

1 Tuesday, 13th January 2004

2 (10.30 am)

3 MR JUSTICE DAVID STEEL: Ladies and gentlemen, it so happens
4 that next week, sadly, sees the 30th anniversary of the
5 final sailing of the Gaul, and during that voyage the
6 crew and herself disappeared. We are gathered of course
7 here today to resume the inquiry into the case of that
8 vessel and her crew. I think in the circumstances it
9 would be fitting if we stood for a moment in silence.
10 (Pause).

11 Yes, Mr Attorney.

12 Opening speech by THE ATTORNEY GENERAL

13 THE ATTORNEY GENERAL: Sir, I appear together with my
14 learned friends Mr Nigel Meeson QC and
15 Miss Jo Cunningham. Our role is to assist you as
16 counsel to the inquiry. You will also be assisted by
17 Mr Laurance O'Dea as solicitor to the inquiry and his
18 team. On behalf of the families of Mr Nellist, the
19 Skipper, and Mr Spurgeon, the Mate, Mr Munyard will be
20 appearing, instructed by Birnberg Peirce. Today
21 I understand the opening statement on behalf of those
22 families will be made in his absence by Miss Peirce of
23 that firm.

24 Mr Saloman QC and Miss Hosking appear on behalf of
25 Max Gold and Mr Nigel Cooper appears on behalf of the

1 Department for Transport.

2 Sir, on 8th February 1974, the large modern British
3 motor trawler Gaul of Hull was lost with all of her 36
4 crew in bad weather off the North Cape of Norway. She
5 was less than two years old. She was well built, with
6 an adequate reserve of intact stability and had good
7 seakeeping characteristics. There was no distress
8 message, no survivors, no wreckage found in the
9 subsequent search for her. To all intents and purposes
10 she had disappeared without trace.

11 As the final paragraph of the report of the 1974
12 formal investigation into her loss recorded, the grief
13 of the bereaved can only have been equalled by their
14 incredulity at the loss of a fine ship. That
15 incredulity was not assuaged by the conclusion of that
16 formal investigation which recorded that the Gaul had
17 capsized and foundered due to taking a succession of
18 very heavy seas on her trawl deck when she was almost
19 broadside onto the sea.

20 Sir, on the very limited evidence before the formal
21 investigation it is difficult to see what other
22 conclusion could have been reached. However, this was
23 not an explanation which satisfied those next of kin
24 whose men had not returned, nor was it an explanation
25 which satisfied those of a technical mind who came to

1 examine the facts.

2 In short, the loss of the Gaul remained a mystery
3 and in the absence of a credible explanation,
4 speculation as to her fate became rife.

5 Although this tragedy occurred nearly 30 years ago,
6 it has not been forgotten. The bereaved families have
7 struggled hard to ensure that the Gaul was not
8 forgotten, either in their local community or by the
9 wider public. They have battled long and hard over the
10 years for answers to their burning questions. They have
11 never accepted that the loss of this ship could be
12 simply brushed aside as yet another peril of the sea.
13 They campaigned for the wreck to be investigated and for
14 proof that their loved ones were on board.

15 The wreck was found and has been the subject of not
16 one but two underwater surveys, the first in
17 August 1998, and the second in August 2002. This latest
18 survey has resulted in conclusive evidence being
19 obtained that their loved ones were indeed on board, and
20 it has also produced previously undiscovered evidence
21 which we believe will enable this inquiry finally to
22 solve the mystery of how the Gaul was lost.

23 So unlike the formal investigation in 1974, you,
24 sir, and your assessors have the benefit of detailed
25 survey evidence of the wreck and the unprecedented

1 assistance of the opinions of experts appointed at
2 public expense to assist the families who have been
3 working together with experts appointed by me on behalf
4 of the inquiry.

5 The technical experts are Mr Bowman assisted by
6 Mr Ratcliffe of TMC Maritime Consultants, instructed on
7 behalf of the inquiry, Mr Colman assisted by Mr Hendy of
8 Burness Corlett and Partners instructed on behalf of the
9 Spurgeon and Nellist families, and from Mr McCombie of
10 McCombie Napier instructed on behalf of the other
11 families. They have been assisted in turn in their work
12 by a fishing expert, Mr Terry Thresh, and by Mr Tanton,
13 a consultant to the Department for Transport, who has
14 considered the regulatory framework.

15 Those experts have worked in co-operation in
16 a methodical and scientific way in order to analyse all
17 the evidence and to ensure that this inquiry has the
18 best evidence available to it to enable it to reach
19 a proper conclusion, and they will be giving oral
20 evidence to assist the inquiry in understanding their
21 joint report.

22 Sir, you of course are well aware that the process
23 in which we are involved at the re-hearing of this
24 formal investigation is an inquisitorial process. In
25 short, it is an investigation and not litigation. As

1 a law officer, I as Attorney General have no interest in
2 the outcome of the formal investigation other than to
3 seek to ensure that you and your colleagues are able to
4 arrive at the truth, whatever that truth may be. It is
5 for that reason that independent counsel to the inquiry,
6 Mr Nigel Meeson, was appointed to assist you in your
7 task and to ensure that all relevant or possibly
8 relevant evidence was obtained or examined.

9 Well, this public oral hearing represents the
10 culmination of all the extensive investigatory work that
11 has been carried on. Considerable work has been done by
12 all those involved: the inquiry team, independent
13 experts and the families' respective legal teams. Many
14 avenues have been explored, documents read, other work
15 done to reach this stage, where the evidence and
16 theories of the loss can be tested and presented in full
17 public view.

18 The fundamental task of your inquiry, as in any
19 formal investigation of a shipping casualty, is to
20 answer the two vital questions: what was the cause of
21 the loss of the Gaul; and are there any lessons which
22 can be learned from her loss? At the end of our opening
23 statement, Mr Meeson will present a series of particular
24 questions which are intended to assist the inquiry in
25 answering these two basic questions.

1 (10.45 am)

2 Sir, in addition, at an early stage you indicated
3 that the inquiry would also address the question of
4 whether the Gaul or any of those on board at the time of
5 her loss were involved in what would colloquially be
6 called spying. Rumours and suspicion that the Gaul was
7 a spy ship engaged in activities other than fishing have
8 been prevalent ever since her loss. That matter,
9 irrespective of whether it was relevant to her loss or
10 not, must be dealt with by this inquiry.

11 Sir, you will be hearing evidence. Let me briefly
12 summarise it: in order to investigate this question,
13 a thorough search has been made by the defence
14 intelligence staff of the Ministry of Defence, the
15 Secret Intelligence Service and GCHQ of their records in
16 order to establish whether there is any material which
17 would shed any light on this question. All three
18 services have confirmed that they have no documents
19 which are relevant to this question.

20 In addition, witness statements have been provided
21 by officers from both the Defence Intelligence Staff and
22 the Secret Intelligence Service which give some
23 background to what use has been made of trawlers other
24 than the Gaul in the 1960s and early 1970s.

25 Now, as far as the Secret Intelligence Service is

1 concerned, they employed a retired Royal Naval
2 Commander, Commander Brookes, as an intelligence liaison
3 officer in Hull, until his death in 1971. The trawler
4 skippers briefing scheme which had been operated by him
5 in the 1960s had been terminated in the late 1960s,
6 prior to his death. That scheme was not in operation by
7 the time the Gaul was built, nor during the time she was
8 in operation as Ranger Castor and then as Gaul. No
9 other use was being made by the Secret Intelligence
10 Service of trawlers or their crew in the early 1970s in
11 general or in 1974 in particular.

12 In spring 1972, the Royal Navy had used another
13 trawler belonging to British United Trawlers, BUT, the
14 owners of the Gaul, for a specific mission in the
15 Barents Sea to recover a missile. That vessel was the
16 Invincible. A similar mission was mounted in
17 September 1973 using another BUT vessel, the
18 Lord Nelson. On both occasions the missions were not
19 successful. No further missions were mounted by the
20 Royal Navy using trawlers, and the Gaul was not used by
21 the Ministry of Defence for any purpose.

22 The evidence I have been summarising that will be
23 put before you is in short this: there is nothing that
24 suggests that the Gaul was engaged in any other activity
25 other than fishing on her last voyage and nothing to

1 suggest that anyone on board her was engaged in any
2 activity other than fishing on that voyage.

3 There is another matter upon which the inquiry will
4 hear evidence and that is in relation to a cable which
5 was observed on the seabed lying close to the wreck.
6 The cable was initially seen by the journalist Mr Fenton
7 when the wreck was discovered in August 1997 and
8 subsequently during the 1998 survey. One of the aims of
9 the 2002 survey was to cut this cable and to obtain
10 a sample of it, but there were difficulties, as you will
11 hear, in identifying and locating the same cable in
12 2002. A long cable found in the vicinity of the wreck
13 was cut and a sample obtained, and this was ascertained
14 to be an old trawl wire. But this does not appear to be
15 the same cable.

16 There has been speculation that the cable seen in
17 1997 and 1998 was a communications cable linked to
18 a secret network for monitoring Soviet submarines during
19 the Cold War. The allegation is denied by both the
20 relevant United States Navy authorities and by the
21 Ministry of Defence.

22 It has also been suggested that it is merely another
23 old fishing trawl wire, of which there are many in the
24 vicinity of the wreck. But what is the potential
25 relevance of this cable? It is two-fold: first,

1 a theory has been advanced in particular by
2 a Mr Eric Long that the loss of the Gaul was caused by
3 her becoming fast on this cable and the manner in which
4 those on board sought to extricate the vessel from this
5 predicament. This is a subject on which Mr Meeson will
6 address you further.

7 Secondly, it may be considered by some to have been
8 a reason why successive governments have been unwilling
9 to mount a search for the wreck of the Gaul once her
10 position had been established in 1997.

11 But, as the evidence will show, the Department of
12 Trade, under whose remit shipping matters then fell,
13 made no secret of the location of the wreck, and in
14 November 1977 informed Mr Brian Haynes of
15 Thames Television of its exact location. You may think
16 there was nothing to prevent Mr Haynes or anyone else
17 from discovering the wreck and the cable in 1977 just as
18 they were discovered by Mr Fenton in 1997.

19 This question, why no search was made for the wreck
20 of the Gaul following her disappearance in 1974, was the
21 subject of an inquiry by Mr Roger Clarke who was
22 appointed by the Deputy Prime Minister to consider that
23 question at the same time as he ordered the reopening of
24 this formal investigation and his report was published
25 in May 2000.

1 What was his finding? It was this: that by 1977,
2 the Department of Trade believed that they had
3 discovered the likely position of the wreck of the Gaul.
4 However, the minister, he goes on, decided not to mount
5 a search for the wreck, on the ground that the cost of
6 such an operation could not be justified. The
7 Department of Trade did not believe that finding the
8 wreck would add to their knowledge of how the vessel was
9 lost or make any contribution to maritime safety.

10 I continue Mr Clarke's findings: he found no
11 evidence that the decision not to mount a search for the
12 wreck was in any way influenced by security
13 considerations. He made a number of recommendations
14 regarding how a similar question should be approached in
15 the future, and these recommendations have been accepted
16 by the Department for Transport. Those were the
17 findings of Mr Roger Clarke.

18 By letter of 17th July 2003, the Secretary of State
19 for Transport expressly extended the remit of the
20 inquiry to enable it to consider the question why no
21 search was made for the wreck of the Gaul following her
22 disappearance in 1974.

23 The extension of this inquiry to cover the ground
24 already covered by Mr Clarke's report was on the basis
25 that consideration of the issue should be confined to

1 consideration of the contemporary documents with no call
2 for oral evidence and on the basis that the issue would
3 be addressed in a proportional manner.

4 Sir, you have previously made it clear that it is
5 not the function of this inquiry to repeat the exercise
6 carried out by Mr Clarke, nor to investigate Mr Clarke's
7 report, but it is appropriate for submissions to be made
8 to you on the documentary record. Obviously parties
9 should be and are free to present you with such written
10 submissions as they may consider appropriate. But in
11 terms of the use of valuable inquiry time, you may take
12 the view that there seems no good reason for any oral
13 exposition of those submissions to require more than one
14 or two days at most. Of course, a matter for you, sir.

15 With those introductory remarks I would like to turn
16 and consider the scope of the evidence which will be put
17 before the inquiry.

18 The first point is this: although the order was for
19 a re-hearing of the formal investigation, there is much
20 of the report of the original formal investigation which
21 is uncontroversial, and I am glad to say that there are
22 other facts which are equally common ground and in
23 respect of which it is unnecessary for the valuable time
24 of this inquiry to be spent, if I can use a colloquial
25 expression, re-inventing the wheel.

1 There is a formal statement of the uncontroversial
2 matters which has been prepared to assist you and your
3 assessors in writing the report of this inquiry, but
4 I hope that you will consider it appropriate if
5 I nevertheless outline the more significant matters for
6 the benefit of others, particularly family members and
7 the public listening today who may not have had the
8 opportunity to read that document.

9 Let me start with some indications about the vessel
10 itself [slide AGP1 shown].

11 Sir, the motor trawler Gaul was a single crew(sic)
12 factory filleter freezing fishing vessel designed for
13 stern trawling. She was built between March 1970 and
14 August 1972 and was the last of a class of four sister
15 ships, the Ranger C class vessels built by Brooke Marine
16 of Lowestoft for Ranger Fishing Limited of
17 North Shields. Her original name was Ranger Castor. In
18 late September 1973, Ranger Fishing Limited sold the
19 Ranger Castor and her sister ships, the Ranger Cadmus,
20 Ranger Calliope and Ranger Callisto to British United
21 Trawlers (Hull) Limited and they were renamed Gaul,
22 Arab, Kelt and Kurd respectively. I will come to the
23 screen in a moment.

24 At the time of the loss of the Gaul, all four
25 vessels remained in service. The Gaul herself as I have

1 said was less than two years old. She was managed by
2 Hellyer Brothers Limited. She was 216 feet 9 inches in
3 length, with a breadth of 40 feet. She was of all
4 welded steel construction, built to Lloyd's Register of
5 Shipping classification Maltese Cross 100 A1 (stern
6 trawler), Ice Class 3 for the hull. In simple terms,
7 she had been constructed under a full survey in
8 compliance with the Rules of Lloyd's Register
9 Classification Society and had been found to the
10 surveyor's full satisfaction that she was suitable for
11 sea-going service and suitable for light ice conditions.

12 She was entered into class Maltese Cross LMC for her
13 machinery, which means that the propelling machinery and
14 essential auxiliary machinery was constructed, installed
15 and tested under the Lloyd's Society's special survey
16 and in accordance with the standards set out in their
17 rules.

18 The designed draft of the Gaul was 15 feet 9 inches
19 giving a load displacement of 1,851 tonnes.

20 It may now be helpful if I refer you and others to
21 the general arrangement plan. It is in bundle AG16 in
22 the first pocket. Images will appear on the monitors so
23 others attending the inquiry can follow what I am
24 pointing out.

25 (11.00 am)

1 [Slide AGP1 shown]. We have there the general
2 arrangement plan. You can see that the vessel had
3 a raked keel and was fitted with bilge keels port and
4 starboard. We have only one for you there. The bilge
5 keels on this vessel differed from the earlier sister
6 ships in that they were longer.

