

1 Wednesday, 14th January 2004

2 (10.40 am)

3 MR JUSTICE DAVID STEEL: Good morning.

4 MR MEESON: Sir, I think we have two further openings.

5 MR JUSTICE DAVID STEEL: Yes.

6 Opening submissions by MS PEIRCE

7 MS PEIRCE: Good morning, sir. Counsel Mr Saloman on behalf
8 of the majority of the families made an opening
9 submission yesterday which we thought very well
10 expressed much of what we would say as well on behalf of
11 the Nellist and Spurgeon families, and I would therefore
12 not wish to repeat any of that, but to make a number of
13 short comments on behalf of our two families.

14 We have already notified the inquiry that we will be
15 raising serious questions as to the way in which the
16 Gaul was designed, the way in which she was built,
17 inspected and the way in which she was operated and
18 maintained. We will be also asking serious questions as
19 to the way in which the disappearance of the Gaul was
20 not properly reported either within the structure of the
21 owner company, or beyond that structure to the relevant
22 government departments and to the rescue services. It
23 was as if the very concept of rescue was abandoned by
24 those with the duty to raise the alarm.

25 We will be raising questions as to the circumstances

1 in which the bereaved families gained information and
2 the way in which the information they gained themselves
3 interacted with official knowledge, confirmation or
4 denial. Whether official denials, lies, contradictions
5 and the withholding of significant information within
6 the knowledge of the authorities is directly relevant to
7 establishing the loss of the Gaul is not yet clear.

8 Two of the most obvious examples of wholesale lies
9 relate to the known but denied whereabouts of the Gaul,
10 and the known but denied use of Hull trawlers for
11 espionage. We wish to know whether these are in any way
12 relevant to the loss itself.

13 We represent the families of the two men in charge
14 of the Gaul on its last tragic voyage. Neither man had
15 sailed on the Gaul before; neither man was due to be
16 part of this trip, nor expecting nor indeed wanting to
17 be asked.

18 Peter Nellist, the skipper, was waiting for his own
19 ship and was persuaded to be the skipper of the Gaul for
20 one trip only at a very late stage.

21 Maurice Spurgeon, a skipper too, also at home and
22 also waiting to join a different ship, agreed only
23 reluctantly and after being pressed to assist when the
24 first mate left the ship in Norway.

25 The Gaul, a new ship with differences from many in

1 the Hull trawler fleet, was familiar to neither man.
2 The task of being the skipper and the mate of a freezer
3 trawler, operating where the Gaul did, was demanding in
4 the extreme, a job requiring a skilled mariner capable
5 of managing a substantial piece of equipment in extreme
6 conditions, a good navigator and able to lead and direct
7 a large crew with multiple skills carrying out multiple
8 tasks. In that situation, every person on board has to
9 be hands-on and, for the skipper and the mate, 24 hours
10 a day, seven days a week for the lengthy duration of
11 voyage.

12 The conditions in which the Gaul operated were
13 gruelling. The sea itself and the region where the Gaul
14 was lost was dangerous. Furthermore it was relatively
15 speaking crowded, there were many ships competing for
16 fish, there was a need to know where everyone was and
17 a continuing pressure to catch as many fish as possible.
18 All this so that the rest of us could enjoy the product
19 of the catch, oblivious to the life threatening
20 conditions in which these brave fishermen earned their
21 livelihood.

22 An issue that cannot but be of relevant advantage to
23 this inquiry relates to the quality of the two men
24 carrying the heavy burden of responsibility of being in
25 charge of the Gaul. You would in fact have had to go

1 a very long way to find two men as brave, dedicated and
2 conscientious, as well-qualified, skilled and
3 experienced as Mr Nellist and Mr Spurgeon. For each,
4 his first priority in life was his family and his second
5 priority was that he carry out his work with absolute
6 professionalism.

7 Peter Nellist, the son of a skipper, as the Attorney
8 General said yesterday, took all of his skipper
9 certificate tests early and passed each at the first
10 attempt. He had started his working life as a galley
11 boy and, when he became a skipper, achieved this at
12 an unusually early age. He was the eldest of a large
13 family and considered all of that family his
14 responsibility, his mother and his sisters in
15 particular, and their children. All of them remember
16 vividly a loving, caring man who rushed home after each
17 voyage, bringing with him stories, presents and
18 excitement and interest to his nieces' lives.

19 Importantly for this inquiry, what his sisters also
20 regard as the characteristics at the core of his
21 personality with ease, that he was a man who took no
22 short-cuts or settled for half measures, that he would
23 not take risks, that he always did things by the book,
24 that he was very careful and fastidious, that he was
25 very practical and capable, that he was methodical and

1 that he was, as his family describe, a straightforward
2 person who did not have to prove anything to anyone.

3 Having talked to his sisters and re-read the
4 transcripts of the original inquiry, we find that these
5 words were re-produced almost exactly in the evidence
6 that described Mr Nellist.

7 Maurice Spurgeon, also from a long line of fishing
8 families, was a dedicated and conscientious man too. He
9 loved going to sea, his family say, he loved his job,
10 but he was always keen to get back to his family. One
11 of the last communications from the Gaul was a telegram
12 requesting flowers to be sent to his wife, which they
13 were on Saturday, after the Gaul itself had been heard
14 of for the last time.

15 He too, like Peter Nellist, was a practical man,
16 capable and at ease with himself and others. He was a
17 rugby player and a musician. The first inquiry heard
18 evidence that he was efficient, good and a first class
19 mate.

20 Throughout the three decades since the loss of the
21 Gaul, the integrity of the skipper and the first mate
22 have remained intact. We do not think anyone would or
23 could suggest that each was anything other than we have
24 described, nor, we believe, would anyone dispute the
25 enormous responsibility placed upon any skipper and

1 mate.

2 In these circumstances, it must be of fundamental
3 importance for all of those on board, for designers,
4 owners and inspectors to provide to those responsible
5 for a ship all possible information as to the ship's
6 observed idiosyncrasies or defects. It must be of
7 fundamental importance for any skipper and mate to be
8 provided with detailed knowledge as to all factors that
9 might affect the ship's safety and an opportunity to
10 absorb these.

11 We know that when the Gaul, when called the
12 Ranger Castor, was first delivered her first skipper had
13 the benefit of two weeks' training at sea. Neither
14 Mr Nellist nor Mr Spurgeon had any such opportunity. No
15 company or organisation, whether public or private, has
16 the right to expose any person to avoidable danger, of
17 which the individual knows nothing. The crews of these
18 trawlers were already taking their lives into their
19 hands each time they went to sea. When those lives were
20 lost, there has been a sustained belief that whatever
21 the known natural risks, there were other concealed
22 risks, of which those with responsibility not on board
23 the Gaul were or should have been aware and should have
24 informed them.

25 In a different way, crews as well as skippers and

1 mates were exposed to other dangers during this period
2 of time again without their consent and knowledge. We
3 refer to the use of Hull trawlers for espionage. While
4 owners and individuals have responsibilities both civil
5 and criminal towards others, so also does the state. In
6 protecting its citizens, the state guarantees their
7 right to life under Article 2 of the European Convention
8 of Human Rights. One part of that guarantee is that
9 an effective investigation should be conducted into any
10 death. No inquiry should have ever been allowed to
11 proceed, as did the first formal inquiry, where
12 fundamental evidence was suppressed and lies told. Not
13 only was it an insult to the families and in part
14 perjury, but it endangered the lives of other men on
15 sister vessels who might be exposed to the same risk in
16 years to come.

17 As with everyone here, we voice our respect and
18 admiration for the continuing exhausting search for
19 these hidden facts by the families and those who have
20 supported their search, with the extraordinary strength
21 of character it took not to be fobbed off with something
22 less than the truth.

23 In this inquiry with its highly impressive
24 technology, we might forget that these are families who
25 had suddenly lost not just the most important person in

1 their lives but in most cases the breadwinner as well.
2 Anyone who has been involved in campaigns against the
3 odds will know what personal human cost has been
4 involved in getting this far, and for most of that time
5 by individuals without resources with no-one willing to
6 listen to them.

7 We also record the respect and gratitude of the
8 families for whom we act, for the tireless commitment of
9 Norman Fenton. In turn, too, he has been the most
10 informed witness of the many ways in which the families
11 have been misled for 30 years.

12 On behalf of the Nellist and Spurgeon families, we
13 come to this inquiry to press for answers to all
14 questions that they have. We are, and have been,
15 sceptical and suspicious with good reason. As with the
16 other families with whom they share the loss, the
17 Nellists and the Spurgeons are intelligent and
18 perceptive and for years they have been treated as if
19 they are not. They can recognise truth and they can
20 recognise lies. We have open minds and we are here for
21 one purpose, to arrive at the truth, and we will assist
22 this inquiry in every way within our power to dig deep
23 to get there.

24 MR JUSTICE DAVID STEEL: Thank you very much. Yes,
25 Mr Cooper.

1 technology for the purposes of the later survey.

2 The opening by the Attorney General and the video
3 extract with commentary by Miss Cunningham has already
4 demonstrated how the modern and innovative techniques
5 used by Subsea 7 have been essential to determining the
6 causes of the loss of the Gaul and establishing
7 conclusively the presence of the crew on the wreck.
8 Since the establishment of the committee of experts, the
9 department has continued to provide assistance to that
10 committee, in particular assisting in the procuring of
11 the further expert evidence required by the committee.
12 More generally, the department has co-operated with the
13 Attorney General both in relation to the disclosure of
14 departmental files and in locating those former
15 employees of the department still able to assist this
16 re-opening of the formal investigation.

17 As a consequence, you will hear evidence from
18 Mr Scott and Captain Newbury, formerly a ship's surveyor
19 and a nautical surveyor with the Board of Trade
20 respectively. They jointly carried out the original
21 investigation into the loss of the Gaul. The department
22 remains fully committed to assisting this re-opened
23 formal investigation in its search for the cause of the
24 loss of the Gaul and her crew.

25 I turn now to deal with that issue. The department

1 supports the view that the evidence now available must
2 put an end to the more speculative theories as to the
3 cause of the loss of the Gaul, those implicating spying,
4 intervention by a foreign power, scuttling or those
5 involving a seabed cable. The department intends to
6 offer no specific case as to the cause of her loss.
7 Nevertheless, the department trusts that it will assist
8 you if, where appropriate, it participates in testing
9 the evidence to be put before this investigation.

10 May I touch briefly on the issue of criticisms in
11 relation to the loss of the Gaul. Neither the Attorney
12 General nor the Gaul Families Association raise any
13 criticism of the department in relation to the loss of
14 the Gaul. Those acting on behalf of Mr Nellist and
15 Mr Spurgeon have suggested that it is surprising that
16 the department approved the design of the duff and offal
17 chutes with openings close to the waterline and on the
18 same side of the ship.

