. You get water coming up the ramp
22 which, as you just told us, will to some extent go down
23 the ramp hatch?

24 A. Yes.

25 MR JUSTICE DAVID STEEL: The fish hatch?

1 A. Yes. If you understand it, sir, when you are hauling,
2 the last part of the net to come up is the cod ends. As
3 the cod ends come over the ramp hatches, if you are
4 going to clear them, the ramp hatches come up underneath
5 the cod ends, your fish go in that one. While you have
6 been doing that operation, it is possible that -- what
7 we say as ramping it, it will come up the ramp into the
8 factory, into the gutting space first, then seep into
9 the factory.

10 MR JUSTICE DAVID STEEL: So this is entirely in the period
11 when the fish hatches are open to allow the cod end to
12 drop the fish down into the --

13 A. That is the only time you would take fish down the
14 working deck.

15 MR JUSTICE DAVID STEEL: Thank you.

16 MR MEESON: You mention an occasion on the Coriolanus, when
17 you had water on the factory deck. Can you tell us
18 about that, what you can remember about that?

19 A. Well, actually we had to stop processing because the
20 pumps had packed up. We had to delay for a while while
21 the chief engineer cleared them. He actually went down,
22 which was amazing, what we call pearl diving. He had to
23 dive down 4 or 5 feet to the pumps to clear the pumps by
24 hand. We found out it was an excessive build-up of fish
25 scales. That is the only time I have ever seen an

1 excessive amount of water in any ships that I have
2 sailed in.

3 Q. That was how much? That was 5 feet, did you say?

4 A. Oh no, no. No, no. I would say 2 foot maximum.

5 Q. 2 feet, okay.

6 A. Actually, if it went over 2 feet water would be going
7 down the engine room.

8 Q. Right. Were you aware on the factory deck of two
9 chutes, the duff and offal chutes, which some people
10 refer to as hoppers?

11 A. Yes, I am quite aware of those.

12 Q. Did you ever yourself have occasion to use them or look
13 at them?

14 A. Yes, I had them, yes.

15 Q. And do you remember how they worked?

16 A. Yes, I know how they worked.

17 Q. How did they work?

18 A. When you had the offal to dump, they went through, and
19 when you were steaming you would batten them down.

20 Q. Right. So they had a lid on them; is that right?

21 A. Yes, so they did.

22 Q. So when you were steaming you battened them down; is
23 that what you are saying?

24 A. They would be battened down, yes.

25 Q. Whose --

1 A. Factory manager.

2 Q. That was the factory manager?

3 A. Factory manager or assistant factory manager.

4 Q. Did anybody check whether that was ever done?

5 A. No, we assumed that they knew their job and they used to
6 do it.

7 Q. Was that maybe one of the jobs that was done as you
8 decided to go, you filled up with fish and you were off
9 home; would that be right?

10 A. They would be battened down.

11 Q. What if you were laid and dodging?

12 A. They would be battened down.

13 Q. As far as you can remember, they worked -- what, you
14 just lifted that lid and put something inside it, did
15 you? The duff inside it?

16 A. It was a chain, you used a chain when you lifted it up.
17 I was more concerned at bringing it down, I will say,
18 when we dumped fish.

19 Q. Did you ever yourself work there dumping fish or was
20 that a job that the mate or other people would do?

21 A. That would be the assistant factory manager, and if
22 I told any of the deck crew, mate and that, to go and
23 look, then they would go and look. But I have never had
24 an occasion to do that.

25 Q. As a skipper, you would not yourself be involved with

1 the duff chutes; is that right? You would not be
2 sorting duffs or catfish, that sort of thing?

3 A. No.

4 Q. If you were laid and dodging and the fish processing had
5 come to an end and all the frozen fillets were in the
6 fish hold, would there be anybody working on the factory
7 deck then?

8 A. No, no, no, no. No. I want to be clear on what you
9 mean there. Could you repeat?

10 Q. Yes. Supposing you were dodging because the weather was
11 bad, and so you were not catching fish, and the previous
12 baskets that had been caught had all been processed,
13 frozen and then the frozen fillets put into the hold,
14 what would happen to the factory deck then? The factory
15 hands would pack up --

16 A. That chance would be clear.

17 Q. Would anybody else be in the factory deck then or not?

18 A. Only engineers going down the engine room.

19 Q. Can you remember what the length of the watch was
20 between changeover of the engineers, or not at this
21 time?

22 A. Six hours, is it not?

23 Q. Six hours, thank you.

24 Now I want to ask you about the Kelt because we have
25 had some evidence that I think you may be aware of from

1 a Department of Trade surveyor, Mr Scott, who says that
2 the condition of the watertight doors and other closing
3 appliances on the Kelt was in an atrocious condition;
4 was rusted and seized up. Was that your experience on
5 the Kelt or not?

6 A. That man should have been aboard a ship when I was
7 there. Never in my life have I heard such a cock and
8 bull thing about the ship. The Kelt, I can assure you,
9 was -- every part of her was working, greased. And if
10 the engineer did not do it then the deck watch would do
11 it if there was a stiff -- anything.

12 Q. So while the vessel was at sea, did anybody go round and
13 grease things or check things were working?

14 A. Everything down there was always checked.

15 Q. And when the vessels went to sea, were they in a good
16 condition then, at the beginning of the voyage?

17 A. Yes, I would say so.

18 Q. One final question before others ask some questions of
19 you: have you ever caught your trawl door, or a trawl
20 door, on a seabed cable, like a communications cable or
21 something like that?

22 A. Several times, sir.

23 Q. And whereabouts did that happen?

24 A. Different parts of different oceans: Bear Island,
25 Greenland, Newfoundland, Labrador, anywhere we had been.

1 Russian coast, Norwegian coast, anywhere. It is just
2 part and parcel of fishing, you pick these things up.

3 Q. Can you explain to us how, as the skipper, you would go
4 about clearing your door from a cable?

5 A. The easiest way is to lift and drop, and if it is going
6 to lift it and drop it on top of your floating gear then
7 you would chop it.

8 Q. How would you lift the cable?

9 A. Everybody has different ideas, different ways of lifting
10 gear, foul gears. I may be different from another
11 person. So I may use anything that is in my power to
12 use efficiently enough to lift that gear up and get rid
13 of it and chop, finished. So therefore I may use
14 a gilson, I may use a minola(?), I may use a heavy
15 tackle, I may stopper it off, lash it off. I have done
16 different ways of handling different gears -- foul
17 gears -- and each man has his own different ways. Mine
18 might be an awkward one and his might be a better one.