7 There were two decks. The uppermost, the trawl deck
8 being pointed out now, was the weather deck.

9 Below this, now being pointed out, was the main
10 deck, otherwise known as the factory deck, extending all
11 fore and aft, as shown. Above the trawl deck was
12 a fo'c'stle extending aft approximately one half of the
13 length of the ship from forward, the sides being
14 continued a further 50 feet aft and decked over some
15 10 feet from the sides port and starboard. That has
16 been pointed out.

17 [Slide AGP3 shown]. Now they put up a plan of the
18 trawl deck. On the port side of the trawl deck was the
19 engine casing, so you can see that now being shown;
20 a CO2 room being pointed out now next to the engine
21 casing, and the next space along, the net store.

22 On the starboard side there was a small vent
23 compartment, and at the after end, the centre portion of
24 the trawl deck was sloped down to form a ramp about
25 20 feet long by 13 feet wide extending down from the

1 deck level to the load of the water line at the stern.
2 The lower end of the ramp was open to the sea and at the
3 deck end of the ramp there were two half doors, 3 feet
4 6 inches high, which when closed gave some protection to
5 the trawl deck by holding to prevent seas from coming on
6 board.

7 We might have a photograph as well showing that from
8 the stern. The half doors are now being shown [slide
9 AGP4 shown]. Immediately forward of those two doors
10 there were two flush hatches in the trawl deck. They
11 are shown open. [Slide AGP5 shown]. These gave access
12 to a fish chute by which the catch was conveyed to the
13 factory deck. The hatches were approximately 6 feet
14 square and when closed, watertightness was maintained by
15 rubber seals. You can see those being shown at the
16 moment. The hatches were capable of being opened and
17 closed hydraulically or manually and could be locked in
18 position. They are shown open. That is a photograph of
19 the hatches being locked. [Slide AGP6 shown].

20 Going back to the arrangement on the trawl deck,
21 rectangular freeing ports were provided on each side
22 throughout the whole length, clear of the side house.
23 A photograph is now being put up to show that [slide
24 AGP7 shown]. How many of these were there? Well, on
25 the port side there were 10 freeing ports, each 3 feet

1 in length, 9 inches in height, and on the starboard side
2 another 13 freeing ports of similar dimensions. The
3 area of each of the freeing ports was reduced by the
4 vertical bars.

5 The ship was divided by transverse watertight
6 bulkheads into compartments. The fore peak bulkhead
7 extended to the trawl deck but the other bulkheads
8 terminated at the factory deck. There was a double
9 bottom extending from the after end of the oil fuel deep
10 tank forward to the after end of the engine room and
11 this was divided into water ballast and oil fuel
12 compartments. If we can go back to that, talking about
13 the transverse watertight bulkheads, the fore peak
14 bulkhead, that extended up to the trawl deck, but the
15 other bulkheads terminated at the factory deck. One can
16 see that now being shown. There was a double bottom
17 extending from the after end of the oil fuel deep tank
18 forward, up to the after end of the engine room. This
19 was divided into water ballast and oil fuel
20 compartments.

21 [Slide AGP3 shown]. Back to the trawl deck,
22 extending forward from the fish hatch to the trawl winch
23 just abaft the fo'c'stle front there were bobbin rails
24 port and starboard about 22 inches high, forming a well
25 about 80 feet long by 21 feet wide at the forward end,

1 tapering to 13 feet wide at the after end. Within that
2 space there was a clear area for the unshipping of
3 machinery and at the forward end a further enclosed
4 space called the net arena. [Slide AGP9 shown]. Now we
5 have a photograph. There is the net arena being pointed
6 out.

7 Sir, I would like to turn now to the factory deck.
8 We are putting up the plan of the factory deck [slide
9 AGP10 shown]. Now, on the factory deck aft there was
10 the steering gear compartment on the centre line, now
11 being shown. Next to that on the starboard side was
12 a net store and forward of this were chill water plants
13 and a liver plant.

14 On the port side starting from the after end was
15 an engineer's store, then a converter room,
16 an engineer's workshop, and the engine casing.

17 On the centre line forward of the steering gear were
18 the fish chutes leading to the compartments in which the
19 fish were processed. Two particular chutes I want to
20 make reference to now: the duff chute opening in the
21 side plating, that was located at the aft end of the
22 factory deck on the starboard side. That is now being
23 shown. The offal chute also located on the factory
24 deck, on the starboard side but further forward. So
25 those two chutes, both on the same side, the duff chute

1 and the offal chute.

2 Can we turn now to the engine. The main engine of
3 the ship was an English Electric 4 Stroke Cycle Single
4 Acting diesel engine having 16 cylinders in "V" form.
5 The engine was rated at 2,600 brake horse power at
6 750 revolutions per minute. The engine drove a single
7 controllable pitch propeller through a reduction
8 gearbox. It also drove a 300 kilowatt direct current
9 electric generator.

10 The power of the engine was sufficient to give the
11 maximum speed of the ship at about 13.5 knots. The
12 direct current generator, used for the lighting and
13 steering gear, was also capable of being used as
14 a motor, delivering 375 shaft horse power and could
15 propel the ship at about 3.5 knots in an emergency.

16 The control of the variable pitch propeller was from
17 the bridge. The controls were duplicated in the engine
18 room. Steering was by means of electro/hydraulic
19 steering gear operating a swivel Kort nozzle.

20 The Gaul was equipped with comprehensive navigation
21 equipment including magnetic and gyro compasses,
22 automatic steering, two radars and Decca and Loran
23 navigation systems. Her radio equipment comprised
24 a transmitter powered by mains supply capable of
25 transmitting on wireless telegraphy worldwide or

1 radiotelephony on high and medium frequencies; a radio
2 telephony unit with a range of 300 miles, capable of
3 being operated by batteries; a vhf radio telephone unit
4 having a range of 20 to 30 miles and two emergency life
5 raft transmitters capable of transmitting speech only on
6 the 212 kilohertz international distress frequency; and
7 then an automatic distress signal generating device
8 fitted to the radio telephone transmitter.

9 As to the safety equipment, that was sufficient for
10 50 persons and included one glass reinforced plastic
11 Class C lifeboat, six inflatable life rafts, 51
12 lifejackets, four lifebuoys and a line throwing
13 appliance. She was also fitted with appropriate fire
14 fighting appliances distributed between the machinery,
15 crew and service spaces, including an automatic CO2
16 system.

17 That was my summery in relation to the
18 characteristics and arrangement of the vessel herself.

19 I would like now to turn to that tragic last voyage.
20 She sailed from Hull on her last voyage on
21 22nd January 1974. She was under the command of Skipper
22 Peter Nellist. He was a relief skipper, sailing in the
23 Gaul for the first time, having taken over from Skipper
24 Ernest Suddaby. Mr Nellist obtained his skipper's full
25 certificate in March 1958 after passing all three parts

1 of the examination at his first attempt. In 1965,
2 between January and August, he had been in command of
3 four large side trawlers. Between October 1967 and
4 April 1971 he was the skipper of a large factory
5 filleter freezer stern trawler, the Cassio, on four
6 occasions and became permanent skipper of her sister
7 ship, the Orsino, in September 1973. That was
8 a position he held until he was transferred to the Gaul
9 in January 1974.

10 Those two vessels were equally as large as the Gaul,
11 being some 223 feet in length. Thus, although
12 Skipper Nellist had no previous experience of the Gaul
13 or her sister ships, he did have considerable experience
14 of large factory freezer stern trawlers. On
15 18th January 1974, Skipper Nellist was shown around the
16 vessel by Skipper Suddaby.

17 The duty of checking the crew who boarded the Gaul
18 before she sailed fell to Mr Robert Northand, a shipping
19 master employed by Hellyer Brothers Limited. He carried
20 a notebook in which he had previously written a note of
21 those persons who would form the crew of the Gaul and it
22 was customary for them to report to Mr Northand in
23 offices at St Andrew's Docks. Persons who were not
24 members of the crew were permitted to board the vessel
25 to say farewell to their friends and just before sailing

1 Mr Northand endeavoured to ensure that all those other
2 than the crew came ashore. He was not always
3 successful. It emerged in the course of the formal
4 inquiry in 1974 that one man who was not a member of the
5 crew, Mr John Haywood, remained on board with the crew.
6 He was signed on as an additional hand. Before leaving
7 British waters, the Gaul called at Bridlington to
8 collect another spare hand, Mr Tracey, as had previously
9 been arranged.

10 I now want to show you an annotated chart showing
11 the vessel's voyage to the fishing grounds [slide AGP11
12 shown].

13 On 26th January the vessel called at Lodigen near
14 the Lofoten Islands on the west coast of Norway. The
15 mate, Mr Petty, had been taken ill, he was landed to
16 return to Hull. The vessel sailed from Lodigen on
17 27th January and proceeded further north up the coast of
18 western Norway. On 28th January she called at Tromso
19 for a replacement mate, Mr Spurgeon, to join.
20 Mr Spurgeon had not previously sailed on the Gaul. The
21 Gaul sailed later the same day for the fishing grounds
22 with 36 men on board, arriving at the fishing grounds on
23 29th January, being shown generally here, where she
24 spent the following nine days fishing in the company of
25 other vessels.

1 On 3rd [sic, 7th] February, we know that she damaged
2 her trawl and replaced it with a spare before resuming
3 fishing.

4 (11.15 am)

5 On 7th February she reported she was fishing in
6 a position 72 degrees 15 minutes north and 24 degrees
7 and 50 minutes east. That is being pointed out.
8 7th February. That was her last reported position. She
9 reported also a fault with her automatic steering on
10 that day and advice was given as to how to solve this
11 problem and no further mention was made of it.

12 The following day, 8th February, the weather
13 deteriorated. At 0930 the Gaul reported herself at that
14 time to be laid and dodging near North Cape Bank. In
15 other words, she had stopped fishing on account of the
16 weather. Eleven other trawlers similarly reported at
17 that time that they were laid and dodging on account of
18 the weather.

19 At about the same time, on the morning of the 8th,
20 another vessel, the Swanella, which was also laid and
21 dodging, saw the Gaul lying beam on to the weather.
22 There was a vhf conversation between the mates of the
23 two vessels, who knew each other. The mate of the
24 Swanella Mr Brayshaw, was told by Mr Spurgeon that the
25 Gaul was intending to dodge more into land and that the

1 skipper was waiting for the 1030 skipper's schedule to
2 see what others were catching on the Malangan Bank where
3 the weather was not so bad, the Malangan Bank being
4 shown now.

5 Shortly afterwards, the Gaul got underway again and
6 passed the Swanella about a mile off her starboard beam.
7 At that time, her fish hatches were closed and she was
8 not fishing and nothing out of the ordinary was
9 observed. At the time she passed the Swanella the Gaul
10 was proceeding in the opposite direction, running with
11 the weather and heading in a broad west north westerly
12 direction.

13 From time to time the echo of the Gaul was observed
14 on the radar of the Swanella until the Gaul was about
15 6 miles astern, after which her echo was no longer seen.
16 Mr Brayshaw estimated this to have been at about 1045.
17 At 1106 and 1109 two private telegrams were sent from
18 the Gaul via Wick Radio. Thereafter, nothing was ever
19 heard from her. She disappeared without trace, without
20 any distress call having been received. It is
21 inconceivable, you may think, sir, that had a distress
22 call been made, it would not have been heard by one or
23 more of the vessels in the area.

24 The wreck of the Gaul was discovered lying in
25 a position which was about 11 miles south of her last

1 reported position, on the 7th. That is now being
2 pointed out, one can see the comparison with the last
3 reported position. She was about 20 miles south of the
4 position given by the Swanela when she had last seen
5 the Gaul. At that time, the Gaul was heading broadly
6 west north west. The wreck was discovered further
7 towards land. She could not have reached that position
8 by continuing on her last known course, so at some point
9 she must have turned.

10 Let me turn to the search and rescue that took
11 place. At the original formal investigation detailed
12 consideration was given to the reporting system and the
13 question of search and rescue. One of the striking
14 features of the evidence was the delay before the Gaul
15 was reported lost and before any search and rescue
16 operations got underway.

17 Let me summarise the system. The system which was
18 in place was that every skipper was required to report
19 his position, fishing results and other pertinent
20 information to the control ship at 0900 each day. 0900.
21 The control ship passed the information to a radio
22 station for onward transmission to the BUT offices where
23 it was generally received between 1000 and noon. After
24 the signal from the control ship had been decoded the
25 information was entered in the office freezer schedule.

1 As to communications received out of office hours
2 and weekends, they were covered by four duty officers
3 acting in rotation, each of whom would be responsible
4 for decoding any message received at these times and
5 entering it into the office freezer schedule. The duty
6 officer was required to notify the trawler manager on
7 duty of any information requiring action or abnormal
8 fishing or position report. As a general rule, the duty
9 officer got in touch with the trawler manager at
10 1800 hours on Saturdays and Sundays.

11 Unfortunately this system broke down. What happened
12 was this: Mr David Close was the out of office hours
13 deputy communications secretary, it was a position he
14 had occupied in his turn over the previous 10 years or
15 more. Mr Close's job was to decode telegrams which were
16 in code, to formulate the schedule report for the Friday
17 night and the Saturday morning. On Saturday
18 9th February 1974, Mr Close was the duty officer in
19 BUT's offices. That morning, the office freezer
20 schedule came in about 1130, by which time the duty
21 trawler manager, Mr Anthony Hudson, had already left the
22 office and, contrary to the normal practice, had told
23 Mr Close that he would ring Mr Close that evening at
24 about 1800.

25 When the telex message time, 0930, 9th February 2003

1 [sic], and transmitted by the Pict, had been decoded,
2 Mr Close noticed that the Gaul was missing from the list
3 of freezers. Mr Close remained at the office until
4 noon, when he closed down the telex and transferred all
5 calls to his home number and then went home.

6 Later on the same day, Mr Close rang the GPO to see
7 whether there were any further telegrams, in case there
8 was one from the Gaul. There was not. He remained at
9 home for the rest of the day but he did not receive
10 a call from Mr Hudson, the duty manager.

11 Just for the record, I think when I referred to the
12 telex message time coming from the Pict on 9th February,
13 I think I may have said 2003, rather than 1974.
14 I wanted to correct that for the record.

15 Let me turn now to 10th February. As I said, he did
16 not receive a call from Mr Hudson. On Sunday 10th
17 February, Mr Close rang the telegrams office at Leeds
18 and Bradford and took messages over the telephone in
19 Fleet Code. These had all been decoded by 1100. They
20 contained no reference to the Gaul. The first reaction
21 of Mr Close was to telephone Mr Richard Sabberton, the
22 superintendent engineer, to ask him whether he had had
23 any message from the Gaul regarding a mechanical
24 breakdown, but the answer was no. He also tried to get
25 in touch with the duty manager, Mr Hudson, but was

1 unsuccessful. He therefore used his own initiative and
2 at 1155 Mr Close sent out a message via Bradford and
3 Wick Radio. The message stated:

4 "Why have you not complied with our instructions
5 regarding your daily position? Acknowledge
6 immediately."

7 The message was known as a SPY message.

8 At about 1330 Mr Close spoke to Mr Hudson by
9 telephone and told him that the Gaul had not reported
10 and that he had sent the SPY message I have quoted.
11 Whatever words were used by Mr Close in the
12 conversation, it had not become clear to Mr Hudson that
13 the Gaul had not reported on the office freezer schedule
14 on both 9th and 10th February.