19 I will make only two comments in relation to this
20 submission at this time. Firstly, the submission is
21 based on a misunderstanding of the Board of Trade's role
22 and powers at the time. The board did not approve the
23 design of the duff and offal chutes. At the time the
24 Gaul was built and indeed at the time of her loss, the
25 board had no regulatory authority over the design of the

1 chutes.

2 In any event, as the drawings shown to you yesterday
3 by Mr Meeson make clear, the duff and offal chutes as
4 designed and built were capable of watertight closure
5 having both non-return flaps and a watertight lid.
6 Their design satisfied Lloyd's Register, who had been
7 chosen by the vessel's owners as her classification
8 society.

9 I now turn to deal with the issue of why no search
10 was made for the wreck of the Gaul. This is a topic
11 which has already been the subject of an independent
12 investigation by Mr Roger Clarke. That report was
13 submitted in May 2000.

14 In your judgment following a preliminary hearing in
15 June 2000, you described the report as a thorough,
16 complete and accurate analysis of what went wrong.
17 No-one demurred from that statement at the time. The
18 department accepted the findings of Mr Clarke and
19 responded constructively to his recommendations.
20 A summary of that response is found in the papers before
21 you in bundle AG24A.

22 (11.00 am)

23 Among the various recommendations that it accepted,
24 the department has accepted that it should be more ready
25 now to examine wrecks underwater where the costs of

1 a survey are likely to be justified by the benefits for
2 maritime safety. The department has further accepted
3 Mr Clarke's recommendation that before any decision is
4 taken not to search for a wreck or to investigate it
5 when found, officials and ministers should explicitly
6 take into consideration the wishes and interests of
7 bereaved families and any danger that inaction will lead
8 to their grief being aggravated by rumour and prolonged
9 uncertainty.

10 It was more than two and a half years after the
11 publication of the Clarke report and after the
12 completion of the 2002 survey that you were invited to
13 extend the scope of this formal investigation to cover
14 the topic of why no search was made for the wreck of the
15 Gaul. With the consent of the Secretary of State for
16 Transport, you have agreed that this formal
17 investigation should be so extended to cover this issue,
18 albeit by reference to the contemporaneous documentation
19 only.

20 The department continues to believe that Mr Clarke's
21 investigation was thorough, complete and accurate
22 although it acknowledges that some of the families
23 continue to question the conclusions reached. The
24 department hopes that this further review, together with
25 the department's open participation in it, will answer

1 those who continue to question the department's reasons.

2 Specific criticisms of the department in relation to
3 the topic of "why no search" have been raised by the
4 Gaul Families Association in relation to the period of
5 the late 1970s and early 1980s. As far as the families
6 of Nellist and Spurgeon are concerned, no such
7 criticisms have been raised. The notice of criticisms
8 served on their behalf does indicate a general criticism
9 of the owners and those in government service who are
10 said to have obstructed the families of the lost crew in
11 their search for the truth over the last three decades.

12 However, as the notice does not identify any
13 specific respect in which it is said the department is
14 to be criticised, the department does not understand
15 those acting on behalf of Mr Nellist and Mr Spurgeon to
16 be advancing any criticisms beyond those advanced by the
17 Gaul Families Association. As far as those criticisms
18 are concerned, I will deal only briefly with them at
19 this stage.

20 It is a significant feature of the questions that
21 you are asked to address that no good explanation has
22 been offered to suggest why the reasons given by the
23 department in not searching for the wreck in 1977 to
24 1978 and 1980 to 1981 should be false. Similarly, no
25 suggestion is made as to what it is said were the

1 department's true reasons, notwithstanding the
2 department has given full disclosure of its relevant
3 files.

4 In fact, study of the documents disclosed by the
5 department will show that the department's consistent
6 reasons for not searching for the wreck after extensive
7 enquiries had been made of both the Ministry of Defence,
8 the Norwegian navy and commercial operators were as
9 follows:

10 Firstly, it is the department's view that there was
11 no good reason from the perspective of maritime safety
12 to justify a search. The information then available to
13 the Ministry suggested that while a search might confirm
14 the finding of the OFI that the vessel had sunk off the
15 North Cape Bank it would not establish positively what
16 caused the vessel to go down.

17 Secondly, the potential cost of the search.

18 Thirdly, the real and credible possibility that the
19 department might not actually find the wreck.

20 Fourthly, that so far as the humanitarian grounds
21 for searching for the wreck are concerned, the balance
22 that had to be drawn between firstly the fear that some
23 relatives would be unable to accept the loss of their
24 kin even if the wreck were found, and secondly the risk
25 of causing further distress and unsubstantiated rumour

1 if the search for the wreck were unsuccessful.

2 All of the above reasons are consistent with the
3 publicly stated reasons of the department for not
4 searching for the wreck.

5 It has been suggested to you that the department
6 buried its knowledge of the location of the wreck. In
7 fact, nothing could be further from the truth. The
8 department responded to all requests for information
9 received by it. It shared its knowledge of the evidence
10 as to the location of the wreck with the media, the MPs
11 with whom it was in correspondence and those family
12 members who were writing directly to it, as well as
13 sharing the information with those commercial bodies
14 interested in searching for the wreck.

15 So, for example, the board sent a letter to
16 Mrs Doone dated 13th June 1977 confirming that the life
17 raft container found by the Marbella was found in the
18 broad area where it was believed the Gaul was lost.

19 Letters sent to Mr Hoyle MP confirmed that ships
20 fishing north of the North Cape had recently reported
21 echo sounder traces on an uncharted obstruction on the
22 seabed that could be the wreck of the Gaul.

23 The position of the wreck was given to commercial
24 enterprises interested in searching for the wreck,
25 namely P&O Subsea and ULS in September 1977.

1 The position of the wreck was also given to
2 Thames Television for whom Mr Fenton had originally
3 produced a television programme in 1975 and that
4 information was given to Thames Television in
5 November 1977.

6 A report in the Hull Daily Mail of the minister's
7 decision in August 1977 not to search for the wreck also
8 confirms that evidence of echo sounder traces had been
9 made public.

10 As far as the early 1980s are concerned, sir, the
11 department again advised those families corresponding
12 with them as to their best estimate of the location of
13 the wreck. You will recall the letter written on
14 25th September 1980 that gave a reasonably accurate
15 position. Subsequent correspondence received from
16 family members indicates that this correspondence was
17 seen not only by the addressees but also family members.

18 Sir, it was also suggested to you that the
19 department's reliance on its opinion that no further
20 lessons for maritime safety would be learnt must be
21 untrue in light of the findings of the National Maritime
22 Institute report. We will need to look at this in more
23 detail but I make the following points now:

24 The National Maritime Institute report did not
25 exclude the possibility that the vessel could have been

1 lost by water on the trawl deck. The conclusion of the
2 final NMI report was that it would seem most probable
3 that the cause of the Gaul's loss was due to the effect
4 of the severe waves and wind and the possibility of
5 encountering a large steep wave at that time in the area
6 of the North Cape Bank associated with some other factor
7 other than deficient intact stability.

8 It will also be clear to you, sir, from
9 correspondence that the overriding context in which the
10 government was being asked to search for the Gaul was to
11 establish that she was there. To this extent, a search
12 would not have added to the conclusion of the original
13 formal investigation that the Gaul sank off the
14 North Cape Bank. In this respect, there is nothing in
15 the National Maritime Institute report that contradicts
16 the findings of the original investigation.

17 If it were the intention of the department to
18 mislead the families as to its knowledge of the location
19 of the wreck, it would have kept the findings of the NMI
20 confidential. It is apparent from the correspondence
21 that the department made the findings of that search
22 available to the families' then legal advisers in
23 June 1978 for the purposes of the litigation that was
24 then on-going between the families, the builders and the
25 owners. You might think it significant that no-one then

1 acting for the families appears to have suggested that
2 the NMI findings were a reason for a further search in
3 reality.

4 Sir, it was also suggested to you that the
5 department's reliance on the cost of the surveys was
6 untrue. The contemporaneous documents will demonstrate
7 the error in this assertion. While the department did
8 explore ways by which it could reduce costs or persuade
9 a commercial organisation to underwrite the cost of
10 a survey, the contemporaneous documents show that the
11 department genuinely concluded that at the time it could
12 not justify the cost of the survey when measured against
13 the benefit to maritime safety generally or the
14 potential risk of failing.

15 On the topic of risk of failure, may I also sound
16 a note of caution. There was behind Mr Saloman's
17 submissions a large element of hindsight. In other
18 words, he asked you to judge the department's actions in
19 the 1970s and early 1980s on the assumption that because
20 the 1997 survey found the wreck and because the 1998
21 survey identified the name of the vessel, we should
22 accept that a survey in 1977 or 1980 would have provided
23 further evidence as to the cause of her loss. All these
24 assumptions are false. Mr Fenton's achievement in
25 finding the wreck should be properly acknowledged but

1 even he recognised in his report of the search how close
2 to failure he nearly came.

3 The contemporaneous documents also demonstrate the
4 limited scope of the search that could have been mounted
5 in 1977. It is correct that this survey might have
6 established the name of the vessel, however you will be
7 aware that it has only been with the evidence gathered
8 by the technology used in the 2002 survey that the
9 survey team was able to enter the wreck and provide the
10 evidence that the experts, including those instructed on
11 behalf of the families, now believe establishes the true
12 cause of the loss of the Gaul.

13 Perhaps more importantly, it has only been with the
14 development of DNA sampling and the abilities of the
15 submersibles used in the 2002 survey to gather samples
16 from the remains of the Gaul that the concerns of some
17 family members as to the fate of their relatives have
18 been allayed. Such techniques were clearly not
19 available in the late 1970s and early 1980s.

20 Sir, the question was asked, perhaps rhetorically,
21 why the department did not pursue the suggestion of
22 Captain Lusted to ask trawlers to take soundings to try
23 and identify the location of the wreck. The answer is
24 straightforward. Captain Lusted made an alternative
25 proposal at the same time, namely the department should

1 approach the Navy to see if they would carry out
2 a sophisticated sonar sweep. It was that option that
3 the department decided to pursue in light of the
4 information it already had as to the location of the
5 wreck. Although the department's efforts were
6 unsuccessful, the department cared about the plight of
7 the relatives and was seeking the best method to find
8 answers to the fate of the Gaul.

9 I have already outlined above some of the
10 discussions held by the department with companies
11 interested in carrying out a search, including Thames
12 Television. Ultimately, those discussions were
13 unsuccessful. However, it is wrong to suggest that the
14 department did not pursue them seriously.

15 In summary, sir, the department recognises with
16 regret that some families are unable to accept its
17 earlier decision not to search for the wreck of the
18 Gaul. In part, this is no doubt due to the climate of
19 false rumour that some have sought to engender over the
20 decades as to the fate of the Gaul.

