

Thursday, 22nd January 2004

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(10.20 am)

MR JUSTICE DAVID STEEL: Yes, good morning.

MR MEESON: Sir, could I start with three pieces of housekeeping. Bundle AG10 there is apparently a replacement signed statement at pages 99 to 101. Bundle AG20.1 there is a fax dated August 1998, which has been added. More relevantly for this morning, in bundle AG8, which is the Marin report, table 1 had been omitted and has now been put in.

MR JUSTICE DAVID STEEL: Thank you.

MR MEESON: Sir, this morning we have Mr van Walree from Marin who is going to give effectively a presentation of the work that was carried out, commissioned according to a specification by the experts.

If I could perhaps very briefly introduce it before I call him.

MR JUSTICE DAVID STEEL: Yes.

MR MEESON: Just to summarise, Marin is the marine research institute of the Netherlands, and they are an independent organisation who were commissioned in this case to carry out certain model tests to a specification which has been drawn up by the experts.

The fundamental idea behind it was so that the experts could have a better understanding of the

1 seakeeping properties of the vessel, and also to
2 investigate the flow rate through openings which were
3 found during the 2002 survey, in particular the duff and
4 offal chutes and the factory access door.

5 The model tests were carried out in the basin at
6 Marin using a sea state which had been given by Cardone
7 derived from his hindcast work.

8 The experts considered that it was important to know
9 how much water could have entered the factory deck
10 through the openings which they believe were open on the
11 surface. They focused on the duff and offal chutes and
12 the factory access door because they considered those
13 were two openings which were almost certain to have been
14 open on the surface.

15 The other particular openings that we have heard
16 about, the engine room escape hatch and the fish
17 hatches, fall into a category where the experts cannot
18 be certain at what stage they opened and so were not
19 included in the model tests.

20 The results of the model tests have been used by the
21 experts to derive conclusions, bearing in mind all the
22 other evidence that we have, and Marin are here today to
23 explain the work that they were asked to carry out.
24 Obviously, any questions which concern either the choice
25 of specification for the tests or, more particularly,

1 the interpretation of those results in the context of
2 this inquiry, are matters which will be directed to the
3 experts in due course. Marin were simply engaged to
4 carry out a task, and they are here to try and explain
5 to us the tasks that they carried out so that we can all
6 have a better understanding of it.

7 MR JUSTICE DAVID STEEL: Thank you very much.

8 MR MEESON: I do not know whether Mr van Walree needs to be
9 sworn.

10 MR JUSTICE DAVID STEEL: I rather doubt it, but in order to
11 maintain consistency.

12 MR FRANS VAN WALREE (sworn)

13 Examination by MR MEESON

14 MR MEESON: Mr van Walree, I think your full name is
15 Frans van Walree; is that right?

16 A. That is correct.

17 Q. I think you have a PowerPoint presentation for us this
18 morning?

19 A. Yes.

20 Q. Perhaps if I can sit down and let you get on with it.

21 A. Okay.

22 I would like to show you the highlights of the work
23 we have been doing. It is a bit of a technical thing so
24 I will do my best to explain it in simple terms, but
25 I am afraid that is not always easy for a technical guy,

1 but I will do my best.

2 Next slide, please. I will start with the
3 objectives of the investigation. Like that just before,
4 Cardone advised a prediction of the sea state which is
5 believed to be present at the time of the loss. Given
6 that sea state, we were asked to investigate how the
7 ship behaves in such a sea state.

8 We do that on the basis of model testing. That is
9 our business, so to speak. Before the model test we
10 perform some numerical investigations to find out what
11 the most interesting conditions were, what wave
12 direction, what speed, things like that, and on the
13 basis of that, the panel of experts have defined the
14 test conditions: that is to say which speeds shall we
15 use, which course shall the model have relative to the
16 waves; some manoeuvres were defined, a free drifting
17 test. That is to say when the ship has no engine power
18 any more or cannot steer then it will be freely drifting
19 in the waves, so it is interesting to see what happens
20 then.

21 The purpose of all these tests is to see whether the
22 ship will capsize or show surfing or broaching
23 tendencies. Surfing is when the ship is taken with the
24 waves, with following waves, and then at high speed it
25 may lose stability. That is a potentially dangerous

1 condition which might have occurred in that sea state.
2 We did not know but we wanted to find out.

3 Broaching is when the waves boost the ship off its
4 course very suddenly. Then it can have beam on waves
5 which can turn the ship over.

6 Also, very important is to measure the amount of
7 water ingressing through openings in the hull.

8 So those were the main objectives of the model
9 tests.

10 Next slide, please. An additional objective was to
11 validate the predictions. We have a numerical tool,
12 a computer programme called Fredyn that we use to
13 predict the motions before we do the model test. On the
14 other hand, once you have done model tests you can test
15 whether your predictions were good. If they were, you
16 can use the same tool to do further investigations. So
17 that is the second part of the investigation. But
18 I will talk about that later.

19 Next one, please. First, we go to the model tests.
20 We have built a model of the Gaul at scale 1:24. That
21 means the model was about 2.3 metres in length. So it
22 is quite a small model. We needed such a small model
23 because the waves that we can generate in the basin, in
24 our swimming pool so to say, are limited in height, so
25 that is the main factor for selecting this scale ratio.

1 In order to generate a certain wave height, and
2 knowing the limitations in that, we come to the model
3 scale.

4 The model is self-propelled. It has an autopilot
5 for course keeping and manoeuvring. That means we do
6 not push the model or tow the model through the basin
7 but there is an electric motor in the model, a Kort
8 nozzle, a steerable nozzle, just like the real ship,
9 that is remotely controlled by autopilot. So we
10 simulate the behaviour of the real ship by doing so.

11 The openings that we use in the model: two chutes in
12 the side, duff and offal chute, effectively entrance at
13 the trawl deck. This means we could fill the factory
14 space with a certain amount of water before the test as
15 to simulate what happens with progressive downflooding.
16 So we could fill the factory space with a certain amount
17 of water, the model will take a certain list and we
18 started to do the test. We see what happens then.

19 Next one. There you see a drawing of the model. We
20 have the sections. This is top view, this is the side
21 view. The chutes are over here and over there, so we
22 made holes in the hull the right size. Both are coming
23 in through the chutes, both let through a small
24 reservoir, just below the factory deck, and then pumped
25 through these collecting tanks. After each test run,

1 which lasts typically for a few minutes, we pumped the
2 water out of these collecting tanks and we measured how
3 much water we were able to pump out. That is equal to
4 the water that has come in during the test.

5 The same holds for water entering through the
6 factory door over there. That has led to the second
7 reservoir over there. That is the way we measured how
8 much water was coming in.

9 Next one please. The main findings of our tests.
10 First of all, we consider it to be a relatively good
11 ship, so it showed good seakeeping behaviour relative to
12 similar ships of the same size. So it is not a bad
13 ship. It did not broach, so it was able to keep course
14 during all the conditions we tested.

15 It was quite clear that in stern quartering waves,
16 so waves in between following direction and beam
17 direction, so at 45 degrees to stern, that wave
18 direction, then the roll angles were maximum and course
19 keeping was more difficult. When you have high roll
20 angles then of course most of the water comes in. That
21 is an obvious result.

22 At the same time as saying that is a relatively good
23 ship that shows good seakeeping behaviour, the sea state
24 is quite heavy, so the motions and absolute values were
25 high. We consider that the performing duties for the

1 crew must have been quite difficult under these
2 conditions, despite the fact that she is a good ship.

3 Next one, please. Like I said before, downflooding
4 through the chutes, so the amount of water coming in,
5 was strongest in stern quartering wave directions. It
6 varies between 1 tonne per minute for intact conditions,
7 that is to say at the start of each one without water at
8 the factory deck. So when downflooding is starting,
9 then about 1 tonne per minute can come in. When you
10 simulate progressive downflooding, so when a certain
11 amount of water has come in, the ship is listing due to
12 that amount of water, then it increases up to 8 tonnes
13 per minute. That is then the damaged condition. That
14 indicates that progressive downflooding is likely to
15 occur. The more water that is coming in, the faster it
16 is coming in. That is progressive downflooding.

17 Next one please. Before we go to the numerical
18 investigation, I would like to show you a short
19 videotape a visualisation of the model test, to make
20 clear what we have done.

21 This is in stern quartering seas, irregular waves.
22 See the model here, this is a shot from the starboard
23 side; this is the port side. You see the openings in
24 between the yellow squares over here and over there, the
25 duff and offal chutes. You can see that the water level

1 is sometimes below the openings. Sometimes it will be
2 above the openings. This first part of this run is
3 relatively easy for the ship now they are submerged
4 a bit. So now a bit of water has come in. It is an
5 irregular sea state; that means that the waves are
6 different at any time. Let us say the significant wave
7 height is constant. The mean period is also constant
8 but within that characterisation of waves a lot of
9 different waves can occur, and that is what you see
10 here.

11 Here are the wave makers in the basin. They move in
12 order to generate the waves. They are standing on the
13 carriage which is above here, that you see there, so we
14 follow the model. So the model is operating on its own,
15 and the carriage, sort of train running above the basin,
16 is following the model. Otherwise, from some cables
17 over here, there is no firm connection between the
18 carriage and the model.

19 Now you see it is taking a lot of water in. It is
20 pushed into the wave and the water is almost coming over
21 the bulwark over there. There is another one. You see
22 water gulping out when it is above the water again.

23 Thank you.

24 So that is a short impression of the type of testing
25 we have done.

1 When all that was done and reported, we continued to
2 investigate more conditions. Model testing is very
3 powerful but it takes time. It would be impossible to
4 test the model in all the conditions possible. That
5 would have taken months and months of tank time, and we
6 do not have so much time, and the costs would be very
7 high. So it was then suggested to do an additional
8 numerical investigation, which is much more efficient in
9 terms of time and costs, to find out if it is possible
10 to capsize a model or not. Of course it did not capsize
11 during the model tests but at the same time we did not
12 have a very high downflooding. We did not have
13 progressive downflooding to a high amount of floodwater.
14 So that was the purpose of the numerical investigation.

15 Next one, please. We are trying to find
16 combinations of wave directions, speeds, operational
17 modes and downflooding states that could lead to
18 a capsize. We were trying to find out how often does it
19 capsize, how soon does it capsize in certain conditions,
20 what is the mechanism of capsizing? Is it just loss of
21 stability due to downflooding or is it broaching, adding
22 to loss of course-keeping ability, or is it something
23 else?

24 Next one, please. In order to be able to do so, you
25 must have a numerical tool that is capable to give

1 reasonably accurate predictions. We believe we have
2 such a tool, the Fredyn tool. I will show two examples
3 of that where we compare the predictions of that tool
4 with the results of the model tests.

5 Next one, please. I must say, the tool was tuned to
6 represent the current hull form as best as possible. So
7 based on the model test we tuned the numerical tool in
8 order to have predictions as close as possible to the
9 model test. That is shown here (indicated).

10 This is in the stern quartering seas where you see
11 different motion components of the vessel: the heave,
12 for instance, that is the vertical motion as the ship is
13 going up and down; roll, when it is rolling; you have
14 the pitch over there, and you have the yaw. That is
15 course-keeping.

16 You have the purple one, that is the experiment
17 value, and the application is the dark red one. You see
18 there is a good correspondence between the experimental
19 values and the predictions. Certainly given the heavy
20 sea state present, it was a good result.

21 Next one, please. This next one does not show
22 motions but it shows the downflooding. You must be able
23 to predict a downflooding as well. Not only the motions
24 but also the effects of the motions in terms of
25 downflooding.

1 We see a lot of bars over here. For instance, the
2 first two, these three are experimental values, so
3 coming from the model test, these three are predicted
4 values. This is for the intact condition, this is with
5 50 tonnes of water on the factory deck, and the last
6 ones, the yellow ones, are for 100 tonnes of water on
7 the factory deck.

8 You see in bow quartering seas, these two, not so
9 much water is coming in. In stern quartering seas there
10 is a large difference, especially for flood 2, 8 to
11 9 tonnes per minute can come in. That is reasonably
12 well predicted. This is the prediction and this is the
13 experiment. And the same further down and for the
14 intact condition.

15 Beam waves it is different again, and free drifting
16 it is increasing again, and at the same time we are able
17 to give a relatively good prediction of what is
18 happening during the model test.

19 So having found that, we said, okay, now we continue
20 using the programme for a lot of conditions, a number of
21 speeds, a number of manoeuvres, a number of initial
22 downflooding states, and let us see what happens.

23 The next slide, please. What we found is that what
24 happens to the ship is fairly sensitive to the waves it
25 is meeting. That is obvious. What you see during the

1 model tests is that they use a certain wave spectrum,
2 a certain characterisation of the sea state. The tests
3 were typically half an hour, full-scale, and then we
4 have sufficient statistical data to predict, let us say,
5 the mean values of the motions, the standard deviations,
6 but the extreme values, for the maximum values, they are
7 much more sensitive to local wave heights.

8 So during the Fredyn predictions, the ship met many,
9 many more waves than during the model tests. So you are
10 able to better predict the extreme values of the
11 motions. That is the big advantage of those numerical
12 investigations.

13 We saw roll angles similar to those discovered
14 during the model test, 40 degrees, 50 degrees. So we
15 found the same as during the model test. That is no big
16 surprise, especially when an unfavourable sequence of
17 waves is met, so high and steep waves, very high rolling
18 of stern occurred, over 50 degrees, sometimes up to
19 75 degrees, which is the limit inside the programme. So
20 certainly critical conditions were present for the ship.

21 Next one, please. When the ship would operate in
22 stern quartering wave directions, the crew would be
23 disabled, we believe. The panel of experts defined
24 a criterion for looking into disablement of the crew.
25 So when the roll motion was above a certain level, then

1 the crew would not have been able to perform their
2 duties. They were knocked off their feet, and similar
3 things. So that is potentially quite dangerous, that
4 such a condition happens in stern quartering wave
5 directions. Also for other wave directions but not as
6 often.