15 It was customary for a representative of the UK
16 Trawlers Mutual Insurance Company Limited to telephone
17 all trawler owners at about noon to see if all vessels
18 had made their daily reports. Mr Raymond Brookes,
19 a personal assistant to the managing director of the
20 insurance company, had been unable to speak to Mr Close
21 during the morning of Sunday 10th February, but spoke to
22 him by telephone at 1400 hours that day. He learned
23 that the Gaul had not reported and that a SPY message
24 had been sent, to which a reply could be expected late
25 in the afternoon.

1 When that expected reply failed to arrive, Mr Close
2 again spoke to Mr Brookes, and it was then decided to
3 put through a link call to the Orsino. Due to the
4 difficulties in making radio contact with the Orsino,
5 Mr Brookes decided to telephone Mr Arne Isachsen, the
6 agent in Tromso. Mr Isachsen was advised that the Gaul
7 had not reported on the morning freezer schedule for the
8 10th and he promised to speak to Hammerfest Radio,
9 a coast radio station for accepting messages concerning
10 vessels, to have enquiries made about the Gaul.

11 Later that evening, Mr Isachsen again telephoned
12 Mr Brookes and said that he would alert vessels fishing
13 off the coast of Norway and that HMS Mohawk had been
14 alerted.

15 Shortly after 0900 on 11th February Mr Brookes spoke
16 to Captain Habesch -- he was a nautical assistant
17 employed by the insurance company -- and told him of the
18 events of the previous afternoon and evening. No news
19 had been received to change the situation. It was
20 therefore decided to send out a GZWT message. GZWT is
21 the collective call sign for vessels insured by the
22 insurance company. But at 0925 the insurance company
23 sent out the following message via Wick Radio:

24 "To all vessels fishing North Bank, Norway -- all
25 vessels please report any contact with the Gaul last

1 reported fishing North Bank. Nil reports not required."

2 Shortly thereafter, a further call was put through
3 to Mr Isachsen asking for further information, to which
4 the reply was that the Gaul had not reported but that
5 HMS Mohawk and other ships had been alerted. At 1235
6 a telephone call to Mr Habesch from Norway informed him
7 that the Rescue Co-ordination Centre at Bodo had been
8 placed on full alert and they required a description of
9 the Gaul.

10 Shortly after 1300 Captain Habesch telephoned other
11 trawler owners in Hull and asked for their assistance in
12 joining a search for the Gaul. All owners agreed to
13 co-operate and Boyd Line, Marr and Hamling each sent
14 messages to their ships at sea asking for information,
15 and the insurers likewise sent a general message to all
16 vessels insured with the UK Mutual asking for an urgent
17 report of any contact with the Gaul.

18 At 1410, after an earlier attempt had failed,
19 Captain Habesch spoke to a Mr Malcolm Jennings in Hull
20 and asked if there was any possibility of an air search
21 by UK based aircraft. Mr Jennings telephoned the
22 coastguards at Flamborough and advised the duty officer
23 Mr Hardcastle that the Norwegian authorities were on
24 full alert and that British trawlers and Naval vessels
25 were searching the area. He told them there was

1 a specific request to the coastguard that if possible
2 a UK air search should be laid on and the Norwegian
3 authorities had already started an air search.
4 Wick Radio thought it would be better for a PAN message
5 to be broadcast by Vardo Radio rather than from Wick and
6 so requested. A PAN broadcast is used to alert ships to
7 a situation of urgency, of a lesser degree than the
8 familiar mayday broadcast where a ship or lives are in
9 imminent danger.

10 Thus, to summarise, although there was a system in
11 place which should have alerted owners on the morning of
12 9th February to the fact that the Gaul was missing, no
13 suitable action was in fact taken to begin search and
14 rescue operations until the 11th.

15 (11.30 am)

16 As soon as it became known there were no radio
17 signals from the Gaul, a search was mounted by the
18 Norwegian authorities and the Royal Navy and the Royal
19 Air Force on a formidable scale. This operation was in
20 addition to the search being carried out by 23 trawlers
21 already in the area.

22 Between 11th and 15th February 1974, an area of
23 177,000 square miles was thoroughly searched. The
24 Norwegians made 13 sorties with Orion long range patrol
25 aircraft and four areas were searched by RAF Nimrods.

1 A long stretch of the Norwegian coastline was covered by
2 Sea King helicopters and coastguard cutters. The search
3 by ships was organised and co-ordinated by
4 Captain Branson of HMS Hermes.

5 On 11th February, HMS Hermes was on passage south to
6 the Lofoten Island area in order to participate in
7 a four day exercise with Norwegian forces arranged by
8 the Commander Allied Naval Forces Northern Norway. At
9 2236 on 11th February, the commander ordered the Hermes
10 and His Norwegian Majesty's Ship Stavanger to proceed to
11 conduct a search for the ship. Captain Branson realised
12 that the vessels involved in the search would require
13 refuelling and ordered RFA Tideflow to proceed to the
14 area. In addition to Hermes, Mohawk, Stavanger and
15 Tideflow, the Norwegian vessels Trondheim, Nordkappe and
16 Senja took part. So that search was called off at 1600
17 on 15th February 1974.

18 Many vessels had passed through the relevant area
19 and although flotsam from other vessels had been seen
20 and reported, no trace of any wreckage of the Gaul had
21 been discovered. On 21st and 22nd February 1974 an RAF
22 Nimrod aircraft carried out another search. The
23 Norwegian coastal search continued for a few weeks
24 longer and shipping and aircraft were asked to keep
25 an eye out for signs of the Gaul.

1 Although no trace of the Gaul could be found in
2 1974, a lifebuoy from the Gaul was discovered on
3 8th May 1974. That lifebuoy was discovered by
4 Mr Arne Olsen, the skipper of the Norwegian motor vessel
5 the Rover, lying afloat in the sea in position
6 71 degrees 25 minutes north, 28 degrees 5 minutes east.
7 It was clearly marked with the words "Gaul Hull" and
8 Mr Harold Hinchliffe, a sign writer from Hull,
9 positively identified the lifebuoy as that belonging to
10 the Gaul.

11 A number of reports from various trawlers were
12 received throughout 1974 which were initially thought to
13 give a possible indication of the Gaul's whereabouts but
14 were dismissed for various reasons. In the light of the
15 position of the wreck as found, these do not appear to
16 have been related to the Gaul.

17 In June 1975, the Department of Trade in Hull
18 received new reports that a Norwegian trawler skipper,
19 Mr Ernest Sando, had had his gear fouled by
20 an unidentified object which could be the wreck of the
21 Gaul. A further report was also received by the
22 Department of Trade, that a Faroese trawler had snagged
23 her nets and that blue traces of paint had been found.
24 The Department drew a blank on the paint.

25 Mr Sando's statement provided to the Norwegian

1 police, dated 9th June 1975, clarified that the
2 information dated from the time early in 1974 when he
3 was serving on the factory trawler the Sjovik, and it
4 was not his vessel that had snagged her nets but he had
5 heard of others who had done so, including the Faroese
6 trawler.

7 On 15th November 1975, the Norwegian trawler Rairo
8 registered a large object on the seabed in a position
9 reported to be 72 degrees 4 minutes north, 25 degrees
10 5 minutes east, and, when hauling in her net, found
11 caught within it an almost complete trawl of another
12 net. The skipper of the Rairo made a formal statement
13 to police in Hammerfest who notified the Marine Office
14 in Hull and sent them the evidence. The Marine Office
15 established that the trawl was not from the Gaul and
16 hence deduced erroneously that this could not be the
17 wreck of the Gaul. It was found that this was indeed
18 the Gaul.

19 It was almost a year on in the middle of 1976 that a
20 Norwegian trawler fouled and lost her gear in a similar
21 reported position. Her trawl wires had parted and when
22 the broken ends were hauled on board, the wires had blue
23 paint on them. The Gaul was blue.

24 In the early hours of 2nd March 1977 the Coriolanus
25 was reported in a position at 72 degrees 4 minutes 15

1 seconds north, 25 degrees 4 minutes east when she caught
2 the trace of a wreck on her echo sounder. A copy of the
3 trace was sent to the Department of Trade in Hull, where
4 it arrived on 22nd March.

5 Also on 2nd March 1977, on that same date, at about
6 1100 the Marbella, fishing in position 72 degrees
7 3 minutes north, 25 degrees 4 minutes east, dragged up
8 in her net a half container of an inflatable life raft.
9 The Marbella's skipper, Mr David Hinchliffe, radioed the
10 serial number on the container back to Hull and it was
11 quickly identified as belonging to the Gaul.
12 Examinations conducted on the life raft container by the
13 Navy's central dockyard laboratory in Portsmouth
14 concluded that the container had lain at the depth at
15 which it was recovered "for a period of years" and the
16 obstruction reported "could well be the wreck [of the
17 Gaul]."

18 Still in the same year but now on 19th September
19 1977, a further item from the Gaul came to light when
20 the Gaul's boat cover was hauled up by the Fleetwood
21 trawler the Ella Hewitt, fishing in 72 degrees 3 minutes
22 north, 23 degrees 4 minutes east.

23 Thus in mid-1977 the position of the wreck of the
24 Gaul had been located but it was to be another two
25 decades before the wreck was visited and confirmed

1 conclusively to be the wreck of the Gaul.

2 I move, then, to 20 years later, August 1997.
3 An investigative journalist, Mr Norman Fenton, led
4 an expedition funded by UK and Norwegian television
5 companies to locate the wreck of the Gaul. The
6 expedition was successful. The wreck was located,
7 a remotely operated vehicle was sent down to film and
8 the Gaul was positively identified by the name on the
9 side of the bow and the builder's plate showing the
10 original name Ranger Castor. It was lying in the
11 Barents Sea 72 degrees 4 minutes north and 25 degrees
12 5 minutes east, approximately 70 miles north of the
13 North Cape of Norway. She was in a water depth of about
14 250 to 280 metres. She was in one piece, not broken up,
15 and her windows were intact.

16 In August 1998, at the direction of the Deputy Prime
17 Minister, the Marine Accident Investigation Branch
18 carried out a survey of the wreck using a support
19 vessel, the Mansal 18. That survey lasted three days.
20 They found the Gaul's heading on the seabed to be about
21 east north east, and she was heeled about 35 degrees to
22 starboard and covered with fishing nets.

23 The MAIB published a report on 16th April in the
24 following year, 1999, in which it recorded the new and
25 important evidence discovered by the investigation.

1 They found this:

2 First, no sign of fire damage or explosion and
3 nothing to indicate that her hull had been holed.

4 Second, the side plating above the water line at the
5 bows had suffered water pressure crushing damage
6 resulting in a tear.

7 Third, all weathertight doors and hatches on the
8 forecastle deck were closed and secured. The
9 weathertight door to the engine room casing was closed
10 and secured, but the weathertight doors to the engine
11 room escape and to the factory deck were opened and
12 undamaged. The opening to the factory doorway was two
13 thirds full of net.

14 Fourth, the two fish loading latches were fully open
15 and undamaged, the port trawl door was hanging on the
16 transom in its usual storage position, but the starboard
17 trawl door could not be located. The stern ramp gates
18 were open and the spare trawl doors were missing from
19 their racks on the trawl deck and the fishing gear
20 appeared to have fallen to the starboard side of the net
21 arena.

22 Fifth, partition bulkheads between the cabins and
23 the forward bulkhead to the chartroom had burst open.
24 There was an absence of water pressure crushing damage
25 to the hull, hatches and doors, and the bridge windows

1 and portholes were unbroken. The outboard face of the
2 port funnel was indented over most of its height. No
3 human remains were positively identified.

4 Although the Marine Accident Investigation Board,
5 MAIB, put forward a theory of loss in their report,
6 their recommendation was that the formal investigation
7 should be re-opened. On 14th April 1999 the Deputy
8 Prime Minister, as Secretary of State for what was then
9 the Department of the Environment, Transport and the
10 Regions, ordered that the formal investigation be
11 re-heard by a Wreck Commissioner pursuant to section 269
12 of the Merchant Shipping Act 1995.

13 During the course of the investigations which were
14 being carried out in my name on behalf of the inquiry,
15 it became apparent that a return to the wreck should be
16 made for the purpose of carrying out an intrusive survey
17 which would involve actually penetrating the wreck and
18 filming inside. Sir, you so recommended at the
19 preliminary meeting on 6th June 2000.

20 Following that recommendation the Deputy Prime
21 Minister took the decision that an intrusive survey by
22 manned dive would not take place, but that an intrusive
23 survey by small, remotely operated vehicles may be
24 possible, and he would support the necessary development
25 work for that to take place.

1 As a result of that decision, a return to the wreck
2 was made in August 2002, again under the auspices of
3 MAIB, but with the assistance on board of two experts
4 representing the families and Mr Fenton the journalist.
5 The survey was carried out using the services of the
6 company Subsea 7 and the vessel Seisranger. The survey
7 was carried out from 1st to 25th July 2002 using three
8 ROVs. During the survey, 14 samples of clothing and
9 bones and 12 technical items were recovered from the
10 wreck. Clothing and bone samples were retained by the
11 coroner's office on board Seisranger for subsequent DNA
12 testing, whilst the technical items, which included
13 a length of cable, a hatch cover from the fo'c'stle
14 deck, a lifebuoy and a navigation light, were retained
15 by the MAIB.

16 Sir, as you will know, one of the primary
17 motivations for the return to the wreck was to ascertain
18 whether there were human remains on board and to obtain
19 DNA samples and this was an important survey objective.
20 That objective was fulfilled. As you will hear in the
21 inquiry, not only were there sadly human remains clearly
22 identifiable on the wreck, but DNA evidence was obtained
23 which has enabled the identities of four crew members to
24 be identified. Those were Mr Morris Spurgeon, the mate,
25 Mr Stan Collier, the assistant factory manager,

1 Mr James Wales, a third engineer, and
2 Mr Clifford Briggs, a meal plant operator.

3 Inquests were opened for those men by the coroner
4 for Kingston upon Hull, Mr Saul. Those inquests were
5 adjourned after formal identification of the deceased.
6 The Lord Chancellor exercising his powers under
7 section 17A of the Coroners Act 1988 has required that
8 this inquiry investigate the cause of death of those
9 deceased.

10 So it falls to you, sir, in the course of this
11 inquiry to answer the question which would otherwise
12 have been answered by the coroner, namely how, when and
13 where did each of these four deceased sadly come to his
14 death. It is likely that the answer to this question
15 will logically follow from the findings made in this
16 inquiry as to the loss of the Gaul. Again as in all
17 matters, that is a matter for you.

18 It will not be helpful in opening today to describe
19 in minute detail the precise condition of the wreck as
20 found on the seabed but I think it would be appropriate
21 to outline some of the significant features which were
22 discovered and to highlight certain findings which may
23 be of particular assistance in the search for the truth
24 of how the Gaul was lost. When I have concluded, when
25 Mr Meeson takes over, a short film will be shown which

1 will demonstrate and illustrate some of what happened
2 during this survey.

3 Certain areas of damage were discovered during the
4 1998 survey. Two in particular of those stand out for
5 mention. First, the damage which was observed to the
6 bow. To those unfamiliar with the physical effects
7 which can occur when a vessel sinks, this may be thought
8 to indicate that the Gaul had suffered a collision with
9 a floating or semi-submerged object. But the damage
10 observed was symmetrical and both sides of the bow were
11 indented to a very similar degree. All the experts are
12 agreed that the damage to the bow was caused by the
13 difference in pressure which occurred as the vessel
14 sank. As it sank the water pressure on the outside of
15 the hull increased relative to the pressure of the air
16 inside causing the indentations shown on the wreck.
17 A further close-up survey in the 2002 survey has only
18 served to confirm that view.

