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(10.30 am)

Closing Submissions by MR SALOMAN (continued)

MR SALOMAN: Sir, we were discussing hostile confrontations yesterday in the past and in particular before 1974.

There is a letter from Countess Sievert in AG33, at page 139, sent on 3rd June 1975. It is the passage on page 139, starting about seven lines down:

"... it is also untrue to hear skippers and mates state on oath that the Gaul when sailing under the name of the Ranger Castor was not attacked by the Russians. It most certainly was. My brother again on the Gaul was aboard the Ranger Castor in 1973 when the Russians fired a warning shot across her bows, then they sent up a Mig fighter plane which swooped very low over the deck of the Ranger Castor, it scared the crew so much they rushed below deck. This would have been confirmed by one of those fishermen at the Gaul Inquiry, had he been allowed to make a statement of which he requested, but was refused."

Sir, Mr Radford gave a statement which was, for the record, put into evidence on Day 10 at pages 16 to 18.

It appears more conveniently in bundle AG10, at page 64.

MR JUSTICE DAVID STEEL: Could you just remind me where you are in your note, because I need to add anything that --

1 we were on page 41, I think, or are you in schedule A?

2 MR SALOMAN: I am really in schedule A, and that is the  
3 tidiest place to add it to.

4 MR JUSTICE DAVID STEEL: Thank you. The Countess's letter  
5 is dated 3rd January 1975.

6 MR SALOMAN: That is right.

7 MR JUSTICE DAVID STEEL: Sorry, page 64?

8 MR SALOMAN: Page 64 is where Mr Radford's statement starts.

9 The relevant passage is on page 65, second line:

10 "During my trip on Gaul [and that was the last trip  
11 before Christmas 1973] we were buzzed by a Soviet  
12 aircraft in the daylight. Its markings were red star on  
13 a greeny-yellow background. It was very close and  
14 passed down the port side on two occasions. On about  
15 the 15th, 16th and 17th December it was dark and we  
16 heard somebody on a loudspeaker and a bang which we took  
17 to be a shot being fired. I went up on the bridge to  
18 see if I could see anything and was instructed to get  
19 back down below."

20 Mate Petty, on Day 2, page 57, line 16 to page 58,  
21 line 7. I am summarising his evidence. It was that  
22 they were buzzed by a Soviet aircraft but he was below  
23 deck.

24 Skipper Suddaby, Day 3, page 91, line 17 to page 92,  
25 line 11:

1 "Russian aircraft flew around, had a look at them  
2 and passed on."

3 He has no recollection of any shots being fired.

4 Sir, I mentioned the letter of Mr Nicklin yesterday,  
5 dealing with the Victory. There are two letters from  
6 Mrs Thornton, as Mrs Parker previously was, at  
7 bundle 34, page 185. We will look at that one. Sir,  
8 I am actually just going to leave with you that letter  
9 to read because she puts the point more clearly in her  
10 second letter, written two months later, in November,  
11 and that is the one we have at page 203.

12 MR JUSTICE DAVID STEEL: Just forgive me, the reference to  
13 the Victory incident is at what page of your submission?

14 MR SALOMAN: I do not think it is in our written submission,  
15 sir. It was certainly in my oral submission.

16 MR JUSTICE DAVID STEEL: It is in schedule A again. I am so  
17 sorry.

18 MR SALOMAN: It is certainly in bundle 36, page 9.

19 MR JUSTICE DAVID STEEL: 34/189, I will just quickly read  
20 that. (Pause). Yes.

21 MR SALOMAN: I am not reading that because it does not  
22 really do justice to the way she really puts it. It is  
23 better put on page 203, a letter of 7th November. We  
24 can read just below halfway down the page where she  
25 refers to:

1            "... the Victory trawler which the Russians got  
2            while on fire, near the North Cape..."

3            "The Russians got" is a reference to the Russians  
4            seizing her.

5            "As you know the Russians chopped a lot of things  
6            off the trawler before she took it to the nearest  
7            port..."

8            MR JUSTICE DAVID STEEL: I am just not picking up the  
9            passage. Page 203?

10          MR SALOMAN: Yes.

11          MR JUSTICE DAVID STEEL: Whereabouts?

12          MR SALOMAN: About two thirds of the way down there is  
13          a line which begins "which the Russians".

14          MR JUSTICE DAVID STEEL: Yes, I see that.

15          MR SALOMAN: There is a reference to "... the Victory  
16          trawler which the Russians got while on fire, near the  
17          North Cape." I take that as a reference to seizure.  
18          "As you know the Russians chopped a lot of things off  
19          the trawler before she took it to the nearest port ..."

20          MR JUSTICE DAVID STEEL: Okay.

21          MR SALOMAN: We move now to the next topic of scuttling.  
22          Scuttling as canvassed in this case has meant scuttling  
23          by a foreign power, and by inference Russians off  
24          a Russian naval ship.