7 In the final stage of the investigation, it became
8 clear that additional compartments might have been
9 flooded during the accident, so we also performed some
10 simulations there with the additional compartments, the
11 liver plant and the next door, I believe, that makes it
12 worse. That is also quite obvious.

13 In combination with possibly a shifting cargo and
14 equipment, the ship would probably capsize under those
15 conditions.

16 This is the last one, I think. I would like to show
17 a short visualisation of these investigations but I have
18 to go to my laptop over there, if I am allowed.

19 MR JUSTICE DAVID STEEL: Of course.

20 A. This is a visualisation of the numerical tool. It is
21 a simplification of the Gaul. You can look from below,
22 from above. I will switch it on. So the computer has
23 calculated the motions of the Gaul. It stored all the
24 results on a DVD and now I am showing them again. You
25 see the ship operating in stern quartering seas. You

1 see the movement around here, so it is going up and down
2 trying to keep course. This is the required course, 315
3 degrees. This is the RPM of the propeller. That is
4 just a constant. You see some numbers over here.

5 You see the course it is taking. It is swaying
6 a bit about a mean course, just like a real ship would
7 do. That is nice but what we are interested in is the
8 openings, the chute over here, the chute over there. We
9 also have the internal arrangement of the ship.

10 So this is a box surrounding the ship. This space
11 is effectively space. These small black boxes are the
12 chutes. This is the entrance door from the trawler.
13 The large black areas, these are openings. So water can
14 come in from the side and then through the exit door to
15 the factory space. Water can also come in through these
16 chutes.

17 You see there is initially a little bit of water
18 present in the factory deck. The longer the simulation
19 lasts, the more water will be present over there. This
20 is a high roll; this is 40 degrees; similar to what we
21 found during the model tests. You see the wave surface.
22 If you go like this, you see the waves coming.

23 What makes this condition so dangerous is that the
24 speed of the ship and the speed of the waves is nearly
25 the same. The waves move, generally speaking, in the

1 same direction as the ship, so there is not a large
2 speed difference, so the motions of the ship are quite
3 slow, and the motions are large. So the submergence of
4 the chutes that lasts relatively long time from now and
5 then, due to the slow motions, and that is causing the
6 high downflooding.

7 You also see that there is periods of relatively
8 quiet sea, and then you can see the big waves coming and
9 the ship starts responding to that.

10 Okay.

11 MR MEESON: I think that was the conclusion of your
12 presentation; is that right?

13 A. Yes, that is right.

14 Q. I wonder if you could just tell us, obviously with
15 modelling both in the basin and the numerical modelling,
16 it is modelling rather than reality; is that right?

17 A. Yes.

18 Q. I wonder if you could just tell us in your own words
19 what you consider to be the limitations of first of all
20 the modelling in the tank and secondly the modelling
21 numerically, with Fredyn, if you could?

22 A. Okay. There are limitations of modelling in the tank.
23 We make a scale model that has exactly the right shape,
24 or more or less exactly. The problem is we do not use
25 scaled water. We use the same water. It is fresh

1 water, the same water as with swimming pools, so to say.
2 So that may be a potential problem.

3 However, when you do seakeeping tests, it is
4 well-known that the origin of the forces acting on the
5 model, so the forces that generate the motions of the
6 model, they originate from inertial forces and viscous
7 forces.

8 When we do seakeeping tests we follow Froude's Law,
9 and by doing so we exactly scale the inertial forces.
10 That is the main scaling we follow.

11 We cannot scale the viscous forces. It is
12 impossible to satisfy both laws at the same time. We
13 would have to use another fluid than water but that is
14 not very practical.

15 But by exactly scaling the inertial forces, I would
16 say 99 per cent, or something like that, is correct, and
17 by neglecting the viscosity forces you make a small
18 error, but it is well-known for ships like this that
19 that will hardly affect the results of the tests. So
20 that is one thing due to scaling.

21 There are probably more things. For instance, the
22 inflow through the chutes, viscosity also plays a role
23 there, in principle, but because the edges of the chutes
24 are sharp, the so-called separation points are known,
25 and viscosity effects will be small as well.

1 Then there are the waves of course. You can
2 generate the specified waves pretty good, I would say.
3 Most tests were done in long crested seas. That means
4 the waves all run parallel through the basin in the same
5 direction. And the reality is that at sea you have
6 short crested seas. So some waves come from one
7 direction, some others have a direction which is
8 slightly different, so it is a much more confused sea.

9 So we also did some tests to investigate the effect
10 of short crestedness on the motions. That is also
11 important, I would say.

12 Q. So are you satisfied that the results that we have
13 obtained in the model testing are a reliable guide to
14 how this vessel would have behaved in those conditions?

15 A. Yes.

16 Q. And what about the numerical model, the Fredyn? What
17 are the limitations on that model?

18 A. Limitations are obviously for very high roll angles we
19 have validated the numerical model with the model tests.
20 The maximum roll during the model tests was limited to,
21 I think, 50 degrees in a few instances and in Fredyn it
22 is possible to go to roll angles of 75 or 90 degrees.

23 So you are not sure if, when Fredyn predicts
24 a motion of 75 degrees, the model during the model tests
25 would have shown the same motion. There is no way to

1 check it.

2 I think if you are able to predict roll angles up to
3 40/50 degrees with a reasonable accuracy, you are also
4 able to do so up to 75 degrees, but I cannot prove it.
5 But it is my belief that the results of Fredyn are okay,
6 but I cannot prove it. But experience tells me that it
7 should be okay.

8 MR MEESON: Thank you very much. I do not know whether
9 other people have any questions for Mr van Walree.

10 Examination by MR SALOMAN

11 MR SALOMAN: Mr van Walree, with some trepidation I ask you
12 some questions, because evidently you have done very
13 profound and considerable studies on the Gaul, and they
14 are studies of some complexity which will occupy the
15 experts and ourselves in this case. But there are just
16 two or three questions which, for my benefit and perhaps
17 some of the public's benefit, I will ask you.

18 You have obviously studied the roll angles that you
19 found on the model tests that you carried out. Can you
20 clarify for us how high the roll angles were that you
21 found in the stern quartering seas tests. If you
22 obtained a range of roll angles, what was the range?

23 A. I need to take a look in the report to be able to do so.
24 I do not know the exact numbers, but it is up to
25 40/50 degrees, I would say.

1 Q. Yes. Assuming those roll angles were found, were they
2 occurring consistently or did you find that sometimes
3 the particular roll was much less, perhaps sometimes
4 more, so that they averaged out at around 50 degrees?

5 A. No, you must look at it in this way: the extreme values
6 are in the range of 40 to 50 degrees, and they occurred
7 during a few occasions only during half an hour,
8 something like that, depending on the state of the ship.
9 So when it is not damaged and there is no water on the
10 factory deck, it occurs only a few instances, I would
11 say, during half an hour. But when it has taken water
12 in the ship, there is water present in the factory
13 space, it is occurring more and more frequently.

14 Q. But just to clarify that you did obtain 40 to 50 degree
15 roll angles on tests on the model in intact condition;
16 is that right, that were you achieving, or finding roll
17 angles of 40 to 50 degrees on tests on the model in
18 intact condition?

19 MR HOPPER: Could I suggest you define roll angle. I think
20 you are talking about extreme port to extreme starboard
21 50 degrees, not 50 degrees each way. Am I correct?

22 A. No, I am talking about 50 degrees amplitude. So one way
23 is 50 degrees.

24 MR HOPPER: Sorry. Thank you.

25 MR SALOMAN: 50 degrees from the perpendicular?

1 A. Yes.

2 Q. I appreciate that your tests were necessarily carried
3 out on a model. Have you, Marin, studied how much, in
4 real life, ships of the size and type of the Gaul do in
5 fact roll in the sea conditions you were postulating?

6 A. Hmm. I am not sure we studied the actual behaviour of
7 similar ships in similar conditions. All I can say in
8 this respect is we do this type of work for 50 years,
9 over 50 years, and we have compared the results of model
10 tests with that of full-scale trials, so on board of
11 actual ships, and we are convinced that performing model
12 tests in the way we do is the best way to simulate the
13 behaviour of the ship, and also that the results are
14 pretty reliable.

15 Q. Right. You have, I am grateful, answered my question
16 partially; that you study the results of real life tests
17 of ships.

18 A. Yes.

19 Q. In order to test the results that you achieve on the
20 models.

21 A. Right.

22 Q. Have you, Marin, studied real life trial tests on ships
23 of the size of the Gaul?

24 A. Yes, I would believe. So I have no exact knowledge on
25 that, but I know we have tested both small ships, large

1 ships, medium ships, so -- yes, similar ships would have
2 been studied.

3 Q. I apologise if your film made quite clear the answer to
4 my next question. However, the findings of inflow rates
5 through duff and offal chutes when self-evidently they
6 are not intact, I understood that you certainly found
7 that the inflow was 8 tonnes per minute under certain
8 conditions?

9 A. Hmm.

10 Q. You also found that the rate was of the order of 1 tonne
11 per minute in certain conditions. I was not entirely
12 clear in what conditions the 1 tonne finding was
13 achieved.

14 A. Okay. I will try to explain that. The 1 tonne is
15 achieved when there is no water present in the factory
16 space. So let us say that the ship is starting from
17 zero in that wave condition, stern quartering seas,
18 without any water present, so the mean rolling would be
19 less than zero. It is an upright condition. Then you
20 have 1 tonne per minute coming in. But as the water is
21 flowing in, the ship is taking a mean list angle and
22 that increases the inflow rate.

23 So at the end, with the condition that we tested,
24 100 tonnes of water present at the factory deck, we had
25 8 tonnes per minute.

1 Q. That is very clear. Thank you very much.

2 You have shown in your film the movements of the
3 model in the basin, and you have obviously described the
4 kind of experiments you carried out. It is easy to see
5 the movement of the waves in relation to the ship. It
6 is not entirely easy to see that in the experiments you
7 have shown, the ship itself is actually moving forward
8 under propulsive power. It appears to be free drifting
9 in the waves to which you subject it.

10 A. That is true. That is caused by effect that we are
11 travelling at the same average speed as the model. So
12 the video cameras on the carriage which follow the
13 model, so the relative velocity of the model to the
14 carriage is zero, I would say.

15 Q. Do you consider that form of experiment valuable as
16 illustrating real life effects?

17 A. Yes. Well, the reason we do it in this way is that we
18 are close to the model, so we can see what happens. You
19 must imagine the basin in which we do those tests is
20 quite large; it is the length of about 170 metres and it
21 is 40 metres wide. So if you would be standing at the
22 side of the basin and the model is moving on, after
23 a short while the model will be lost in the distance.

24 Q. So does in reality the ship, or the model, move,
25 although it looks as if it is not moving?

1 A. Yes, in reality it is moving.

2 MR SALOMAN: Thank you very much indeed.

3 Examination by MR MUNYARD

4 MR MUNYARD: Mr van Walree, I would just like to ask you one
5 question, please, about the way in which you were able
6 to replicate certain forces. You said that you were
7 able to exactly scale the inertial forces but could not
8 exactly scale the viscous forces. For the benefit of
9 certainly myself and possibly other people here, can you
10 explain what viscous forces are and also why not being
11 able to measure them exactly or scale them exactly makes
12 no difference to the result?

13 A. Okay. Viscous forces originate from friction between
14 the model and the water flowing around the hull of the
15 model. That is governed by the viscosity of the water.
16 So water has a certain viscosity and in order to have
17 the same viscous forces at model scale as in the reality
18 we would have to use a fluid with a different viscosity
19 than water, but we cannot because it is not very
20 practical, so because we use a few at the wrong
21 viscosity, the viscosity forces, the friction forces,
22 are wrong during the test. That is a fact. Those
23 forces merely act in the horizontal direction. They
24 create the resistance of the ship, amongst others. It
25 is scientifically proven that they do not affect the

1 motions of the ship, or hardly.

2 Q. So that is why you say it makes no difference --

3 A. It makes no difference, or hardly.

4 Q. Even with maybe a small error in your calculations?

5 A. That is right.

6 Q. Very well. Can I also deal with the angles of roll.

7 You have made it clear what you mean when you talk about
8 angles of roll up to 40 to 50 degrees, and you said that
9 when the ship is intact, those extreme angles occurred
10 quite rarely.

11 A. Yes.

12 Q. Once she starts to take water in, then do those angles
13 of roll occur more frequently?

14 A. They occur more frequently.

15 Q. Moving on, you started with your measurements with an
16 estimate of about 1 tonne of water per minute coming in.
17 How long would it take to build up to the high volume of
18 8 tonnes per minute?

19 A. I do not know any exact number. It depends on the waves
20 that are met by the ship. In a given wave realisation
21 it can take half an hour, I would estimate. In another
22 wave realisation, it can take 15 minutes, something like
23 that. So it depends very much on the waves that the
24 ship is meeting.

25 Within the sea state that we have used, you can

1 identify a very high of sequences of wave heights and
2 wave periods that are all valid within that sea state.
3 But you would not know before what waves the ship will
4 meet. So we did a number of runs with the tool to find
5 out what the effect is of those different waves.

6 Q. And so would it also depend on when the combination of
7 an extreme degree of roll occurred in conjunction with
8 a series of very high waves?

9 A. Yes.

10 Q. One final matter, please. It is right, is it not, that
11 in your model test the model is free running; it is not
12 actually attached to the carriage?