19 Q. How do you make that decision as to which piece of gear
20 to use?

21 A. Looking at the situation, sir. Just looking at the
22 situation and weighing the situation up.

23 MR MEESON: Okay. Thank you very much. If you wait there,
24 other counsel will have some questions for you.

25 Examination by MR SALOMAN

1 MR SALOMAN: Skipper Madden, I act for the families of the
2 Gaul crew except for the skipper and mate.

3 In your statement, you have told us that when the
4 Kelt and the Gaul passed each other, you were on the
5 crown of the bank?

6 A. In the shoaler fathoms.

7 Q. In the?

8 A. In the shoaler fathoms. What I am saying, right on top
9 of the bank in the shoaler fathoms.

10 Q. Thank you. I wonder if we could look at image AGP11,
11 which is the chart.

12 MR JUSTICE DAVID STEEL: Just look at the screen in front of
13 you, Mr Madden.

14 A. Thank you very much.

15 MR SALOMAN: You may have on your desk a pen like this which
16 you can point in the way I am doing by pressing one of
17 the buttons on it. You can also use it to draw the area
18 that you are talking about by pointing it to the big
19 screen over there, Skipper Madden. Apparently you can
20 draw it on the small screen as well.

21 A. Are these in fathoms or metres?

22 Q. They are in fathoms.

23 A. Roughly about there (indicated).

24 Q. It is rather difficult, Skipper Madden, because the
25 scale is not very big. We can see that you have ringed

1 an area actually very close indeed to the Norwegian
2 Fjords. Is that the area that you meant to ring?

3 MR JUSTICE DAVID STEEL: I would have thought that the
4 skipper would find it easier to cope with a full chart.
5 Can he be given a chart?

6 MR SALOMAN: He can be given a chart. There is one, I am
7 told, at OFI22. Skipper, we will give you a full chart
8 (handed). That may be easier for you.

9 A. Roughly about there (indicated).

10 Q. Check the position on the larger chart, which may even
11 indicate the last reported position of the Gaul.

12 A. It is a small-scale chart, is it not? (Pause). Are you
13 sure these are not in metres?

14 Q. No, I am not sure these are not in metres. Just
15 concentrate on the chart because that is undoubtedly
16 a more convenient scale.

17 A. You have got to get dividers and everything to find out
18 whereabouts you are from there roughly. So if these are
19 in metres --

20 MR HOPPER: I think I can clearly say they are in metres.

21 MR SALOMAN: They are in metres on this chart on the screen.

22 A. These are in fathoms here.

23 Q. These are in fathoms and I would like you to say where
24 the crown of the bank was in about 80 fathoms where you
25 spoke to Peter Nellist, and where he said he had

1 problems with his automatic steering. If it is not
2 possible to be clear about that, we will move on.

3 A. I am just going by the fathoms here. These are in
4 fathoms, these here (indicated). It is roughly off the
5 cape there, as I am pointing now.

6 Q. Very well. He told you that he had a problem with his
7 automatic steering; is that right?

8 A. That is exactly as I passed him. He had just laid with
9 his automatic steering.

10 Q. Your evidence in 1974 was that it was only a matter of
11 a small fuse; is that right?

12 A. No, it can be anything. It can be lube oil, you can
13 have an airlock, it could be a fuse. It can be
14 anything.

15 Q. At any rate, that is what you told us in 1974, that you
16 understood it was a problem of a small fuse.

17 At the same hearing you told us that you too had
18 a problem with your own steering gear; is that correct?

19 A. Yes, several occasions.

20 Q. You said to us that you were hand-steering the whole
21 time because of the problem you had.

22 A. I have never been in a full trip in hand-steering,
23 never. We go in hand-steering when our automatic brakes
24 down.

25 Q. Very well. I do not know if you have your evidence from

1 1974 to hand. It is the transcript for Day 2, page 13.

2 A. Right.

3 Q. I am going to start reading your evidence from 7:

4 "Question: Did he make any complaint about the ship
5 or ask your advice on any matter?

6 "Answer: No. He had some small trouble with his
7 steering, but the two operators --

8 "Question: The radio operators?

9 "Answer: Yes, the radio operators. It was only
10 a small fault. We were interested, too, in this small
11 fault that he had had put right. We wondered if it was
12 the same fault as we had. I believed the 'sparks' spoke
13 to him later that night but he was no help about our
14 steering gear. We had no steering for the trip."

15 Do you recall that, having no steering for the trip?

16 I will read on:

17 "The Commissioner: What was the fault?

18 "Answer: Our fault, I would say, was just in the
19 main line. We could not do anything without steering
20 gear whatsoever. His fault was only a small fuse.

21 A fuse was put in and his steering was okay.

22 "Question: This is in the automatic steering?"

23 A. I believe I said his fault may be only a fuse. I cannot
24 say what is wrong with the other ship. But ours was an
25 air lock.

1 Q. An air lock?

2 A. Yes.

3 Q. Is that what you meant by "a problem in the main line"?

4 A. Yes, between the column and the pumps aft.

5 Q. Right. What type of steering gear did you have?

6 A. Sperry.

7 Q. Was it all Sperry steering gear or was there --

8 A. No, it was not all Sperry. That was one of the faults.

9 It was Sperry steering gear halfway but the pumps was
10 made by Donkin.

11 Q. What was wrong with the pumps being made by Donkin?

12 A. If it is a full Sperry steering, which is the side
13 winders ...

14 Q. Are you saying --

15 A. If you had a full Sperry steering right through, you
16 would never have had no problems. But with these ships,
17 with collusion with the engineers -- the chief engineers
18 had told me the fault was that the pumps was Donkins.
19 So we used to have Sperry steering gear which is very,
20 very reliable. Halfway through, with the bridge down,
21 it was taken over by Donkins and then Donkin pumps. The
22 Donkin pumps could not meet with the pressure of the
23 automatic steering and it used to cause airlocks or
24 something like that.

25 Q. So in your opinion, it was a problem that the Donkin

1 pumps did not mix or match with the Sperry steering?

2 A. That is correct, sir.

3 Q. Did you report this problem to the shore?

4 A. I believe it was a known fact. I believe it was a known
5 fact.

6 Q. Was it a problem that you experienced only in this
7 voyage?

8 A. It is the problem that we inherited when we took these
9 ships.

10 Q. Was it ever sorted out?

11 A. Not up to me leaving it.

12 Q. Are you saying that you actually remember that in
13 voyages other than the February 1974 voyage you
14 experienced problems with your automatic steering?

15 A. Yes.

16 Q. I want to ask you about your discussion with
17 Skipper Nellist and the understanding you had of his
18 intentions.

19 You have told us in 1974 that you had told
20 Skipper Nellist that you were moving to deeper fathoms;
21 is that right, that you told him you were planning to
22 move to deeper fathoms?