21 Nevertheless, the documents will reveal that in
22 deciding whether to mount a search or not, the
23 department was required to balance a number of factors,
24 including the lessons that could be learned from such a
25 survey against the likely cost of such a survey, the

1 possibility that if they found the wreck it might assist
2 some of the relatives with coming to terms with their
3 loss against the possibility that an unsuccessful search
4 might cause greater pain.

5 It is and will be my submission that judged against
6 the information available to the department at the time,
7 the department's decision was a decision that it was
8 reasonably entitled to take. In any event, sir, there
9 is no basis for any suggestion that the department has
10 at any time sought to mislead the families either as to
11 the location of the wreck or as to its reasons for not
12 searching for the wreck. The department's simple
13 position is that it and its employees have at all times
14 acted in good fait in considering whether to search for
15 the Gaul.

16 Could I say a word on witnesses. Mr Saloman has
17 expressed his surprise that there are no witness
18 statements from the department to explain why no search
19 was made for the Gaul. That is notwithstanding that you
20 have previously indicated that the issue of no search
21 should be dealt with on the basis of the contemporaneous
22 documents alone. It is correct that Mr Saloman has at
23 earlier preliminary meetings indicated a desire for
24 evidence from employees of various departments. What is
25 also correct is that as I explained at those earlier

1 preliminary meetings, the department has made extensive
2 enquiries to locate those witnesses, through official
3 channels and informally.

4 One gentleman could not be traced, some are no
5 longer with us and some are very elderly and medically
6 unfit to give evidence. It is doubtful that more than
7 20 years after the event those witnesses could add much
8 to the evidence that could be gathered from the
9 documents.

10 The department has at all times co-operated with the
11 inquiry and with the families in making those documents
12 available and you will recall that those documents have
13 been available to those acting for the families since
14 shortly after the publication of Mr Clarke's report in
15 May 2000. Thank you very much.

16 MR JUSTICE DAVID STEEL: Thank you very much. That
17 completes our opening statements, Mr Meeson.

18 MR MEESON: It does indeed. My first witness is
19 Mr George Petty.

20 MR JUSTICE DAVID STEEL: Before we call Mr Petty, can
21 I raise some rather more mundane housekeeping matters.
22 The first thing is I think people should be clear as to
23 the hours we are going to sit. Many people attending
24 this inquiry, including myself, have other obligations
25 and duties and there is a limit to the absorption of

1 oral evidence or speeches in one day. Conventional
2 court sitting times are from 10.30 to 4.15. My
3 proposal -- I do not want to debate it, it will be
4 simply wasting the time of the hearing; if people have
5 specific objections to my proposal, perhaps they could
6 let me know in writing at the end of the day -- my
7 proposal is that we should sit from 10.15 to 1 o'clock
8 and from 2 to 4.15. We will have a short break in the
9 morning and afternoon sessions for the benefit simply of
10 our shorthand writers.

11 The only exception to those hours will be on Friday,
12 where some people, including some of my assessors and
13 myself, have a very long way to go to return home and we
14 shall sit at 9.30 and finish at 1.15. As I say, if
15 those hours of sitting are inconvenient or, even more
16 so, impractical for any person, perhaps they could let
17 me know.

18 (11.15 am)

19 There is a large amount of documentation in this
20 case. As I understand it, Mr Meeson, a full transcript
21 of each day's proceedings will be posted fairly quickly
22 onto the inquiry's website and that transcript will
23 contain the documents which are referred to in the
24 course of the evidence.

25 If anybody wishes to have an opportunity of looking

1 at the website and catching up with the transcript for
2 the day that they have either listened to or missed, no
3 doubt they will get the address of that site from the
4 Treasury Solicitor and any other information they need
5 for the purposes of informing themselves.

6 So far as the witnesses are concerned, some of them
7 of course gave evidence in the inquiry nearly 30 years
8 ago. No doubt they gave witness statements to the
9 Treasury Solicitor or other solicitors prior to them
10 coming to give evidence. I do not know whether this is
11 now a matter of agreement between the parties. It does
12 occur to me that it would be wearisome for that evidence
13 to be simply read aloud into the transcript. On the
14 other hand, it is important that we all have some idea
15 of what was said on the previous occasion, to the extent
16 that it is pertinent to matters of continuing
17 controversy, and anybody listening to these proceedings
18 would find any cross-examination incomprehensible unless
19 they knew roughly what was being cross-examined.

20 It occurred to me, and maybe I can mention this to
21 you, that one way forward is for each witness to have
22 a precis of his earlier evidence prepared which would be
23 read into the record. It would not prevent any party
24 drawing the attention of the witness to specific
25 passages in his earlier statement, or oral evidence if

1 necessary, or for that matter any party referring to the
2 detail if the occasion called for it.

3 I recognise this would impose an additional burden
4 on your team, but that seems to me to be a sensible way
5 forward.

6 MR MEESON: Sir, it is a burden that we have already taken,
7 and in relation to witnesses, that is what we are
8 proposing to do. I am proposing to call the witnesses
9 and ask them a number of questions about who they are
10 and where they live and then identify for the record the
11 location of their previous evidence by way of
12 depositions, transcripts of the original inquiry, and
13 any witness statements. So far as the original formal
14 investigation record is concerned, I would propose that
15 that simply be treated as being in evidence.

16 I would then propose to read out the precis that
17 I have prepared and then examine the witness without
18 referring him, at least initially, to his new statement,
19 so to try and elicit the evidence perhaps as much as
20 I can in the old fashioned way, and then having done so
21 perhaps I will then explore certain matters further, and
22 then probably put in his statement at the end of my
23 examination.

24 It would then be for other counsel to cross-examine
25 as they felt fit and, as you say, sir, refer as they

1 wish to particular passages of previous depositions or
2 previous transcripts.

3 I hope that is --

4 MR JUSTICE DAVID STEEL: I think that is very helpful.

5 I will, for the moment, assume that your proposal or our
6 joint proposal is perceived as satisfactory by the
7 parties, at least for the moment. If a problem arises
8 in regard to it, it can be revisited. Let us proceed on
9 that basis.

10 MR MEESON: Perhaps before I call Mr Petty, sir, you may
11 find it useful if I identify some of the original
12 inquiry documents. I was not intending to take you to
13 them, but simply provide a little guide as to what
14 appeared to me at the moment to be perhaps more
15 pertinent documents. So if you or your assessors were
16 looking for anything in particular, you might say
17 "Mr Meeson said it was in that document, I will have
18 a look at what it says."

19 MR JUSTICE DAVID STEEL: I think that would be sensible so
20 we have a feel for what documentation is available and
21 where it is.

22 MR MEESON: There is an index, but the following are the
23 documents that seemed to me to be the most pertinent
24 documents that we have -- as I say, I am not intending
25 to turn them up --

1 MR JUSTICE DAVID STEEL: Perhaps you could tell me where the
2 index is, that would be a sensible start.

3 MR MEESON: My learned junior has found one in the back of
4 her transcripts bundle.

5 MR JUSTICE DAVID STEEL: I am not convinced I have
6 a transcript. Anyway, perhaps you could be kind enough
7 to provide myself and my assessors with a copy of the
8 index you have in mind in due course. Thank you.

9 MR MEESON: Yes. The original formal investigation
10 documents are numbered I think 1 to 155. By reference
11 to those numbers, the crew list appears as document 4;
12 the Lloyd's --

13 MR JUSTICE DAVID STEEL: I am sorry to interrupt. Are these
14 in a particular volume?

15 MR MEESON: They are in three volumes.

16 MR JUSTICE DAVID STEEL: They are document 4 in the files.

17 MR MEESON: The files actually say on them which documents
18 they had in them.

19 MR JUSTICE DAVID STEEL: I will do a bit more research when
20 we have a break.

21 MR MEESON: Document 4 is the crew list. Document 10 are
22 the Lloyd's Register survey reports relating to the hull
23 and machinery of the vessel. Document 13 are repair
24 invoices for work carried out on the vessel. Document
25 14 is a document which I believe is referred to as the

1 skipper's schedule, it is a report from the Orsino on
2 what other vessels were doing at any particular time.
3 Document 15 is a record of the Gaul's communications
4 during her voyage. Document 18 is the daylight
5 information that was prepared by someone, I guess
6 probably someone like Captain Newbury, for the position
7 72 degrees north at that time of year. For the record
8 it showed that sunrise was at 0946 and sunset was at
9 1444.

10 Document 19 is the tidal information which I have to
11 confess I have not yet found the relevance for, it shows
12 the times of high water and low water, again, in that
13 position. Document 20 is a document that shows what is
14 also shown on the chart and that is that there is
15 a North Cape current that runs in an easterly direction
16 at a rate of, I believe, a half to 1 knot. That is
17 relevant because the wind was from the opposite
18 direction and therefore the seas would be more agitated
19 with a wind over current situation.

20 Document 23 is a number of photographs of the Kurd.
21 Document 24 are the daily weather reports.

22 Document 29 is a report on the loss of a German
23 vessel called the Munchen, and the conclusion was that
24 that vessel was lost as a result of inrush of water onto
25 the factory deck due to a non-return valve in the

1 starboard scuppers, by which they mean what we have as
2 the duff and offal chutes, failing to function for
3 reasons unknown. The Munchen was a case where about
4 half the crew were in fact rescued and it pre-dates the
5 loss of the Gaul.

6 Document 82 are the Hamburg model tests for the
7 class of Arab trawlers in 1970 which was referred to in
8 opening and there are a few photographs at document 95
9 from those model tests.

10 Document 98 is what is described as a Hellyer family
11 tree which shows first of all the corporate structure of
12 British United Trawlers and British United Trawlers
13 (Hull) Limited, the subsidiary which actually owned
14 these four vessels; and also the managers,
15 Hellyer Brothers, it shows who was in what position and
16 who reported to whom.

17 Document 99 is a list of skippers and mates who were
18 taken over, if that is the correct word, when BUT
19 acquired the Ranger fleet and at that time shows that
20 Mr Suddaby was skipper of the Gaul and that Mr Petty had
21 been skipper of a vessel, the Ranger Aurora which became
22 the Esquimaux.

23 There is a Kort nozzle brochure at page 131, and
24 page 132 is a chart marked by Mr Boughan who was on
25 board the Kelt.

1 Document 133 are some photographs of a trawler with
2 significant quantities of water on its trawl deck, which
3 was put to some of the witnesses who said nothing like
4 that was ever seen on the Gaul.

5 Document 138 is a document which records the factory
6 deck pumping arrangements and the capacity and
7 quantities of the various pumps which were available for
8 removing water from the factory deck, not just the Turo
9 pumps but also the bilge line and the bilge ejector.