13 A. That is correct.

14 MR MUNYARD: Thank you very much.

15 MR COOPER: No questions, sir.

16 MR MEESON: Sir, I have no further questions. I do not know
17 if your assessors do.

18 Questions by the ASSESSORS

19 DR ALDWINCKLE: I would like to raise five points. The
20 first one has already been brought out by Mr Meeson and
21 Mr Saloman about the correlation with full-scale tests.
22 Marin has an excellent facility, we do not deny that.
23 It has been in existence, as you say, for many years.
24 And this correlation with full-sized sea-going vessels
25 is most important. Correlation with a computer model is

1 not in itself satisfactory. You have explained Froude
2 number and Reynolds number and not being able to
3 simulate simultaneously these two problems which are
4 a bit complicated to go into now.

5 My question is this, relating to correlation: to
6 what extent have you performed these correlations, or
7 have you partly answered the question? Because there is
8 a limit to what you have been able to correlate with
9 a full-scale measurement at sea on real ships. Roll,
10 pitch, heave is probably well correlated by yourselves
11 with full-scale measurements. But other aspects
12 associated with the Gaul are not as well developed in
13 terms of correlation with full-scale measurements, for
14 example water ingress, for example maybe free surface
15 effects, and maybe pooping, which is another question
16 I want to raise.

17 So my second point, unless you have any further
18 comments to make on that first question, related
19 correlation, I can move on to my second point.

20 A. Yes, that is a good point. We have no full-scale data
21 on the ingress of water through fish chutes similar like
22 the ones used on the Gaul. That is true.

23 On the other hand, based on experience we have with
24 flows through similar openings, we have no reason to
25 believe that the result from the model test would not be

1 representative of full-scale.

2 So we see no reason why the model test results
3 should not be valid for an actual ship. Based on
4 fundamental characteristics of the flow, we are able to
5 show that it should be okay.

6 DR ALDWINCKLE: Thank you. So this leads me into my second
7 point. The estimation of water ingress.

8 Can you confirm how you estimated these 1 tonnes,
9 8 tonnes, et cetera which are in your report. Is it
10 simply a question of the scale cubed, or have you
11 introduced more correlation factors associated with that
12 scale cubed?

13 A. No, it is simply the scale cubed.

14 DR ALDWINCKLE: It is simply that?

15 A. Yes.

16 DR ALDWINCKLE: I could not find it in the report but it is
17 probably in there somewhere. But there is no
18 correlation introduced for that?

19 A. No.

20 DR ALDWINCKLE: Okay, thank you.

21 The third point is associated with pooping. In
22 stern quartering seas, it has been suggested that
23 pooping might have been one of the causes for the loss
24 of the Gaul. So my question is: to what extent do these
25 model tests in regular and irregular seas allow for the

1 possible effect of pooping and the resulting water
2 ingress associated with that? Because it is a strange
3 phenomenon, the pooping effect and the water ingress
4 associated with it. Can you say something on that
5 topic?

6 A. Can you define pooping because I am not very familiar
7 with that term.

8 DR ALDWINCKLE: Whether it is a fisherman's term, a seaman's
9 term or what, my understanding of pooping -- and I have
10 experienced it myself -- is a build-up of waves which
11 come in from several directions from astern, which
12 accumulate and become an addition of the total of the
13 independent wave height. So they produce a high wave
14 amplitude, and that wave amplitude collapses because it
15 can no longer be sustained, and it just falls over, and
16 it falls over onto whatever is around it.

17 A. So it is some kind of breaking wave?

18 DR ALDWINCKLE: Yes.

19 A. Okay. Yes, that would have been possible during the
20 tests, I would say.

21 DR ALDWINCKLE: Okay.

22 The fourth is a simple question, I think: when you
23 collect the water ingress in the model, you put it in
24 the collection tank?

25 A. Yes.

1 DR ALDWINCKLE: And in your report you talk about the
2 movement of that water in the -- the oscillations, the
3 movement of the water in that collection tank. Did you
4 allow for the free surface and deduct that in your model
5 experiments because it has an effect? And further, did
6 you take that into account in your computer model, which
7 should not really have been there?

8 A. Yes, it has a small effect, I think, the free surface of
9 the collecting tanks. For that purpose, we built some
10 bulkheads in those collecting tanks, which started at
11 the top and then through the bottom, and at the bottom
12 there was -- they were not closed so the water could
13 move around along the bottom. So the free surface
14 effect would have been quite small, I would say. And
15 also due to the shape of those tanks.

16 DR ALDWINCKLE: But you would agree that had a free surface
17 effect been there, that it might have given an increased
18 effect on what you mentioned, rolling, pitching,
19 et cetera, to a limited degree?

20 A. To a limited degree, yes, that is possible.

21 DR ALDWINCKLE: My fifth and final question relates to the
22 accelerations you measured with regard to the safety of
23 the crew.

24 Not only have we got to think of accelerations for
25 safe working of the ship, we have to think of

1 accelerations on the equipment on the ship, and whether
2 the equipment will be displaced. So my question is
3 this: have you any idea, in relation to the
4 accelerations you measured for the wheelhouse, the
5 bridge area, what the accelerations would be at both the
6 bow and the stern?

7 A. Well, to make this clear, we did not measure the
8 accelerations. We derived them from the motions. So
9 that is one point. When we did this for one point, we
10 included that in the report for the location at the
11 bridge somewhere, I believe. We can also do it for
12 other locations.

13 DR ALDWINCKLE: Is it possible to extrapolate from your
14 acceleration figures given for the bridge?

15 A. No, not for the bridge, but from the motions at the
16 centre of gravity we can compute the accelerations at
17 any point.

18 DR ALDWINCKLE: So you could do that for the fish hatch?

19 A. Yes. We add on that for the fish hatch for a couple of
20 cases.

21 DR ALDWINCKLE: Thank you very much.

22 MR HOPPER: I just have one supplementary question. As the
23 water built up in the factory deck, there would be
24 a change in roll frequency or roll period; am I correct?

25 A. Yes.

1 MR HOPPER: Could you tell us what that change would be from
2 the dry ship before any flooding to, say, 100 tonnes?
3 Not so much the number, but would it be significant?
4 What I am getting at is that it would be very difficult
5 for the crew, or certainly the skipper or the mate, to
6 not notice that there was something significantly
7 happening to his ship progressively through that period.

8 A. We did some roll decay tests for the empty ship, the
9 intact ship without water on the factory deck. We had
10 50 tonnes and 100 tonnes of water on the factory deck.
11 From those tests we just pushed the model down and we
12 measured the decay of the roll motion. From those tests
13 you can tell what the effect of the water is, if there
14 is any difference between those tests.

15 It is quite clear that for the 50 tonnes of water,
16 the water at the factory deck reduces the roll motion.
17 It dampens the roll motion much faster or much quicker
18 than for the empty ship.

19 So with 50 tonnes of water the ship will roll less.
20 And if you go to 100 tonnes of water, it is similar to
21 the empty ship again. So that is very striking. It
22 would be hard to notice, perhaps, because it does not
23 roll faster with 50 tonnes of water. The roll motion
24 decays quicker.

25 MR HOPPER: Could I just ask you, I think you said "it would

1 be hard to notice on the ship"; did you say that?

2 A. Yes, it is possible, yes.

3 MR JUSTICE DAVID STEEL: I wonder if I could ask you to look
4 at your final, final, final report. I think we have it
5 in bundle AG8.1, if somebody could furnish you with
6 a copy of it. As I understand it, it is the one dated
7 December 2003.

8 I just wanted your help with my comprehension of the
9 conclusions in paragraph 8, at page 32. As I understand
10 it, paragraph 1 of your conclusions merely sets out the
11 perception that the Fredyn predictions are an adequate
12 and useful presentation of actuality?

13 A. Yes.

14 MR JUSTICE DAVID STEEL: In paragraph 2, you identify the
15 mechanism which gives rise to the risk of capsize, with
16 high roll angles occurring when the vessel is on
17 a straight course in a beam to stern quartering wave
18 pattern, and that indeed even when free drifting and
19 zigzagging there are high roll angles, and, as you put
20 it:

21 "The predominant mechanism is that due to flooding
22 of the factory space through [the two chutes] the stern
23 gets more immersed which increases the risk of water on
24 the trawl deck. Substantial amounts of water may then
25 enter the trawl deck in an unfavourable sequence of

1 relatively high and steep waves. Once this happens, the
2 ship loses stability ..."

3 Then can we jump to paragraph 6. I am not quite
4 sure what is meant in paragraph 6 by the second near
5 capsize mechanism. Is that something different from
6 what is contemplated in paragraph 2, or is it
7 a completely different mechanism?

8 A. It is a completely different mechanism.

9 MR JUSTICE DAVID STEEL: Could you just explain the
10 difference between the mechanism in paragraph 2 and the
11 mechanism in paragraph 6 for the intact ship, i.e.
12 before any water has got into the factory deck?

13 A. No, I cannot do that because in paragraph 2 it is stated
14 that a certain amount of water must be present in the
15 factory deck. That is a condition for that mechanism to
16 be present.

17 MR JUSTICE DAVID STEEL: Right. So as I understand it,
18 paragraph 6 presumes or assumes some water in the
19 factory deck?

20 A. No, paragraph 2.

21 MR JUSTICE DAVID STEEL: I am so sorry, my apologies.
22 Paragraph 2 assumes the entry of water into the factory
23 deck?

24 A. Yes.

25 MR JUSTICE DAVID STEEL: Paragraph 6 assumes no water in the

1 factory deck?

2 A. Yes. It is not a necessary condition for 6.

3 MR JUSTICE DAVID STEEL: I do apologise, I am being very
4 slow. If there is a mechanism which can lead to capsize
5 without any flooding, that, presumably, I would regard
6 as the first mechanism, logically?

7 A. Maybe, from your point of view.

8 MR JUSTICE DAVID STEEL: What you are saying, in terms, is
9 that there is a capsize mechanism which does not require
10 any flooding in the factory deck at all?

11 A. Yes, that is right.

12 MR JUSTICE DAVID STEEL: That, I have understood. Perhaps
13 you could just explain the nature of this mechanism that
14 leads to capsize without any floodwater in the factory
15 deck, either through the chutes or the door.

16 A. It has to do with broaching, that is the term used for
17 it. Also, when the ship is just sailing on the straight
18 course, without any water on the factory deck, when it
19 meets a series of highly steep waves, it may be knocked
20 off its course, and then it is violently pushed in
21 a beam wave direction, so it is changing course rapidly
22 in such a way that the waves are beamed on to the ship,
23 and due to the violence of those motions it may turn
24 over. But that is something that comes out of the
25 Fredyn predictions. We did not witness that during the

1 model test.

2 MR JUSTICE DAVID STEEL: Right. Still sticking with
3 paragraph 6, the fact that it refers to stern quartering
4 seas in a sense is irrelevant, as I understand it; one
5 is contemplating it with a vessel which is across the
6 seas.

7 A. No.

8 MR JUSTICE DAVID STEEL: Then I have misunderstood you, I am
9 so sorry.

10 A. Broaching only occurs in stern quartering seas.

11 MR JUSTICE DAVID STEEL: You mean it is only in stern
12 quartering seas that the wave pattern may cause the
13 vessel to get across the seas?

14 A. Right.

15 MR JUSTICE DAVID STEEL: I follow that.

16 As I understand it, this mechanism, which you call
17 the second mechanism, is a calculated capsize mechanism
18 on the Fredyn model; correct?

19 A. Correct.

20 MR JUSTICE DAVID STEEL: Using the Department of Trade
21 loading condition?

22 A. Correct.

23 MR JUSTICE DAVID STEEL: That is to say with a trim of
24 nearly 9 feet by the stern -- sorry, you probably do not
25 know what a foot is.

1 A. It is about 30 centimetres.

2 MR JUSTICE DAVID STEEL: 2.47 metres by the stern. Were the
3 whole of the Fredyn calculations used, did they all use
4 the DOT trim?

5 A. No, about 50 per cent of the calculations were done with
6 the DOT.

7 MR JUSTICE DAVID STEEL: Anyway, this mechanism only, in
8 a sense, emerged in the Fredyn model using the
9 Department of Trade trim?

10 A. I think so. I am not sure of that.

11 MR JUSTICE DAVID STEEL: Well, that is how I read it at the
12 moment. If I am wrong, I would like you to correct it
13 in due course.

14 A. You are right.

15 MR JUSTICE DAVID STEEL: Can we just go back to paragraph 5.
16 This, I assume, is a comment directed to the first
17 mechanism?

18 A. Correct.

19 MR JUSTICE DAVID STEEL: Again, as I understand it, the
20 model and the Fredyn tests demonstrated that the risk of
21 capsize was the greater in the DOT trim.

22 A. No, we did not test the model in the other condition.

23 MR JUSTICE DAVID STEEL: I am sorry, would you say what you
24 mean by -- you did not test the model in which
25 condition?

1 A. In the yard condition.

2 MR JUSTICE DAVID STEEL: So all the model tests were on the
3 Board of Trade trim.

4 A. That is correct.

5 MR JUSTICE DAVID STEEL: 8 feet or 9 feet by the stern.

6 Thank you. Then I am not quite understanding your
7 paragraph 5. This is a reference to the Fredyn model,
8 is it?

9 A. Yes.

10 MR JUSTICE DAVID STEEL: And the Fredyn model demonstrated
11 that the risk of capsize was greater with the Department
12 of Trade trim.

13 A. Correct.

14 MR JUSTICE DAVID STEEL: How sensitive to trim was the risk
15 of capsize? Is that a comprehensible question?

16 A. Hmm. It is a sensible question, but to answer it --
17 well, the effect is quite strong, I would say. I cannot
18 give any numbers, but I would have to look at the data
19 and look at it.

20 MR JUSTICE DAVID STEEL: As I understand it, the yard trim,
21 the alternative trim, was broadly about half, about
22 4.5 feet by the stern, 1.22 metres?

23 A. Clearly, yes.

24 MR JUSTICE DAVID STEEL: My last question relates to
25 paragraph 7. The first sentence, as I understand it,

1 means that the disablement of the crew occurs quite
2 frequently in port stern quartering seas at high speed
3 in the intact condition. It does not say so, but
4 I assume that is what it means.