23 A. That is correct, sir.

24 Q. What you told us at the last hearing was that he told
25 you that he was thinking of doing roughly the same.

1 A. When he was fit and able, or moving.

2 Q. Why were you moving to deeper fathoms?

3 A. For better fishing.

4 Q. For better fishing. Did you get or glean an
5 understanding as to why he was thinking of doing roughly
6 the same?

7 A. I assume he was doing the same thing, for better
8 fishing.

9 Q. But do you not remember him actually saying that?

10 A. No. I mean to say if it had happened (inaudible) but we
11 assume that he was shooting round the same area, same
12 fathoms, deeper fathoms, different from where he was.

13 Q. That may be, you are frank enough to admit, an
14 assumption?

15 A. Yes.

16 Q. Was there any discussion that you can recall about what
17 you would both be doing in the deeper fathoms?

18 A. Fishing.

19 Q. Was there any discussion about it?

20 A. No.

21 Q. It has been suggested that Skipper Nellist might have
22 been planning to go to Malangan to fish on that last
23 day. I appreciate your conversation was at the very
24 beginning of that day rather than in the middle of it.

25 Do you recall any mention by Skipper Nellist of

1 possibly going to Malangan?

2 A. No, he never mentioned Malangan to me at all. There was
3 some ships fishing down at Malangan.

4 Q. But you do not recall Skipper Nellist fishing in
5 Malangan?

6 A. No.

7 Q. Where were the deeper fathoms that were you planning to
8 go to in relation to the crown of the bank? Were they
9 north, south, east or west?

10 A. North north westerly -- a north westerly course.

11 Q. Thank you. What level of winds and seas would you be
12 prepared to fish in yourself on the Kelt?

13 A. I have fished in, you know, pretty bad weather. When we
14 talk about pretty bad weather, it is as far as your ship
15 will go. You know your ship can fish, you will fish.
16 If you think your ship cannot fish then you will lay it.
17 If you can handle your ship.

18 Q. Was the Kelt a ship that you felt confident fishing in
19 up to forces 9, 10?

20 A. No. No.

21 Q. That is too high, is it?

22 A. Yes, I would say so.

23 Q. We certainly heard read to us this morning --

24 A. Can I say something else as well?

25 Q. Yes.

1 A. You can have winds of 9s and 10s, but if your sea state
2 is okay for fishing, okay. Sometimes you have a 3 or 4
3 knot wind but you could have a bad sea swell. It is
4 different conditions. But that night was not fishing
5 weather.

6 Q. It may assist to remind you, from your transcript of
7 evidence, of your account at page 49, starting at
8 question 6:

9 "During the day of 8th February ..."; do you see
10 that, Skipper?

11 A. Yes.

12 Q. "... when you were laid and dodging because of bad
13 weather, what sort of seas were you experiencing?
14 I know you have used the words 'erratic sea thrown at
15 you'. What do you mean by that?

16 "Answer: You get one sea -- you could not get
17 a continuous normal sea. The wind was dropping and
18 coming up and it was erratic. You would rise up to
19 a sea and one would come directly up with it. You could
20 not find a pattern for it. You must understand where we
21 was dodging, it was when two currents meet and you have
22 a wind against the tide and we were expecting erratic
23 seas at the time.

24 "Question: The waves were not coming at a regular
25 period, but in a continuous way?

1 "Answer: Tide and wind, from both.

2 "Question: Were they particularly high waves that
3 were reaching you?

4 "Answer: You do not measure waves, do you sir? 16,
5 18, 20 feet, swells and then breaking. You had the seas
6 breaking on top of you. Some you were meeting and
7 riding, and some were breaking. You could not get the
8 sea rideable -- there was some erratic ones which were
9 breaking coming from the starboard side and port side.
10 Very erratic. You could not steam continuous. You were
11 hitting them."

12 The commissioner asked you:

13 "Would you like to investigate both direction and
14 height. I have an idea from the witness's answers he is
15 speaking of direction and sometimes height."

16 Then you say:

17 "You must understand sir, it was also dark. We had
18 snow squalls and the fact that we were hand steering and
19 were very busy. I never took measurements of the seas
20 or such things as that. We logged it at force 6 to 7.
21 Sea was about 15, 16, 17, 18, 19.

22 "Mr Thomas: Other witnesses may say that the seas
23 were huge or quite unusually large. Was that your
24 impression or not?

25 "Answer: Yes. How can I say it? Some people's

1 eyes are bigger than others. The ships are under
2 different men. There was some unusual seas, erratic,
3 very erratic, high seas at that time. The times and
4 measurements I could not say."

5 Does that comprehensively describe the conditions
6 that day?

7 A. That describes the night, definitely. When we say
8 "currents", by the way, we mean air currents, we do not
9 mean sea currents. If you go against the tide, wind
10 against tide, you get erratic seas. But sometimes when
11 you get a snow squall you get a current, fetch a squall
12 this way, and give ourselves an erratic sea. Sorry
13 about that.

14 Q. The currents were naturally currents coming from the
15 north west, were they not?

16 A. Yes.

17 Q. The winds that day were blowing, were they not, from the
18 east south east direction?

19 A. That is correct.

20 Q. It is for you to perhaps tell us whether the erratic
21 state of the seas were perhaps attributable to the
22 different directions of the wind and the sea current; is
23 that a possibility?

24 A. It is a good possibility, yes. Wind against tide.

25 Q. You were not fishing on 8th February in the heart of the

1 day; is that right?

2 A. No, I hauled at 1.45 in the morning.

3 Q. Were they seas, nonetheless -- and I am talking still
4 about the heart of the day and the conditions you have
5 described -- in which a skipper might have fished, or
6 not?

7 A. I think I can honestly say, by listening on the radio,
8 different things, that everybody was laid and dodging.
9 I do not think I heard of anybody fishing that day.

10 Q. You were in touch with other skippers by the radio?

11 A. No, VHF usually speak.

12 Q. By the VHF and were discussing your respective
13 activities?

14 A. Yes, you can say that.

15 Q. I do not know whether you can help on this or not, but
16 was the Kelt a ship which rolled to any particular
17 extent?

18 A. (Inaudible) all ships rolled, so did this one.

19 Q. Can you give any account of how much she would roll in,
20 let us say, the conditions that you have just described
21 in your evidence in 1974; that is to say forces 6 to 7
22 and sea heights of the same kind? Is that something you
23 can possibly estimate or not, assuming you are head to
24 seas?