19 (11.45 am)

20 I should like to make it clear that there is no
21 evidence found which would support a theory that the
22 Gaul had suffered a collision with an object on the
23 surface or an object beneath the surface. I say this
24 because there has been speculation over the years that
25 this may have happened. All the experts, by which

1 I mean those appointed on behalf of the master and the
2 mate, those appointed on behalf of the other families
3 and those appointed on my behalf for the Inquiry, agree
4 that there was no such collision.

5 I turn to the second particular area of damage and
6 that was the bundle funnel. Following the 1998 survey,
7 it was suggested by MAIB that the damage to the port
8 funnel could have been caused by wave impact and was
9 consistent with the Gaul having been struck by one or
10 more exceptionally large waves. This was the thesis
11 advanced in the MAIB report issued following that
12 survey.

13 One of the aims of the 2002 survey was to examine
14 this damage in more detail and seek to measure the
15 actual amount of the indentation. But it was
16 established quite quickly during the 2002 survey that
17 both sides of the port funnel plating had deformed and
18 the deformation was symmetrical to within a few
19 millimetres. It is now agreed by the experts that this
20 damage too was caused by pressure damage during sinking
21 and was not evidence that the Gaul had been struck by
22 one or more exceptionally large waves.

23 Two other important features observed during the
24 1998 survey were revisited during the 2002 survey and as
25 a result of the further work, conclusions drawn in 1998

1 have had to be significantly revisited. These are the
2 observations of the steerable Kort nozzle and the
3 propeller blade pitch.

4 I want to show a photograph of the Kort nozzle
5 arrangement on the screen [slide AGP12 shown]. There it
6 is. That is a typical steering Kort nozzle, not the one
7 from the vessel itself. Following the 1998 survey, the
8 angle of the Kort nozzle has been estimated to be 10 to
9 15 degrees to port but more accurate measurement in the
10 2002 survey determined that the angle was about
11 30 degrees to port, in other words the helm was hard to
12 port. Again, following the 1998 survey, it was
13 estimated that the propeller blade pitch was about
14 50 per cent to 75 per cent, but it has been determined
15 using more accurate techniques during the 2002 survey
16 that it was in fact 100 per cent, in other words the
17 Gaul was going full head.

18 Now, the fact that at the time of her loss the Gaul
19 was going full ahead and hard to port is obviously
20 important in considering some of the possible causes for
21 her loss which have been put forward. For example, it
22 certainly suggests that she had not suffered an engine
23 breakdown or other disablement.

24 Other significant findings from the survey of the
25 wreck are in relation to doors which were found open on

1 the seabed, the fish hatches which were open and the
2 duff and offal chutes which were also found to be open.
3 Can we take each in turn. First of all the doors.

4 Two weather tight doors were found to be open on the
5 seabed. The engine room escape situated on the
6 starboard side of the trawl deck was found open and
7 undamaged. It is possible it was opened by a person
8 seeking to escape from the engine room during the
9 sinking. The door to the factory also situated on the
10 starboard side of the trawl deck was found to be secured
11 in an open position. So it appears probable that this
12 door was left permanently secured in that position even
13 in bad weather.

14 Then the open fish hatches. It was a striking
15 feature of the wreck discovered on the survey in 1998
16 that the large fish hatches of the Gaul were found to be
17 open on the seabed. In addition her stern ramp gates
18 were open. From this evidence, it would be easy to jump
19 to the conclusion that at the time of her loss the Gaul
20 was fishing, but there are other possible explanations
21 for the state of the fish hatches as found on the
22 seabed.

23 It is possible that they fell open during the
24 sinking. This is a matter about which you will be
25 hearing expert evidence. There is other evidence to

1 suggest that the Gaul was not fishing, for example when
2 she was last seen she was not fishing and her last
3 report was that she was laid and dodging, so not
4 fishing. The evidence is that the weather was
5 deteriorating rather than improving which would make it
6 unlikely that she resumed fishing. One of the questions
7 you will need to answer is whether the Gaul was fishing
8 at the time of her loss and if so whether it played any
9 part in her loss.

10 I turn then to the third of the items that I have
11 mentioned, the duff and offal chutes [slide AGP8 shown].
12 During the earlier 1998 survey, the condition of the
13 duff and offal chutes was not determined. I want to
14 show you where they are to be found. That is the duff,
15 further to aft, and the offal chute also on the
16 starboard side but more to the fore. We looked at
17 those, you will recall.

18 The condition of those was not determined during the
19 1998 survey, but with the more intrusive and
20 sophisticated techniques of the 2002 survey it was
21 discovered that the duff and offal chutes were open.
22 These are two significant openings located on the
23 starboard side on the factory deck above the water line.
24 They were fitted with non-return flaps which were
25 designed to prevent the ingress of seawater into the

1 vessel. In addition they were fitted with watertight
2 lids which could be closed and secured. Had this been
3 done, water could not have entered the vessel through
4 those chutes.

5 The 2002 survey showed that not only were the lids
6 secured in the open position, but significantly, the
7 non-return flaps were also in the open position.

8 In 1974 there was evidence as to the condition of
9 the duff and offal chutes on sister ships of the Gaul.
10 The Board of Trade Inspectors who carried out the
11 preliminary investigation into the loss of the Gaul
12 which led to the formal investigation had discovered
13 various closing devices on the Kurd, Arab and Kelt to be
14 inoperable due to rust, in particular the duff and offal
15 chutes found on those vessels were considered by an
16 inspector, a Mr Scott, to be in an atrocious condition.
17 This evidence was not given to the original formal
18 investigation.

19 As you will hear in due course, technical
20 investigations have been carried out and those show that
21 considerable quantities of water can enter the factory
22 deck through these duff and offal chutes in a relatively
23 small period of time in certain conditions. Our
24 suggestion, sir, is that the inquiry will have to
25 consider why the duff and offal chutes were found to be

1 open on the seabed and the extent to which that was part
2 of the operating condition of the ship before the
3 casualty, if I can put it that way, and the causal
4 connection, if any, to the casualty.

5 MR JUSTICE DAVID STEEL: So there is no secret about it,
6 I should say that the tribunal, together with some of
7 the experts in this case, visited a sister ship of the
8 Gaul only about 10 days ago in the Faro Islands and
9 there is no question that what we saw, albeit on
10 a vessel which has been substantially altered from her
11 original condition, what we saw of the residue of the
12 duff chute makes the need to give careful consideration
13 to the significance or potential for the upshoot of
14 water through that opening all the more important.

15 THE ATTORNEY GENERAL: Thank you, sir. It is helpful to
16 have that indication for all those in this room.
17 Mr Meeson will be coming back to say more about the
18 detail and the configuration of the chutes and some of
19 the pictures we have up on the walls, including towards
20 the back on the right, I think actually show the
21 configuration of the chutes. More detail of that will
22 come out in Mr Meeson's part of this opening.

23 Sir, the work which has been carried out by the team
24 of experts, including those instructed on behalf of the
25 families, has thoroughly investigated all the possible

1 scenarios which could have led to the loss of the ship.
2 Their attention has focused on those which would be the
3 most likely possible causes as a result of the evidence
4 which has been obtained from the 2002 survey. Of course
5 this inquiry will consider all credible possible loss
6 scenarios but as Mr Meeson will go on to explain, it is
7 that new evidence from the 2002 survey regarding the
8 condition of the duff and offal chutes which appears
9 most likely to hold the key to solving the mystery of
10 why the Gaul was lost. The fact that their condition
11 was found on the seabed to be such that certain
12 conditions such as those which appear likely to have
13 been encountered by the Gaul on 8th February 1974 could
14 lead to flooding of the factory deck is believed by the
15 experts to provide the missing piece in the jigsaw which
16 has eluded those who investigated this loss before.

17 So as you have said, sir, whilst it is for you and
18 your assessors to consider all the possible loss
19 scenarios, at this stage it appears that the loss
20 scenario involving ingress of water through the duff and
21 offal chutes are candidates deserving particular
22 attention.

23 I want to turn, before concluding my part, to the
24 evidence of fishermen. At the hearing of the original
25 formal investigation in 1974 evidence was given by

1 others who were fishing in the vicinity of the Gaul
2 before she was lost. That evidence was given at a time
3 when the events were relatively fresh in their memories,
4 their testimony is recorded in the transcripts. In the
5 29 years which have passed since that hearing, there are
6 some who are sadly no longer with us. As many of those
7 who are still with us will be called so that you can
8 hear from them first hand.

9 Insofar as their evidence covers the same ground as
10 their evidence to the original inquiry, great care will
11 have to be exercised in the assessment of the
12 reliability of their present recollection of events so
13 long ago, particularly if it is at significant variance
14 to their earlier testimony. However, there are matters
15 which are now known from surveys of the wreck which were
16 not known at the time of the original inquiry and so
17 these witnesses were not asked about them. It may very
18 well be the case that they can now assist this inquiry
19 with matters about which they have not previously been
20 asked, particularly concerning the practices on board.

21 I turn to the weather. The weather on
22 8th February 1974 off the North Cape was bad. It was
23 described by Mr Brayshaw, the mate of the Swanella, as
24 "atrocious", and by Mr Bougen, the skipper of the
25 Cordella, as being "as bad as they could comfortably

1 handle." Mr Eagle, the skipper of the Farnella,
2 considered it to have been the worst he had seen in that
3 area. On the other hand, Mr Abbey, the skipper of the
4 Arab, said he had been in worse.

5 No other vessel was lost in that storm, although
6 a few suffered some damage, but there were some large
7 seas on that day. The Swanela was struck by three
8 waves in quick succession. The Farnella was struck by a
9 tremendous sea, and the Pict struck a terrific sea head
10 on and was stopped. However, none of those vessels was
11 lost. For the Gaul to have been lost solely due to the
12 force of the sea would require you may think some
13 exceptional event to have occurred; waves of such
14 magnitude that, whilst not impossible, are so unlikely
15 that the explanation must surely lie elsewhere. It is
16 all too easy to say that the Gaul was overwhelmed by the
17 forces of nature, by an Act of God, but the evidence
18 which has been obtained suggests that the weather alone
19 was not to blame.

20 Nevertheless, the weather was important. It was in
21 the conditions prevailing that the ship was lost. It is
22 therefore important to seek to establish with as much
23 certainty as possible what those likely conditions were.
24 At the original inquiry evidence was provided by way of
25 a hindcast of the probable wind and sea conditions.

1 A hindcast of course is a reconstruction from the known
2 weather records of a wide area of the conditions which
3 would be prevailing in a particular area.

4 Whilst that evidence was probably the best available
5 at that time, the science of hindcasting has moved on
6 and is more sophisticated. More complex calculations
7 can now be performed by computers. You now have the
8 benefit of evidence from one of the world's leading
9 experts in this field, Dr Vince Cardone, who has
10 prepared a hindcast of the wind and sea conditions
11 prevailing on the 8th and 9th February in the vicinity
12 of the location of the wreck. The hindcast shows that
13 by about 0900 local time on 8th February, the wind was
14 about Beaufort force 7 to 8, near gale to gale force
15 conditions, with a significant wave height of about
16 6.5 metres. As you may be aware, the "significant wave
17 height" is a technical measurement which is
18 approximately the average of the highest one third of
19 the waves in a given sea.

20 The weather deteriorated thereafter to force 9 to
21 10, severe gale to storm force conditions, with
22 a significant wave height of 8 to 9 metres. According
23 to the hindcast, this would have occurred by 1700 hours.
24 There was evidence given at the original inquiry from
25 those on other vessels that this deterioration may well

1 have occurred earlier, in fact by late morning. The
2 weather remained bad for the rest of the 8th and the
3 following day, the 9th. The wind direction during the
4 storm was east south east.

5 Sir, with that review, I will in a moment hand over
6 the baton to Mr Meeson to address you further and in
7 more detail on the technical evidence and certain formal
8 matters. Before I do that, there are two things I would
9 like to say. First of all, to pay tribute to the work
10 that has gone on by many, including those from and on
11 behalf of the families and experts, to thoroughly
12 investigate the matters to be put before you.

13 But I would like even more importantly to say this:
14 while the purpose of this inquiry is to try to find out
15 how the Gaul was lost, that loss first and foremost was
16 and remains a tragedy for the bereaved families and
17 I cannot conclude my part in opening this inquiry
18 without extending my own personal sympathy to them.
19 I have already mentioned how they campaigned for the
20 wreck of the Gaul to be investigated and for their
21 questions about the loss of the ship to be answered.
22 That we are here today is in part a tribute to their
23 determination to find an explanation for a loss which
24 seemed inexplicable.

25 The purpose of this inquiry is of course to discover

1 the truth behind this loss. In doing so you will be
2 assisted by Mr Meeson and by counsel appointed to
3 represent the master, mate and crew, and I know that you
4 will examine the matter thoroughly.

5 My own personal strong hope and belief is that the
6 evidence that will be presented to you over the next few
7 weeks, the survey information for example that was not
8 available to the original inquiry, will enable you to
9 come to a final conclusive decision about how the Gaul
10 was lost. My hope is that that will provide some
11 comfort to the relatives of those so sadly and
12 tragically lost in this incident.

13 Sir, that concludes my part of this opening.

14 MR JUSTICE DAVID STEEL: Thank you, Mr Attorney. I know
15 I speak on behalf of the tribunal and I suspect I speak
16 on behalf of everybody in this room. We are extremely
17 grateful to you to fit into your busy schedule to come
18 here to Hull to open this inquiry on behalf of your
19 department and we are extremely grateful to you for the
20 clarity of that exposition and the courtesy you have
21 done us in coming.

22 We will have a short break, if only to give the
23 shorthand writer a break, and then we will resume with
24 Mr Meeson's development of the points that you have
25 made. Thank you very much.

1 (12.03 pm)

2 (A short break)

3 (12.27 pm)

4 Opening Submissions by MR MEESON QC

5 MR MEESON: Sir, by way of beginning my part of these
6 opening submissions, I would like to show, by way of
7 illustration, some extracts from the survey evidence to
8 illustrate some of the important features of the 2002
9 survey. A commentary on that will be provided by my
10 junior, Miss Cunningham.

11 MR JUSTICE DAVID STEEL: Thank you.

12 MISS CUNNINGHAM: In July 2002, Seisranger, equipped with
13 three ROVs, surveyed the wreck of the Gaul. The ROVs,
14 which carry within them smaller ROVs, operate from
15 within the boat and enable the team to survey the wreck
16 without sending down divers.

17 Here we can see one of the larger ROVs,
18 Centurion C206, being launched from the Seisranger.
19 Once below the surface, they transmit back to the
20 Seisranger the images which they pick up. At a depth of
21 about 270 metres, the ROV picked up the vessel's name on
22 the port bow. You can see here the former name,
23 Ranger Castor, H243, however by the time that the Gaul
24 sailed in 1974, her new name, the Gaul, had been painted
25 on her bow. We can see, JCP 1, we can see here by

1 reference to the starboard side that in fact the vessel
2 had been re-painted.

3 What we saw during the survey was that the fresher
4 paint had corroded away, leaving the former name
5 visible. The ROV surveying the wreck from the outside
6 moved aft along the port side of the vessel to the front
7 of the bridge.

8 (12.30 pm)

9 Moving further up, we can see here the davit which
10 would have held the lifeboat in place and, at the very
11 back of the trawl deck, we can see here the A frame
12 which spanned the stern of the vessel. By reference to
13 JCP 2, the photograph, we can see here on the arrow how
14 the A frame would have appeared when the Gaul last
15 sailed out of Hull. A number of black blocks were
16 suspended through the top of the A frame through which
17 the various wires are fed.