5 A. No. It does not mean that.

6 MR JUSTICE DAVID STEEL: What does it mean, then?

7 A. I think it means in downflooded conditions -- partially
8 downflooded conditions.

9 MR JUSTICE DAVID STEEL: This is important to me. You are
10 saying that your experiments and your model tests give
11 rise to the risk of disablement only in circumstances
12 where there is flooding in the factory deck?

13 A. No, that is not correct. We are talking about numerical
14 investigations here, not model tests, and the number of
15 occasions that the crew would be disabled increases with
16 downflooding. So I cannot say it does not happen when
17 it is not downflooded, but the probability that it
18 occurs when it is downflooded certainly increases. That
19 is all I can say.

20 MR JUSTICE DAVID STEEL: It follows, does it not, that any
21 sister ship, or any other vessel of like design, if
22 encountering port stern quartering seas of like level to
23 that hindcasted by Dr Cardone, might well have had her
24 crew disabled?

25 A. Yes.

1 MR JUSTICE DAVID STEEL: Do you have any information on
2 disablement of crews in vessels of this kind in weather
3 of this kind?

4 A. No, I have no information on that.

5 MR JUSTICE DAVID STEEL: Thank you very much, and can I just
6 say how we express admiration for the work you have
7 done -- oh, I think we may not have finished.

8 MR HOPPER: Just one more question. In your conclusions on
9 page 32 of bundle 8 -- I do not know whether you have
10 that in front of you?

11 A. Yes.

12 MR HOPPER: It is a question of when a ship loses power,
13 and --

14 MR MEESON: I think he might not have bundle 8. AG8 is
15 a model test and AG8.1 is the Fredyn.

16 MR HOPPER: I do apologise. Looking at conclusion 4 on
17 page 32, which talks about a ship losing power, are any
18 of the model tests that simulate a ship steaming at say
19 4 knots, or whatever, in these wave conditions and
20 suddenly losing power, is there anything we can adduce
21 from any of the tests of the consequences of a sudden
22 loss of power?

23 A. No, we did not test a sudden loss of power. We did do
24 tests for a ship without power, but then it had no power
25 from the start of the test. So not during a run we

1 suddenly stopped the engine and looked what was
2 happening. So we did not do that, but we did do a loss
3 of power test from the start of the run. So the ship
4 was drifting during the whole test.

5 MR HOPPER: Do you have any thoughts on the consequences of
6 a sudden loss of power in those situations? It is
7 probably a lot to expect if you do but you may have done
8 other model work that might have given an indication.
9 You have mentioned it in your conclusions, anyway.

10 A. Well, I do not think very serious things would happen to
11 the ship, other than drifting away with the waves and
12 wind. So in between the moment of loss of power and the
13 instant that it starts drifting, I do not think there is
14 any particular danger in that condition, as far as
15 I know. The danger occurs when it is drifting and then
16 the ingress of water starts. That is the best I can say
17 about this.

18 MR HOPPER: Thank you very much.

19 MR SALOMAN: I wonder whether the tribunal would permit me
20 to ask one further question of the witness.

21 MR JUSTICE DAVID STEEL: Of course.

22 Further examination by MR SALOMAN

23 MR SALOMAN: Thank you.

24 In answer to one of the assessor's questions, you
25 told us -- you were asked about whether the mate or

1 persons on the ship might notice the ingress of seawater
2 into the factory deck, and in that connection you told
3 us that 50 tonnes of water on the factory deck actually
4 reduces the roll motion, and that 100 tonnes of water
5 also reduces the roll motion, in the sense that the
6 rolling occurs no faster.

7 A. Yes.

8 Q. Did I understand you correctly?

9 A. It reduces the roll speed.

10 Q. The roll speed?

11 A. Yes. Not so much the amplitudes of roll.

12 Q. That was going to be my question. If it does not roll
13 any faster, presumably it rolls slower?

14 A. Yes.

15 Q. If the speed of the roll decreases, what happens to the
16 amount of the roll, the angle of the roll? Does that
17 continue?

18 A. Normally you would say the roll angle would reduce as
19 well as the speed reduces, because a certain roll
20 amplitude needs a certain speed. That is a given. So
21 the higher the amplitude, the higher the speed. And the
22 inverse normally is also true: the lower the roll
23 amplitude, the lower the speed of the roll motion, given
24 a certain period.

25 Q. So on that basis, the amount of the roll would be

1 reduced?

2 A. Yes, for normal ships, without water on one of its
3 decks.

4 Q. I am sure it is my fault, but my understanding was that
5 you were postulating in turn 50 tonnes of water on the
6 factory deck and 100 tonnes of water on the factory
7 deck. So you were postulating a non-intact ship?

8 A. Yes.

9 Q. If the amount of the roll is reduced as well as the
10 speed of the roll --

11 A. I am not saying the amount of the roll is reduced. That
12 is what you normally would expect when the speed is
13 reducing. But in this case it does not.

14 Q. So the amount of the roll is not reduced?

15 A. No. But I agree with you it may seem a bit strange.

16 Q. But that factor does not decrease the amount of water
17 getting into the duff and offal chutes?

18 A. No. No, the amount of water is clearly a function of
19 the amount of roll angle, the amplitude, not so much the
20 speed.

21 MR SALOMAN: Thank you very much.

22 Further examination by MR MUNYARD

23 MR MUNYARD: Sir, might I ask just one verification of that
24 point?

25 Are you saying that in these sea conditions, as

1 postulated, that the crew, the skipper or the mate would
2 necessarily have noticed that it was so different?

3 A. I do not know. I cannot say that. When you are on the
4 ship and it is rolling down to 25 degrees, and the next
5 roll is 35, or the next roll after a few minutes, does
6 that make you wonder what is happening or whether you
7 are thinking: oh, this is just a very high wave?

8 I cannot tell that.

9 MR MUNYARD: Very well. Thank you.

10 MR JUSTICE DAVID STEEL: We are very grateful to you for all
11 the work you have done and the clarity with which you
12 have expressed yourself in English, with the result of
13 this model and computer work. Thank you very much
14 indeed.

15 We will take a break.

16 (11.42 am)

17 (A short break)

18 (11.57 am)

19 MR MEESON: Sir, the next witness is Mr Wileman.

20 MR LAURENCE WILEMAN (sworn)

21 Examination by MR MEESON

22 MR MEESON: Mr Wileman, can you tell the court your full
23 name, please.

24 A. Laurence Wileman, L-A-U-R-E-N-C-E.

25 MR MEESON: Mr Wileman has produced a witness statement that

1 is in bundle AG10, at 97 through to 98.

2 Mr Wileman, I think you did serve for quite a long
3 time as trawler skipper; is that right?

4 A. That is correct, sir.

5 Q. What sort of boats did you sail in as skipper?

6 A. I was a long time in the side trawlers, and then when
7 the advent of the freezer trawlers came in, the Ross
8 Illustrious, the first one for Ross's in Hull, I went
9 mate there on the second trip, with Captain Roy Waller.

10 Q. Did you ever sail on the Gaul or any other Ranger
11 C-Class vessel?

12 A. No, sir.

13 Q. Were you ever offered the opportunity to sail on the
14 Gaul?

15 A. I was, sir, and I turned it down.

16 Q. And why was that?

17 A. Because of stopping, breaking down and I had heard of
18 what a bad ship she was by a foreman mate who was there.

19 Q. When were you offered to be skipper of the Gaul?

20 A. Well, when she came to Hull. I do not know what actual
21 date it was. But they had sent for me to go and take
22 a ship skipper, and then when I went down and I says to
23 the ship's husband, "Was that not the Ranger Castor?" so
24 they said, "Yes", so I says, "Well, I am not taking it",
25 so they says, "Well, you had better go and see

1 Derrick Oswald and tell him", so I says, "That is fair
2 enough".

3 So I went upstairs and saw Mr Oswald and he
4 said, "Now then, Wileman, we want you to take this
5 Gaul". I said, "Look, Mr Oswald, I said, "You know in
6 the past, in 1971, I had a set-to with a gaffer, shall
7 we say, about bringing a ship home because it was
8 breaking down all the time. I do not want to take that
9 ship because from what I have heard of her breaking
10 down, laying down and what have you, I just do not want
11 it", and I said, "And another thing to the factor is
12 that she is a fillet freezer." He said, "Yes, but you
13 are one of our long-standing skippers and mates in stern
14 trawlers" and I said, "So be it, I do not want to take
15 that ship."

16 He suggested then that he brings Nellist out the
17 Orsino to put him in a fillet freezer and I would go in
18 the Orsino and take a block freezer again. I just says
19 to him, "That is a good idea, sir, put Nellist in the
20 Gaul and get somebody else to take the Orsino".

21 At the time I had an idea what would happen through
22 answering back, shall we say, to trawler owners. I have
23 said it and that is it, "I do not want to take it", and
24 that was it.

25 Q. Okay. I would like to ask you about a couple of other

1 matters. Did any of the vessels -- you said you sailed
2 on stern trawlers; is that right?

3 A. Yes, sir.

4 Q. Presumably they had ramp gates, did they, at the top of
5 the ramp?

6 A. That is it, sir.

7 Q. Can you tell the court the practice regarding the
8 closing or opening of those ramp gates, when they would
9 be opened and when they would be closed?

10 A. Well, they would be closed when you left the river, sir,
11 at the time. But if you had new trawl doors to put
12 there, you would have to open the trawl doors and put
13 the trawl doors in the gallows. Maybe sometimes they
14 would be shut and that was it till the end of the trip
15 till you was coming home. It was very, very rare once
16 they was swung back that they was closed.

17 Q. What about if you were laid and dodging, would they be
18 left open or would they be closed?

19 A. They would be left open, sir.

20 Q. What about fish hatches? On the vessels you sailed,
21 were those fish hatches dogged down when they were
22 closed or not?

23 A. When they was brand new, sir, them ships did not have
24 that dogging thing from the deck. We reported it when
25 we got home and they put like a chute bolt from the deck

1 level so you could lock the ramp gates down there, sir.

2 Q. I am talking now about the fish hatches.

3 A. That is the -- what we call the ramp, when it lifts up
4 to let the fish down and close it, sir. That is the
5 fish hatch.

6 Q. When I asked you earlier about ramp gates, I was
7 referring to the vertical gates at the stern of the
8 vessel.

9 A. Yes, that is it, yes.

10 Q. The ones that swing out.

11 A. Yes.

12 Q. Okay. So the fish hatches -- you said the vessel you
13 first sailed on did not have any, you just shut them,
14 and they were held down by gravity, were they?

15 A. No, they were worked by compressed air, sir.

16 Q. Okay. When you did have dogs fitted to fish hatches,
17 did you use them when you were on the fishing rounds or
18 did you just leave the hatches shut?

19 A. If the weather was bad you used to slide them in but
20 then you used to have to remember to take them out so
21 you could lift the hatch.

22 Q. Okay.

23 A. But there was one vessel I was in, the Ross Intrepid, we
24 used to dog that -- or the factory manager used to dog
25 it from below.

1 Q. I want to ask about another matter. Have you ever
2 caught your trawl door on an undersea cable, ever?

3 A. Yes, once, sir.

4 Q. Can you tell the court how you got yourself free from
5 that cable?

6 A. Well, once -- it was on the port door and it was at
7 Newfoundland. That is the only time. We got it up,
8 stoppered it off with a stopper chain, lowered the door,
9 chopped the chain and cleared it, sir.

10 Q. Thank you. And would you have ever used a gilson wire,
11 or a gilson wire for doing that job?

12 A. Not for doing that specific job, sir, no.

13 Q. Why not?

14 A. Because it would not be strong enough.

15 MR MEESON: Thank you. Just wait there. Some other counsel
16 will have some questions for you.

17 Examination by MR SALOMAN

18 MR SALOMAN: Good morning.

19 A. Good morning.

20 Q. You served on the Ross Illustrious?

21 A. That is correct, sir.

22 Q. What years do you recall serving on the
23 Ross Illustrious?

24 A. I think it would be the second month of 1967. That was
25 her second trip, sir, and I stayed there till 1968.

1 Q. Thank you very much. Do you recall what the system of
2 disposing of rubbish was on the Ross Illustrious?

3 A. Well, we was one of the first trawlers to have a bench
4 gutting device, sir, where the crew used to catch a fish
5 from the chute as it come down the ramp, because all the
6 ramp was built up, and they used to drop the guts in
7 a tray and there was water continually going through.
8 But if there was any big things, jelly cats or duffers
9 or what have you, we lifted the lid up and just dumped
10 from down there, sir.

11 Q. The lid of what?

12 A. Where the hopper was, shall we say.

13 Q. You recall there was a hopper on the side of the ship or
14 in the room of the factory deck?

15 A. Yes, sir.

16 Q. On the side of the ship?

17 A. Yes, sir.

18 Q. One hopper or two hoppers, as you recall?

19 A. On this class of ship, sir, I think it was just the one.

20 Q. Just the one. Do you recall whether or not you were
21 given any standing instructions about this particular
22 hopper and its use?

23 A. Well, no. She was a brand new ship who was all new to
24 the idea of stern trawling and fishing. It was just
25 common sense how you would use it.

1 Q. I wonder whether you could be shown bundle OFI5, OFI
2 document 120, page 43.

3 Skipper Wileman, this is the frontispiece of
4 Hellyer Brothers Limited's standing instructions.
5 I wish I could tell you that I knew what date these
6 instructions were issued.

7 A. That did not apply to us, sir, because we was not in --
8 we was a Ross Group trawler.

9 Q. You can see from chapter 26 on this index that
10 Hellyer Brothers had some instruction relating to
11 disposal chutes for the factory deck --

12 A. That is after I have come out of it. That is Hellyers.
13 I was Ross Group.

14 Q. I appreciate that. Are you fairly clear in your
15 recollection that you would not have had any written
16 instructions about the disposal chutes?