25 A. Head to seas?

- 1 Q. If you cannot give a --
- 2 A. Head to seas you would just ride them, sir. You would
3 get rolling, but I would say 10 degrees.
- 4 Q. And if the seas were on your stern quarter?
- 5 A. Again, you would have been towing and ailing and still
6 having the same 5/10 degrees roll.
- 7 Q. Nothing to speak of?
- 8 A. Nothing to speak of, sir.
- 9 Q. If they were on your beam?
- 10 A. If they were on your beam that would be different. It
11 would be 20, pushing maybe 30.
- 12 Q. Thank you very much.
- 13 A. Very bad rolling ships there was.
- 14 Q. You have told us that you do remember the duff and offal
15 chutes on the Kelt.
- 16 A. Yes.
- 17 Q. People would dump duff and offal into these hoppers and
18 they went down?
- 19 A. Hmm.
- 20 Q. Or they went through?
- 21 A. Yes.
- 22 Q. What do you mean when you say they just went through?
23 How did they go through?
- 24 A. Well, with duffs -- with fish, ordinary fish, fish
25 heads, fish bones, that is if they were processing the

1 fish bones, they would automatically go down with
2 a moving conveyor belt. I think it was made of rubber.
3 A conveyor belt going through onto this offal and then
4 shoving through. If you have got such things as duff,
5 they would be pushed through, shovelled through, but
6 mainly fish would go through automatically.

7 Q. This was obviously not an operation that you did
8 yourself?

9 A. No.

10 Q. Did you ever have to watch people doing it, putting
11 stuff down the hoppers?

12 A. I watched them.

13 Q. And as far as you are concerned, they opened the hopper
14 lids at the top and they put duff down them and it went
15 straight into the sea, did it?

16 A. That is correct.

17 Q. You did not hear any noises of any mechanical parts
18 working when they dropped the fish down the hatch?

19 A. Not when the sea used to hit it. It used to make
20 a noise, but it was working okay. Nothing untoward.
21 You could hear that flap moving.

22 Q. Could you?

23 A. Yes.

24 Q. Can you actually remember that?

25 A. Yes, I would be on the bridge. Bang, bang, on the

1 bridge. If I heard it too much I wanted to know what
2 was going through.

3 Q. And the crew never had to secure the flap open or
4 anything of that kind?

5 A. Not as far as I know, sir. Only when you are steaming
6 or you are dodging.

7 Q. Did you ever arrange for the condition of these duff and
8 offal chutes to be checked?

9 A. No.

10 Q. I was not quite clear where you felt that seepage would
11 come about. Was that purely through water coming over
12 the fish hatch covers during the hauling operation?

13 A. Not through the fish hatches, no. In the ramp.

14 Q. Would that water penetrate into the factory deck?

15 A. No, it would not go into the factory deck. What we used
16 to say -- put it in fisherman's terms: she took a dollop
17 down the ramp. That could mean more water than natural.

18 Q. Forgive me for asking once more: through which opening
19 did that particular water, that seawater, enter the
20 factory deck?

21 A. Through the ramp hatches.

22 Q. Through the ramp hatches?

23 A. Yes.

24 Q. Can I remind you of some evidence that you gave at
25 page 32 about the pumps. It is at paragraph 15:

1 "Question: Have you ever known the pumps clog up
2 when the ship has not been fishing?

3 "Answer: No, sir, only when processing."

4 A. That is correct.

5 Q. That clogging, what caused it?

6 A. Small fish, fish scales, conglomeration of fish scales.

7 Q. How would small fish get into the pumps, the Turo pumps?

8 A. They would go through the covering of what they call the
9 well deck.

10 Q. Was that not intended to prevent fish getting to the
11 pumps?

12 A. You would get small fish down there, for the simple
13 reason -- very many big fish would go down but you could
14 not have them too small because then the scales will not
15 go down, so you had to have an opening. When I say
16 small fish, I am talking about just ... all kind of
17 things, but mainly fish, fish scales --

18 Q. Do you recall the square mesh being 4 inch by 4 inch on
19 these grids over the sump wells? That is some evidence
20 that we have had.

21 A. 4 inch by 4 inch?

22 Q. Yes.

23 A. Maybe, but I am not lying -- never been as big as that.

24 Q. At any rate you do recall fish getting through them and
25 clogging the pumps?

1 A. Oh definitely.

2 Q. Was that a reasonably regular occurrence, that fish
3 would clog the pumps and someone would have to declog
4 them, or was it something that did not happen at all
5 often?

6 A. It did not happen regularly -- it did not happen -- it
7 happened but would be noticed. It has happened but
8 would be seen to. As I said, the only one time when we
9 could not process was in a ship called the Coriolanus.

10 Q. That was a matter of the flooding of several feet?

11 A. Oh no, not several feet. It would not -- if it was
12 several feet, sir, it would be going in the engine room
13 because the engine was only 2/2.5 feet.

14 Q. 2.5 feet?

15 A. Yes, the steps to the engine room is only 2/2.5 feet.
16 Anything more than that would be flooding the engine
17 room.

18 Q. The fish hatch covers. You say that you secured the
19 hatches from underneath. Do you recall securing the
20 fish hatches --

21 A. From underneath, no.

22 Q. -- from underneath?

23 A. Hatches? No.

24 Q. That is not right, then?

25 A. Ramp. You are thinking of the fish ramps.

1 Q. Yes. I am referring to the openings that you put the
2 fish through.

3 A. Fish ramp, yes. Ramp doors. Ramp doors, they are
4 secured from underneath.

5 Q. And you secure the ramp doors from underneath?

6 A. Yes.

7 Q. Why did you secure the ramp doors from underneath?

8 A. Because you are going along steams, you meet all kind of
9 weathers, you are in bad weathers.

10 Q. You would not secure them from on top of the deck --
11 from the deck itself?

12 A. No, because they did not have -- there is no securing
13 for ramps up the top.

14 Q. There is no key system that you recall?

15 A. There is no key system for that on the top.

16 Q. Very well.

17 A. That is all done by hydraulics.

18 Q. They are closed hydraulically?

19 A. Yes.

20 Q. But they are secured -- that is to say locked -- from
21 underneath?

22 A. When you are in fishing operations, you do not lock them
23 from underneath.

24 MR SALOMAN: Skipper Madden, if you would like to have two
25 or three minutes of pause, I am sure that the --

1 MR JUSTICE DAVID STEEL: Mr Madden, we take a break in the
2 afternoon. Would you like to take a break now?

3 A. It is the anaesthetic in my mouth.

4 MR JUSTICE DAVID STEEL: I understand. I am very happy to
5 take a ten minute break, if that would be convenient for
6 you.