18 This time, moving aft along the starboard side, we
19 can see the deck house, her former name again, the
20 Ranger Castor. Finally moving up, shrouded by the nets
21 we can see the trawl deck.

22 Finally, at the fore of the vessel on the bow we
23 have a clear view of hatch 151. This hatch would have
24 been used for direct access to the stores on the deck
25 below.

1 We can see JCP 5. We have here the forward end of
2 the fo'c'stle deck and in particular hatch 151.

3 JCP 6 gives us a clearer image of where this hatch
4 on the right-hand screen would have appeared on the
5 vessel.

6 Here we have a clear view of the bridge of the
7 vessel, in which the control console, the chart room and
8 the radio room were housed.

9 Removing the nets. Removing the nets was
10 an important aspect of the operation as part of the 2002
11 survey. A number of nets had been caught on the vessel
12 and without removing them it was impossible to get
13 a clear view of the vessel and her structure. Here we
14 can see the ROV at work, picking the nets from the
15 vessel, using a hooked arm. It is important to remember
16 again that the ROVs are being worked by the controls
17 onboard the Seisranger, some 270 metres above on the sea
18 surface.

19 To enable a thorough investigation of the vessel,
20 both outside and in, it was important to gain access to
21 the inner compartments of the vessel. Access was gained
22 through various openings. Here we can see the ROV
23 gaining access to the vessel through door 71. This door
24 provides access to the accommodation on the fo'c'stle
25 deck and in particular the officers' accommodation.

1 If we turn to JCP 7, here we have the GA plan of the
2 fo'c'stle deck and in particular we can see here, by
3 reference to the laser pen, where door 71 appears. If
4 we look at JCP 8 we can see a clearer view and, as one
5 enters through door 71, we have to the right-hand side
6 of the officers' accommodation, and to the left the
7 radio workshop.

8 This time we can see the ROV undoing the clamps on
9 hatch 154. Again a considerable amount of the survey
10 time was taken trying to undo the clamps in order to
11 release the hatch lids.

12 By reference to the GA plan, again, JCP 9, we can
13 see that this hatch is mid-ship on the port side. If we
14 have a closer look by JCP 10, we can see that hatch 154
15 is inboard of the port side funnel. Access through this
16 hatch allowed the engine casing to be surveyed below.
17 Finally, where access could not be gained by opening the
18 doors or hatches in the ordinary sense of undoing the
19 clamps, access was gained by breaking through the doors.
20 As we can see here, the ROV is gaining access by cutting
21 the hole with the chain saw around the port hole.

22 JCP 11, again the GA plan for the fo'c'stle deck, we
23 can see that the door we are looking at here is on the
24 starboard side, again mid-ship. If we can go in closer,
25 this is JCP 12, and we can see that door 64 is here,

1 just forward of the inflatable boat. This gave access
2 to the officers' accommodation again on the fo'c'stle
3 deck but from the aft end and in particular to the
4 fourth engineer's room.

5 We see here that once a hole had been made, the
6 smaller ROV contained within the larger ROV that had
7 been submerged was able to access the corridor along
8 towards the engineer's accommodation. As we look here,
9 we can see on the right-hand side the door to the fourth
10 engineer's accommodation has collapsed.

11 Moving then within the bridge, we can see the flag
12 locker on the door, where the flags would have been
13 stored, and here to the left-hand side of the wheel
14 within the control console. Before we take a look at
15 the control console as found on the wreck, it is helpful
16 to look at how it would have appeared when the vessel
17 last sailed from Hull in 1974.

18 JCP 13, we have here the console as it would have
19 appeared on the Gaul when she sailed. Here we have the
20 two echo sounders. Here we can see the radar. In the
21 corner, the auto pilot, and on this section here would
22 be the fishing light switch which we will see on the
23 wreck.

24 Moving to the control console as found on the wreck.
25 Here we have the echo sounders, just in focus on the

1 right-hand side of the screen. Just coming into focus
2 on the left-hand top side we can see the radar.
3 Importantly, in this corner we can see that the auto
4 pilot is missing from the console. To the left-hand
5 side of the screen we can see the fishing light switch.

6 In the radio room, on the port side of the bridge,
7 we can see here the receiver. We can also see that the
8 drawers to the unit were left open -- or are open. We
9 can see here the transmitter, at the bottom of the
10 screen, and finally the telephone. The transmitter is
11 now coming back into view.

12 Moving now to the factory deck and to the duff and
13 offal chute. If we can turn to JCP 14, an image we have
14 already seen today, just by way of refreshing our
15 memories, we know that the Gaul had two openings on her
16 starboard side at the factory deck level. These were
17 known as the duff at the aft end, and the offal chute
18 towards the forward end; through which the duff and
19 offal was thrown overboard. Both chutes had a flap
20 within them which would have closed to make the chute
21 watertight and both were fitted, in addition, with a lid
22 on the top.

23 Here we can see the offal chute. At the top of the
24 screen we can see the lids and at the very bottom of the
25 screen we have the counterweight that would have

1 operated to keep the flap closed when not in use. From
2 outside the vessel we can see, looking up into the
3 chute, that the flap is in the open position. It is not
4 closed. Hence, we have a clear passage into the vessel
5 at the factory level. Again the duff chute has the
6 counterweight in the forefront. This time a single flap
7 lid, which we can see, is in the open position.

8 It is difficult to see, but if one looks carefully
9 you can see that the chute here is kept in the open
10 position by a wire pinned across the top left-hand
11 corner, which I am indicating now with the laser pen.

12 Here again from the outside of the vessel looking up
13 into the chute, again we can see that the lid is open,
14 giving direct access into the vessel at factory deck
15 level.

16 The trawl winches. These were used to haul in the
17 fishing gear. Moving now to the net arena and the
18 bobbins. We can see here the net arena which occupied
19 the trawl deck, or at least part of the trawl deck.

20 This is where the spare trawl would have been stored
21 and where the working trawl would have been kept whilst
22 not in use. If we can turn, please, to JCP 15, we have
23 a much clearer image of how the trawl deck would have
24 appeared, the net arena would have been the enclosed
25 space where we can see the trawl neatly stored.

1 Here we can see the various bobbins and the trawl
2 wires.

3 Moving then to the port funnel. During the earlier
4 survey in 1998, damage had been noted to the port
5 funnel. During the 2002 survey, it was important to get
6 some estimation of just how great are measurements for
7 that damage. We can see the magnetic scale bars that
8 were applied in order to measure that damage.

9 (12.45 pm)

10 Here we can see the funnel measuring tool designed
11 by Subsea 7 which was also used to measure the
12 indentations on both the port and starboard side of this
13 funnel.

14 Moving to the fish hatches which are located at the
15 aft end of the trawl deck, which I am pointing out here,
16 here we are looking now at the factory deck access door.
17 The ROV is moving around the vessel and were able to
18 note that the factory door was in an open position.

19 If we turn to JCP 16, we can see by reference to the
20 large GA plan that we are looking at the trawl deck on
21 the port side.

22 If we can go to JCP 17, we have a clearer image
23 here, it is in this area of the trawl deck.

24 If we go to JCP 18, we can see here that we are
25 looking at door 88, just close to the engine room escape

1 hatch at door 87.

2 By reference to JCP 19, it is a photograph taken
3 onboard the Kurd, one of the sister ships, we can see
4 here that this is the factory door as it would have
5 appeared on the Gaul. We can see, by looking back at
6 the footage, that it is in the open position, two thirds
7 filled with fishing nets. We can see here that the door
8 is quite clearly secured open by the use of a hook.

9 Finally, if there were any doubt that this were
10 indeed the factory access door, we can see clearly here
11 the label above the door frame "Factory".

12 We can see here the Kort nozzle at the aft of the
13 vessel. It is a swivel nozzle which surrounds
14 a propeller directing the flow of water and effectively
15 acting as the vessel's rudder.

16 Here we can see the stern rack, just coming into
17 view towards the top of the picture. This would have
18 extended down to the water line and was used to deploy
19 and recover the trawl. Again it is shrouded with nets.

20 Finally looking along the seabed, the ROV was able
21 to pick up an image of the trawl door, the starboard
22 trawl door, and it was able to conclude it had been
23 dragged off, or at least was not in its correct
24 position.

25 Here we can see, very vaguely, the starboard trawl

1 door, otherwise known as the otterboard, lying on the
2 sea bed.

3 JCP 20, we have a clear image of how the trawl door
4 would have appeared when stored in position on the back
5 of the Gaul as she sailed.

6 Finally we have cables on the seabed. Cables in and
7 around the vessel were also surveyed in the 2002 survey.
8 Here we can see some of the cables that were discovered
9 during the survey and about which we will hear more
10 during the course of this inquiry.

11 Sir, that concludes the footage of the 2002 survey.

12 MR JUSTICE DAVID STEEL: Thank you.

13 MR MEESON: Sir, the next part of my opening will not be
14 completable before 1 o'clock. I do not know whether it
15 would be appropriate to adjourn?

16 MR JUSTICE DAVID STEEL: I do not know what facilities there
17 are for people obtaining lunch here or in the near
18 vicinity. I will carry out a trial today. It is easier
19 for me, I think I have some sandwiches waiting for me.
20 We will resume at 2 o'clock. Thank you very much.

21 (12.50 pm)

22 (The short adjournment)

23 (2.00 pm)

24 MR JUSTICE DAVID STEEL: Yes, Mr Meeson.

25 MR MEESON: Sir, I want to now continue by considering some

1 of the technical work that has been carried out,
2 beginning first of all with the area of tank testing.
3 Over the years, a number of tank tests have been carried
4 out on models of the Gaul in order to consider how she
5 would cope at sea in various different conditions.

6 The first of these was that prior to her
7 construction, model tests were carried out in Germany in
8 order to examine the seakeeping characteristics of the
9 Arab class of trawler, and she was found to be one of
10 the best ships tested under the extreme sea conditions
11 tested in that model basin.

12 At the original formal investigation the stability
13 characteristics of the vessel were investigated by
14 consultants, Yard, on behalf the owners of the vessel,
15 and also by the Department of Trade. They differed in
16 relation to their assumed condition of the ship at the
17 time she was lost.

18 The Department of Trade condition had
19 a significantly greater trim by the stern. That
20 difference resulted from assumptions made about the
21 order in which fuel oil would have been consumed from
22 the vessel's tanks during the course of her voyage. The
23 Department of Trade condition assumes that the forward
24 fuel oil tank was empty because fuel had been consumed
25 from these tanks first and that at the time of the loss,

1 fuel is being taken from the number 1 double bottom
2 tanks. The Yard condition, on the other hand, assumed
3 that the fuel was being taken from the aft deep fuel oil
4 tanks, so that the vessel was on a more even keel,
5 although she still would have had a slight stern trim.

6 There are a number of openings found on the wreck
7 and obviously if the vessel keels to any degree, there
8 comes a point when these openings would allow the
9 ingress of seawater even in still water conditions.

10 To give you, sir, and the assessors and the people
11 listening a flavour for this: for example, if the vessel
12 is trimmed by the stern according to the Department of
13 Trade condition, that is where one has consumed the
14 forward bunkers first, then the downflooding angle for
15 the duff chute would be only about 26 degrees, so that
16 if that were open and the vessel keeled to starboard by
17 26 degrees, water would begin to ingress through that
18 chute, even in still water conditions.

19 In that same trim, the angle of downflooding for the
20 engine room escape door is 37.5 degrees and then the
21 engine room vents which one sees on the starboard funnel
22 become exposed at about 43 degrees and then the door to
23 the factory deck at about 47 degrees. There is a table,
24 for your notes, in AG15, page 146, table 7.6, where
25 these values and some more values are set out.

1 heavily and to founder, that is to say you and your
2 assessors have access to the full work produced by NMI
3 should you wish to investigate this matter further.

4 As you heard this morning, a hindcast was obtained
5 from Dr Cardone which represents the best we believe
6 possible evidence of sea conditions which faced the
7 Gaul, and as a result of that further tank tests were
8 commissioned this year in order to analyse her response
9 to those conditions. In particular, the aim of that
10 test programme is to establish whether, in such
11 conditions as were probably experienced, water would
12 have been able to enter the vessel through any of the
13 openings which were discovered on the wreck. Particular
14 attention was obviously focused on the possibility of
15 water entering into the factory deck through the duff
16 and offal chutes, and through the open door into the
17 factory on the trawl deck.

18 A comprehensive specification for those tank tests
19 was drawn up by the experts, including the experts of
20 the two family groups, and those tests themselves were
21 carried out in the world-renowned facility of Marin at
22 Wageningen in Holland.

23 The results of those model tests showed that of the
24 various openings in the wreck on the seabed, the most
25 susceptible to flooding when the vessel was in an intact

1 condition were the duff and offal chutes. When the
2 vessel was partially flooded, the duff and offal chutes
3 suffered increased downflooding and the factory door
4 also suffered limited amounts of water ingress. From
5 this work, it was determined by the experts that there
6 would be little downflooding through the duff and offal
7 chutes when the weather was on the starboard beam or on
8 the bows or from astern. However, once the vessel had
9 the weather more than about 30 degrees on her port beam,
10 significant downflooding through the duff and offal
11 chutes would occur. The worst case appeared to be that
12 with the waves just aft of the port B. To give a feel
13 for this, in the worst case situation, quantities of up
14 to 80 metric tonnes could enter the factory deck in the
15 space of as little as 20 minutes.

16 Marin also used a numerical simulation of the vessel
17 using their own computer model with the name "FREDYN" in
18 order to investigate conditions and in particular
19 whether there were combinations of wave heights,
20 directions, ship speed, downflooding state and operating
21 modes, by which they meant whether the vessel was on
22 a straight course, was manoeuvring or was drifting, in
23 which the crew were likely to be incapacitated as
24 a result of the vessel suffering large rollovers, and
25 also of whether the ship was likely to capsize. The

1 model test results were themselves used to validate the
2 numerical simulation and to finetune it.

3 Obviously one has to be careful, because as with any
4 numerical model its results cannot be regarded as being
5 the absolute truth or as corresponding entirely with the
6 real world. Nevertheless, it is believed that the
7 results can provide a fairly good impression of how the
8 ship can get into trouble and, if so, under which
9 conditions that is likely to occur.

10 The FREDYN work has shown that the vessel was more
11 vulnerable if she was loaded according to the Department
12 of Trade assumed loading condition, that is with the
13 greater trim by the stern as a result of having consumed
14 fuel from the forward tank first.

15 It was also shown that the vessel was vulnerable in
16 near following or port stern quartering seas, even at
17 slow speeds; the ship became more vulnerable at higher
18 speeds.

19 In addition, it was shown that high roll angles
20 could occur during turning, particularly if flooding had
21 already taken place. The predominant mechanism for this
22 loss of stability appears to be that the factory deck
23 becomes flooded through the duff and offal chutes, as
24 a result of which the stern gets more immersed as
25 a result of which there is an increased risk of water on

1 the trawl deck.

2 With substantial quantities of water on the trawl
3 deck, the ship loses stability and may roll over to very
4 high angles, by which we mean angles of 75 degrees or
5 more. With such large roll angles, the crew would be
6 rendered incapable of taking any action or of
7 transmitting a Mayday. Numerous downflooding points
8 would then become exposed, including the open door to
9 the factory deck and the engine room ventilation ducts
10 in the funnel.