10 Document 139 sets out the experience of
11 Skipper Nellist and the experience of the mate,
12 Mr Spurgeon.

13 Document 154 is the stability book for the Orsino,
14 which was the vessel from which Mr Nellist had come to
15 the Gaul, and I think the relevance is that it has
16 a prominent warning about the effect of water on the
17 factory deck on stability. That was the vessel of which
18 he was, if you like, a permanent skipper.

19 Document 155 is a note on the schedule system and
20 also details at pages 350 and 354 of that bundle, which
21 is the final bundle of OFR documents which set out
22 details of the last trip of the Gaul. So the
23 penultimate voyage, where Mr Suddaby was the skipper and
24 Mr Petty was his mate, showing the sort of conditions
25 that they experienced on that voyage, at least in part.

1 MR JUSTICE DAVID STEEL: We have been handed a copy of the
2 index. It is missing page 4. Perhaps the additional
3 page could be obtained for us. Unless it is missing in
4 the original.

5 (11.30 am)

6 MR MEESON: The copy I have been handed is similarly
7 deficient. Together with the index, hopefully that
8 short account will be of some value.

9 My proposal was then to call Mr Petty.

10 MR GEORGE WILLIAM PETTY (sworn)

11 Examination by MR MEESON

12 MR MEESON: Mr Petty, could you tell the court your full
13 name and your present address, please.

14 A. My full name is George William Petty, I live at
15 1 St Haddis Court, Priory Grove, Priory Drive, Hull.

16 Q. Thank you. Obviously, Mr Petty, we are dealing here
17 with matters that occurred quite a long time ago.

18 A. Correct.

19 Q. It is going to be important in this case that what you
20 tell us today is really what you can now remember about
21 the events about which people will be asking you
22 questions because one of the problems I think that we
23 all have, really, is that if we have been involved with
24 something for a long time -- I know you have been on the
25 Gaul survey -- that you will have discussed lots of

1 things with people about the Gaul. What we need to try
2 and do is try and, if we can, think back to what you
3 actually know and not give evidence about things that
4 you have, you know, learnt subsequently. Do you
5 understand the difference?

6 A. I understand that.

7 Q. It is very difficult, but that is what we need to try
8 and do, if that is okay with you.

9 A. Yes.

10 Q. What I shall do to start with is to read out a summary,
11 really, my summary that I have prepared of the evidence
12 that you gave in 1974. Do you understand?

13 A. I understand that.

14 Q. You will just need to listen while I do that and then,
15 when I have done that, I will then be able to ask you
16 some questions. I will start with that. So you do not
17 have to do anything for the moment, until I tell you.

18 For the record, Mr Petty's evidence is contained in
19 bundle AG9 at pages 218 to 230 and those are depositions
20 taken by the Board of Trade inspectors for the previous
21 formal investigation.

22 In addition, Mr Petty gave evidence at the inquiry
23 on the first and second day. His evidence was
24 interrupted, if I can put it that way, by the evidence
25 of Mr Madden, who had to be called because I think he

1 had come off a ship, and so his transcript evidence is
2 at Day 1, page 58 to Day 2, page 10 and again at Day 2,
3 pages 70 to 82.

4 MR JUSTICE DAVID STEEL: Would you tell me which is the
5 relevant volume?

6 MR MEESON: Sir, duff and offal chute separate transcript
7 Day 1, Day 2, Day 3 or are yours combined?

8 MR JUSTICE DAVID STEEL: I have AG9, I am looking for the
9 transcript volume. Do they have a number, or what?
10 I think I want all of us to have a copy.

11 MR MEESON: I am very sorry, sir, I assumed you might have
12 had the other documents such as the transcripts.

13 Then Mr Petty has also provided a more recent
14 statement for this inquiry at bundle AG10, pages 59 to
15 63.

16 MR JUSTICE DAVID STEEL: Right.

17 MR MEESON: Now, Mr Petty had been the mate of the Gaul from
18 September 1973 to January 1974 until, as you have heard,
19 he was repatriated from Lodigen in Norway on
20 27th January 1974. He had sailed only one previous
21 voyage on the Gaul as mate and that was on the
22 immediately preceding voyage under skipper
23 Ernest Suddaby. He did not know Skipper Nellist before
24 he started to sail with him and had not sailed with him
25 before. Nevertheless, from the time of sailing with him

1 when the ship left Hull until he left the ship in
2 Norway, Mr Petty had formed the view that he was a "very
3 sensible sailor" and had no doubts about his abilities
4 as a skipper. He did not fish during the time he was on
5 board with skipper Nellist.

6 During the short period in which Mr Petty was on
7 board the Gaul in her final voyage, there was nothing
8 unusual which occurred. There had been one stoppage on
9 account of the steering gear -- which concerned the
10 Gyro. It was attended to by the wireless operator about
11 36 hours after they had left Hull when the vessel was in
12 the North Sea.

13 Mr Petty had been on the ship in bad weather and he
14 said that to him she was one of the finest ships he had
15 ever sailed in. In his first deposition, AG9 page 219
16 made on 27th February 1974, he said that he had been in
17 arctic storms in the Gaul and she rode beautifully. He
18 said he had fished in weather force 7 and that when
19 hauling nets we might get two or three inches of water
20 on the working deck, but this would be clear in two or
21 three minutes. During his oral evidence he said that he
22 had been running before the weather in a force 6 to 7
23 from the south west on the port quarter and worked on
24 deck. In those conditions he described that about five
25 inches of water would come onto the trawl deck but it

1 would flush away through the freeing ports. He had
2 never known the freeing ports to become blocked.

3 He also said in his deposition that he had had
4 2.5 feet of water right across the working deck when the
5 gear had fouled something on the seabed. He had not
6 noticed any change in the ship's motion when the working
7 deck had been awash, and that it had cleared in three or
8 four minutes. In his oral evidence-in-chief he said,
9 consistently with his deposition, that there had been
10 two occasions on the previous voyages when he had to
11 stop fishing on account of the weather. On the worst
12 occasion they were hauling in force 7-8 and hauling when
13 they had two to three feet of water on the trawl deck.

14 As far as water on the factory deck is concerned,
15 this topic does not feature in his depositions. In oral
16 evidence Mr Petty described only one occasion when small
17 amounts of water had accumulated in the factory deck,
18 roughly a depth of four inches at the after end of the
19 factory deck and extending up maybe six or seven feet.
20 He said that this had arisen as a result of one of the
21 Turo pumps becoming blocked. He said that the other
22 pump had coped with it in about five minutes. He
23 considered that it was common sense that he did not
24 allow water to accumulate in any part of the ship and it
25 was the mate's job to ensure that it did not.

1 Later in his oral evidence he referred to the depth
2 as being about six inches which he said was two inches
3 above the gratings which in turn were three inches deep.
4 Obviously that only amounts to five inches. He knew of
5 no occasion when hoses were left running or when water
6 was left slopping about there.

7 Mr Petty was not asked about the duff and offal
8 chutes at the original inquiry. He described the
9 practices on board the Gaul. First, fire patrols. In
10 his second deposition made on 15th May 1974, AG9,
11 page 222, he stated that fire patrols had been carried
12 out by one of the watch while the vessel was steaming
13 towards the fishing grounds every two hours. In his
14 third deposition made on 25th July 1974, AG9, page 225,
15 he said that such fire rounds were made at night at
16 intervals of maximum of two hours and an entry was made
17 in the ship's log.

18 During the day, the fire round was made more or less
19 once per watch. In his oral evidence-in-chief he
20 confirmed that as a routine the fire patrol would go
21 round and that one of their duties was to check the
22 factory deck in order to see if there was any water. He
23 did not himself carry out such a patrol, and that they
24 were under the charge of the duty officers. Again it
25 appears that he was referring to patrols which were

1 carried out while the vessel was steaming to or from the
2 fishing grounds rather than while she was at the fishing
3 grounds. He said that the patrols were logged in the
4 steaming log.

5 Second, the stern ramp gates. Mr Petty did not
6 mention the stern ramp gates in any of his depositions.
7 However in his oral evidence he confirmed that all the
8 time he had been on board during the last voyage they
9 were closed. He was clear as to what his own practice
10 was regarding their operation. He said that they would
11 be closed for steaming and opened for fishing. He was
12 asked on Day 1 at page 64, question 15:

13 "When was it that they would be closed?" and his
14 answer was, "A long steam".

15 He confirmed this in cross-examination at Day 2,
16 page 71, questions 3 and 4. As far as what he would do
17 when the vessel was laid and dodging, his evidence at
18 Day 2, page 77 was.

19 "Question: 1. Whilst laying a dodging would a
20 prudent mate shut the ramp doors or leave them open?

21 "Answer: Dodging -- closed.

22 "Question: 2. Is that a matter that varies from
23 ship to ship or would it be a standard practice?

24 "Answer: It is the practice. I have always done
25 it."

1 Third, the fish hatches. In his second deposition
2 made on 15th May 1974 Mr Petty said that when the Gaul
3 was steaming the fish hatches would be locked in the
4 closed position by operating the dogs with a key. They
5 had been locked closed by shore staff before sailing
6 from Hull. This had been a standing order from the
7 previous owners, Ranger Shipping, and he considered that
8 it was common sense. When they were fishing the fish
9 hatches were not dogged down. He confirmed this in his
10 oral evidence. He also said in his oral evidence that
11 once the hatches were closed they could not be raised by
12 the motion of the ship, even if not dogged down. They
13 had got very little water, "probably a bucketful", into
14 the factory deck when the fish hatches were closed but
15 not dogged down and they had shipped water over the
16 trawl deck.

17 Fourth, closing doors. He says that usually it is
18 left to the mate to close doors on the trawl deck in bad
19 weather and that the mate does not have to be told. It
20 was a routine he had always done. In bad weather when
21 dodging, the doors would be closed and dogged. It was
22 the mate's responsibility to ensure that after the final
23 haul was made, all was battened down and made secure.

24 (11.45 am)

25 On Day 2, page 77, Mr Suddaby said that there were

1 no openings on the trawl deck which are left open when
2 the vessel is laid and dodging and that he could not
3 imagine any of the doors and hatches being left open by
4 a sensible mate when the vessel was laid and dodging.

5 Mr Petty gave evidence that nobody was on board the
6 Gaul whilst he was on board her last voyage who was not
7 a bona fide fisherman.

8 Now, Mr Petty, that was a summary of the evidence
9 that we have that you gave before. I do not know how
10 much of that is familiar to you now?

11 A. What did me -- I mentioned in my early statement about
12 water in the factory and watches going down, once a
13 watch, to check. While we were dodging, the watch was
14 sent down once a watch to check on water in that factory
15 deck.