7 A. I would love it, sir, if do you not mind.

8 MR JUSTICE DAVID STEEL: I think that is a good idea.

9 (3.10 pm)

10 (A short break)

11 (3.20 pm)

12 MR SALOMAN: Skipper Madden, before our short break you were
13 saying that you would not lock the ramp hatches from
14 underneath during fishing operations?

15 A. No, sir.

16 Q. Quite. When would you, in practice, actually secure the
17 ramp hatches locked from underneath?

18 A. The weather we have been talking about, when you are
19 dodging -- or if you go from a big steam, shall we say,
20 from Newfoundland to Norway, you batten them down then
21 because you do not know what weather you are going to
22 meet. So that would be a practice of dogging your
23 hatches down.

24 Q. Indeed. And you would do the exercise of dogging from
25 underneath?

1 A. You can do, and from the top.

2 Q. How would you do it from the top? A key?

3 A. A large key, a round key. Then you put them through the
4 (inaudible) on top of the hatches from both sides.

5 MR SALOMAN: Thank you very much. Those are my questions.

6 Mr Munyard for the skipper and mate's families will

7 probably have some questions.

8 Examination by MR MUNYARD

9 MR MUNYARD: Mr Madden, just one question, please. I would

10 like to you tell us a little bit more about

11 Skipper Nellist, who I think you knew quite well. You

12 described him in your statement, your recent statement,

13 as a "Steady Eddie" kind of man; is that right?

14 A. Yes. I do not mean that maliciously.

15 Q. I do not think anyone took it maliciously.

16 A. Peter was a down to earth chap. He was also an

17 excellent mate, and excellent mates do make good

18 skippers. He was very meticulous when he was mate, and

19 I cannot for the life of me think that he would have

20 done anything wrong that night. I do not think that.

21 Q. Is he the sort of man who would ever fail to report in

22 on the scheds?

23 A. No. It would have to be a very good reason for not.

24 MR MUNYARD: Thank you very much.

25 MR COOPER: I have no questions, sir.

1 MR MEESON: No further questions, sir.

2 Questions by THE ASSESSORS

3 MR JUSTICE DAVID STEEL: I just have two quick questions for
4 you, Mr Madden. Would you bear with me. Firstly, what
5 sort of trim by the stern would you try and maintain
6 when on a fishing trip on the Kelt?

7 A. Maximum.

8 MR JUSTICE DAVID STEEL: And by maximum, does that mean
9 something like --

10 A. The rule was that -- the way it was, sir, that we would
11 burn from forward to aft --

12 MR JUSTICE DAVID STEEL: I understand that, but would you
13 try and have a trim of 9 feet or so by the stern? Would
14 it be as much as that?

15 A. Yes, I would say that, sir. I would say maybe more,
16 2 fathoms. About 3 metres, I would say now, easy. We
17 would try and maintain that.

18 MR JUSTICE DAVID STEEL: Just one other topic. I wonder if
19 you can help me, Mr Meeson, the exhibit number for that
20 (indicated)? Can you help me?

21 MR MEESON: AGP5 or 6, around about there.

22 MR JUSTICE DAVID STEEL: Would AGP5 come up on the screen.

23 Mr Madden, could you just look at the screen in
24 front of you.

25 A. Right.

1 MR JUSTICE DAVID STEEL: This is a ramp hatch of the Arab,
2 open.

3 A. Right, sir.

4 MR JUSTICE DAVID STEEL: On the left-hand side of the
5 photograph there appear to be some attachments to the
6 dogs. Can you help me, is that an arrangement for
7 closing them from underneath?

8 A. Yes, sir. You pull the weight it down and it will close
9 both the dogs and move it like a (inaudible). And same
10 with the centre one that would that would clog into the
11 forward part of the hatch. They do get broken, and you
12 used to do it by hammer, spanner, anything heavy, to
13 knock them in place.

14 MR JUSTICE DAVID STEEL: Thank you very much.

15 MR HOPPER: Two or three questions which I do not think will
16 tax your memory of the day but might help us understand
17 a little bit more about the Gaul.

18 You mentioned hand-steering and one or two other
19 witnesses have also mentioned hand-steering. Could you
20 clarify exactly what that was on the Gaul, or the Kelt.
21 Was it moving the tiller, the little tiller, the little
22 hand tiller, or was it actually going to what I would
23 call an old-fashioned wooden steering wheel and cranking
24 the wheel?

25 A. Yes, sir, the wheel.

1 MR HOPPER: That means that the only connection between the
2 wheel in the wheelhouse was hydraulic fluid all the way
3 back to the steering --

4 A. That is correct, sir.

5 MR HOPPER: One of the witnesses explained that he had heard
6 Maurice Spurgeon say -- and I will not use the full
7 text -- but it was a cow and a half to steer in hand.
8 Would you agree with that statement.

9 A. Oh yes, I would wholeheartedly agree with it.

10 MR HOPPER: Thank you. The other one is I would like to ask
11 you about big waves. I do not want to go into the whole
12 conversation again, but nearly all the skippers on that
13 bank on that night reported big, exceptional waves;
14 possibly 1, 2 or 3. Was that a feature of North Cape
15 Bank in particular?

16 A. I think it was a feature of the Barents Sea at that
17 time. You must understand, sir, that if you are on a
18 shoaler bank, you used to get the bigger swells. Depth
19 can make a difference between, you know, difference in
20 swells. Meeting a bank can alter the height of the
21 swell. I do not know if you understand that or not, but
22 it can do.

23 Also, the erratic seas can be the self and same
24 thing. A sea coming from the deep into the shoal and
25 back into the deep again can also make a difference. It

1 would affect the sea at different heights.

2 MR HOPPER: Thank you. One more question. I do not want to
3 tax your voice. I can sense your voice is fading
4 a little.

5 I think -- I will say most of the words for you --
6 you were within about 10 miles radius of both the Gaul
7 and the Swanella on the morning of the last day, the
8 9th. I think that is correct, roughly.

9 A. Roughly, yes.

10 MR HOPPER: Let us not be precise. I do not know whether
11 you know Mr Brayshaw, but he did report his position.
12 I will just give you the latitude: 72/25 North at 9.30.
13 He then last saw the Gaul some six miles to the west.
14 I think were you a little further north than that, from
15 what I recall.

16 A. Yes, I would be maybe a bit north, maybe east even.

17 MR HOPPER: But when the wreck was recovered, it was in 72/4
18 North, which is roughly 20 miles south of where
19 Mr Brayshaw was, or the Swanella was. Is it possible
20 that error was due to incorrect dead reckoning or Decca
21 inaccuracies on the time, or is there any other
22 suggestions as to why there was that 20-mile difference,
23 in your mind?