11 That is leaving aside, for example, the engine room
12 escape hatch, if one were to assume that that was
13 closed. If that was open, then obviously that would be
14 another significant source of downflooding.

15 (2.30 pm)

16 You will, sir, have the benefit of evidence from
17 Marin to explain further the tank test programme and
18 their FREDYN simulation.

19 I would like to just say a few words about the joint
20 experts' report and the various possible loss scenarios.

21 Now, the experts have considered a number of
22 possible loss scenarios, and as a result primarily of
23 the evidence of the wreck, they have been able to rule
24 out a number of things. For example, as you have
25 already heard, there is no evidence to support a surface

1 or subsurface collision. As previously explained, the
2 bow damage which has been observed is symmetrical and
3 is, in all probability, implosion type damage.

4 There is also no evidence to support the theory that
5 there was a fire or explosion on board the ship, nor is
6 there any evidence to support a hypothesis that there
7 was an explosion caused externally by, for example,
8 hitting a mine. The fire fighting equipment was all
9 found in its proper place, as far as can be observed,
10 and forensic examination of a particular hatch cover
11 which at first sight was covered with some dark
12 substance, which was thought could possibly have been
13 smoke damage, turned out to be discolouration as
14 a result of oil deposits. There is a report in
15 bundle AG17 from a company M-Scan which gives the detail
16 of that analysis.

17 There was also no damage to the hull, which would
18 obviously also be consistent with an explosion.

19 Now, another possible theory that was considered was
20 that the vessel could have lost buoyancy due to a sudden
21 release of gas from the seabed and Dr Alan Judd was
22 instructed to consider a report on that possibility,
23 being one of the foremost experts in this field. His
24 report you have, sir, at AG21.

25 Also the British Geological Survey were commissioned

1 to prepare a report, which is at Appendix 4 to Dr Judd's
2 report, and in this connection one needs to be aware
3 that there were observed on the survey certain seabed
4 depressions in the vicinity of the wreck.

5 If I could show slide NMP 8, please. This is a side
6 scan sonar image of the seabed in the vicinity of the
7 wreck and you will be able to observe the various
8 pockmarks that I am now pointing out that appear at
9 various positions on the seabed in the vicinity of the
10 wreck. One question was: well, were these caused by gas
11 release, and, if so, when?

12 The British Geological Survey concluded that it
13 seems unlikely that the seabed depressions were caused
14 by gas release as recently as 1974; therefore they
15 conclude that there is no evidence to support a claim
16 that gas released into the water column contributed to
17 the loss of buoyancy and the foundering of the Gaul.
18 They considered it was much more likely that these
19 seabed depressions that we can see were formed by
20 icebergs more than 10,000 years ago.

21 Dr Judd in his turn concluded that the most probable
22 scenario is that there is no connection between the
23 presence of these pockmarks or gas escape and the loss
24 of the Gaul.

25 The next area to consider is the possibility of the

1 loss of propulsion or steering gear failure or some
2 general machinery failure. This is considered to be
3 very unlikely. As you have already heard, the propeller
4 pitch was found to be about 100 per cent, so the engines
5 could not have been stopped deliberately, because if one
6 stops them voluntarily then the pitch on the propeller
7 is reduced to zero.

8 If the engines had suddenly cut out at high power,
9 which could cause the propeller pitch to remain at its
10 previous setting, if this had happened suddenly as
11 a result of some failure in the engine room, the vessel
12 would adopt an attitude to beam on to the weather,
13 although with the weather slightly on a quarter, and
14 would not be in any immediate danger and to the extent
15 that this was some sudden event, it seems likely that
16 a message would have been sent by vhf indicating that
17 the vessel had had some problem.

18 The question of icing seems to be able to be ruled
19 out on account of first of all the witness evidence from
20 other vessels in the area at the time who did not suffer
21 icing, and the hindcast. So you will perhaps remember
22 that vessels have been lost as a result of ice build-up
23 on the superstructure leading to stability problems.

24 Grounding can be ruled out, because there is nothing
25 upon which the vessel could ground. The water depth was

1 in excess of 250 metres and there were no rocks or
2 islands or anything of that sort in the vicinity. There
3 is similarly no evidence that has been found of any
4 structural failure.

5 In the 1998 MAIB report, there was a theory advanced
6 that the Gaul had been knocked down by a succession of
7 extreme waves which threw the vessel onto her side and
8 prevented recovery until sufficient time that flooding
9 has occurred to cause sinking. This theory was
10 predicated on the assumption that the damage observed to
11 the port funnel was caused by impact. However, this
12 theory, to the extent that it was put forward at that
13 time at least, appears extremely unlikely for a number
14 of reasons.

15 First, as you have heard, it is now accepted that
16 the damage to the port funnel is symmetrical and was not
17 caused by wave action, but again is a hydrostatic
18 pressure damage which occurred as the vessel sank.
19 Furthermore, there was no other structural damage
20 observed or broken windows, which is the sort of thing
21 one might expect if the vessel had been struck by the
22 sort of huge waves envisaged originally by MAIB.

23 It is therefore considered unlikely that this
24 scenario was an initiating event. It is of course
25 possible that the vessel was indeed struck by large

1 waves and that this could have had the effect of
2 submerging the duff and offal chutes so that large
3 quantities of water could have entered rapidly, causing
4 the vessel to heel to starboard after the waves had
5 passed and then leading to progressive flooding and
6 eventual sinking.

7 It appears more likely that if the vessel was struck
8 by large waves, that the large waves alone would not
9 have been the sole cause of the loss.

10 There are a number of other possible scenarios,
11 however, which do deserve serious consideration.
12 Broaching is a possibility. The model tests showed that
13 the vessel had a tendency to surf on waves when running
14 downwind. The FREDYN simulation showed that broaching
15 could be possible and could lead to severe heel angles,
16 large wave boarding and the start of progressive
17 downflooding, particularly if there had been some
18 previous water ingress.

19 Again, it may not be an initiating event but it may
20 be possible that broaching could have played a role.

21 Downflooding could occur through the engine room
22 escape hatch if that had been left open prior to the
23 loss, and through the door to the factory deck which we
24 do know was definitely open prior to the loss.

25 However, these again appear unlikely as initiating

1 causes as little water was shown to be likely to have
2 entered through these openings whilst the vessel
3 remained in an intact condition. They are more likely
4 to become involved if the vessel had already suffered
5 seawater ingress so that she rolled so as to expose
6 these openings to the sea to permit progressive
7 downflooding to occur.

8 The fish hatches were found open on the seabed. The
9 FREDYN simulations showed it was possible for water to
10 reach the switches controlling the fish hatches and if
11 immersed they could cause the hatches to open. There
12 was evidence that will be presented that was given at
13 the original investigation from the manufacturers
14 showing that the switch mechanism was not weatherproof
15 and that, if submerged, it could lead to a short
16 circuit, which would have the effect of operating the
17 hydraulic opening mechanism; and once the hydraulic
18 mechanism had opened, the hatches would not then
19 themselves close because they would be held open by the
20 hydraulic ramps. So there was a possibility that the
21 fish hatches could open accidentally.

22 Once the fish hatches were open, then if there was
23 water on the trawl deck, considerable amounts could
24 obviously enter through these hatches and onto the
25 factory deck. This would be a particular risk in stern

1 quartering seas and if the ramp gates were open.

2 On the other hand, the opening of the hatches would
3 be something that would have been easily observed from
4 the bridge and that sort of unusual event may well be
5 something that one could have expected a vhf call to
6 have been made about.

7 It is also obviously possible that fish hatches
8 opened in this manner during the course of progressive
9 downflooding initiated by some other cause or even as
10 the vessel initially sunk.

11 Water could have accumulated on the factory deck as
12 a result of water from the machinery in the factory,
13 combined by the failure of the two Truro pumps.
14 However, these pumps were capable of pumping 90 tonnes
15 per hour, giving a combined total of 180 tonnes per
16 hour. The motors for these pumps were located 2 feet
17 above the factory deck level, but were not waterproof
18 and could have shorted out so that they failed.

19 Another failure mechanism for the Truro pumps was
20 that their suctions could have become locked by pieces
21 of fish. This is something which had previously
22 occurred and indeed at the end of the penultimate voyage
23 of the Gaul, the chief engineer requested that the grids
24 over those were changed in their diameter to try and
25 stop this happening.

1 (2.45 pm)

2 This is something that cannot be ruled out as
3 potentially initiating the cause, although it does not
4 appear to be likely that the machinery was left running
5 in that manner, but is nevertheless something that will
6 have to be investigated.

7 Water could also have accumulated through a failure
8 of piping into the factory deck, although there is no
9 evidence to support this, and the Gaul was a relatively
10 new ship so it again may be considered to be unlikely.

11 Water could also have entered the factory deck
12 through the duff and offal chutes. These were the most
13 exposed openings found on the wreck and the model tests
14 have shown that considerable amounts of water could have
15 ingressed through these openings in a short space of
16 time. Water could have accumulated during the time when
17 the factory deck was unmanned and between the times when
18 anyone was passing through the factory deck, either on
19 fire patrol, if these were carried out when the vessel
20 was at the fishing grounds -- which is again a matter
21 which will need to be investigated -- or on their way to
22 reach the engine room.

23 It is quite possible that after the factory work had
24 finished and the factory was unmanned, the Truro pumps
25 would have been switched off because there was no

1 particular need for them to be in operation. Similarly
2 the suction could also have become blocked, as I have
3 previously mentioned.

4 It is the scenarios which involve the accumulation
5 of significant amounts of water on the factory deck that
6 are considered by the experts to be the most probable.
7 In particular, the most vulnerable openings on the
8 vessel, the duff and offal chutes, were found open and
9 able to admit large quantities of seawater in the
10 prevailing weather conditions. This would be most
11 likely to occur when the vessel was running downwind
12 with the wind on her port quarter.

13 Sir, the next section I want to consider, I will
14 discuss the question of fishing. Before I do so,
15 I would like to show two extracts from two films. One
16 is called "Distant Grounds" and the other is called
17 "Trawler Captain". I have sought to extract some
18 sections of those two films, to give an idea of the
19 manner in which fishing operations are carried out on
20 these sorts of vessels, which I hope may be of some
21 interest. Perhaps if we could see "Distant Grounds"
22 first.

23 (Video played)

24 (3.00 pm)

25 MR MEESON: Sir, that was the factory process in operation

1 and I want to show a short clip from the other film,
2 "Trawler Captain".

3 (Video played)

4 (3.04 pm)

5 MR MEESON: So you have now seen a shooting and a hauling
6 and some fish processing.

7 I now want to mention briefly another possible loss
8 scenario, which is that the vessel was lost whilst
9 fishing. You may recall, sir, that at preliminary
10 meetings you have been told that a person by the name of
11 Mr Long has advanced a theory that the Gaul was actually
12 fishing at the time of her loss, and had become snagged
13 on an underwater cable. It is said that the manner in
14 which this difficulty had been dealt with by those on
15 board had resulted in the loss of the vessel.

16 Effectively what Mr Long was saying is that the crew had
17 pulled the vessel over until she was lost.

18 Mr Long is a gentleman with experience as skipper of
19 small side and stern trawlers operating out of Brixham,
20 and later as a lecturer at the University of Plymouth.
21 After retiring from teaching in 1993 he acted as a
22 surveyor and consultant on fishing matters. As far as
23 one can tell from perusal of his CV, he has no
24 experience at all of working on factory freezer stern
25 trawlers, or of fishing in the Barents Sea.

1 Nevertheless, he has not felt inhibited in any way from
2 advancing his theory.

3 Unfortunately, although he claims to have acted as
4 an expert witness in many cases, he does not appear to
5 conduct himself in the professional manner which is
6 expected of an expert witness. In particular, I might
7 add that an expert witness's role is to assist the court
8 and not to act either as a hired gun for a particular
9 party or, still less, to advance his own theory without
10 reference to anything else.

11 In particular, Mr Long has stubbornly refused to
12 follow the protocol for the expert evidence which has
13 been complied with by every other expert witness in this
14 case. He has unfortunately further refused to follow
15 your own clear direction that he should follow that
16 protocol and that in particular he should discuss his
17 theory, and the question of what evidence may support
18 that theory or what evidence may undermine that theory,
19 with Mr Thresh, the fishing expert appointed on behalf
20 of the inquiry to assist the other experts.

21 You will recall he has sent you a letter stating
22 that he refuses to assist the inquiry. On the other
23 hand, he has continued to peddle his theory through the
24 intermediary of a retired solicitor by the name of
25 Mr Hine.

1 You may be puzzled as to why a person who holds
2 himself out to be an expert witness and who has advanced
3 a particular theory is unwilling to discuss it himself
4 but requires to have it interpreted by a retired
5 solicitor. This is one of the troubling features of
6 Mr Long's conduct. However, that said, it is obviously
7 important that the theory that the Gaul was lost as
8 a result of snagging an underwater cable be thoroughly
9 and properly investigated by this inquiry. Mr Long has
10 therefore been invited to attend the inquiry so that his
11 theory can be properly considered and tested against the
12 evidence to see if it stands up or not.

13 It is to be hoped that he will attend this inquiry
14 voluntarily. I will submit that it is in the public
15 interest that he do so.

16 Sir, during the course of the inquiry, there will be
17 experienced skippers giving evidence. They will be
18 questioned about the weather conditions in which they
19 would or would not fish and how they themselves would
20 set about dealing with a situation where they had
21 snagged a cable whilst fishing in bad weather. In that
22 way we will seek to examine this theory as thoroughly as
23 we possibly can.

24 I now want to turn to consider two matters before
25 I conclude. The first is the duff and offal chutes and

1 the second is the evidence as to the condition of sister
2 ships.

3 On the question of duff and offal chutes, even on
4 Mr Long's theory it now appears that he considers that
5 water ingress in the duff and offal chutes would have
6 played a major role in causing the vessel to sink as she
7 was pulled over by the crew. Therefore it appears that
8 on all of the major loss scenarios that the court is
9 likely to consider, the duff and offal chutes will be
10 playing a major role.

11 It may be helpful, therefore, if at this stage
12 I explain how the closing arrangements on these chutes
13 work. I shall do this by reference to a drawing and if
14 I could have on the screen, please, NMP1.

15 Sir, this is a diagram of the duff chute in its
16 fully closed position. There is a counterbalance weight
17 here which is connected to this hinge which causes this
18 flap to be secured in the closed position by gravity.

19 There is then on top of the duff chute this single
20 lid with hinges which can then be got down with the
21 butterfly nuts that one sees here either side. This
22 here is the entry into the side of the ship that we have
23 seen on the photographs. So in the closed position it
24 ought not to be able to be capable of admitting any
25 water into the vessel because the water can only get as

1 far as this flap and even if there was some leakage
2 through the flap, there was a watertight door on the top
3 of the chute.

4 If I could now have NMP2, please, there one sees
5 that the flap has remained, but the cover is now opened
6 on its hinges. Now, the offal chute is slightly
7 different but the same principle applies.

8 NMP3, please. This is the offal chute, that is the
9 chute furthest forward on the ship and this has the same
10 counterbalance weight arrangement and the flap that is
11 self-closing, but it has a split lid at the top and if
12 we can have NMP4, one can see how that lid opens, half
13 of the lid opens. Then NMP5, we can see how the other
14 half opens.