16 Q. So when the vessel was dodging there would still be
17 a check on the factory deck?

18 A. Correct, every watch.

19 Q. How long were the watches on board the Gaul?

20 A. The watches?

21 Q. Yes.

22 A. I would say with my previous skipper, Ernie Suddaby,
23 there was only two men took watches dodging: that was
24 myself and the captain. The third mate, no. I do not
25 know why the reason, but they never. We shared a

1 bridge, me and Ernie Suddaby.

2 Q. When you shared the watches with Mr Suddaby, was that --

3 A. Six on and six off, something like that.

4 Q. I want to ask you a general question about how these
5 factory freezers worked and the relationship on board
6 between the deck officers, the skipper and the mates,
7 and the factory manager; okay?

8 Now, can you describe to us to what extent you, as
9 mate or for that matter the second and third mate or the
10 skipper, would go into the factory area? Was that
11 something that you would do regularly, occasionally?

12 A. I just do not follow that question.

13 Q. Sorry. How often would any of the deck officers go into
14 the factory?

15 A. Well, every time there was fish in the ramp. That is
16 the only time we went in the factory.

17 Q. When you were fishing?

18 A. When we were fishing. Steaming, no.

19 Q. At what stage in the fishing operation would you go into
20 the factory?

21 A. To the ramp, I worked with the lads cleaning the fish.
22 I had nothing to do with the factory whatsoever. That
23 was the factory manager's department. He dealt with
24 everything in the factory.

25 Q. You would go down there with the lads and clean the

1 fish?

2 A. Clean the fish, that is correct.

3 Q. Whereabouts on the ship did the cleaning take place?

4 A. Right aft, in the ramp.

5 Q. So the bottom of the ramp?

6 A. That is correct.

7 Q. We can see on the screen now --

8 MR JUSTICE DAVID STEEL: You should have a picture on your

9 own monitor.

10 THE WITNESS: Yes.

11 MR MEESON: Do you recognise that person turning the handle?

12 A. That is myself. I hope so.

13 Q. Now, do you now remember when that photo was taken?

14 A. That was taken after the loss of the Gaul.

15 Q. What vessel was it on?

16 A. I believe it was the Kelt, her sister ship.

17 Q. What are you doing in the photo?

18 A. That day there was someone coming from the Board of

19 Trade -- I think it was the Board of Trade -- and there

20 was me and another skipper, God bless him, he has gone,

21 Johnny Dobson, and we had to meet these chaps,

22 discussing the Kelt to the Gaul.

23 Q. You were making a comparison between the Kelt and the

24 Gaul?

25 A. They wanted to know, like such as that, you know, was

1 that similar to the Gaul.

2 Q. Right.

3 A. Which is exactly correct.

4 Q. What has been said about this photograph is that if one

5 looks by your foot on the photograph, that there is

6 a dark patch emanating from the socket where you are

7 turning the lever.

8 A. Could be dampness.

9 Q. What has been suggested is that it was necessary to oil

10 it before it could be opened.

11 A. No. Unless the shore gap people had done that, I do not

12 know, but I cannot recollect oil. We never did at sea.

13 They were all free enough.

14 Q. When you were on the Gaul, could these dogs on the fish

15 hatches be operated? Could you turn them?

16 A. Yes, certainly.

17 Q. So they were not seized up?

18 A. No.

19 Q. I think you were in court yesterday; is that right?

20 A. Pardon?

21 Q. You were here yesterday?

22 A. That is correct.

23 Q. So you have heard that one of the things that we are

24 interested in are the duff and offal chutes. I know

25 this is difficult, because you have probably discussed

1 it subsequently, but if you can cast your mind back to
2 when you were on the Gaul, do you remember ever looking
3 at the duff and offal chutes when you were on board?

4 A. Yes.

5 Q. You do remember?

6 A. Yes.

7 Q. When would you have looked at them?

8 A. Well, say there was -- your catch was like duff or
9 stones or anything like that, they were immediately
10 thrown to the side and put in the what we used to call
11 them hoppers, and you know ...

12 Q. When does that operation take place, when does the
13 operation of taking the catfish and the stones and the
14 duff?

15 A. When we were sorting the fish out to clean it, you
16 sorted that rubbish away and that was dumped on the
17 hoppers, we called them.

18 Q. So that was when you were cleaning the fish or about --
19 just before you do the cleaning of the fish?

20 A. Yes, all the time that is the only time we went near the
21 hoppers.

22 Q. Right. Who would actually throw these things in the
23 hoppers?

24 A. The men.

25 Q. The men?

1 A. Yes.

2 Q. Did you yourself ever do that?

3 A. Yes. Yes.

4 Q. You did. Can you remember how the hopper operated?

5 A. Well, it opened through weights inboard going out, that
6 is the only way it worked. Something inside heavy would
7 open that hopper.

8 Q. What would happen if you did not have enough weight in
9 the hopper?

10 A. Well you could easily do a weighing bar behind, you
11 could lift that by hand and that would open it.

12 Q. Do you remember whether that -- what we described as the
13 weighing bar, can you remember whether that was
14 permanently held open to make it easier to throw out --

15 A. Yes, it could be. But the weight of a good duff would
16 open it itself, or a stone.

17 Q. Would it?

18 A. Yes. It is like a large duff, like a fungus off the
19 seabed and you used to cut it in half with a shovel.
20 But the weight of one of them would have opened that
21 hopper door.

22 Q. Can you remember using that hopper on the last trip you
23 were on when you were with Mr Suddaby?

24 A. What, the Gaul?

25 Q. Yes.

1 A. Yes.

2 Q. What was its condition at that time, can you remember?

3 Was it working or was --

4 A. It was all working, yes, everything was working perfect.

5 Q. Did you ever have any problems with it or did the men

6 have any problems where it seized up and so would not

7 open when they threw duffs on it?

8 A. Never. That is the gospel truth, never.

9 Q. Do you recall whether there was a lid on the hopper?

10 A. A lid?

11 Q. A lid.

12 A. Yes, there was a lid.

13 Q. What was the practice regarding that lid? Was that left

14 up?

15 A. Well, it is debatable, that. I mean, when we were

16 dodging and very rare we closed it, but long dodges,

17 yes, it would drop down and lock. Previous, if I can

18 explain better, we were fishing in 7s and that, we were

19 in the factory, I admit, but all you used to hear from

20 the hopper was like a sound of say compressed air as the

21 sea went by you but nothing would come in, maybe

22 a bucketful of water and drain away.

23 Q. Occasionally water would come in when you were working

24 there?

25 A. Very little. Not to worry anything. It just went out

1 the very same.

2 Q. If the flap in the hopper was working, how did
3 a bucketful of sea get through the hopper?

4 A. It opened a fraction, a hair line fraction from the
5 bottom, a little water would come in from it.

6 Q. When it was in use, would the lid keep falling down as
7 the vessel pitched and rolled on the sea? The lid on
8 the hopper?

9 A. The lid was lashed back.

10 Q. You see, one thing that people have been considering is
11 whether the hopper became stiff over time so that it did
12 not open properly when the men threw the duff into it.

13 A. As I say, I never ever had any trouble with them
14 hoppers.

15 (12 noon)

16 Q. Turning to a different topic, going onto the bridge.
17 Did you ever yourself steer the vessel in hand steering?

18 A. Very rare.

19 Q. So was the practice on board to use the autopilot?

20 A. That is right, the spare rig.

21 Q. I believe we know it has a tiller on it, does it not,
22 the spare rig?

23 A. That is correct, a trimmer.

24 Q. Is that what you called it?

25 A. Yes, that was on top of the spare rig. That was for

1 altering maybe a few degrees, that is all it was,
2 checking on your course.

3 Q. How would you operate it if you wanted to move more than
4 a few degrees?

5 A. Drop her out and use the lever, whichever way you are
6 going, port or starboard, for a big alteration; and that
7 is when you got her back on to a new course, then you
8 would use a trimmer to get it checked.

9 Q. If you were dodging in bad weather, would you still use
10 the autopilot?

11 A. Yes. It was quicker, you know, for a manoeuvre.

12 Q. Quicker than turning the wheel?

13 A. That is correct.

14 Q. Now, I want to ask you about the stern ramp gates, which
15 we can see closed on that photograph. You have said
16 that they would be closed when the vessel was dodging;
17 that was the evidence you said before.

18 A. Sometimes it was, sometimes -- well, see, when I was
19 with Ernie, we once -- well, she hit a sea and it was
20 all closed and more or less jammed them. So after that,
21 most of the time we had them doors open.

22 Q. Sorry, what jammed them?

23 A. A big heavy sea coming up the stair.

24 Q. What would jam them?

25 A. And force them inward. It was difficult but we got them

1 open.

2 Q. Then when you had them open, did you just leave them
3 open?

4 A. Correct, sir. There was two fitted to the side of the
5 ship -- you cannot see them on this -- and then there
6 was a pin dropped through them to hold them in position.

7 Q. One opened them into the recess, dropped in a pin to
8 hold them there?

9 A. That is correct.

10 Q. That would be how you would normally sail with them?

11 A. That is right, yes. So it kept, you know, it kept the
12 (inaudible) rolling about. They were stationed there
13 with this locked pin.

14 Q. So when you steamed back home from your last trip, were
15 the gates closed then or were they left open?

16 A. They were closed.

17 Q. Was the practice to leave them open when you were at the
18 fishing grounds?

19 A. It was to leave them open, yes, most of the time, yes.

20 Q. Most of the time?

21 A. Yes.

22 Q. Now, can you remember how those ramp gates operated, how
23 you would open and close them?

24 A. By hand.

25 Q. So they did not have a hydraulic --

1 A. Not as far as -- I do not know, but when I was there
2 they opened by hand.

3 Q. I want to ask you again about something completely
4 different. You described, at the previous inquiry,
5 having had water on the deck when you had caught your
6 trawl on something.

7 A. See, what it was, if I can explain it?

8 Q. Yes.

9 A. When you were tight, you found something on the bottom,
10 your ship was nearly to a stand and probably you could
11 go stern over your fast net to try and free it off,
12 where your water from your screw hitting the upcoming
13 water would cause tearing on the ramp, if you understand
14 what I mean. But that was the only time.

15 Q. So if you were trawling along and then you get fast on
16 something, can you describe what happens to the ship?
17 How do you know that the trawls have been caught on
18 something?

19 A. Well, the Gaul was fitted with what they call warp
20 loaders, and the warp runs through those to your main
21 sheet on your quarter. If you came past on one of them,
22 that would naturally put more purchase on that warp and
23 there was a signal gave on the bridge, port or starboard
24 door open, whatever it was, fast.

25 Q. Sort of an alarm system that signalled in the bridge

1 that --

2 A. That would tell the officer on the bridge who were in
3 charge at the time "you have come tight, your port door
4 or your starboard door".