25          Based on the correspondence bundles, none of the

1 relatives subscribed, at any rate in writing, to a view  
2 that scuttling had been the cause of Gaul's loss, at any  
3 rate until 1981. That is what we get from the  
4 correspondence. Rather, on the contrary, the evidence  
5 suggests that those relatives who did not believe that  
6 Gaul was lost by an ordinary marine accident believed in  
7 her seizure and capture for spying; or alternatively in  
8 her loss in a collision, probably with a submarine.

9 So far as motive is concerned, it was always harder  
10 to imagine any motive for the Russians to scuttle the  
11 ship, even if she was spying, or was believed to have  
12 been spying, since manifestly the ship was a valuable  
13 asset.

14 However, if we look at bundle 36, in the section  
15 under "Television", at page 83, we see a reference to  
16 scuttling in a passage from Mrs Jenny Griffin in the  
17 1996 Norman Fenton programme "The Riddle of the Gaul".  
18 It is just at the beginning of the programme, after the  
19 introduction, which says that:

20 "An official inquiry decided that the disaster was  
21 due to the heavy seas. But for 22 years many relatives  
22 have believed that the Gaul's true fate lies hidden  
23 behind a curtain of espionage, conspiracy and cover-up."

24 And then there is a statement from Jenny Griffin:

25 "There's been so many stories about it being

1       boarded, about the men being shot, about the sea cocks  
2       being opened and it being scuttled. About the ship  
3       being taken to a Russian port, the crew taken off.  
4       These stories go on and on, they don't go away. But are  
5       they just stories? Isn't it about time we found out for  
6       once and for all?"

7               I will be coming back to this television programme  
8       transcript in connection with collision later on.

9               And so there is a suggestion that scuttling may have  
10       been at least one rumour amongst many which possibly --  
11       one cannot be categoric -- developed momentum in the  
12       years following the breakup of the USSR. By that stage,  
13       of course, it would have been more difficult to credit  
14       the continued detention of the ship and her crew in  
15       a Russian gulag, the political world having changed.  
16       The rumour of scuttling may -- one can put it no  
17       higher -- have germinated in that context amongst  
18       families unwilling to accept a natural cause of this  
19       disaster.

20               What is clear is that by 2003 a not insignificant  
21       number of relatives were claiming to believe that Gaul  
22       had been scuttled, notwithstanding the evidence of two  
23       surveys of the ship in 1998 and 2002. Therefore, it is  
24       another scenario of loss which must be fully considered.

25               Scuttling, as envisaged, would have involved the

1 boarding of the ship. On the evidence -- and I do not  
2 propose to repeat the references that you have already  
3 been given -- boarding would have been impossible to  
4 execute in the weather conditions prevailing at the time  
5 on 8th to 9th February. If boarding had been attempted,  
6 it seems highly likely that a distress call could have  
7 been given. Realistically, those difficulties obstruct  
8 the scuttling theory, but it cannot be ruled out, if  
9 only because there are parts of the wreck which the ROVs  
10 were unable to reach.

11 There is evidence, however, that if the sea cocks  
12 had indeed been opened, the Gaul would probably have  
13 sunk on a level trim. That evidence was Mr Bowman's on  
14 RFI Day 18, page 72, lines 18 to 19. Against that there  
15 is expert evidence that she sank stern first. I do not  
16 need to repeat that evidence. On the other hand, many  
17 families believe that she did sink on a level trim, and  
18 the question whether or not she sank on a level trim is  
19 a question which has exercised a number of them and is  
20 an important question in evaluating how this loss truly  
21 occurred.

22 Many families, or at least some families -- and we  
23 have statements from them -- are convinced that they saw  
24 a suitcase on a table when they watched the video at the  
25 Guild Hall, as deposed to witness statements of

1 Mr Dudding, Mr Atkinson, Mr Smith and Michael Spurgeon  
2 and as testified to orally by Michael Spurgeon in his  
3 evidence. If they are right, that could indicate that  
4 she sank on a level trim.

5 The expert evidence of sinking stern first you  
6 already have, and we have summarised it to you by  
7 isolating the most significant items of pressure damage  
8 to the bow and the evidence of impact damage to the Kort  
9 nozzle: RFI Day 18, page 72, lines 20 to 25; RFI Day 19,  
10 page 84, lines 2 to 17; AG5, second tab 8, section 3.

11 The court is invited to consider carefully the case  
12 for and against the possibility of scuttling and the  
13 trim at which the vessel sank, and conclude whether the  
14 evidence, taken as a whole, supports any possibility of  
15 her being scuttled.