15 On the wreck, the flaps of both the duff and offal
16 chutes were found seized open and the lids were not
17 secured. The duff chute, if I could have diagram NMP6
18 please, that is the as found condition of the duff
19 chute. One can see there that this plate here, which
20 should have been in the position we saw previously, in
21 other words up, because of the counterweight pulling
22 down, is not. The counterweight has gone up and the
23 flap is down so that water can come in through here and
24 up, and the lid was also open and you will recall
25 secured open with some form of wire or string or

1 something holding it open so that water can come in and
2 up and into the vessel.

3 If I could have diagram NMP7, please, that was the
4 as found condition of the offal chute. That had one lid
5 down and one lid up. Again, the non-return flap was in
6 the down position. So again, water can come in and up
7 and into the vessel.

8 I want to turn to consider the evidence of the
9 condition of the sister ships. One of the important
10 questions to be considered is how it came to be that
11 these closing arrangements were open. This will be
12 a matter which will need to be explored in evidence with
13 the witnesses who knew the Gaul and her sister ships.
14 Mr Scott, a now retired departmental surveyor, will give
15 evidence as to what he found on the sister ships when he
16 examined them in 1974. His evidence will be that he
17 found that the closing flaps were seized open on those
18 ships which he had examined at that time.

19 However, even with those flaps seized in the open
20 condition, the lids could still have been secured and
21 the device rendered watertight. The practice on board
22 the vessels therefore needs to be examined as to whether
23 it was the practice to close these lids or not, and, if
24 so, in what circumstances.

25 It may very well be that no-one on board the vessel

1 appreciated the fact that water could ingress through
2 these openings in any great quantity and that it was
3 therefore necessary to ensure that they were secured
4 during bad weather. As far as we have been able to
5 find, there is no documented instruction, written
6 instruction to the crew about these openings, no other
7 warning appears, there is no warning by the openings,
8 and no evidence to suggest that anybody had ever told
9 anybody that this could be an important problem.

10 (3.15 pm)

11 It may also be significant that these openings were
12 in the factory and were essentially part of the
13 operation of the factory, particularly the offal chute,
14 which would come under the jurisdiction of the factory
15 manager, rather than being part of the ordinary
16 operation of the ship. It may be that a factory manager
17 who is concerned principally with the filleting of the
18 fish and to ensure that the fish machinery is working
19 properly does not appreciate the importance of these
20 openings and it may well be that, depending upon the
21 relationship on board, it be something that the deck
22 officers may not themselves have fully appreciated
23 either, being in a part of the ship that they may not
24 normally have been involved in.

25 All of these matters are obviously areas which will

1 need to be explored as best we can with the witnesses
2 that are now coming to see what recollections they have.

3 Sir, before I finish, I should read out I think the
4 formal questions for this inquiry. These are to be
5 found in bundle AG1, tab 1. They are 12 in number,
6 although number 12 is in two parts. I will read them
7 out and then that will conclude my opening.

8 The first question is: what was or were the probable
9 cause or causes of the loss of the Gaul?

10 The second question is: what possible causes can be
11 eliminated by the evidence which is now available?

12 The third question is: what other possible causes
13 remain open?

14 Sir, to pause there, the questions are put in that
15 way because it may be that there will be some causes
16 which do not seem particularly likely but nevertheless
17 may never be able to be fully excluded.

18 Fourthly: was the design and construction of the
19 duff and offal chutes satisfactory to prevent the
20 ingress of seawater on to the factory deck?

21 Fifth: at the time of the loss, were the duff and
22 offal chutes closed and secured so as to prevent ingress
23 of water on to the factory deck?

24 Sixth: when the vessel sailed from Hull on her last
25 voyage, were the closing arrangements of the duff and

1 offal chutes in a fit and proper condition to prevent
2 the ingress of seawater onto the factory deck?

3 Seventh: at the time of the loss, could the duff and
4 offal chutes have been closed to prevent seawater
5 ingress on to the factory deck?

6 Eight: was the Gaul fishing at the time of her loss?

7 Nine: what steps should be taken to avoid a similar
8 loss in the future?

9 Then three further questions to pick up the matters
10 which deal, if you like, with the expanded remit of this
11 particular formal investigation.

12 Question ten: was the Gaul ever engaged in any
13 intelligence gathering or other clandestine activity
14 other than fishing?

15 Eleven: were any of the crew on board the Gaul on
16 her last voyage engaged in any intelligence gathering or
17 other clandestine activity other than fishing during
18 that voyage?

19 So that is two questions to deal with the
20 intelligence gathering issue. Then finally a two part
21 question to deal with the limited scope of the "why no
22 search" question that you, sir, have indicated is
23 permissible and your jurisdiction expressly extended:
24 why was a search not made for the wreck of the Gaul (a)
25 in the period 1977 to 1978, and (b) in the period 1980

1 to 1981? Those are the formal questions that we ask
2 this inquiry to decide.

3 MR JUSTICE DAVID STEEL: Just one small question: were the
4 duff and offal chutes part of the original build?

5 MR MEESON: Yes, they were.

6 MR JUSTICE DAVID STEEL: Thank you.

7 MR MEESON: What has not come out in the opening and it will
8 be appropriate for me to say is that although as you
9 have heard Mr Nellist was experienced on large stern
10 trawlers, those trawlers, the Cassio and the Orsino,
11 were block freezers, they did not fillet the fish in the
12 same way, and we have plans for those vessels and it is
13 clear that they do not have any duff and offal chutes.
14 So in his previous seagoing experience, at least in his
15 immediate experience, he would not have encountered
16 them.

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

18 Opening submissions by MR SALOMAN

19 MR SALOMAN: Sir, even when it occurred 30 years ago, the
20 loss of the Gaul was recognised as one of the greatest
21 tragedies ever to have struck the fishing industry.
22 Hull is used to losing men at sea. 900 Hull ships had
23 been lost in the last 150 years. Any loss of human life
24 is tragic, but the loss of life from the Gaul
25 significantly exceeded the losses that Hull had suffered

1 from the Kingston Peridot in 1968, with the loss of 20
2 men; on the St Romanus in the same year, again with

3 a loss of 20 men; and the Ross Cleveland, again in the
4 same year, 1968, 20 men again. However, not all of the
5 crew of the Gaul came from Hull. Six of them came from
6 North Shields, and one, the radio operator, came from
7 Lancashire, the town of Nelson.

8 Sir, for the families, the tragedy has
9 unfortunately, as you know, not been confined to the
10 loss in itself. When people now refer to the Gaul
11 tragedy, they speak not only of the events of
12 8th February 1974, but also of their sequel, the anguish
13 and uncertainty which the families have endured as to
14 what happened to their ship and to their men, compounded
15 by the refusal of successive governments to look for and
16 inspect the wreck, or to tell the families that they
17 knew or confidently believed that they knew the location
18 of the wreck.

19 Now, those surviving relatives have endured this for
20 decades, but there are many who have died in the
21 meantime and they have taken their anguish to their
22 graves. No civilised nation should have permitted
23 a saga such as the Gaul to happen, and that of course is
24 why both the cause or causes of this trawler's loss and
25 the question why no search was made for this trawler are

1 now being re-investigated, or in the case of the latter
2 question, investigated for the first time now.

3 On both these issues, the families look to this
4 court for a statement of the truth on the two matters in

5 question: what happened to the Gaul and her crew, and
6 why was no search made for her. The truth is what the
7 families have repeatedly said, and still say, they have
8 always wanted.

9 After the Gaul disappeared in February 1974, there
10 was mystification amongst the families as to why she
11 should have sunk, if sink she did. After all, there was
12 no obvious reason why she should have sunk. She was
13 a state of the art, modern factory freezer stern
14 trawler, she was only two years old, and she was
15 operated by leading managers, Messrs Hellyers, and it
16 was presumed to high operating and maintenance
17 standards.

18 To compound the families' doubts and anxieties,
19 rumours were beginning to take hold. This was the
20 Cold War period, after all, and the rumour developed
21 that Gaul had been seized by the Russians, escorted to
22 a port such as Murmansk or some other port and her crew
23 then taken to some imprisonment.

24 Now, in the political world of today, such a fate
25 may seem hard to envisage, but it was fully

1 understandable then. Not only was the Cold War era of
2 early 1970s Britain a wholly different place and
3 a wholly different international climate, but the
4 significant news of trawlers in the Barents Sea for
5 surveillance purposes made the rumour of seizure
6 credible. Many families clung to the hope that their

7 loved ones might still be alive.

8 You will remember, sir, Hull trawlers had been used
9 for special missions. Hull trawlermen had taken part,
10 at the government's behest, for many years, not least in
11 the Second World War. The Gaul was a Hull ship. It was
12 conceivable that she had been involved in some kind of
13 intelligence operation.

14 I repeat: many families clung to the thread of hope
15 that their loved ones might still be alive.

16 Rumours then hardened that the Gaul was being used
17 for spying, as had other trawlers; that the Gaul may
18 have had military surveillance equipment, as certain
19 other ships had done; and thus had been provocative or
20 fair game or seemed provocative and fair game to the
21 Russians.

22 (3.30 pm)

23 Both rumours were naturally taken up by the media.
24 Any theory of seizure by the Russians was newsworthy.
25 It became an alternative loss to loss by an ordinary

1 marine accident at sea. Categorical denials by the
2 Russians of any involvement with the Gaul's loss were
3 brushed aside. Russia's assistance, to a degree, during
4 the 1974 February search and later with the
5 identification of certain unrelated human remains were
6 in each case ignored or frankly mistrusted.

7 As for the UK government, in August 1974 -- and this
8 was very shortly before the formal inquiry -- it gave
9 the families' MPs an assurance that no Royal Naval
10 personnel or MOD equipment was on board Gaul. This was
11 far from an unequivocal rejection of the possibility
12 that Gaul may have been involved in some kind of
13 surveillance operation.

14 Also and disastrously it sought to buttress that
15 statement by a further assurance to the families, and
16 I quote, that "the British trawler fleet is not involved
17 in any way in intelligence gathering. This applies as
18 much to equipment as to personnel."

19 That statement was made in August 1974 by the then
20 Labour government's Defence Minister, William Rogers,
21 now Lord Rogers. It was later repeated by the
22 Conservative government in 1982. However, what is
23 beyond dispute is that Hull trawlers were used to gather
24 intelligence by spying on the Russian fleet in the
25 Barents Sea during the 1960s and the early 1970s.

1 Trawlermen were patriots. Many were old enough to
2 have assisted the Navy in the same waters during the
3 Second World War. Later, during the Cold War, they and
4 their sons continued to do whatever they were required
5 to do to monitor the operations of sites of interest
6 involving the Russian fleet in the Barents Sea and
7 thereabouts.

8 Their activities had become a fact of life, an open
9 secret. For the families to hear this fact denied did
10 shock the many who knew it was false and inflamed the
11 rumour of Gaul's seizure.

12 Governments which misinform behave suspiciously and
13 they create suspicion in their subjects. Their subjects
14 wonder at the government's motives and they mistrust
15 their actions. That is what happened with the families.
16 They could not believe the government in connection with
17 the trawler fleet. They knew what it had told them was
18 false. That made it difficult to believe what they were
19 telling them about the Gaul. That suspicion, sir, has
20 proved hard to eradicate.

21 Of course, a government search for the wreck would,
22 if successful, and useful, have demolished that belief
23 in a seizure of the ship and the crew at a stroke, which
24 made it doubly odd that they did not promptly search for
25 the wreck under the sea.

1 Compounding the confusion, a further conspiracy
2 theory was growing with vigour even before, once again,
3 the 1974 formal inquiry began. This was that Gaul, if
4 not seized by the Russians, may have been sunk with her
5 crew by a Russian submarine, deliberately or
6 accidentally, and that Her Majesty's Government was
7 covering it up; or that the Gaul may have been boarded
8 by the Russians and the crew seized before Gaul herself
9 was, in a loose sense, scuttled or torpedoed.

10 So when the formal inquiry commenced in 1974, it did
11 so, sir, in a swirl of grief, rumours, suspicion and
12 downright mistrust on the part of the families and with
13 the families individually at sixes and sevens as to what
14 had actually happened to their men. That court faced
15 a formidable basic difficulty that there was no direct
16 evidence as to how the tragedy occurred, in particular
17 there was no wreck and there were no eye witnesses. Its
18 report and its conclusions are matters of record. Its
19 conclusion was that the Gaul, and I quote, "capsized and
20 foundered due to taking a succession of very heavy seas
21 on her trawl deck." Its conclusion was that waters on
22 her trawl deck were sufficient in themselves to sink the
23 ship. There was no reason or need to suppose that water
24 had got into her lower deck, her factory deck.

25 But this conclusion and decision did not receive

1 acceptance in two very important camps. First, within
2 the government itself. It was doubtful whether it had
3 ever believed that heavy seas on the trawl deck alone
4 would have sufficed to sink her. Counsel for the
5 Attorney General opened the first formal inquiry on the
6 basis that only water on the trawl deck and on the
7 factory deck would have sunk her.

8 That was also the view of a key Department of Trade
9 witness, Mr Malcolm Scott, the surveyor. He had said as
10 much in his preliminary investigation report. That
11 report revealed that he had inspected the vessels Kurd
12 and Kelt, both sister ships of the Gaul. The condition
13 of various closing devices, all designed as their name
14 suggests to keep seawater out, including watertight
15 doors, duff and offal chutes and other openings, were
16 defective.

17 Mr Scott was told that a third sister ship, the
18 Arab, was the same. He concluded by reasonable
19 inference that the Gaul, which he had not for obvious
20 reasons inspected, would have been similarly
21 ill-maintained.

22 It is a matter, sir, for surprise and great regret
23 that much of the evidence obtained by Mr Scott and
24 recorded in his preliminary inquiry report, not to
25 mention the report itself, was not placed in proper form

1 and for the most part not in any form at all before the
2 formal investigation in September to October 1974.
3 Certainly that evidence and the report should have been
4 proffered to assist that court and inform its
5 conclusions, at all events.

6 After the 1974 inquiry had taken place, the DOT,
7 wholly consistently with my observations as to the
8 government's view as to the likely cause of the loss at
9 the opening of that inquiry, commissioned further
10 investigations to be carried out by the NMI, the
11 National Maritime Institute, or its predecessor body,
12 into why the Gaul should have sunk. Their
13 investigations, sir, are relevant to both of the issues
14 you are considering.

15 I have said that there were two important camps
16 which the first inquiry conclusion did not satisfy. The
17 second is the families. Many of the families either
18 felt that the conclusion of the Gaul's loss at sea by
19 a marine accident was speculation and lacked any hard
20 evidence to support it; or they believed that the Gaul
21 had indeed been seized and its crew captured, even
22 though seizure had been rejected in three terse lines by
23 the court for lack of evidence.

24 There were some others who thought that the Gaul may
25 still have been torpedoed or even accidentally sunk by

1 a Russian submarine and the whole matter covered up for
2 reasons of state.

3 There were others again who did believe that the
4 Gaul was lost at sea, but felt that the conclusion of
5 loss by sea, on the trawl deck, went against common
6 sense. True it was the weather had been bad but was it
7 not often bad in the Barents Sea and was not the Gaul
8 used to it? Was it not the same for all the trawlers on
9 the bank? And for her two sister ships? And the
10 smaller ships, and less modern ships who were dodging on
11 the bank at that period?