24 A. The Decca is more or less, I would say, accurate. Dead
25 reckoning, you could be out quite a few miles. Are we

1 assuming that you knew -- was the Swanella fishing at
2 the time?

3 MR HOPPER: No, he was laid.

4 A. He was laid and dodging. Well, I would say it would be
5 dead reckoning.

6 MR HOPPER: A dead reckoning error?

7 A. A dead reckoning error.

8 MR HOPPER: Two more questions, and I will try and help you
9 to just say "yes" or "no" or a very short answer.

10 Mr Brayshaw said that when he spoke to Mr Spurgeon
11 the Gaul was stopped and Mr Spurgeon said, "You are all
12 right, we will be underway shortly and we will get out
13 of your road because we are going to dodge more into
14 land."

15 I am interested in knowing whether you would have
16 stopped a ship in that weather for a fishing operation
17 or would it be an engine room job?

18 A. I would say the latter.

19 MR HOPPER: You would not have stopped the ship; you would
20 have kept her dodging for a repair job or something of
21 that nature.

22 A. (Inaudible) wanted an engine room job. It would
23 definitely be the latter because you would not stop your
24 ship in that weather.

25 MR HOPPER: Thank you. I think I will hand over to my

1 colleague, David Aldwinckle. He wants to say something
2 about the Kort nozzle.

3 DR ALDWINCKLE: Yes. David Aldwinckle, another assessor.
4 I have basically two questions. One concerns the angle
5 of heel, roll, which you have discussed, and also the
6 fish hatches.

7 The angle of roll. You said in beam seas you would
8 experience something of the order of maybe 20 degrees
9 and, at the worst, possibly 30-degrees, in beam seas?

10 A. Hmm.

11 DR ALDWINCKLE: As far as the Kort nozzle is concerned, say
12 hard to port or hard to starboard, but in terms of angle
13 of loll/roll, what would you experience in your vessel
14 under those conditions?

15 A. You are moving?

16 DR ALDWINCKLE: You are moving, yes; maybe 5, maybe 10
17 knots. Can you remember? Do not worry if you cannot.

18 A. No, I am just trying to visualise it, to tell you the
19 truth. Your Kort nozzle would be in in that way and the
20 wind is on --

21 DR ALDWINCKLE: If you are turning into the wind, going to
22 port --

23 A. If you turn into wind, going to port or starboard,
24 whichever way -- it would be doing 10 knots. I would
25 say it would be pretty safe, sir.

1 DR ALDWINCKLE: Pretty safe. But what about the inclination
2 of the ship? What would you say, 5-degrees, 3 degrees?

3 A. 5 maximum.

4 DR ALDWINCKLE: Thank you very much.

5 A. 5 maximum. 3 degrees, I would say, would be an average.

6 DR ALDWINCKLE: Thank you.

7 My other question relates to the fish hatches. If
8 in severe sea conditions, stern quartering seas, with
9 violent pitch and heave, have you ever seen an undogged
10 fish hatch rise at all, even only half an inch to an
11 inch?

12 A. In the early part of our stern fishing haul I have seen
13 that, actually.

14 DR ALDWINCKLE: You have?

15 A. In -- I am just trying to think of the ship. But it was
16 only -- the chief engineer fixed it. It was just the
17 pressure blow on the hydraulic, and it was something to
18 do with a small leak or something on the hydraulic. If
19 it is chemical wires, I do not know, but where it just
20 kept --

21 DR ALDWINCKLE: Just lifting and dropping and lifting?

22 A. Yes.

23 DR ALDWINCKLE: But just a small amount?

24 A. Yes. I am trying to think. I think it was done with
25 the loosening of hydraulic pressure, and that was seen

1 to.

2 DR ALDWINCKLE: Thank you, Skipper Madden.

3 MR JUSTICE DAVID STEEL: Thank you very much indeed for your
4 help.

5 A. You are welcome, sir.

6 (The witness withdrew)

7 MR JUSTICE DAVID STEEL: Yes, Mr Meeson.

8 MR MEESON: Sir, we have one more witness this afternoon,
9 and that is Councillor Clark. Sir, we do not have
10 a statement for Councillor Clark.

11 MR JUSTICE DAVID STEEL: I see. I thought it was not a name
12 I was familiar with.

13 COUNCILLOR PETER DAVID CLARK (sworn)

14 Examination by MR MEESON

15 MR MEESON: Councillor Clark, can you tell the court your
16 full name, please.

17 A. It is Peter David Clark.

18 Q. In 1974, were you working for the St Andrews and Humber
19 Engineering Company, I think they are called?

20 A. Humber St Andrews Engineering Company, yes.

21 Q. Did you work on the Gaul at all?

22 A. Yes, I did. I was an apprentice then, yes.

23 Q. And can you remember what you did on the Gaul?

24 A. Yes, we popped the nameplates on the front end. I was
25 not working in the ship industry for very long so I am

1 not very nautical, but we stuck it on the front end.

2 The names are cut out, profile burnt out of about a
3 quarter inch plate, and I put the nameplates and the
4 numbers and also the strapping round the funnels.

5 I think we was one of the last gangs that was on that
6 before she sailed.

7 MR JUSTICE DAVID STEEL: Just tell me, when are we talking
8 about?

9 MR MEESON: Are we talking about January 1974?

10 A. Yes.

11 Q. Were there any other jobs that you did on the Gaul
12 before she went to sea?

13 A. Sometimes you would just do a snagging job; you would
14 just take the levers and some of the hatch pins and
15 things like that and make sure that they are free.

16 Q. How do you make sure that the levers and the hatch pins
17 are free?

18 A. Well, the ones that are in common usage are usually okay
19 anyway, but you just usually hit them with a hammer to
20 free them and put some oil on. For the really difficult
21 ones on much older ships you would use a hot knife to
22 heat them.

23 Q. At what stage would you do that before the vessel went
24 to sea?

25 A. Just before.

1 Q. Just before?

2 A. Yes.

3 Q. So would you do it a long time in vans, or a day before,
4 or...?

5 A. Well, if you did it a long time in advance, it would
6 want doing over and over again, so it would have to be
7 pretty soon before she sailed.

8 Q. Can you remember now whether you would have done that
9 work on the Gaul before she sailed?

10 A. We would have done a little bit, I would think, yes.
11 But it was a new ship so I would not have thought it
12 would have wanted touching at all.

13 Q. Did you work at all on the Kurd or the Kelt; can you
14 recall?

15 A. Yes, sometime after that time we got a job to do.
16 Again, I am not very nautical, but the slits on the side
17 of the ship at the aft end -- I think there is five or
18 six at the aft end -- my job was to mark these off and
19 they had to be cut longer. I think they extended them
20 by about 2 or 3-foot, provided they was not bumping into
21 an strengthening support for the side of the hull. It
22 was not a very nice job.