16 MR JUSTICE DAVID STEEL: Can I just understand what is meant  
17 by scuttled for this purpose?

18 MR SALOMAN: Yes, sir. Mr Meeson --

19 MR JUSTICE DAVID STEEL: As I understand it, this theory is  
20 premised on the proposition that the vessel had not been  
21 captured and the crew taken off and the vessel then  
22 taken back out to sea and scuttled at some later date,  
23 but on the premise that on 8th or 9th February, during  
24 the course of the storm, she was boarded by members of  
25 a Russian naval vessel, that the crew were disabled or

1 shot -- is this right -- and that the vessel was then  
2 sunk -- or rather the sea cocks were opened, and the  
3 boarding party then got off and returned to their naval  
4 vessel; is that the scenario?

5 It is not easy to deal with in what I call such  
6 broad terms as "scuttling", or "did it sink while in  
7 a particular trim?" One has to try and get into some  
8 particularity here.

9 MR SALOMAN: Sir, there are only two possible ways in which  
10 scuttling as a loss scenario can be particularised. The  
11 first is the way you have put it, that she was boarded  
12 in the position where she was found to have been sunk,  
13 that the crew were captured and the sea cocks were  
14 opened by the boarding party, who then left the ship.

15 The alternative way it could be put -- and you may  
16 ask, "Well, why are we conjecturing?" The answer, of  
17 course, is that there has been no articulation of the  
18 way these theories have been conceived, and indeed what  
19 detail they have.

20 The only alternative logical way it could be put is  
21 that the ship was boarded in calmer waters around the  
22 Norwegian Cape or in the fjords, the crew were captured,  
23 the ship was taken out, for some reason, to her ultimate  
24 sinking place and there sunk.

25 Logically, sir, we cannot envisage any third

1 possibility. I think it would be right, if possible,  
2 that the court address those and only those two loss  
3 scenarios.

4 MR JUSTICE DAVID STEEL: That is very helpful. In any  
5 consideration of the theory that has held sway amongst  
6 any group of people, the court will obviously be anxious  
7 to try and achieve a situation in which the inference is  
8 to be drawn from one particular solitary piece of  
9 circumstantial evidence and not taken to an illogical  
10 extreme. That is why it is going to be helpful to try  
11 to avoid simply focusing on one issue of fact, such as  
12 the trim at which the vessel sank, rather than the  
13 broader picture of the individual theory which accounts  
14 for the entirety of the story. That is why I sought to  
15 try and identify -- and I think you are agreeing with  
16 me -- that the only way in which scuttling is a viable  
17 theory, taken as a whole, are the two scenarios that you  
18 have sought to describe.

19 MR SALOMAN: Yes. And realistically, sir, the second  
20 scenario collides head-on with the evidence that the  
21 Gaul was certainly seen up to mid-morning of the 8th.  
22 There is no evidence that any other ship sighted her in  
23 or around the Norwegian fjords, save for the evidence  
24 that I have put before you in the schedule yesterday.

25 MR JUSTICE DAVID STEEL: And indeed it also involves,

1 I suppose, the disguising of the fact that the crew had  
2 been taken into some imprisonment or disposed of, in  
3 which case it might be suggested that, following the  
4 collapse of the Soviet empire, the one or the other  
5 would have been revealed.

6 MR SALOMAN: That was precisely the point I was endeavouring  
7 to make, sir, by pointing out that the first clear  
8 reference we have in the television programme, courtesy  
9 of Mrs Griffin, was made after the breakup of the USSR.

10 MR HOPPER: Could I just make a small point here. I am  
11 really concerned that the evidence is pointing at  
12 Russians, or the Russian seamen and others being  
13 something of an evil force. I think there is quite  
14 a lot of anecdotal evidence about the Victory incident,  
15 for example, that the Russians were actually assisting  
16 with trying to bring that vessel in distress into safer  
17 water, and therefore it could completely be rewritten in  
18 a different form.

19 MR SALOMAN: Sir, you are entirely correct. There is  
20 absolutely clear evidence in Lloyd's Reports that the  
21 Russians were acting wholly properly in relation to the  
22 Victory. That is not in dispute, and cannot be in  
23 dispute. The position, as set out in Mr Nicklin's  
24 letter read to you yesterday, is corroborated by  
25 documentation.

1           So far as your suggestion that the Russians were  
2           hostile towards British trawlers is concerned, there is  
3           the evidence in the expert report that the opposite was  
4           the truth. We have been able to cull the few incidents  
5           that I recounted yesterday of alleged incidents, but  
6           that is all it amounts to. I hope that answers your  
7           question.

8   MR HOPPER: Yes. I just think it is worth restating that  
9           occasionally one could read the transcript of the last  
10          few hours and take it as sort of hostile view of Russian  
11          seamen. I think that is not the case.