17 A. As to me, when I went there as a mate, no. It would
18 have been the skipper's instructions.

19 Q. Indeed, were you a mate on the *Illustrious*?

20 A. Yes.

21 Q. Very well. You have told us this morning that once the
22 stern ramp gates were opened, they more or less
23 continued opened until you decided to go home?

24 A. Yes, sir.

25 Q. And you have told us that that applied when you were

1 laying and dodging?

2 A. Sometimes, sir, yes. Yes.

3 Q. What if you were laying and dodging in heavy weather;
4 would the ramp gates be left open or would they be
5 closed?

6 A. Sometimes we would close them, sir.

7 Q. Would that depend on the weather?

8 A. Depending on the weather, sir.

9 Q. You mentioned serving on the *Illustrious* with
10 Skipper Waller.

11 A. Roy Waller, yes, sir.

12 Q. Do you remember whether the *Illustrious* was involved in
13 any surveillance operations, anything of that kind, when
14 you served on her?

15 A. Not the *Illustrious*, sir, no. No. I think the only
16 thing that operator was for was the weather forecast and
17 sent the weather positions off.

18 Q. Were you aware of anybody on board the *Illustrious*, when
19 you served on her, taking photographs of Soviet ships or
20 anything of that kind?

21 A. Not on the *Illustrious*, sir, no.

22 Q. On any other ships?

23 A. When I was skipper of the *Intrepid*, yes.

24 Q. What activities happened on the *Intrepid*?

25 A. Well, the operator, he used to be at London every time;

1 every trip, they used to tell me. George Summerson,
2 they called him, a well-known operator, and he was
3 always down to London.

4 Q. What did you understand him to be doing in London?

5 A. Well, I forget what building they used to call it, but
6 he used to go down -- something to do with the Ministry
7 of Defence and what have you.

8 Q. Can you recall the period, as best you can, that you
9 were serving on the Intrepid?

10 A. I first went skipper in 1968 and I did six or seven
11 trips from Hull and then we moved from Grimsby. From
12 1968 to 1970, back end of 1970, I was in Grimsby with
13 that ship.

14 Q. So doing the best you can, what was the last year you
15 would have served on the Ross Intrepid?

16 A. It will have been back end of 1970, say, when I chucked
17 it and came back to Hull.

18 Q. The earlier part of the 1970s?

19 A. No, the back end of 1970. It would be about November
20 time, 1970, when I came back to Hull, I should imagine,
21 yes.

22 Q. Thank you very much.

23 You told us that you refused to serve on the Gaul --

24 A. That is correct, sir.

25 Q. -- when you were asked to skipper it.

1 A. That is correct, sir.

2 Q. Was it usual for you to refuse to serve on any ship as
3 skipper?

4 A. Oh no. No, you did not tell trawler owners you did not
5 want a ship, sir.

6 Q. Had you ever done it before?

7 A. Oh yes.

8 Q. You had?

9 A. Yes, sir. And suffered the consequences.

10 Q. What ship was that?

11 A. The Ross Implacable.

12 Q. Can you just tell us shortly why you refused to serve on
13 the Ross Implacable?

14 A. Well, I had done the trip and they wanted me to go back
15 but they was always breaking down, sir, and I brought
16 her home when they told me to stay out, and I brought
17 her home and we docked 23rd December 1971.

18 Q. You told us that you were told that the Gaul was always
19 breaking down.

20 A. That is correct, sir.

21 Q. Who told you that the Gaul was always breaking down?

22 A. It is an old school friend, he went back years, and he
23 was mate there at the first trip with George Saul.

24 Q. Skipper Saul?

25 A. George Saul was first skipper of the Ranger Castor, sir,

1 and Charlie Powell joined halfway through her trip new.

2 I saw him a few trips later, in Hessle, because we
3 was local chaps, and asked him what he was doing, and he
4 said, "I have just come out the Ranger Castor." I said,
5 "Oh, big new ship, Charlie." He says, "What
6 a handcart". That is the exact words he says to me. So
7 I says, "Well, what do you mean?" He said, "Used to be
8 towing along and she would stop dead." So I said,
9 "What, stop dead?" He said, "I mean dead; dead in the
10 water. No engines, no electricity, nothing, just dead
11 in the water."

12 Then he said the steering, it was more or less
13 a weekly thing where the steering would go off.

14 So when you get things like that, and the
15 experiences you have had in the past, you do not want no
16 more. Well, I did not.

17 Q. Can you clarify when this conversation occurred between
18 yourself and Charlie Powell?

19 A. Shall we say 1973 time, sir.

20 Q. Was it shortly after his period of service on the --

21 A. In the Ranger Castor, sir.

22 Q. So it was not around the time that were you asked to
23 skipper the Gaul yourself?

24 A. Oh no, no, sir. No, no.

25 MR SALOMAN: Thank you very much.

1 A. Okay, sir. Thank you.

2 Examination by MR MUNYARD

3 MR MUNYARD: Mr Wileman, just a few more questions, please.

4 When Mr Oswald asked you to take out the Gaul in January
5 of 1974, did you tell him why did you not want to do it?

6 A. Exactly, sir.

7 Q. Did you get any indication to him as to whether the
8 problems you told him about had been rectified on the
9 Gaul?

10 A. He never mentioned it, sir. All I said to him -- he
11 asked me why I did not want to go and I just
12 said, "Because she is always breaking down and I do not
13 want that any more." I had had a run-in with his
14 counterpart when I had had the Implacable out in 1971.

15 Q. But he did not suggest to you that her problems had been
16 sorted out?

17 A. Not at all, sir.

18 Q. You also told us this morning that another thing about
19 her was that she was a fillet freezer.

20 A. That is true, sir.

21 Q. What was the problem with that, as far as you were
22 concerned?

23 A. Well, at that period of time, 1974, things were slacking
24 off all the way round and what have you, and I thought
25 you have got to catch too much fish to fill that ship

1 up. Whereas a block freezer -- I think it used to be
2 like 3 tonnes of fish you would want to make a tonne of
3 fillets, or some ratio to that. I thought I do not want
4 no more of that.

5 Q. So it was harder work on what you regarded as an
6 unreliable ship?

7 A. Exactly.

8 Q. Did you know Peter Nellist yourself?

9 A. No, I only spoke to him when we was in the block
10 freezers, when we was on the fishing ground before, sir.
11 That is the only time. I never ever met the chap.

12 Q. Did he give you any impression of himself? Did you get
13 an impression of what kind of man he was?

14 A. He seemed -- we are only going by telephone speak, sir,
15 and you can sound totally different on a VHF than you
16 can face to face, can you not?

17 Q. Yes, but did you get any impression of what kind of man
18 he was?

19 A. Yes, he seemed to know the job.

20 Q. You have been asked some questions about the ramp gate
21 so I am not going to pursue that with you.

22 Can I move on to the fish hatches?

23 A. Yes.

24 Q. You have talked about dogging the fish hatches and you
25 have told us that certainly in the case of, I think it

1 was the Ross Orion, they could be dogged from below.

2 A. Ross Orion?

3 Q. Sorry, you told us that on one of your ships --

4 A. Oh, on the Ross Intrepid they was dogged from below.

5 Q. Quite. Were there any other ships you worked on where
6 they were dogged from above?

7 A. Only the two Ross boats.

8 Q. And were they always dogged in heavy weather or would
9 sometimes --

10 A. It was a standing thing, sir. We used to say if you was
11 steaming, put the chains in the doors, that is the
12 safety chains, because if the air went off the brakes,
13 that lot would go, and automatically put the dogs in the
14 ramp.

15 Q. Did you know whether there were any problems with fixing
16 down the dogs?

17 A. On what ship, sir?

18 Q. On any ship that you were on.

19 A. No, sir. No, no.

20 Q. Were you ever aware of dogs being tied into the open
21 position so they could not be fixed shut?

22 A. No, not for dogging a ramp door down, no.

23 Q. I mean in order to prevent them being fixed in place.

24 A. No, sir, no.

25 Q. I mentioned the Ross Orion in error. Did you ever have

1 any involvement in the Ross Orion?

2 A. I was mate in there, sir.

3 Q. You were mate on her?

4 A. Yes, sir.

5 Q. How long were you mate on her?

6 A. Three or four trips, I should imagine, sir.

7 Q. What about the Ross Invincible?

8 A. No, sir.

9 Q. Nothing to do with that?

10 A. Nothing to do with her, no, sir.

11 Q. When you were with the Ross Orion, do you know if she
12 was ever involved in any kind of surveillance activity?

13 A. I would say no, sir, no.

14 Q. Are you saying that you do not know or that she was not?

15 A. I am trying to think of the operator who would be there
16 and I would say no, sir.

17 Q. Are you basing that, Mr Wileman, on your opinion that
18 that operator would not be prepared to do that, or are
19 you saying that you knew that he did not do it?

20 A. I am saying he would not do it, sir, yes.

21 MR MUNYARD: Thank you.

22 MR COOPER: I have no questions, sir.

23 MR MEESON: No further questions.

24 Questions by the ASSESSORS

25 MR JUSTICE DAVID STEEL: Just help me, would you, please,

1 Skipper, about one or two points. You served as a mate
2 or skipper of a stern trawler for many years, as
3 I understand it; ten years or something?

4 A. No, I do not think it was as long as that, sir.

5 MR JUSTICE DAVID STEEL: Certainly six or seven.

6 A. Pardon?

7 MR JUSTICE DAVID STEEL: Certainly six or seven.

8 A. Oh yes, sir.

9 MR JUSTICE DAVID STEEL: And this was during periods when
10 the vessels you served on were owned by Ross and then
11 later by BUT?

12 A. That is it, sir, yes.

13 MR JUSTICE DAVID STEEL: From time to time, did the dogs of
14 water or weathertight doors become corroded and seized?

15 A. I would say so, yes, sir.

16 MR JUSTICE DAVID STEEL: What would happen about that?

17 A. Well, we would report, it sir. But when we was in
18 Grimsby, BUT side was very efficient, shall we say, at
19 the Grimsby side, so I had no qualms with anything.
20 Anything you reported was done.

21 MR JUSTICE DAVID STEEL: The shore staff would have to be
22 brought in to deal with or grapple with any seized dog
23 and so on; is that right?

24 A. Pardon, sir?

25 MR JUSTICE DAVID STEEL: At Grimsby, if you came back with

1 a vessel that had some seized dogs, you would tell the
2 shore staff and they would sort it out?

3 A. Very good sir. Yes. It was very efficient.

4 MR JUSTICE DAVID STEEL: Do I understand that is in some
5 slight contrast with Hull?

6 A. I would say so, sir, yes. I always thought from that
7 angle, sir, we got better service in Grimsby, sir.

8 MR JUSTICE DAVID STEEL: On your freezer stern trawlers, did
9 you ever go down into the factory deck?

10 A. Very, very regular, sir.

11 MR JUSTICE DAVID STEEL: Presumably to help the crew with
12 gutting fish, amongst other things?

13 A. No way.

14 MR JUSTICE DAVID STEEL: No way. So you did not help with
15 that. Even as mate you did not do that?

16 A. Oh, as a mate I would, sir, or to pack the freezers,
17 yes.

18 MR JUSTICE DAVID STEEL: Coming to your days as a skipper,
19 would you go down to the factory deck at any time?

20 A. Yes, sir, regular.

21 MR JUSTICE DAVID STEEL: Why?

22 A. Well, to look at the quality of fish and to see that
23 everything has been coordinated.

24 MR JUSTICE DAVID STEEL: On the vessels that you served on
25 as mate or master or skipper, did you ever have any

1 problems with water on the factory deck?

2 A. Yes, sir.

3 MR JUSTICE DAVID STEEL: How did that come about?

4 A. We was laid and dodging at Bear Island at the time, in
5 the Ross Intrepid, and all the time you was laid and
6 dodging, or, shall we say, steaming, I used to in my
7 standing orders check the factory deck and the
8 accommodation every hour.

9 At one time -- a dinner time it was, sir -- "Has the
10 factory been checked?" "Oh yes, yes, yes", and stood on
11 the bridge, dodging up and down when I came on, like.
12 I said, "Right, we will turn her now." Because we had
13 been going head to wind about 7 or 8 hours, I thought we
14 would spin round and come back. We started the turn,
15 sir, and she just started to lay over. So I just had to
16 bring her on full length to try and bring her up back
17 into the wind.

18 I said, "Are you sure the factory be has been
19 checked?" "Oh yes." So I says to the officer of the
20 watch, "Watch this", and I went down to the factory and
21 it was awash, sir.

22 MR JUSTICE DAVID STEEL: Did your investigations discover in
23 fact how long the failure to walk into the factory deck
24 had been going on? One hour, two hours?

25 A. An hour, sir.

1 MR JUSTICE DAVID STEEL: Just the hour?

2 A. Just the hour, sir.

3 MR JUSTICE DAVID STEEL: And where had all this water come
4 from?

5 A. In them ships, sir, if you wanted to replenish the
6 toilet systems, you used to what they called start the
7 donkeys and open a valve to fill individual toilet
8 systems, sir, and they forgot to tell the engineers --
9 you used to have to say, "Start the donkey." They would
10 start what they called a donkey for the purpose what you
11 wanted it, but you had to tell them to stop it, sir, and
12 they forgot to do that.

13 MR JUSTICE DAVID STEEL: When you say it was awash, how much
14 sort of water are you talking about?

15 A. Only about 2 foot, sir.

16 MR JUSTICE DAVID STEEL: About 2 foot. Are we talking about
17 50, 100 tonnes, 200 tonnes?

18 A. Oh no, I do not think it would have amounted to that
19 amount, sir. Maybe 40/50 tonnes because there was
20 a hell of an area in them ships.