23 Q. We refer to those as freeing ports.

24 We have heard evidence from a Mr Scott, a Department
25 of Trade surveyor, that he went on board the Kurd and

1 the Kelt and found that their watertight doors and
2 things were rusted and seized up. Is that your
3 experience of those vessels?

4 A. Well, if you get a new piece of steel and leave it
5 overnight, it rusts. So if the ships had been in port
6 for any length of time, they would have done, yes. But
7 it would have been pointless doing them until it was due
8 to sail.

9 Q. So it would be pointless doing them until they were due
10 to sail; is that right?

11 A. Hmm.

12 Q. Would you have done them before they sailed?

13 A. Me or somebody similar to me, yes. There was odd men in
14 (inaudible) but there was not so many of them so
15 sometimes the apprentices got the job.

16 Q. Is there anything else that you can assist us with in
17 this inquiry that you can think about from your
18 knowledge of the vessels?

19 A. No, I think that is about -- I knew they was beautiful
20 ships when I first went on them compared to working on
21 the sidewinders. These was like ocean going liners;
22 they was a lot nicer inside.

23 MR MEESON: Sir, for the record, you may find it of use to
24 see the document at OFI bundle 1, at page 76, which is
25 the invoice for, amongst other things, making, fitting

1 and welding the nameplates and numbers.

2 MR JUSTICE DAVID STEEL: That is what I was looking for.

3 MR MEESON: My learned junior was one step ahead of you.

4 MR JUSTICE DAVID STEEL: She always is.

5 MR MEESON: Thank you, Councillor Clark. If you could wait
6 there.

7 A. I never got that much money for doing them.

8 Examination by MR SALOMAN

9 MR SALOMAN: Councillor Clark, I am asking questions for the
10 families of the crew except for the skipper and mate.

11 I do not know whether you have OFI bundle 1
12 available to you. Perhaps you could be given it if you
13 have not got it. Page 76. It is that work that we see
14 at the bottom of the page, the work on the hull of
15 making, fitting and welding new nameplates and numbers
16 that you really remember; is that right?

17 A. Yes.

18 Q. You were personally involved in that?

19 A. Yes, it was a very difficult job to do because you
20 cannot measure if you have got to stick one letter on
21 and climb off the ship and see if it looks okay. It is
22 very difficult.

23 Q. Is it fair to say that, while that operation sticks out
24 in your mind, no other particular work on the Gaul can
25 you remember at this stage?

1 A. We walked round on it looking at the fish deck because
2 it was a lovely fish deck, and looking at the laundry
3 and things like that, because it was a new ship
4 basically.

5 Q. Indeed. And being a new ship, you would not have
6 expected it to need any touching up at that stage?

7 A. No, not really.

8 Q. I think you have said that even on ships where you would
9 touch up before sailing, you would do that virtually at
10 the last moment?

11 A. Yes, there used to be late-running jobs, yes. You would
12 probably go round just to check. But if they had time,
13 they would be done within a day or two of sailing.

14 Q. Is that because faults would sometimes develop rapidly
15 so there was no point in doing it any earlier?

16 A. Well, there was point in doing it any earlier because it
17 would probably need doing again if it was left for any
18 length of time, because the screw threads, if it rained
19 or if it was bad weather, they all would wash off and
20 the threads would rust again.

21 Q. Do you remember any of the superintendents from
22 BUT/Hellyers who were concerned with the Gaul?

23 A. No. I think my only concern was my foreman.

24 Q. At any rate, we can see what work was charged for by
25 Humber St Andrews on page 76 in relation to the hull and

1 on page 77 in relation to the deck and deck machinery.

2 A. Hmm, that is right.

3 Q. Do you recall having any involvement with work on the
4 deck, or was it only the hull work that you were
5 concerned with?

6 A. No, I did not work on the deck. It would have only just
7 been checking some of the wing nuts and things like
8 that; nothing that is listed on the deck.

9 MR SALOMAN: Thank you very much. Those are my questions.

10 Examination by MR MUNYARD

11 MR MUNYARD: Mr Clarke, I have just one matter. I represent
12 the families of the skipper and the mate.

13 You have told us about the jobs that you
14 occasionally did as an apprentice. Do I take it that
15 you did not actually do that kind of work on the ships
16 very often?

17 A. It depended what jobs I was on. There was different
18 work. Sometimes we was not even working on trawlers; we
19 worked on cargo ships. But it followed the same sort of
20 procedure: checking the rubbers to make sure that they
21 had not perished or come away and things like that.

22 Q. Very well. Were you in fact given a list of things to
23 look for on each particular ship that you went on?

24 A. Well, yes. Sometimes the foreman wrote something down
25 for you or other times he just told you to do certain

1 jobs.

2 Q. As you said, on a relatively new ship like the Gaul, you
3 would not expect to have to do too much of this sort of
4 snagging work?

5 A. No.

6 Q. And so in the case of the Gaul, would it be more likely
7 that you would be given a specific list of items to look
8 for?

9 A. I think it would, unless you come across anything
10 yourself that you felt was ...

11 Q. Unless anything leapt out at you, you just went and
12 looked for the things that you were told to look at and
13 deal with?

14 A. That is right.

15 Q. And I do not suppose you have any recollection now of
16 what items you looked at and what you did not look at on
17 the Gaul before she sailed in January 1974?

18 A. No.

19 MR MUNYARD: Thank you very much.

20 Examination by MR COOPER

21 MR COOPER: Good afternoon, Councillor Clark. I act for the
22 Department for Transport and I have just a couple of
23 questions.

24 You have described going round the ship and checking
25 the doors and checking the seals towards the end of your

1 job. From the way you describe it, do I understand that
2 that was matter of routine that would have just been
3 done at the end of your work, or at the end of your
4 firm's work?

5 A. No. If I had have been a qualified journeyman -- I was
6 an apprentice plater -- I would not have done that sort
7 of work. It would have been because maybe they had been
8 short of cokers or odd men to go and do that job that
9 I would have been -- we was given that job to do because
10 we was allowed to, because there was often demarcation
11 problems but apprentices could get away with jumps
12 trades because it was part of the training.

13 MR COOPER: Thank you very much.

14 MR MEESON: Sir, I have no further questions for
15 Councillor Clark.

16 DR ALDWINCKLE: Councillor Clark, my name is
17 David Aldwinckle, one of the assessors.

18 It is interesting to hear you say that the
19 watertight covers of doors would rust in a very short
20 period of time. Is it possible, then, if a Lloyd's
21 surveyor inspected these during the annual survey and
22 found them to be in good condition, that within days
23 after that survey they could be in a bad condition?