5 Q. When you are fishing, who would be on the bridge?

6 A. The skipper.

7 Q. Always the skipper?

8 A. There again, only time with Ernie was me and him shared
9 that bridge fishing. Third mate never went on.

10 Q. Were you ever on the bridge when you were fishing?

11 A. Yes.

12 Q. Where would the skipper be?

13 A. He would be below.

14 Q. Having a rest?

15 A. Yes. You see, the skipper spent several hours, and I am
16 talking hours, on the bridge and the only time I ever
17 relieved him was when he was ready for a nap. Maybe
18 five or six hours, get a couple of towels in while the
19 skipper was getting dressed, but the main thing: the
20 skipper was on the bridge.

21 Q. If you had caught fast when you were towing, what would
22 you have done?

23 A. Naturally -- I do not think I ever caught fast anyway --
24 in the case that you were badly fast you would call the
25 old man. You want to be on deck yourself because you

1 were in charge of the deck, and your man would come up.

2 Q. So the skipper would come up and he would be on the

3 bridge and you would go on the deck?

4 A. That is correct.

5 Q. What would you then do on the deck to try and --

6 A. I could not do nothing.

7 Q. Okay. Describe how the vessel would try and get out

8 from being stuck.

9 A. Well, up to the skipper, he manoeuvred the ship, he said

10 down stopper and if it was a chance to go over whatever

11 you were fast on, it could be a wreck or rock or

12 anything, to try and get your gear up so it would clear,

13 a direct lip.

14 Q. If you could not free the door that way, what would

15 happen next?

16 A. Well, that is a problem. I would say the warp would

17 part.

18 Q. And if the warp did not part?

19 A. He would get off, there was no doubt about it. Even if

20 you parted your warp, which regularly happened to a hard

21 and fast, you would part -- and you would have a

22 one-ended ship.

23 Q. Have you ever had experience of catching fast on a cable

24 on the seabed?

25 A. I have.

1 Q. You have?

2 A. Yes.

3 Q. Can you describe to us what happened then and how you
4 got free?

5 A. Well, I am going back a few years now when I first went
6 stern trawling, I was in a ship called the Ross Kennedy,
7 1966. We were walking the Newfoundland banks, the
8 skipper is in here now, they will tell you there is
9 plenty of cables across the banks. We fouled, and
10 I have explained to Skipper Thresh how I cleared it. No
11 bother whatsoever.

12 Q. How did you clear it?

13 A. I do not think you will understand, but we hold the door
14 open, the cable was round the door, you get what you
15 call a chain stopper.

16 Q. Explain to me what a chain stopper is.

17 A. A chain stopper is a heavy chain for holding to things
18 like that. It was fixed to the goose neck of your sheet
19 on the stern where the warp comes through. You then
20 wrap round your cable as tight as you can and make it
21 fast. Then you would lower your door back to its chair,
22 then you would have two or three inches from your cable
23 to your door. Then you would pull a bit of slack up and
24 you would unshackle your warp from a swivel, you would
25 pass that cable, your warp, over the offending cable,

1 shackle it back. Once that was done, you took the
2 weight of your door again.

3 Q. Right.

4 A. Right?

5 Q. Yes.

6 A. Then you run your ship up. That would pull the bottom
7 half of the offending door away from the ship's side.
8 Just slip your stopper chain, and it has gone clear.
9 That went back.

10 Q. Have you ever used the gilson wire to hold a cable while
11 you freed the door?

12 A. Never, never.

13 Q. Is it something that you would think of using?

14 A. What, what are you going to do with a gilson?

15 Q. Supposing you were to use the hook on the end of the
16 gilson and hook it underneath the cable.

17 A. Then what?

18 Q. Then hold the cable on the gilson wire.

19 A. Well, when it is clear, how do you get that up, cable
20 out in the open, when you have done it?

21 Q. How do you get the cable out of the hook when you have
22 done it?

23 A. Yes.

24 Q. That would be a reason not to do it, is that what you
25 are saying?

1 A. Yes. That is the only way I have ever done it is with
2 a stopper chain, to be honest.

3 MR JUSTICE DAVID STEEL: Mr Meeson, I will give the
4 shorthand writers a break, if you are passing on to some
5 other topic. We will take 10 minutes.

6 (12.15 pm)

7 (A short break)

8 (12.45 pm)

9 MR MEESON: Sir, for the transcript, can I identify the
10 image that was shown earlier with Mr Petty on it. That
11 was AGP6.

12 Could we have image AGP2, please.

13 Mr Petty, can you look at that on your screen in
14 front of you. That is showing the starboard side of the
15 Gaul. Could you explain to us on there where the gilson
16 wire is?

17 A. The gilson wire, a block there down (indicated).

18 Q. There is a block at the top that you showed us, and are
19 there any other further blocks that the wire goes round?

20 A. I believe there was the four different blocks or four
21 different wires.

22 Q. Can you now remember anything about those blocks?

23 A. As regards?

24 Q. Can you remember whether they were open or closed?

25 A. Blocks?

1 Q. Yes, or sheaves; was there an open sheaf that the gilson
2 wire went around?

3 A. I do not get the question. Open blocks? It was just
4 an ordinary block.

5 Q. Was there anything on the block to stop the wire falling
6 off the block?

7 A. No.

8 Q. So it could fall off?

9 A. No. There was a sheave pocket if that is what you mean,
10 besides, the wire could not come out then. Is that what
11 you mean?

12 Q. You have shown us the block at the top and then the
13 gilson wire comes back down the vessel and you have
14 shown it passing sort of just past that, by the
15 flagstaff, and then --

16 A. It could go to any angle, the gilson wire, straight up
17 and down if you wanted it.

18 Q. You put it where you want?

19 A. Yes, that was just the lead at the top.

20 Q. Are there any other blocks or sheaves that you would
21 pass it over or through at the other end, if you were
22 working with something, maybe the trawl doors or
23 something at the back of the vessel?

24 A. No, there was only the straightforward lead through and
25 out to whatever you were working on. If you were moving

1 a door, that would go direct to that door and to your
2 winch. It would go round to your winch.

3 Q. Okay, thank you for that. You gave evidence at the last
4 inquiry that whilst you were on the Gaul on her last
5 voyage before you came back from Norway, that the only
6 people on board were fishing people.

7 A. That is correct.

8 Q. Whilst you were on board, were you aware of whether any
9 of those people, or the Gaul herself, was engaged in any
10 spying-type mission or secret mission on her last
11 voyage, on her last voyage while you were on the voyage?

12 A. I hope I can close that down for good, that spy
13 business. There was no mystery man aboard that vessel.
14 That vessel was never, ever engaged in spying. That is
15 the gospel truth.

16 Q. Did you ever sail with a Mr Radford?

17 A. No.

18 Q. John Radford?

19 A. I do not think so.

20 Q. Mr Radford suggests he was a factory hand or a general
21 purpose hand on the Ranger Castor, and the Gaul, and he
22 says that on about the 15th or 16th or 17th December, he
23 suggests that the Gaul was buzzed by a Soviet aircraft;
24 do you remember anything like that happening when you
25 were sailing with Mr Suddaby on that trip?

1 A. The first I knew of that was from the skipper. It is
2 obvious I was below, I never actually witnessed this,
3 but the skipper did, Ernie.

4 Q. I shall ask him about that.

5 A. Other time was out to an area, Cape Kanin, when we got
6 buzzed, and we left that through black frost, that area.
7 But that was the only time that to the best of my
8 knowledge was we ever buzzed.

9 Q. You yourself were not on deck at that time, you were
10 below?

11 A. I was below, that is the gospel truth, I never saw it.

12 Q. You cannot tell us anything about this?

13 A. Nothing, nothing.

14 MR MEESON: Sir, for the transcript, if we could take a copy
15 of the marked drawing of --

16 MR JUSTICE DAVID STEEL: I would not say it was the best
17 copy I had ever seen.

18 MR MEESON: Someone can capture it. We can call that
19 exhibit 1.

20 You have also given a statement more recently. You
21 gave a statement to Mr Brand and Mr Brown, I do not know
22 if you remember, from the MAIB in August 2001. Do you
23 remember that?

24 A. Yes.

25 Q. Also more recently you have prepared a joint report with

1 Mr Suddaby -- do you remember that -- in July 2002?

2 A. Was it after the Seisranger?

3 Q. That is after the Seisranger.

4 A. That is correct.

5 Q. We have those in our bundle AG10, pages 59 through to

6 63. Perhaps the witness could be given AG10, please.

7 Do you have there page 59?

8 A. 59, yes.

9 Q. Have you seen this statement recently at all?

10 A. (Pause). That is correct.

11 Q. Then do you remember making the report with Mr Suddaby

12 about what you had seen on the Seisranger?

13 A. That is correct.

14 Q. Is that correct, that report, as far as you are aware?

15 A. This is the report I gave.

16 Q. The next page is the report, I think, page 61. Do you

17 remember that report?

18 A. (Pause). That is correct.

19 Q. (Pause). Is that correct, that report?

20 A. That is correct.

21 Q. Thank you. You referred in your report to the fact that

22 the chief engineer and the factory manager were both

23 new, although they had both sailed on the previous

24 voyage that you had sailed with Mr Suddaby, as

25 effectively the deputies in both those positions. Do

1 you remember that?

2 A. Yes. He was a new chief, the ship I joined. Is that

3 what you are referring to?

4 Q. Yes.

5 A. Yes.

6 Q. The chief engineer had sailed, but not as chief

7 engineer?

8 A. I had never sailed with that man. He was a new chief,

9 I believe.

10 Q. What about the factory manager?

11 A. The factory manager was there the previous trip but he

12 was deputy and he was made up back to manager.

13 Terry Magee.

14 MR MEESON: I think those are all the questions that I have

15 for you, but after lunch some other people will have

16 some further questions for you.

17 THE WITNESS: That is all right.

18 MR SALOMAN: Sir, I just wonder whether I could mention one

19 matter which may assist? My learned junior Miss Hosking

20 has helpfully prepared a summary of the crew experience

21 on the Ranger Castor and it is in quite short, tidy

22 documentary form. Since I will be touching on the

23 question of the crew experience, rather than have a very

24 long winded session with the witness going through

25 particular individuals' experience on the

1 Ranger Castor/Gaul, it may be helpful if I could put
2 that in or circulate it, including with my learned
3 friend's leave to the witness, so we do not waste time
4 this afternoon.

5 MR JUSTICE DAVID STEEL: Yes, I would endorse that. Of
6 course if there are errors they can be corrected in due
7 course. It would save a lot of time to prepare the
8 ground work. If you distribute it, we will use it as an
9 aide memoire and if anybody has corrections now or at
10 a later stage ... we will take a break for lunch now,
11 thank you very much. 2 o'clock.