21 MR JUSTICE DAVID STEEL: I assume that you had not noticed
22 any change in the movement of your vessel?

23 A. Not going into wind, sir, not at all.

24 MR JUSTICE DAVID STEEL: Thank you very much.

25 MR HOPPER: Did you say you served on a filleter at one

1 time?

2 A. No, I have never been on a filleter trawler, sir.

3 MR HOPPER: Okay, my question will have to wait for somebody
4 else. Thank you.

5 Further examination by MR SALOMAN

6 MR SALOMAN: You said that in the flooding occasion you had
7 a hell of an area of the factory deck covered by water.

8 A. Yes, sir.

9 Q. Earlier you told the commissioner that it may have been
10 about 2 feet of water.

11 A. I should imagine so because it was up to the level of
12 the racking where the freezers was, sir.

13 Q. Can you assist us by approximating the length of the
14 factory deck that was covered by water?

15 A. No, not really, sir, no.

16 Q. You cannot say whether you are referring to 20 metres?

17 A. Hell, no. What with having all the freezers and the
18 gutting space and what have you, no, sir. No.

19 MR JUSTICE DAVID STEEL: Thank you very much for your help.

20 A. Thank you, sir.

21 (The witness withdrew)

22 MR MEESON: Sir, the next witness is Mr McCarthy.

23 MR PHILIP McCARTHY (sworn)

24 Examination by MR MEESON

25 MR MEESON: Mr McCarthy, can you tell the court your full

1 name, please.

2 A. Philip McCarthy.

3 Q. Thank you. Mr McCarthy has a witness statement that is
4 in AG10, pages 34 to 35.

5 Mr McCarthy, I think you were the mate of the
6 Victory, is that right, in February 1974?

7 A. Correct.

8 Q. Whilst were you mate -- before I come to that, did you
9 know the mate on the Gaul, Mr Spurgeon?

10 A. Mr Spurgeon very well.

11 Q. Do you recall talking to him at all on the VHF before --

12 A. Yes.

13 Q. -- the loss of the Gaul?

14 A. Yes.

15 Q. And can you tell us about your conversations with him
16 insofar as it might be relevant to the loss?

17 A. Well, we were speaking -- we would have regular
18 conversations but changed channels because they were
19 private channels, but we always had one set on the
20 waking channel.

21 The last time I spoke to him was the morning before
22 she was supposed to have got lost, which I think was the
23 same day she got lost. We was just having a
24 conversation and Spud Spurgeon come out all of a
25 sudden -- in the exact words, if you want to know that,

1 he said, "She is a fucking cow and a half to steer in
2 hand", and he said, "See you", and he just put the phone
3 down and went. That was the end of the conversation.

4 Later on in the watch I did call him up two or three
5 times but got no reply.

6 Q. Do you remember at what time during the day or night
7 this was?

8 A. That is the thing what has been puzzling me. I cannot
9 remember whether it was at breakfast or dinner watch.
10 I think it was breakfast or dinner watch.

11 Q. Whereabouts was your vessel at that time?

12 A. It was on the same area, off the North Cape Bank.

13 Q. And were you fishing at that time?

14 A. We was fishing, yes.

15 Q. You were still fishing?

16 A. Yes, because -- well, we had to go in anyhow as the
17 clutch broke.

18 Q. So it was before you left the fishing grounds because
19 your clutch broke?

20 A. Yes.

21 Q. So you were still trawling --

22 A. Finishing the tow, yes.

23 Q. When you refer to "dinner", are you referring to the
24 middle of the day?

25 A. Middle of the day, yes.

1 MR MEESON: I have no further questions for Mr McCarthy.

2 Examination by MR SALOMAN

3 MR SALOMAN: Apart from telling you that she was a "fucking
4 cow and a half to steer", did he in any way elaborate on
5 this?

6 A. No, he had never mentioned anything before. Each time
7 we was on watch together we would have a conversation,
8 but he would never give a clue -- he was not talking
9 that long that time, and he just come out with it,
10 blurted it out, and then he would say, "See you" and the
11 phone went off, and that was the finish.

12 I called him up, as I say, later on in the watch,
13 an hour later -- two or three times I called him up but
14 I got no replies.

15 Q. You did not understand whether he was steering by hand
16 with or without power assistance?

17 A. That is the thing, I do not know whether he was steering
18 hydraulic power or hand, because if she was in hand
19 steering, it would take about nearly 100 turns to get
20 it, but with hydraulic power it is a bit easier. He did
21 not quote what it was, he just said, "She is a cow and a
22 half in hand."

23 Q. Have you yourself steered by hand without power
24 assistance?

25 A. Oh yes. Not for long but it was blinking bad.

1 Q. In heavy seas, was it?

2 A. Oh no, I have never had to do it in heavy seas. I do
3 not think it would be possible.

4 Q. And when you have had to steer by hand, has it been on
5 ships of similar size to the Gaul?

6 A. No, no.

7 Q. Smaller ships?

8 A. The sidewinders, more or less.

9 Q. Did you ever see any Soviet warships on the North Cape
10 Bank?

11 A. No, never. Never.

12 Q. How long a period were you serving on trawlers on the
13 North Cape Bank?

14 A. On the Cape Bank?

15 Q. On the Cape Bank.

16 A. Well, just that one trip, I think, or maybe two trips.
17 I cannot remember now. One or two trips.

18 Q. Did you ever hear reports from other trawler skippers or
19 mates of Soviet warships being seen on the Cape Bank?

20 A. No. No. I have worked Cape Bank other times but never
21 seen any there.

22 Q. Did you ever hear reports of Soviet submarines being
23 seen?

24 A. I heard reports of Soviet submarines being seen many
25 times but not on Cape Bank.

1 Q. That was the point of my question. Thank you.

2 You have told us that there was an occasion when you
3 were boarded by a Russian warship, or a party from
4 a Russian warship.

5 A. Yes.

6 Q. Do you remember when this incident occurred?

7 A. I had come from Cherney, out easterly on the Russian
8 coast, and I was ordered by this gunboat to steam --
9 I was going into a minefield and they ordered me to
10 steam off 200 mile and I told them to get lost. Anyhow,
11 this officer and two sailors come aboard, and I said,
12 "I'm not going to wait, it is a day further out and
13 a day back in; that is two days longer." I was arguing
14 with him, and after about half an hour he is talking to
15 the gunboat about (inaudible) and he said, "Steer so and
16 so and so and so", and that was the course I was already
17 going. That did not last that long, so ...

18 Q. So there was an officer and two sailors who boarded you?

19 A. Yes.

20 Q. How long did it take -- this may be a difficult question
21 for you to answer after all this time -- between being
22 told to stop and being boarded?

23 A. We were told to stop about a quarter of an hour,
24 20 minutes before being boarded, because when I kept
25 refusing...

1 Q. So it took about a quarter of an hour, 20 minutes?

2 A. Yes.

3 Q. Was it ordinary good weather?

4 A. Oh, it was decent, good weather, yes, fine weather.

5 Q. How long were the Russians on board your vessel for on
6 that occasion?

7 A. About half an hour.

8 Q. Whilst they were on the vessel, what did they do?

9 A. Oh, nothing. They just wanted just to have sight of the
10 wireless room, that was all, but I just determined I was
11 not going to steam off for 24 hours.

12 Q. They were perfectly friendly?

13 A. Oh, they was not bad at all, no.

14 Q. Did you give them coffee or tea?

15 A. I cannot remember now.

16 Q. There was nothing sinister or ominous about them aboard?

17 A. Oh no. We had nothing really -- they just kept arguing
18 with me about going off but I did not want to do it.

19 Q. Did you even bother to report it after you got back?

20 A. I reported it to Donald Lister but he has passed away
21 now, the outside manager.

22 MR JUSTICE DAVID STEEL: I understand this incident occurred
23 sometime in the 1960s; is that right?

24 A. Something like that. I cannot remember when it was --

25 MR JUSTICE DAVID STEEL: How long before the Gaul was lost?

1 Many years?

2 A. Perhaps two or three years. I cannot remember exactly.

3 But I was on the Russian coast that happened, off

4 Kildin.

5 MR SALOMAN: Did they consider that were you within their

6 territorial waters?

7 A. Oh yes.

8 Q. Have you ever heard of any problems from Russian ships

9 seeking to board British trawlers outside their

10 territorial waters?

11 A. No.

12 Q. And when they were on board, did they show any

13 particular interest in investigating your communication

14 systems or anything of that kind?

15 A. No, nothing.

16 Q. They did not want to snoop round your ship?

17 A. They did not -- whether they wanted to or not, but they

18 did not.

19 Q. They did not suggest you might be spying or anything

20 like that?

21 A. No.

22 Q. You mentioned an occasion when a man from the Admiralty

23 visited.

24 A. Oh, that was the case years ago when he had been to

25 White Sea -- it was Admiral somebody, I do not know who

1 he was. He used to come round with a big album of
2 photographs saying, "Have you seen this ship? Have you
3 seen that ship?" That has only ever happened to me
4 once.

5 Q. Approximately when was that?

6 A. Oh heck, that would be -- well, in the 1960s, I think.
7 Perhaps the 1950s.

8 Q. It was the 1950s?

9 A. The 1960s, I think.

10 Q. The 1960s. Do you recall, after this length of time,
11 what ship you were serving on?

12 A. Oh heck. I think it would be -- when I went up there it
13 was one of the last old Northern boats, Northern Gem,
14 I think.

15 Q. The Northern Gem?

16 A. I think so. I am not sure because a lot of water has
17 passed under the bridge since then.

18 Q. I am going to ask you another very difficult question.
19 Do you remember anything about the appearance of this
20 man from the Admiralty?

21 A. Oh, not a thing. If he sat alongside me I would not
22 know him. The only thing I remembered, he had a bowler
23 hat.

24 Q. He was not, as one witness has described, a person who
25 seemed to be interested in surveillance operations of

1 some kind: a tall, thin, well-dressed and perfectly
2 mannered gentleman?

3 A. He was well mannered but I still would not know anything
4 about him. When he walked in with a bowler hat, that is
5 the thing that amused me.

6 Q. He did not make the slightest impression upon you.

7 You say he visited you in your statement. Did he
8 actually come on board the ship?

9 A. No, no, he came to the house.

10 Q. He came to the house?

11 A. Yes.

12 Q. Did you have anything to give him or assist him with?

13 A. A cup of tea, I think, perhaps.

14 Q. Had you, as a matter of interest, taken any photographs
15 on the trip in question?

16 A. No.

17 Q. Did he ask you whether you had taken any photographs on
18 the trip in question?

19 A. I think he did. If I remember rightly, I think so.

20 Q. To the best of your recollection, had anybody on board
21 been taking any photographs?

22 A. No.

23 Q. Of Soviet ships or the like?

24 A. No, no.

25 Q. You say you have no recollection of Hull or Grimsby

1 trawlers being asked to conduct any form of intelligence
2 gathering?

3 A. No, none whatsoever.

4 MR SALOMAN: Thank you very much.

5 Examination by MR MUNYARD

6 MR MUNYARD: Mr McCarthy, can I ask you a little bit more
7 about Spud Spurgeon?

8 A. Yes.

9 Q. You knew him very well?

10 A. Very well, yes.

11 Q. What kind of person was he?

12 A. Oh, very happy-go-lucky and very friendly.

13 Q. Was he the sort of person to take risks or not?

14 A. I do not think he would take risks unwittingly. He
15 would use a bit of common sense before he did anything.

16 Q. Was common sense a hallmark of his personality?

17 A. Yes.

18 Q. Moving on, then, to your conversations with him on the
19 North Cape Bank in the period of time before the Gaul
20 was lost, I think you spoke to him quite often during
21 that last trip?

22 A. Yes, I did.

23 Q. Were you surprised that he was there?

24 A. Well, it is a bit of a story, because when I had to go
25 in a stern trawler, I did not want to go, and he was in

1 Grimsby stopping with us. We went down dock and I had
2 to go in this stern dragger because they wanted me to go
3 in as mate of a new ship. I said, "I am going to take
4 the ship away", and I said, "I would much rather go in
5 her", then the gaffer give me a telling off, "You will
6 go in where I tell you". So I said, "Well, I have never
7 been stern fishing" and they put me observer in a ship
8 called the Implacable. And when I come downstairs and
9 told Spud Spurgeon, he just killed himself laughing. He
10 said, "You are going in a stern dragger? You would
11 never get me in them."

12 I had not heard from him for about seven or eight
13 months, and the next thing I was talking to the Gaul
14 about, and I said, "Have you heard of Spud Spurgeon?"
15 He said, "He is here, just come up" and he says, "I can
16 hear you, McCarthy", and I said, "I though you would
17 never get in a stern dragger" and was having a laugh
18 about that, and that is when we started the conversation
19 again.

20 Q. So as far as you were aware, he had never worked on
21 a stern dragger before?

22 A. As far as I was concerned he had not.

23 Q. The last conversation that you had with him, you have
24 said this morning you think it was on the morning of the
25 day that --

1 A. It was on the morning but I cannot remember if it was
2 early morning or the morning before dinner. It was
3 definitely the morning.

4 Q. I would just like to ask you to look at the skipper
5 scheds for the relevant days. It is OFI volume 1,
6 document 14, page 113. You will be shown this in just
7 a second, Mr McCarthy. Do you have it in front of you
8 there?

9 A. Yes.

10 Q. Page 113 are the scheds for 7th February 1974.

11 A. Yes.

12 Q. If you look down towards the bottom of the page, for the
13 1630 scheds, you are the fifth ship down there, Victory?

14 A. Yes.

15 Q. What does that record Victory as doing at that stage?

16 A. Just hauling.

17 Q. Just hauling, right.

18 Could you turn over the page. We can see the Gaul,
19 fourth one down from the top of page 114.

20 A. Yes.

21 Q. She has got 60 baskets. Then the 2330 scheds. The
22 Victory is the fifth down, bound for Honningsvaag for
23 a winch job.

24 A. Yes.

25 Q. Almost at the bottom of the page, second line from the

1 bottom, you can see the Gaul. What does that say?