12 The late Mrs Amy O'Brien well made that particular
13 point in a vain appeal to the then Prime Minister,
14 Mr Harold Wilson, in November 1974:

15 "You can never give up a ship without evidence of
16 some sort. She was a good seaworthy ship, and so it
17 makes it hard, far too hard to believe she could have
18 disappeared without trace. I know the weather
19 conditions were bad, but all the other ships were the
20 same class as her and even the small ones came through
21 it all right; why not the Gaul? I hope someone soon
22 will do something about it to ease our minds. There are
23 rumours about them being in a foreign port. If only we
24 knew one way or the other, our minds would be at rest."

25 One year later, the trawler Rairo reported locating

1 a wreck in the location on the North Cape Bank near
2 where the Gaul was last reported. It was in fact in the
3 position where the Gaul was. The Norwegian skipper
4 provided numerous details which he had gathered from his
5 echo sounder recording and the recording itself, and
6 they were passed to the English authorities.

7 In the spring of 1977 news emerged that a life raft
8 was trawled up from the north bank depths by the trawler
9 Marbella. The container was very soon proven to belong
10 to the Gaul and there were predictably more requests,
11 both from the individual families and from several of
12 their MPs, for action.

13 (3.45 pm)

14 Fast forwarding to the decision of 2nd August 1977:
15 in a public announcement, the minister Mr Stanley
16 Clinton Davis refused a search for the Gaul. Later on,
17 further requests were similarly rejected.

18 That decision, sir, caused the greatest hurt and
19 suffering. One relative's feelings, echoing those of
20 many, were:

21 "It hurts me more why no search was made for the
22 Gaul than any other matter relating to the Gaul."

23 Typical reactions at the time were:

24 "How can you expect our family and all other
25 families concerned to go on living with this

1 uncertainty, never knowing what really happened? It is
2 time to help us find concrete evidence and put our minds
3 at rest once and for all."

4 There were many calls to many governments later to
5 think again. They continued into the 1990s and were
6 rebuffed.

7 Sir, in investigating why no search was made for the
8 Gaul, the government will naturally focus on two things:
9 first, its knowledge of the likely location of the
10 vessel Gaul in the period we are concerned with,
11 specifically 1977 to 1978 and the early 1980s.
12 Secondly, upon the reasons it gave for not searching for
13 the Gaul, we will submit that the government's own
14 documents relating to those periods from 1977 onwards
15 reveal very important and simple facts.

16 The first important fact is that the government knew
17 or confidently believed it knew the precise location of
18 the Gaul before it made its decision in late
19 August 1977. That was not only because of the Marbella
20 finding on 2nd March 1977, which I have just mentioned;
21 the Marbella finding was of course in the same location
22 as the Rairo had found, echo sounded and reported
23 a wreck of a ship two years previously; but the
24 government had also learned, once again from a finding
25 made on the same day, 2nd March 1977, by the skipper of

1 the trawler Coriolanus, that that ship had caught the
2 echo trace of a wreck in the same location as the
3 Marbella.

4 The Coriolanus echo sound record was provided to the
5 DOT. It was analysed. It was found to be compatible
6 with any echo sound trace which the vessel Gaul would
7 produce. The government believed that they knew the
8 Gaul's location.

9 A second important fact is that the government did
10 not then divulge openly as it should have done "we know
11 where the Gaul lies", but it continued to project the
12 Gaul's location as uncertain.

13 Thus, it did not reveal the all-important news of
14 the Coriolanus snagging either to the public or, more
15 particularly, to the families; a snagging in the same
16 position as the Marbella snagging and the Rairo
17 snagging, both of which the families were aware. It did
18 not reveal earlier reports that Norwegian trawlers had
19 fouled in similar positions.

20 It stressed in its letters to the families' MPs the
21 size of the search area. It stressed the cost and
22 effort involved in the search. It reported the Marbella
23 container as found in the area where the Gaul was lost
24 and as if it did not know the Gaul's location, it
25 debated the supposed benefits which would come from

1 a search if successful. In short, it left the news that
2 it had found the wreck of the Gaul, or believed that it
3 had done so, at the very location where she was in fact
4 later to be found, in obscurity. Nowadays we would use
5 the popular expression that they buried it.

6 The government gave its reasons for not acting in
7 the way the families had requested. It will be for you,
8 sir, to consider why the Gaul was not searched for, and
9 whether the reasons given by the government were the
10 reasons why she was not searched for. The reasons given
11 were that all information available to it endorsed the
12 conclusions of the OFI, that a search would not yield
13 anything further on the cause of the loss, and that
14 a search would not help to promote marine safety.

15 The DOT wrote:

16 "We do not believe that finding the Gaul would
17 contribute further to the department's knowledge of this
18 matter. All the evidence available to the department
19 supports that conclusion and we do not feel justified in
20 making further enquiries."

21 In letters sent to three MPs shortly before the
22 formal decision that he made, Mr Stanley Clinton Davis
23 also said:

24 "Even if the search is successful, it would probably
25 contribute nothing in terms of marine safety and could

1 only confirm what we already believe to be the
2 well-founded view of the court."

3 However, the fact was that by then the government
4 knew the results of the NMI's investigations. They
5 never quarrelled with the results of NMI's
6 investigations. The findings of NMI were expressed in
7 five interim reports, the fifth of which was issued in
8 June 1977. The findings cast real doubt upon the court
9 of formal inquiry's conclusion that she would have sunk
10 from water on her trawl deck alone.

11 We have seen already today the essence of NMI's
12 conclusions graphically presented on film. It follows,
13 sir, that the government did know that the NMI's
14 evidence, which it supported and continued to support
15 even after the formal report was issued in January 1978,
16 did not endorse the conclusions of the court of formal
17 inquiry. Therefore, the statement made by the minister
18 on that particular reason for not searching for the Gaul
19 was untrue.

20 When the final report of NMI came out, shortly after
21 the government's decision, it was to the same effect as
22 the interim report that had been published in June 1977,
23 that in all likelihood the vessel's hull was not intact.
24 Of course, the government also gave as a reason for not
25 searching that considerable costs would be involved and

1 figures of £80,000 to £90,000 were released to the
2 public.

3 We believe you will, sir, on investigation reject
4 any suggestion that such costs were a reason why the
5 government refused to search for the Gaul. Those
6 figures were not intended to be released into the public
7 domain. An internal memorandum issued almost exactly at
8 the time of the official announcement declared that
9 their release could cause serious problems. But the
10 figures were never retracted.

11 The Department of Trade's Captain Lusted, one of the
12 few officials within the administration to emerge with
13 some credit, produced a careful memo in April 1977 which
14 was entitled "Have we found the Gaul? If so, what
15 courses of action are open to us?"

16 He proposed, with a measure of practicality, that
17 the government could do worse than ask the trawlermen to
18 do some of the job for them. He suggested:

19 "Call for British trawlers fishing off North Cape to
20 take soundings in the area and carefully record the
21 position of the wreck, their direction and speed of
22 travel, et cetera, and to send full details to the
23 department for assessment. This could be a cheap and
24 effective preliminary method of getting details of how
25 and exactly where the wreck lies."

1 That proposal too was dismissed. Why? After all,
2 successive governments in the past had used readily
3 trawlermen for their own political advantage on
4 surveillance activities. Here was a practical method,
5 properly conceived in Whitehall, of assisting the
6 bereaved families by locating the ship. It was not
7 pursued. Nor were numerous commercial offers and
8 initiatives made by contractors during that summer of
9 1977 to the department, many of the contractors being
10 very well known names, to do the job of diving to the
11 wreck on reasonable terms

12 (4.00 pm)

13 The families knew nothing of these reasonable and
14 probably viable commercial proposals, nor were the
15 families told that after the minister's decision on
16 22nd August commercial contractors continued to indicate
17 their interest in diving to find the Gaul. My clients'
18 correspondence in the wake of that decision eloquently
19 reveals their incomprehension and distress that nothing
20 was being done, and at the quality of the reasons given
21 for not doing it.

22 In the early 1980s a civil servant wrote a personal
23 letter to two individual dependents who had written
24 about a search. The civil servant replied to say that
25 the government believed it knew where the Gaul was, but

1 that a search at depths of 90 feet might not necessarily
2 have shown up the ship's name and certainly would not
3 have revealed why she would have foundered, "so we would
4 not have really learned anything more than we already
5 know."

6 By this stage, all reports by NMI are on the table.
7 The Morrell or Dr Morrell paper has been delivered to
8 the same conclusion and effect.

9 The statement that they would not really have
10 learned anything more than they already knew was also
11 false, because the relevant technologies to search for
12 and examine a wreck at the depths where the Gaul was
13 known to lie existed in 1980, just as they had done in
14 1977. Early in the 1990s the families were again
15 rebuffed by the Conservative government's minister in
16 these terms:

17 "A search on the seabed would of course be a massive
18 undertaking. Because of the limited information
19 available about Gaul's position when she went down, it
20 would be necessary to search hundreds, probably
21 thousands of square miles of seabed to have a realistic
22 hope of success. The area is renowned for bad weather
23 and littered with wartime and other wrecks, many of
24 which would have to be examined by specialist equipment
25 in order to eliminate them in the search. A search

1 would inevitably cost a great deal in time and money.
2 In these circumstances I am afraid it would not be
3 possible to divert my department's resources to such
4 an exercise."

5 Those excuses were not factual, even in 1977, and
6 the families were hearing this in the 1990s. Many of
7 them suspected that there surely must be something which
8 the government, indeed successive governments, wanted to
9 hide; perhaps some reason of state for them not wanting
10 to search. Well, it was either that or that the
11 government did not care. That seemed a conclusion too
12 heartless to contemplate.

13 Then, at the end of the last decade, there came the
14 suggestion of the government's reporter,
15 Mr Roger Clarke, that governments since the early 1980s
16 had, and I quote, "lost their corporate memory of the
17 Gaul". Ms AJ Doone put her reaction to that particular
18 extenuation in these words:

19 "The report's conclusions regarding the collective
20 amnesia suffered by government departments during the
21 1980s and 1990s are totally unacceptable. By 1977 the
22 likely position of the wreck was known, the files
23 containing this evidence largely exist today. It is
24 therefore unbelievable that those briefing ministers and
25 preparing press releases were unaware of this

1 information. Whilst it will come as no surprise to
2 anyone that the Civil Service is cumbersome, inefficient
3 and at times inept, this level of oversight, if that is
4 really what it was, goes beyond the bounds of
5 credibility. It is unsurprising that rumours of
6 cover-ups and foul play have continued to surround the
7 loss of the Gaul and that those directly affected by the
8 tragedy find it difficult to accept government
9 assurances today."

10 Sir, despite all this, the families acknowledge and
11 welcome this tribunal's reinvestigation made at the
12 government's direction into the loss of the Gaul and the
13 issue of why no search was made for her. They want the
14 case re-explored, they want due consideration given to
15 all legitimate theories, not only those preferred by the
16 joint experts.

17 In essence, the task in hand is that which statutory
18 tribunals have exercised from time immemorial to find
19 the actual or probable cause or causes of the loss of
20 a ship in the light of the evidence, in this case it is
21 the evidence old and new, by applying its expertise and
22 common sense. But the Gaul case has exceptional
23 features. The lack of eye witnesses is only one of
24 them. The limited and in some cases inscrutable
25 evidence obtained from the two surveys of the vessel,

1 each regrettably in human terms unmanned surveys.

2 Then we have as my learned friend, counsel for the
3 Attorney General, has mentioned, the fact that 30 years
4 have elapsed since the event in question, which
5 complicates the task of factual witnesses and that of
6 this tribunal in evaluating their evidence.

7 Then there is the fact that, despite the many
8 bundles of documents, there are relatively few
9 contemporaneous documents which shed relevant light on
10 the cause of this tragedy.

11 These difficulties notwithstanding, many witnesses
12 of fact are coming, many are very elderly. They include
13 several trawlermen who were sailing on the North Cape
14 Bank at the time, two former officers who sailed on the
15 Gaul in previous voyages, two witnesses from
16 Hellyer Brothers. All these men will be attending,
17 wholly creditably, to assist this tribunal as best they
18 can to get to the bottom of it.

19 There will also be, we understand, two witnesses
20 from the Defence Ministry and SIS respectively.
21 However, neither witness, it appears, had direct
22 involvement in the events of the early 1970s.

23 No-one involved with the department's decision not
24 to search for the Gaul between 1977 to 1981 has provided
25 any statement or information in connection with that

1 disastrous decision. That is surprising, in my
2 submission. There was no compulsion upon the department
3 to tender witnesses on this issue; but their failure to
4 tender any information to assist this tribunal on that
5 topic comes flatly in the face of my own repeated
6 expressions of desire for evidence from the department
7 on this issue, expressed at various preliminary
8 meetings.

9 Amongst, sir, the issues which the families want you
10 to consider and your colleagues with you to consider,
11 and to resolve, are: was the Gaul sunk with her crew by
12 collision with a surface vessel or a submarine? Was she
13 sunk by hostile intervention, for example, by a missile
14 or the boarding of the Gaul followed by her deliberate
15 sinking? Was she lost by a marine accident in heavy
16 seas and in particular by water on the trawl deck and in
17 the factory deck?

18 If so, one, was the Gaul dodging at the time, or
19 engaged in some fishing operation? Secondly, was she
20 a sound, well designed and well operated ship on
21 departing from Hull? Thirdly, whatever the Gaul was
22 doing at the time of her loss, did large waves or
23 perhaps a succession of large waves strike the Gaul and
24 roll her over? Fourthly, how and why did water get into
25 her factory deck? May water have been on it already?

1 If she was fishing or performing a fishing operation
2 such as shooting or hauling before or after fishing, did
3 the seas overwhelm her in the course of it or did she
4 snag on a cable? Was the Gaul engaged in intelligence
5 gathering or surveillance operations? Were any of the
6 crew of the Gaul ever so engaged?

7 Sir, it is our strong belief and hope that your
8 considerations and conclusions will help to achieve some
9 finality in this troubled case. We also believe that
10 this court's analysis on both the issues before it will
11 enable lessons to be learned about trawlers, their
12 operation and management, and by governments about the
13 handling of such casualties.

14 Hopefully, too, there will be brought to the many
15 who still grieve keenly for their lost men a measure of
16 belated comfort.

17 MR JUSTICE DAVID STEEL: Thank you very much, Mr Saloman.

18 MR MEESON: Sir, before we continue, could I just, for the
19 sake of the transcript and the fact that this will be
20 published on the world wide web, make one point in
21 relation to what will appear today in the transcript at
22 page 90, line 14, where my learned friend referred to
23 counsel for the Attorney General opening the first
24 formal investigation. The factual position was that
25 Mr Brice, who acted in that case and who opened the

1 formal investigation, was counsel for the Department of
2 Trade in accordance with the then practice at formal
3 investigations which was subsequently changed, that it
4 was the department which presented the case and it was
5 not independently presented by the Attorney General.

6 MR JUSTICE DAVID STEEL: Yes, thank you very much.

7 It is 4.15 and I am minded to adjourn now, unless
8 there is some compelling reason not to, to complete the
9 opening statements tomorrow morning and then start our
10 first witness. After the opening statements there are
11 probably one or two housekeeping topics that we ought to
12 debate. I hope that is satisfactory. Thank you very
13 much.

14 Tomorrow we will resume -- again one of the
15 housekeeping topics I will want to discuss is the timing
16 of our sitting hours -- tomorrow we will start at 10.30.
17 Thank you very much.

18 (4.15 pm)

19 (The hearing adjourned until 10.30 am on
20 Wednesday, 14th January 2004)

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