12 (1.00 pm)

13 (The short adjournment)

14 (2.05 pm)

15 MR MEESON: Sir, the document that was circulated just
16 before the short adjournment is going to be given the
17 reference AG1, tab 6, page 64 and 65.

18 MR JUSTICE DAVID STEEL: I am not quite sure which document
19 that is.

20 MR MEESON: It is entitled "Crew Records".

21 MR JUSTICE DAVID STEEL: I see. I am not sure I have
22 received it.

23 MR SALOMAN: It should have been placed on your table.

24 MR JUSTICE DAVID STEEL: It may have been placed in AG1.
25 No, I do not have it. I do not think any of us have.

1 MR MEESON: Could you check the bundle? Somebody may have
2 put it directly in your bundle.

3 MR SALOMAN: We understand that the Treasury Solicitor
4 placed documents in the bundle.

5 MR MEESON: AG1. Tab 6, page 64.

6 Cross-examination by MR SALOMAN

7 MR SALOMAN: Good afternoon, Mr Petty.

8 A. Good afternoon.

9 Q. I may ask you some questions which you may not think
10 relate to strictly the marine issues in this case. The
11 reason I will ask them is that, as you know, there have
12 been over the years many allegations as to the
13 activities that the Gaul may or may not have been
14 involved in before or during this voyage. I thought
15 I would explain that now.

16 A. That is a mystery.

17 Q. Very well, and I will begin with one.

18 When you left Hull on the Gaul's last voyage, it is
19 common ground that you called at Bridlington, next stop,
20 to take on another crew member.

21 A. That is right, Mr Lacey.

22 Q. Afterwards, what direction did the Gaul take?

23 A. Well, it is a common knowledge when you are going to the
24 white sea, north north east, that means the Norwegian
25 coast.

1 Q. She proceeded north?

2 A. North north east, correct.

3 Q. She did not proceed on a southerly course?

4 A. No way.

5 Q. Did she or did she not proceed to Portsmouth?

6 A. No.

7 Q. Did she take on further bunkers at Portsmouth?

8 A. No.

9 Q. Did she take on board any naval officers at Portsmouth?

10 A. No, there was nowhere near Portsmouth.

11 Q. We also know that five days into your voyage, you

12 suffered an injury; is that right?

13 A. That is correct.

14 Q. Was it a rupture?

15 A. That is correct.

16 Q. Whose decision was it for you to fly home?

17 A. Well, I was -- well, we had a doctor aboard when we got

18 to Lodigen.

19 Q. At Lodigen?

20 A. That is correct. And I asked him, there was a swelling

21 in the groin, and if it was possible to wear a jockstrap

22 and carry on the trip. For some reason, something to do

23 with insurance: no, I had to repair ashore for the

24 operation.

25 Q. Very well. Was that the reason you were flown back to

1 Hull?

2 A. That is correct.

3 Q. Did you have any other reason for not wanting to
4 continue your voyage?

5 A. No, no, no, I was quite happy.

6 Q. Do you remember Radio Officer Doone?

7 A. I do vaguely remember him. I got introduced to him on
8 the bridge the first day I joined her in dock.

9 Q. You remember sufficiently well that he was on board that
10 voyage?

11 A. He was.

12 Q. When you left the ship at Lodigen, did he accompany you?

13 A. Nobody accompanied me, nobody.

14 Q. So when you left the ship at Lodigen, he was on board
15 the ship?

16 A. Certainly he was.

17 Q. Thank you. Now, you mentioned this morning that you
18 thought the factory manager, Mr Terence Magee, was not
19 on board the ship when you had your first lengthy voyage
20 on the Ranger Castor. Did I understand your evidence
21 correctly?

22 A. No, he was deputy manager the previous trip, yes.

23 Q. Very well. I do not know whether the witness has the
24 new crew list.

25 A. Yes, I have.

1 Q. Apparently you do. Could you look at that crew list
2 kindly, Mr Petty. It may help to remind you and indeed
3 remind us all of certain men who were working on the
4 factory deck on her last voyage who, Mr Petty, would
5 also have been on board the ship with you during the
6 September to December voyage.

7 A. Well, actually I cannot remember the -- but according to
8 this, there was one, two, three, four, five, six, seven
9 apparently had been on the previous trip.

10 Q. Yes, it is about what we make it. We make it eight.
11 Just to be clear about what we say, Terence Magee, the
12 factory manager, he was on the last trip and indeed the
13 previous trip to that, but certainly the last trip.

14 Stan Collier --

15 A. He was there, yes.

16 Q. Do you remember him being there?

17 A. Yes.

18 Q. James Woodhouse, do you remember him being on your
19 pre-Christmas trip?

20 A. As I say, it is 30 years ago.

21 Q. I quite understand. The other men we submit were on
22 board were Raymond Atkinson, Mr Petty, do you see his
23 name halfway down the second page just after
24 "Woodhouse"?

25 A. Raymond Atkinson?

1 Q. Yes, do you remember Raymond Atkinson?
2 A. Not, you know, to fetch memory back.
3 Q. Eric Grundy?
4 A. I remember Eric.
5 Q. Do you remember him being on board?
6 A. Yes.
7 Q. James McLellan. Do you remember him or not? Say if you
8 do not remember.
9 A. Well, I cannot remember them all, it is that many years
10 back.
11 Q. Very well. We can agree then that some seven or eight
12 men who were serving as factory hands on the
13 Ranger Castor with you that previous voyage were on the
14 Gaul on her last voyage.
15 Do you recall whether during your long voyage on
16 Castor there were any particular problems in the factory
17 deck?
18 A. To be honest, I do not think we had any serious problems
19 in the factory deck.
20 Q. You do remember some problems?
21 A. No, not really. I just cannot think of one.
22 Q. Do you remember any problems with any personnel who
23 worked in the factory deck?
24 A. There was no trouble whatsoever. No trouble.
25 Q. Questions have been raised as to the experience of the

1 crew on her last voyage. Leaving aside any earlier
2 voyages that the seven or eight men serving as factory
3 hands may have had and the factory manager on that
4 voyage may have had, and the assistant factory manager
5 may have had, would you consider the service on one
6 82-day voyage by those men sufficient or insufficient to
7 teach them the ropes?

8 A. They were very, very good workers, I can assure you,
9 every one on board, I can recommend them.

10 Q. Do you recall Terry Magee?

11 A. I do, well.

12 Q. How did you evaluate him?

13 A. Very good. I rated him very good.

14 Q. There were, on the factory deck on the last voyage, just
15 two new faces for you. One was John Heywood; do you
16 remember him?

17 A. I do.

18 Q. I can tell you that John Heywood had previous experience
19 on the Ranger Castor on a 105-day voyage.

20 Finally there was William Jones. Do you remember
21 William Jones, Mr Petty?

22 A. To be honest, no.

23 Q. Did you have any doubts about Heywood's experience?

24 A. As I said before, everyone in that factory was excellent
25 workers, I have not a bad name for any of them.

1 (2.15 pm)

2 Q. We appreciate that you were on board the Gaul for the
3 final voyage for a very few days indeed. Do you recall
4 having any discussions with the crew as to any
5 particular routines?

6 A. No, it was just the routine we got to the grounds.

7 Q. There would not have been any discussions with them as
8 to practices to follow on the trawl deck?

9 A. No, no.

10 Q. Or on the factory deck?

11 A. Say there was -- as regards the deck, if I can explain
12 it, the factory hands knew we were running off to the
13 grounds, they were preparing the factory. The deck,
14 like one day, second day, I will try and put it easy for
15 you. The second day out after picking Mr Lacey up we
16 had what we call a field day, and a field day, to
17 explain it, all watches are stopped at breakfast, the
18 skipper is on the bridge all day and then you have all
19 hands getting net ready, two nets ready, cleaning up the
20 ship, sorting out gear in the proper place and it is
21 a busy day, of course, you are milling with them all the
22 time, get to know them and everything, and then you
23 send -- that trip we sent the second mate off the deck,
24 tea break in the afternoon, two men and he would take
25 the after tea watch. Simple as that.

1 Q. That was the kind of discussion that you would have had
2 with the crew at the beginning of the voyage, just
3 talking in that way?

4 A. Yes. What last ship they were in, you know.

5 Q. What about the new deckies on board for that voyage,
6 would you have had any discussions with them about
7 anything in particular relevant to their duties during
8 the voyage?

9 A. No, no.

10 Q. Whatever experience the crew had, would the deckies have
11 had any sense of personal responsibility to close doors
12 in bad weather conditions, to check hatches were closed,
13 and the like; or would they require instructions from an
14 officer?

15 A. Well, it was a normal practice for any good decky -- and
16 they were good deckies -- to normally close a hatch when
17 they had finished. Take a net out of a store in the
18 starboard quarter, you immediately drop the hatch, put
19 a rug on it, simple as that. Routine.

20 Q. Was it your assumption that the deckies would have known
21 these routines?

22 A. Of course they would.

23 Q. Was it your assumption that the factory deck hands would
24 have known proper procedures in the factory deck?

25 A. They would know all the procedures in the factory.

1 Q. Do you recall whether or not while you were on board,
2 Skipper Nellist had any particular discussions with the
3 deck hands or the factory deck hands about their duties?

4 A. No, see, it was his first trip in the ship. Now, the
5 only discussions, real discussions, was with me.
6 I mean, he would go looking round the ship, natural, new
7 skipper, finding his way about. But real serious
8 discussions on the ship were just solely between me and
9 him.

10 Q. So far as your discussions with Skipper Nellist were
11 concerned, did you or did you not discuss factory deck
12 procedures with him?

13 A. No.

14 Q. Procedures on the trawl deck in bad weather?

15 A. No, no, that is natural, that, but the only thing
16 I discussed with Nellist on that trip, if you would
17 abide by it, each skipper, they all have their own fancy
18 ideas to a trawl or the bottom gear, and I explained to
19 the skipper: was he happy with the rig we had there
20 previous from Skipper Suddaby? His words were to me,
21 I can remember as clear as the day, he said "it is going
22 up for Ernie, leave it as it is". So we left the trawl.
23 Some of the skippers had fancy pieces, you know,
24 whatever, but he was quite happy at the gear I had put
25 alongside.

1 Q. Apart from that particular discussion that you recall on
2 the trawl deck with Skipper Nellist, do you recall any
3 discussions with him about any other particular place
4 within the ship, for example the factory deck or the
5 bridge?

6 A. No.

7 Q. It is very clear, thank you.

8 Ramp gates. You told us this morning that you found
9 that they got jammed --

10 A. Only on one occasion.

11 Q. On one occasion?

12 A. That was a previous trip.

13 Q. On the previous trip?

14 A. That is correct.

15 Q. By heavy seas?

16 A. That is right.

17 Q. What sort of wind forces did you experience on that
18 previous trip?

19 A. Well, I cannot remember, but she took a sea up her
20 stern, simple as that.

21 Q. And it jammed the closing mechanism?

22 A. Not jammed, it knocked it inward and we got it open in
23 the end and after that, leave them.

24 Q. They were knocked inwards and were unable to remain
25 closed in that position unless -- is that correct, that

1 after they had been knocked they were not performing
2 their function?