2 A. "... paralysed laid mending".

3 Q. So she is paralysed at that stage of laid mending.

4 If you go over to the next page, the scheds for
5 8th February, top of page 115, about halfway down there
6 is a whole list of vessels that are recorded as laid and
7 dodging.

8 A. Yes.

9 Q. The last one of those in that long list there is the
10 Gaul; is that right?

11 A. Yes, that is right.

12 Q. And then you are immediately below that in Honningsvaag?

13 A. Yes.

14 Q. Were you in Honningsvaag when you had that last
15 conversation with Spud Spurgeon or had you set sail --

16 A. We was fishing at the time. During our last tow,
17 I think this would be.

18 Q. So it was before you headed off for Honningsvaag?

19 A. Oh yes.

20 Q. And that was the time when he described in graphic terms
21 what a difficult job it was to hand steer?

22 A. Yes, that is correct.

23 Q. Just one other question, please. You have been asked
24 a moment ago about your dealings with a man from the
25 Admiralty, and I think you said he came to your house to

1 see you?

2 A. Yes.

3 Q. Have you any idea how he knew where you lived?

4 A. I have no idea at all. No idea whatsoever. I suppose
5 he would get it from the office, I do not know.

6 Q. You were not expecting him, but you started to describe
7 him, I think, as a man in a bowler hat.

8 A. They said could I remember him, that is the only thing
9 I could remember him by.

10 Q. Did you have many men in bowler hats wandering round in
11 Hull in the early 1970s?

12 A. I do not think so, no.

13 Q. That is what stood out about him?

14 A. Yes.

15 Q. You did not by any chance find out if he had a nickname
16 such as Bunny, did you?

17 A. I cannot remember. They said he was some naval officer,
18 apparently. I had nothing to tell him so I was not
19 worried.

20 Q. If you had had something to tell him, are you suggesting
21 that might have worried you?

22 A. I do not think -- I could not tell him anything so when
23 he was in --

24 MR MUNYARD: Very well. Thank you.

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

1 MR MEESON: I have no further questions.

2 MR JUSTICE DAVID STEEL: Mr McCarthy, did you ever serve as
3 a skipper of a stern trawler?

4 A. No, never.

5 MR HOPPER: What I asked the last witness: did you serve as
6 mate on a filleter at all?

7 A. No.

8 MR HOPPER: Thank you.

9 MR JUSTICE DAVID STEEL: Thank you very much for your help.

10 (The witness withdrew)

11 MR MEESON: Sir, I think that might be an appropriate place
12 to take a short adjournment. But before I do so, can
13 I say that there is a supplementary statement from the
14 SIS officer EB, which will be in AG10, page 112.1.

15 MR JUSTICE DAVID STEEL: Right. Well, we will take a break
16 now and we will resume at about 1.55. Thank you very
17 much.

18 (12.50 pm)

19 (The short adjournment)

20 (2.05 pm)

21 MR JUSTICE DAVID STEEL: Yes, Mr Meeson.

22 MR MEESON: Sir, this afternoon the next witness is
23 Captain Habesch.

24 CAPTAIN GEOFFREY DAVID HABESCH (sworn)

25 Examination by MR MEESON

1 MR MEESON: Captain Habesch, can you tell the court your
2 full name, please.

3 A. My full name is Geoffrey David Habesch.

4 Q. Thank you. I will now summarise the evidence that you
5 previously gave in 1974. So if you just listen while
6 I do that.

7 Mr Habesch gave a deposition, which we have in AG9,
8 pages 123 to 125, and he gave evidence at the original
9 formal investigation on Day 4, pages 58 through to 65.

10 He was called solely on the question of search and
11 rescue, and his evidence was that on 11th February 1974
12 he was advised by Mr Brookes that the Gaul had not
13 reported and decided to send out a GZWT message by
14 Wick Radio on normal traffic, asking all vessels insured
15 with UK Trawlers Mutual Insurance Company fishing on the
16 Norwegian coast to report any contact with or sightings
17 of the Gaul.

18 On the same day he called Mr Oswald at BUT, who had
19 heard nothing but later received a call from Mr Hudson
20 of BUT, stating that the Orsino had sighted the Gaul on
21 Friday, 8th February at 10.30. Having received this
22 information, Mr Habesch made contact with his chief
23 agent in Norway and at about 13.34 sent a further GZWT
24 message advising the vessels in the group of her last
25 known position.

1 He also spoke with Mr Jennings of the Ministry of
2 Agriculture, Fisheries and Food and Admiral Ievers, the
3 managing director of UK Trawlers Mutual, with a view to
4 arranging their search by UK-based aircraft.

5 Captain Habesch, does that accord with your
6 recollection of events now nearly 30 years ago?

7 A. Yes, it does.

8 Q. Captain Habesch has provided a witness statement for
9 this inquiry, which we have at bundle AG10, pages 102 to
10 104. Could the witness please be shown that statement.

11 Can you see that statement at 102 through to 104?
12 And on page 104 there is a signature with a date of
13 6th December 2003; do you see that?

14 A. On page 104, that is my signature.

15 Q. That is your signature?

16 A. 6th December.

17 Q. Do you remember making this statement? You have
18 obviously been through it and made a number of
19 manuscript corrections to it.

20 A. Yes.

21 Q. Having made those corrections, is the statement that you
22 have made now true to the best of your knowledge and
23 belief?

24 A. This is the one I have got in front of me?

25 Q. Yes, the one you have in front of you.

1 A. It is, yes.

2 Q. I would like to ask you a question not about search and
3 rescue but about the UK Mutual and surveyors employed by
4 UK Mutual. Do you remember whether the company did
5 employ surveyors?

6 A. The mutual insurers' surveyors, Messrs Morris and
7 Holcroft, dealt with BUT in Hull but they had both died
8 some time ago.

9 Q. So they are both no longer with us unfortunately; is
10 that right?

11 A. That is true.

12 Q. Do you yourself have any knowledge of what their
13 responsibilities were as insurance company surveyors?
14 If you do not, say so.

15 A. Yes, if you would.

16 Q. Sorry?

17 A. I am sorry, I do not quite understand.

18 Q. You have mentioned the two gentlemen who were surveyors,
19 and dealt with the BUT vessels.

20 A. Yes.

21 Q. Do you know what their job was as surveyors?

22 A. Ah, I see what you mean. Yes, they were engineer
23 surveyors. They looked after engines, machinery.

24 Q. The machinery?

25 A. That is right.

1 Q. Did they deal at all with the deck things on the vessel:
2 watertight closing appliances and that sort of thing, or
3 not?

4 A. The machinery, yes, they did.

5 Q. They did?

6 A. Yes.

7 Q. How often would they visit a particular vessel; do you
8 have any idea? I know it was not your job.

9 A. I think it was very much not. I had nothing to do with
10 the machinery or anything like that.

11 Q. So you had nothing to do with that at all?

12 A. I was a nautical adviser and I worked directly to the
13 managing director, Admiral Ievers. He tells me and
14 I tell him if anything is going wrong.

15 Q. Can you just pull the microphone a little further
16 towards you.

17 So you worked directly to Admiral Ievers?

18 A. That is correct, yes.

19 Q. And what did you advise Admiral Ievers about?

20 A. Well, for instance, when ships do not give a signal,
21 something has happened, you know, I would tell him
22 immediately. For instance, once we found out that the
23 Gaul was missing, we did not go straight away to
24 Admiral Ievers because he had been very sick. He had
25 just gone home that day. Nonetheless, as you will see

1 in my statement, I did actually, rather reluctantly,
2 call Admiral Ievers in his home, because there were
3 certain things coming up that I thought I would have to
4 tell him about, which I did. He advised me on one or
5 two points on what we should do.

6 MR MEESON: Thank you very much. I have no further
7 questions for you, but if you could just stay there,
8 I think Mr Munyard will be asking you some questions
9 first.

10 Examination by MR MUNYARD

11 MR MUNYARD: Captain Habesch, I am going to ask you some
12 questions about the search and rescue operation.

13 A. I am very sorry, sir, I cannot quite hear you.

14 Q. I will try and pull my microphone nearer. I am going to
15 ask you some questions about the search and rescue
16 operation. I would like you, please, to look at a log
17 that you made at the time, which is in OFI bundle 5,
18 which is going to be provided to you in a second. It is
19 document 124, starting at page 60, effectively page 61.

20 Captain Habesch, it is obviously some time since you
21 have seen that. Is that in your handwriting?

22 A. No, it is not my handwriting. Wait a minute. This is
23 this -- I decided to have ...

24 Q. Can I take you through it and see if it accords with
25 your recollection of events?

1 A. Yes. Could you just start off ...

2 Q. Can we start at the top. Do you have a page that has in
3 the top right-hand corner a large number in black pen,
4 124?

5 A. Yes.

6 Q. Is the document headed "Non-reporting of Gaul and
7 subsequent search log of events"?

8 A. Yes, that is right. "It stated that the Gaul had not
9 reported in"; is that the one?

10 Q. It should start at 09.10, the left-hand side. Do you
11 have that? Top of the page, left-hand column, 09.10,
12 and this is on 11th February 1974. Do you see that,
13 Captain Habesch?

14 A. Okay.

15 Q. At 9.10 in the morning, on 11th February, Mr Brookes
16 informed NA -- NA is you, is it not?

17 A. Yes.

18 Q. You are the nautical assistant?

19 A. Adviser.

20 Q. Nautical adviser?

21 A. That is right.

22 Q. And Mr Brookes is a colleague of yours in UK Mutual?

23 A. Quite right. He was the duty person from Friday back to
24 Monday.

25 Q. He covered the weekend?

1 A. That is right, covered the weekend.

2 Q. He informed you that he had been contacted on the
3 previous evening?

4 A. No. He contacted Wick Radio, but this was later in the
5 evening. He rang Isacssen, who was the chief agent in
6 Norway, and he said he would try and raise the vessel
7 through -- I was getting this, by the way, at 9.10 on
8 Monday.

9 Q. We appreciate that. Can I just summarise that first
10 entry. Mr Brookes told that you on the previous evening
11 he had been contacted by BUT, who told him that the Gaul
12 had not reported in, and then Mr Brookes tried to find
13 out from the agent, Mr Isacssen in Norway, if he could
14 find any information out about the vessel; is that
15 right?

16 A. Yes.

17 Q. The next entry, in terms of time, is 9.15, when you send
18 out a GZWT message?

19 A. That is correct.

20 Q. What is the nature of a GZWT message? Is it a message
21 to all ships?

22 A. To all ships of the insurers, yes -- that we insure,
23 yes.

24 Q. It is a message sent out asking them if they have had
25 any sighting of or dealings with the Gaul; is that

1 right?

2 A. That is it. Also, I mention later on --

3 Q. I am going to come to later on in a moment.

4 A. Okay.

5 Q. I will deal with all the entries. Concentrating on
6 a GZWT, how effective were GZWT messages as far as
7 UK Mutual was concerned? Did they produce results or
8 not?

9 A. Once we sent out this GZWT, that went to all the ships
10 that were --

11 Q. We appreciate that. Did you send out the GZWT message
12 on an emergency or distress frequency or just on an
13 ordinary frequency?

14 A. "A message is sent simply with the prefix GZWT ...".

15 Q. Yes. If you put the book down then the microphone will
16 catch your reply.

17 I just want to understand from you how effective the
18 sending of a GZWT message is.

19 A. Right. Well, this is why I have got to think here.

20 Q. Can I try and jog your memory by reminding you what you
21 said at the inquiry in 1974?

22 A. That is right, yes.

23 Q. You have only ever once had an answer to countless GZWTs
24 that you sent out.

25 A. That is right.

1 Q. Because normally you find the vessels more quickly by
2 checking with the coastguards and the agents. Do you
3 remember saying that in 1974?

4 A. The only thing that came from a coastguard, from
5 a duty -- not Mr Oswald but from the other one, Hudson,
6 is it not, I think?

7 Q. We are losing you slightly. Can you bring the
8 microphone a little nearer?

9 A. I am sorry. He said that had we sent a pan message --
10 well, he did it, in fact, and was it all right for him
11 to do it. At one stage I did say, well, it will not
12 matter, we are doing the other thing.

13 Q. We will come on to pan messages in a moment. Is it
14 right that you regarded GZWT as really little more than
15 a long stop?

16 A. That is quite right, yes.

17 Q. It goes out on normal traffic. It is not an emergency
18 or distress signal, as such?

19 A. Sent out by Wick Radio, that is right.

20 Q. The next entry in time is 09.20, if you go back to the
21 log. Do you see that you contacted Mr Oswald at BUT,
22 and he then informed you that the last report from the
23 Gaul was on the morning of Friday 8th February; do you
24 see that in the log?

25 A. I am just seeing on this other one.

1 Q. I am not sure if your statement will help you as much as
2 the log. Captain Habesch, will you take it from me that
3 the entry on the log suggests that it was not until 9.20
4 that you discovered that she had not reported in since
5 the morning of Friday 8th February?

6 A. Yes, that is right. Yes, Mr Oswald did that.

7 Q. At 9.25, you then got a telex from Mr Isacssen, the
8 agent?

9 A. That is correct.

10 Q. Which you passed on to Mr Oswald?

11 A. That is correct.

12 Q. And Mr Oswald said that he would also telex Honningsvaag
13 for any news. Then you telephoned Mr Oswald at
14 11 o'clock in the morning to find out if he had in fact
15 had any news; is that right?

16 A. That is correct, yes.

17 Q. And at that time, you and he agreed that as she had not
18 been heard of for three days, dependants should be
19 informed on a low key basis that attempts were being
20 made to contact the vessel?

21 A. That is correct.

22 Q. And at 11.15, Mr Saltiel of the Deep Sea Fishermen's
23 Mission rang and indicated that he would work directly
24 with BUT in informing the families?