24 A. If there were a few nights of rain, I would think so,
25 yes, quite easily. I mean, the oil could soon get

1 washed away and -- yes, easily.

2 DR ALDWINCKLE: Thank you for answering my question.

3 MR JUSTICE DAVID STEEL: Thank you very much indeed for your
4 help.

5 (The witness withdrew)

6 Discussion

7 MR MEESON: Sir, there is one further statement that could
8 be read. I hesitate to read it because it is of rather
9 little interest. It is a statement that we have in our
10 bundle of James Simpson, at AG10, page 113.

11 MR JUSTICE DAVID STEEL: I do not feel there is any need for
12 you to read it unless somebody wants it read, or
13 alternatively read that part of it which you think has
14 some materiality to our task.

15 MR MEESON: The material part of his statement reads:

16 "I am unable now to say whether I went on any of the
17 Gaul's sister ships, but certainly if I did I cannot now
18 remember the circumstances. In respect of the survey of
19 the Gaul, this was only of the auxiliary boiler, and
20 I would not imagine it would take more than a couple of
21 hours, and I would therefore have only been on the ship
22 for that length of time."

23 So basically, he has no recollection.

24 MR JUSTICE DAVID STEEL: This is talking about the visit
25 in June 1973, is it?

1 MR MEESON: No, this was a man who carried out the auxiliary
2 boiler survey on 23rd January 1974, but I can really say
3 that he has no recollection of anything.

4 MR JUSTICE DAVID STEEL: As you say, I am not sure that that
5 will advance our task in any respect.

6 MR MEESON: Sir, I have two pieces of housekeeping and then
7 Mr Saloman would like to refer to a couple of documents.

8 MR JUSTICE DAVID STEEL: Yes.

9 MR MEESON: The first is that there is a document produced
10 by Mr Suddaby that has been placed in bundle AG10, pages
11 75.1 through to 75.6 --

12 MR JUSTICE DAVID STEEL: I will look at that.

13 MR MEESON: -- which I would simply ask you, sir, to look at
14 perhaps in your own time.

15 The second is that the marked chart by skipper
16 Madden will be exhibit number 3.

17 MR JUSTICE DAVID STEEL: Is Mr Suddaby returning?

18 MR MEESON: Mr Suddaby can return to give further evidence.
19 We could do that, for example, tomorrow.

20 MR JUSTICE DAVID STEEL: I put it no higher than this: there
21 is one area, it seems to me, that it might be
22 appropriate for him to comment on, given that Chief
23 Engineer Sim is no longer alive and that the Scott
24 preliminary report was not available at the time of the
25 formal investigation, and he might usefully comment upon

1 the hearsay account that Mr Scott has of Mr Sim's
2 description of the incident on the last voyage. But if,
3 having taken instructions, you are of the opinion that
4 there is not much he can contribute to that particular
5 story, then I do not want to waste his time.

6 MR MEESON: Perhaps I can do that this afternoon, if he is
7 still here, and then see how we get on tomorrow.

8 MR JUSTICE DAVID STEEL: There are various points we would
9 like to raise with Mr Suddaby, so --

10 MR MEESON: I will make arrangements for him to be recalled.

11 MR JUSTICE DAVID STEEL: Thank you. Yes, Mr Saloman.

12 MR SALOMAN: Sir, this can be very brief. We heard this
13 morning from Miss Cunningham a statement read from
14 Ben Ashcroft. He discussed the duff and offal chutes on
15 the Coriolanus. I would mention, in connection with
16 what he says, that there is in bundle AG20, at page 157,
17 a plan of the Coriolanus which indicates her rather
18 different system of duff and offal disposal. I do not
19 think I need say more about it than that, but there is
20 a plan.

21 MR JUSTICE DAVID STEEL: It is at paragraph 9 of his
22 statement that he refers to them. They are, as he put
23 it, on either side of the vessel.

24 MR SALOMAN: Yes.

25 MR JUSTICE DAVID STEEL: Just give me the cross-reference

1 again.

2 MR SALOMAN: AG20, page 157.

3 MR JUSTICE DAVID STEEL: That is the MAIB 1999 report.

4 Thank you.

5 MR SALOMAN: Secondly, Mr Ashcroft also discussed the matter
6 of the bunkers that were on board the ship when she left
7 Hull, without giving any detail. Similarly, the
8 statement we heard read out from Mr J Good speculated
9 that she was "light ship" when she sailed from Hull and
10 that she had bunkers for a 18-day voyage.

11 At bundle 11, pages 236 to 242, you have all the
12 relevant facts and details relating to the quantities of
13 bunkers in the shape of fuel oil and lube oil that were
14 stemmed and placed on board, and also details of water
15 on board.

16 MR JUSTICE DAVID STEEL: Just hang on a moment, pages?

17 MR SALOMAN: 236 to 242.

18 MR JUSTICE DAVID STEEL: I am not sure I have looked at that
19 material. These are contemporary records of the
20 quantities of bunkers and --

21 MR SALOMAN: They are both contemporary records in the form
22 of receipts or invoices of quantities and price. And
23 there is a letter from Mr Oswald, dated
24 27th September 1974, addressed to the Department of
25 Trade, giving details of the Gaul's bunkering on

1 17th January 1974, and also detailing the report by
2 Mr Sim, Chief Engineer, of the left-in quantity from the
3 previous voyage.

4 All I would say at this stage of the day, sir, is
5 that all the details are there and they may be of
6 assistance in gauging the ship's condition.

7 MR JUSTICE DAVID STEEL: Thank you.

8 Well, Mr Meeson, unless there is some other matter
9 which you wanted to raise today, we will adjourn and
10 resume at a convenient time tomorrow.

11 Apart from Skipper Suddaby, who you may wish to
12 obtain -- I do not know -- there is some
13 Lloyd's Register evidence, is there? What are we going
14 on to?

15 MR MEESON: Yes, there is a witness from Lloyd's Register,
16 Mr Lowes, and then, after that, we will be beginning
17 expert evidence.

18 MR JUSTICE DAVID STEEL: What is the position about Mr Rea,
19 Mr Simpson and Mr Smith? Mr Simpson you have dealt
20 with.

21 MR MEESON: Mr Simpson I have dealt with. Mr Rea and
22 Mr Ramsey Smith have even less recollection of anything,
23 if they ever were concerned with the Gaul, which some of
24 them do not think they were.

25 MR JUSTICE DAVID STEEL: Okay. Thank you.

1 We will start at 10.30 tomorrow.

2 (3.55 pm)

3 (The court adjourned until 10.30 am

4 on Wednesday, 28th January 2004)

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