3 A. Yes, they were, got them free and you put the bar on
4 there to keep them closed. The two bars come like that
5 (indicated). There was a bar dropped across.

6 Q. In practice you decided to keep them open?

7 A. Yes.

8 Q. Until you steamed home?

9 A. That is correct.

10 Q. Were you aware whether or not it was common practice to
11 leave the ramp gates open for most of the voyage before
12 you steamed home?

13 A. No, just normal practice, kept them open.

14 Q. Now, the Gaul was one of four C class ships.

15 A. That is correct.

16 Q. Were they all traded in much the same way or were they
17 traded on different kinds of voyage, less severe; were
18 they traded to the same areas?

19 A. I was only in the one. I do not know how the others
20 went on, I could not tell you about that.

21 Q. You do not know whether the Kelt traded to the
22 Barents Sea, for example?

23 A. I do not know nothing about them ships, I have never
24 boarded her.

25 Q. Do you know anything at all about their maintenance

1 on-shore?

2 A. What is the question?

3 Q. Were they maintained and repaired by the same set of men

4 as repaired the Gaul and maintained the Gaul, or

5 different men?

6 A. I do not know.

7 Q. You do not know anything about that?

8 A. No.

9 Q. Do you remember Skipper Madden?

10 A. I do.

11 Q. Were you a friend of Skipper Madden?

12 A. For quite a long time. We still are.

13 Q. When you were ashore between voyages, did you not

14 regularly discuss each other's ships?

15 A. Naturally, every fisherman did.

16 Q. Would you not have had a clear knowledge of the kind of

17 trading that he would have done in the Kelt?

18 A. Not a clue.

19 Q. Not a clue of where he was going?

20 A. No, no, no.

21 Q. Whether he was involved in pelagic fishing or seabed

22 fishing, you would not have had a clue?

23 A. Well, see, in normal -- I know it was at the course with

24 us -- he would be using the bottom trawl; pelagic, no.

25 I do not know.

1 Q. What I am suggesting to you, Mr Petty, is that although
2 of course it is a very long time ago, you recall, as you
3 have told us, that you knew Skipper Madden well?
4 A. Yes.
5 Q. That you had discussions with him?
6 A. Yes, just like in the club, not at sea, in the club you
7 were discussing, which every fisherman did.
8 Q. Did you discuss each other's voyages?
9 A. Well, you all do.
10 Q. Did you discuss each other's ships?
11 A. Of course you do.
12 Q. Of course you do?
13 A. Yes. I mean, when you talk to another fisherman, you
14 discuss what sort of ship is she, what you caught, all
15 sorts.
16 Q. What your problems are?
17 A. Yes, general knowledge, general talk.
18 Q. Do you recall who the skipper of the Ranger Callisto was
19 at that time?
20 A. I could not tell you.
21 Q. Is it a fair assumption on my part that at that time all
22 the skippers and the mates on the C class ships would
23 have been known to each other?
24 A. Well, to be honest I did not know how -- it was the
25 first time I had been in a C class, I had done four or

1 five years in the A class.

2 Q. So you are not sure whether you knew much about the
3 three sister ships?

4 A. Not at all, not at all.

5 Q. Or the three sister ships' skippers?

6 A. No.

7 Q. So far as you are aware, were these ships treated by
8 Hellyers, the managers, in the same way or a different
9 way?

10 A. Well, they are going to a new company, I suppose they
11 would be treated the same way.

12 Q. Do you recall them being treated the same way in terms
13 of maintenance, inspections, upkeep, or do you not have
14 any recollection of the matter one way or the other?

15 A. I presume one ship is the same as another, maintain it
16 the same as the others.

17 Q. Fish hatches. You told us that the Castor met some bad
18 weather on your long previous voyage with her.

19 A. We had some terrible weather.

20 (2.30 pm)

21 Q. Where was that terrible weather?

22 A. It was all on the white sea, leading up to Cape Kanin,
23 it was all on that last trip.

24 Q. You told us in 1974, and my learned friend Mr Meeson has
25 reminded you of your evidence, that there was

1 an occasion when the trawl deck flooded.

2 A. Yes, several times.

3 Q. Several times. Whenever the trawl deck is flooded, is
4 it not right that the hatch covers themselves would be
5 drenched, drenched with water?

6 A. You are talking about fish hatches, or?

7 Q. I am talking about the fish hatches. Is that right?

8 A. They would be underwater, naturally.

9 Q. Similarly whenever the cod ends are hauled onto them,
10 will not the hatch covers be drenched with water?

11 A. When you fetch your bag of fish in?

12 Q. Exactly.

13 A. Naturally the water drains away.

14 Q. So the fish hatch locking keyholes are very naturally
15 vulnerable to rust and seizing up; is that not right?

16 A. No, I have never seen them seized up. The actual stud
17 of these hatches was brass.

18 Q. So on the face of it, the locking key mechanism should
19 work smoothly and easily?

20 A. Certainly, it was always in use.

21 Q. Can we look at image AGP6. Mr Petty, we can see you
22 here using the locking key wrench on the central socket;
23 is that right?

24 A. Yes.

25 Q. Do we see to the right of the image another locking key

1 socket?

2 A. That is correct.

3 Q. And again to the left of that same hatch cover --

4 A. That is correct.

5 Q. -- another key socket?

6 A. Correct. There would be one between my legs if you

7 look, you can see it.

8 Q. Is it not fair to say that certainly the socket that you

9 are working on has a very dark patch, the right-hand

10 socket has a similar very dark patch, and there is

11 a small dark patch around the left-hand socket; is that

12 not right?

13 A. That is correct.

14 Q. That cannot be dampness, can it?

15 A. It could be anything.

16 Q. What is it?

17 A. If there had been keys in dock, if they had been -- the

18 maintenance men had been aboard, right, over all the

19 locks, there would have been oil there, anything.

20 Q. It could be oil?

21 A. Could be if the maintenance men, the fitters had been.

22 If he was on survey, that would be being worked on.

23 Q. Is it not entirely possible and plausible that by the

24 time the Kelt returned from her previous voyage, her

25 locking mechanism was not functioning properly?

1 A. Well, I could not answer that, I do not know, I was
2 never aboard her.

3 Q. In practice, were the locks never operated -- by that
4 I mean the hatch covers were not locked or unlocked from
5 underneath the hatch covers?

6 A. You could do that if you wanted.

7 Q. You say you could do that if you wanted.

8 A. You could go up if you were going to need it that way,
9 but that was always a satisfactory way of locking. That
10 was a main way.

11 Q. You never saw them operate it from underneath, did you?

12 A. Never.

13 Q. You say in your evidence that you could lock the hatch
14 underneath in an emergency.

15 A. Well, there was no emergency, I mean there was no need
16 to lock them from underneath.

17 Q. I was wondering what emergency you envisaged.

18 A. Well, it was not an emergency. Say you were fishing and
19 you were fishing at say a 7 or a 6, water used to come
20 on, they were not locked, all the time you were working
21 in that factory, and with the stern dropping, it would
22 probably break the sea when she lifted the weight of
23 them up and back and you got so much water, but the
24 pumps round the gutting bay would take -- if you got
25 panicky, you would say to the man on deck "go and put

1 a couple of studs fast"; no more, just a couple to hold
2 her down. Simple as that.

3 Q. When the Gaul did meet heavy weather, you tell us now
4 that the hatches would work up and down to some extent
5 in a seaway?

6 A. Yes, you would always -- there was always the
7 (inaudible) studs, there was never no trouble with that.

8 Q. But then the lids would drop back, they would not
9 open --

10 A. They would not open if they were locked.

11 Q. How many inches would they open in a seaway?

12 A. Well, say you were --

13 Q. If they were not locked?

14 A. If you were towing, then, maybe two hours, two and a
15 half hours, it all depends. And the drop in the stern,
16 as I say, the weight would lift and break the seal, a
17 rubber seal. When it went down, the weight of the hatch
18 closed it tight. It was only a matter of seconds.

19 Q. So in not locking the hatches during these trips, or for
20 most of these trips, why was that?

21 A. Well, you see you never locked them all the time you
22 were fishing. You never locked them. The only time you
23 locked them doors secure was ahead of a long dodge.
24 They were secured and locked.

25 Q. Did you consider the weight of the hatch covers heavy

1 enough to make locking unnecessary?

2 A. No.

3 Q. You just did not do it?

4 A. When you were in a dodge, that was the golden rule, they

5 were locked, in heavy weather.

6 Q. So they were locked in heavy weather, but not during

7 fishing?

8 A. You never locked them, really, no. I mean you were

9 trawling -- hauling maybe every two hours, we never had

10 them locked.

11 Q. Do you actually recall the hatches being locked in heavy

12 weather?

13 A. Being locked in heavy weather?

14 Q. Yes.

15 A. They were always locked in heavy weather.

16 Q. Why were they always locked in heavy weather? Was that

17 a practice that prevailed amongst trawlers?

18 A. It was. Every stern trawler locked them in heavy

19 weather, as far as to my concern, they all locked them.

20 It was number one safety.

21 Q. What do they lock them with?

22 A. That key.

23 Q. Do you recall the key being on board?

24 A. Do I recall the key? There was one either side of the

25 ramp.

1 Q. Do you actually recall the key being on the side of the
2 ramp?

3 A. I do.

4 Q. Are you sure about that?

5 A. I certainly am.

6 Q. Four ship husbands who were asked whether or not the key
7 had been in its usual place on the Gaul before she left
8 on her last voyage said that they could not find the
9 key.

10 A. Well, I do not know about that. There was two brackets,
11 one either side there and there was a place there.

12 Q. That was the place for it?

13 A. That was the place, inside the ramp.

14 Q. But on the last voyage, did you or did you not have any
15 occasion to use the locking key during your five days?

16 A. No.

17 Q. So is it fair to assume you had no reason to consider
18 whether the key was there or not, in the five days of
19 your last voyage?

20 A. What, to check if it was locked?

21 Q. Yes. You had no reason to consider one way or another
22 whether the hatch was locked or unlocked?

23 A. You check that when you leave the dock.

24 (2.43 pm)

25 (Hearing adjourned until 10.00 am the following morning

1 due to power cut)

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

PAGE

Opening submissions by MS PEIRCE	1
Opening submissions by MR COOPER	9
MR GEORGE WILLIAM PETTY (sworn)	32
Examination by MR MEESON	32
Cross-examination by MR SALOMAN	62