25 A. That is correct, yes.

1 Q. At 11.35 --

2 MR JUSTICE DAVID STEEL: Forgive me for interrupting.

3 Forgive my slight impatience. I can read this document.

4 I do not understand you to be challenging its content.

5 We have been through it once with another witness.

6 I very much doubt if this witness, if I may respectfully

7 say so, will have a better recollection now of events in

8 1974 than he did shortly afterwards in the formal

9 investigation.

10 If you wish to read into the record this transcript,

11 so be it, but I am not quite sure what we are doing.

12 MR MUNYARD: I am trying to establish that there are certain

13 features such as the nature of a GZWT call.

14 MR JUSTICE DAVID STEEL: We have had that, yes. Now where

15 are we going?

16 MR MUNYARD: We are going on now to a pan call.

17 MR JUSTICE DAVID STEEL: Again, I do not believe there could

18 be any conceivable argument as to what a pan call is.

19 A pan call is defined as a matter of international law,

20 is it not?

21 MR MUNYARD: It may be, sir, but I thought it appropriate

22 for the witness to explain the stage at which finally

23 a full-scale alert was put into effect.

24 MR JUSTICE DAVID STEEL: But I do not gather there is any

25 issue as to when that happened. If some further issue

1 arises then no doubt we can develop it, but I certainly
2 do not want to weary this witness with turning out
3 something that he personally has no recollection of
4 now -- that seems to me to be manifest -- and about
5 which, as I understand, there is no controversy.

6 MR MUNYARD: There may be no dispute about it, sir, but
7 I think there may still be an element of controversy
8 about it. But I can take it much more --

9 MR JUSTICE DAVID STEEL: That is as casuistic a distinction
10 as I have ever heard. By "controversy" I mean dispute.

11 MR MUNYARD: I take the point.

12 MR JUSTICE DAVID STEEL: Thank you.

13 MR MUNYARD: Captain Habesch, what I want to understand from
14 you is this: is it right that it was not until you had
15 spoken to Admiral Ievers that anyone actually tried to
16 contact the British authorities -- that is to say the
17 Ministry of Agriculture and the coastguards and so on?

18 A. Yes, that is quite correct. Admiral Ievers did say this
19 to me.

20 Q. Did you yourself not have the authority, without
21 speaking first to Admiral Ievers, to put into effect
22 a full-scale search and rescue to the extent that
23 UK Mutual could?

24 A. Yes. He said that it was really having to go to -- what
25 do they call themselves? Anyway, he told me that it

1 would not be done by us but by the owners, who would ask
2 what used to be called the Min of Ag and Fish, but they
3 would have to ask us from them to do it. I was only
4 able to get a Mr Jennings, who was the chap that ran
5 this bit of the Min of Ag and Fish, and I could not get
6 hold of him until about 2.10.

7 Q. Exactly. But did you not have the authority yourself to
8 do that earlier in the morning, or did you have to wait
9 until you had spoken to the ailing Admiral Ievers at
10 about 1 o'clock in the afternoon?

11 A. You are saying that the Norwegian chap called us, is
12 that the one you are talking about?

13 Q. No. I simply want to know from you, did you not
14 yourself feel that you had authority to contact the Min
15 of Ag and Fish and the coastguard and so on until you
16 had spoken to Admiral Ievers?

17 A. That is correct.

18 Q. And was that the system that operated in UK Mutual at
19 the time, that you had to get the admiral's permission
20 to make those calls and put the rescue operation into
21 effect?

22 A. Yes, somewhere I said that we were being asked to do
23 something, you know, a bit outside our effort, you know.
24 And this is when Admiral Ievers said, "Make sure the
25 owners ask the Min of Ag and Fish would ask."

1 Q. I see. And that is when the search and rescue operation
2 really began to take effect?

3 A. That is quite right, because we could not get hold of
4 Mr Jennings, who was at the Min of Ag and Fish.

5 Q. Until some time after 2 o'clock in the afternoon?

6 A. Precisely, yes.

7 MR MUNYARD: Sir, those are my questions on the search and
8 rescue operation as far as this witness is concerned.
9 I would be grateful if the whole of the log could be
10 read into evidence without me needing to take it any
11 further.

12 MR JUSTICE DAVID STEEL: Well, I am not going to suggest we
13 really solemnly need to read it aloud into the evidence.
14 It seems to me that the pertinent parts have actually
15 gone into the transcript already with an earlier
16 witness. If there are other features of the transcript
17 which are of assistance in determining times, names and
18 places, I am content that we should refer to them as may
19 be necessary in any speech or report.

20 MR MUNYARD: Very well.

21 MR JUSTICE DAVID STEEL: Thank you very much.

22 Examination by MR SALOMAN

23 MR SALOMAN: As I understood your evidence, Admiral Ievers
24 was not willing to accept the insurers' request for
25 all-out search action; is that right? He wanted the

1 owners' request for an all-out search action; is that
2 right?

3 A. Yes, that was what he said.

4 Q. Two matters arise out of that. First of all, could we
5 look at your insurance company guidelines as agreed with
6 the shipowners. They are at OFI bundle 5, page 38. OFI
7 document 120.

8 This is a letter on Hull Steam Trawlers Mutual
9 Insurance notepaper, dated 2nd February 1968. It is
10 addressed to the managing directors of all trawler
11 owning companies, and it deals with trawler reporting
12 procedures. I propose to read out the core of this
13 document just to remind you of the system, and then
14 a second letter which touches more sharply on what we
15 are discussing. In this letter, the proposed system
16 is -- and I shall read from the central paragraph on
17 that page:

18 "At 1200 every day a nominated insurance company
19 representative will telephone a nominated representative
20 at each trawler owning company and ask whether the
21 company concerned has any vessels which have not
22 reported within the previous 24 hours. If the company
23 has any such vessels, the manager of the insurance
24 company will telephone the trawler owning company, at
25 director or manager level, to discuss what local action

1 should be taken to try and establish contact with the
2 missing vessel either through another of the trawler
3 company's vessels or by GZWT message to all Hull
4 trawlers.

5 "At the same time, the insurance company will inform
6 the District Inspector of Fisheries and advise him of
7 what local action is being taken and whether we consider
8 that overdue procedures should be started."

9 Just pausing there, Captain Habesch, is it not clear
10 that in February of this year a new system was laid down
11 for co-operation between trawler owners and the
12 insurance company as to how to deal with emergency
13 situations?

14 A. This was contained in this letter that you have just
15 read out, was it?

16 Q. Yes. I am asking you to agree that this is the
17 procedure --

18 A. In 1968; right?

19 Q. In 1968. This was the system of co-operation between
20 the insurance company and the trawler owners?

21 A. Yes.

22 Q. To deal with emergency situations?

23 A. That is correct, yes.

24 Q. Just focusing on the last sentence that I have read to
25 you:

1 "At the same time the insurance company will inform
2 the District Inspector of Fisheries and advise him of
3 what local action is being taken."

4 Do you see that?

5 A. Yes, I do.

6 Q. Is it fair to say that under these arrangements it was
7 envisaged that the insurance company would contact the
8 Minister of Fisheries, or the District Inspector of
9 Fisheries?

10 A. But he would also have informed it that the owners
11 wanted this to be done.

12 Q. No doubt. But is it not envisaged very clearly in this
13 sentence that it is the insurance company who will
14 inform the District Inspector of Fisheries?

15 A. Ah, well, as I say, Admiral Ievers in fact told me what
16 you have just said.

17 Q. I think your evidence was somewhat different.
18 Admiral Ievers' point was that the insurance company's
19 request for action was not sufficient. He wanted the
20 owners to confirm their desire for action. That is how
21 I understood your evidence about that. Is that correct?

22 A. Well, I suppose it must be.

23 Q. And what I am suggesting to you is that whatever
24 Admiral Ievers asked to be done, whether he wanted the
25 owners' call for a search or the insurers, I am

1 suggesting that under your agreement with the owners, it
2 was agreed that it was the insurers' call; is that not
3 right?

4 A. Well, it certainly seemed to me that he had said that he
5 wanted the owners to --

6 Q. I am not doubting that for one moment. I am asking you
7 to assent to the proposition that as between the
8 insurance company and the shipowner, the agreement was
9 for the insurance company to summon the District
10 Fisheries Officer.

11 A. That seemed to be right, what I thought anyway. It was
12 rather unfortunate, of course, that we could not get
13 hold of the Fisheries Officer, I think.

14 Q. Indeed. Could you look at the next letter on the next
15 page. Another Hull Steam Trawlers letter to member
16 companies, dated 17th May 1968.

17 A. "Wireless Routine"; is that the one?

18 Q. It should not be. It should be page 38 --

19 MR JUSTICE DAVID STEEL: I fear the explanation is that when
20 you asked him to read the earlier letter, you told him
21 it was page 38.

22 A. 22nd October is "Wireless Routine".

23 MR JUSTICE DAVID STEEL: I confess I am persuaded that this
24 witness can help a great deal on what I would call any
25 detailed points, I really am not.

1 MR SALOMAN: Very well sir.

2 MR JUSTICE DAVID STEEL: I think that these are points which
3 you debated, I cannot remember, I think with
4 Captain Newbury but maybe it was with somebody else.

5 MR SALOMAN: It was Mr Oswald.

6 MR JUSTICE DAVID STEEL: I am so sorry, with Mr Oswald, who,
7 in a sense, was a witness much better equipped to deal
8 with points of this kind. I of course will not stop
9 you, but I detect that this is not an avenue that is
10 likely to be very rewarding.

11 MR SALOMAN: No, sir. I have only one point to ask about
12 the log of events in handwriting, sir, which I think is
13 appropriately asked, because it concerns BUT's actions
14 on the morning of the Monday after the Gaul, as it were,
15 disappeared.

16 Could you look at page 61 of this bundle, top middle
17 numbering.

18 A. This is my thing --

19 Q. I just want to you look at one entry at 11.35 hours.

20 A. Yes.

21 Q. It is towards the bottom of the page:

22 "Call from Mr Hudson, BUT, enquiring whether air
23 search is being carried out."

24 Do you see that?

25 A. Yes. Yes, I do.

1 Q. Does that note now confirm your recollection that BUT
2 were in the middle of that morning asking you to clarify
3 whether an air search could be carried out? You only
4 have to look at that entry and confirm whether it is
5 your recollection that that is what BUT were doing at
6 that time.

7 A. It must have been.

8 MR SALOMAN: Thank you. Put that bundle away. The
9 UK Mutual had surveyors on its staff; is that right?
10 Surveyors? The UK Mutual, your insurance company, had
11 surveyors?

12 MR JUSTICE DAVID STEEL: No, it is not the UK Mutual. You
13 are thinking of Millers, I am afraid.

14 MR SALOMAN: You think I am thinking of Millers, sir.

15 MR JUSTICE DAVID STEEL: I am. What you are trying to get
16 at is the Hull --

17 MR MEESON: I was hoping to abbreviate the full name of
18 Captain Habesch's company.

19 Did the insurance company have two surveyors on its
20 staff, a Mr Holcroft and Mr Morris?

21 A. That is right, they both died.

22 Q. Indeed. Your evidence is that they would look at ships'
23 machinery; is that correct?

24 A. As far as I know, yes.

25 Q. You cannot help the tribunal at this stage with the

1 question of what ships they would have looked at and
2 what ships they did not look at; is that right?

3 A. Any ships of the insurance company that was insuring
4 them.

5 Q. You were not yourself concerned with knowing what
6 surveys were carried out by the company on what ships at
7 what times; is that correct?

8 A. Well, it was not my sort of -- anything to do with that.

9 Q. Can we also safely assume you have no knowledge of what
10 insurance cover BUT had with the insurance company?

11 A. No, not me.

12 MR SALOMAN: Thank you very much, Captain Habesch.

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

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

15 MR JUSTICE DAVID STEEL: Thank you very much indeed,
16 Captain Habesch for coming in and giving us your
17 assistance.

18 (The witness withdrew)

19 I note in the statement, or the manuscript amendment
20 to it, that Mr Gordon Peat, who was the Hull Mutual
21 claims adjuster, might be able to identify names and
22 roles of the individual surveyors. I do not know
23 whether he is available, even by telephone?

24 MR MEESON: Sir, I do not know the answer to that question,
25 but we can make enquiries.

1 MR JUSTICE DAVID STEEL: And indeed, as Mr Alan Hopper
2 points out, it may be that Ray Brookes can help as well.

3 MR MEESON: Sir, yes.

4 MR JUSTICE DAVID STEEL: I am certainly not suggesting that
5 the avenue be chased unless you are persuaded that it is
6 a worthwhile exercise. But if a telephone call can
7 reveal -- it may be of some importance.

8 Here we have a system which is, at least from the
9 perspective of one of the investigators, dependent upon
10 insurance company surveyors keeping an eye on the
11 seaworthiness of the vessels. It is a concept which is
12 slightly alien to anything I have come across, but it
13 may well be true, I do not know.

14 MR MEESON: Sir, yes. Mr Pete was not a surveyor --

15 MR JUSTICE DAVID STEEL: Yes, I said he was a claims
16 adjuster. I have just said that. I am just saying he
17 might be able to help as to who did what, as could maybe
18 Mr Ray Brookes.

19 That is our menu for today, is it, Mr Meeson?

20 MR MEESON: Sir, it is.

21 MR JUSTICE DAVID STEEL: So be it. I appreciate some of the
22 witness problems that are arising at the moment, and
23 tomorrow we will not be sitting, and we shall resume on
24 Monday.

25 Thank you very much. We shall meet again at 10.15

1 on Monday, unless, Mr Meeson, you have an alternative
2 suggestion?

3 MR MEESON: No, I have no alternative suggestion.

4 MR JUSTICE DAVID STEEL: Thank you very much indeed.

5 (2.50 pm)

6 (The court adjourned until 10.15 am
7 on Monday, 26th January 2004)

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