12   MR SALOMAN: No, sir. The two things that need to be said  
13          are, firstly, you have heard recounted to you the  
14          families' opinions over many years, many of them, indeed  
15          all of them formed during the period of the Cold War.  
16          That was a very different climate. Secondly, the  
17          families themselves would not have been privy to the  
18          knowledge that the likes of Skipper Thresh would have  
19          had of the very close relationship and proper dealings  
20          as between Russian and British trawlermen.

21                 The only other remark that I would make in response  
22                 to the Commissioner's observations is that the scuttling  
23                 theory of a Russian boarding party boarding the Gaul,  
24                 removing her crew, and then asporting the ship from some  
25                 Norwegian fjord out to the place of her sinking and

1 sinking her has to be reconciled with the DNA evidence  
2 of four sets of human remains found on the ship.  
3 Therefore, the theory of crew capture cannot be accepted  
4 in any neat and easy way. It involves a selective  
5 capture of some members of the crew but not others.

6 I think that is all I can possibly say about that  
7 theory.

8 Collision. In the early years after Gaul's  
9 disappearance, the theory that Gaul may have sunk by  
10 a collision with a submarine was not put forward by any  
11 families, according to the records we have. However, it  
12 was, at any rate, a theory propounded by Mr Fenton in  
13 part 2 of This Week's "The Mystery of the Gaul"  
14 broadcast on 23rd October 1975. The transcript appears  
15 in AG36. The relevant part of it should be at page 74  
16 to 79. Sir, if you have found page 74, I am going to  
17 start at the top of the page, where a reference to the  
18 lifebuoy discussion has finished with the words:

19 "Planting it to show that the Gaul had simply sunk  
20 in a storm, that she hadn't been towed away or tipped  
21 over in a collision.

22 "Interviewer: How ruthless would you say the er,  
23 the Soviets were?

24 "Captain John Moore: I think if they are aiming for  
25 a certain objective, then they could be totally

1           ruthless."

2           Further down the page:

3           "Commentary: And, if the Russians might have  
4           a motive, for covering up an accident, so too would  
5           NATO, because if any submarine, Russian or NATO,  
6           accidentally sank the Gaul, the last thing that NATO  
7           would want would be an inquiry into why submarines  
8           should wish to shadow the Gaul in the first place. An  
9           inquiry into whether British trawlers, unknown to their  
10          crews, were being used as spy ships.

11          "In practice, the Court of Inquiry, when it sat  
12          here, at the Victoria Hall Hull, didn't consider the spy  
13          ship issue in any detail. In practice, they missed the  
14          significance of the lifebuoy."

15          And then further, on at page 76, the commentator,  
16          halfway down:

17          "Submarines are the ultimate weapon in naval  
18          warfare. They have three distinct roles. First,  
19          they're underwater missile bases hiding in the darkness  
20          of the sea. Second, they're hunter killers, trailing  
21          and watching enemy vessels, and third, they're gatherers  
22          of intelligence.

23          "In the first week of February 1974, off the North  
24          Coast of Norway, the major NATO exercise of the year was  
25          taking place ... no doubt closely watched by Soviet

1 submarines and surface vessels."

2 Then three lines down:

3 "The NATO vessels were going home for the weekend.

4 But the Russians would have known there was another NATO  
5 exercise starting in the area on Monday. Might they not  
6 have been interested then, as they turned east, in what  
7 was to them a suspect British trawler? In the force 8  
8 gale, could a submarine travelling close to the surface  
9 in order to shadow the Gaul have collided with her?  
10 Nuclear strike submarines may be 400 feet long -- twice  
11 as large as the Gaul.

12 "Captain John Moore: A modern submarine has an  
13 enormous amount of strength at the top of its fin and  
14 er, this coming up in the Arctic allows a submarine to  
15 ease its way up through 5 to 6 feet of ice ... without  
16 damage."

17 And then further down, at the bottom of the page:

18 "Commentary: But, if a submarine did sink the Gaul,  
19 must it have been a Russian? For if there were  
20 a Russian submarine shadowing the Gaul, it's not  
21 unreasonable to think that a NATO submarine might be  
22 shadowing the Russian, because there were NATO  
23 submarines in the area that weekend, and collisions  
24 aren't that unusual ... In the late 1960s, a United  
25 States submarine and a North Vietnamese minesweeper

1 collided sinking the minesweeper. 1969, British  
2 submarine and Soviet submarine in near miss in NATO  
3 Baltic exercise 'Green Express'. Early 1970s, US spy  
4 submarine surfaces beneath Soviet warship during  
5 a Russian fleet exercise. 1971, US and Soviet  
6 submarines collide 17 miles off Russia. 1971, US and  
7 Soviet submarines collide inside Vladivostok harbour,  
8 Russia. 1974, US Polaris submarine, 'James Maddison'  
9 from Holy Lock, collides with Soviet submarine.  
10 May 1974, Soviet submarine and US ..."

11 The rest is cut off, but one can take it that it  
12 refers to a collision.

13 "Soviet aircraft trailed the NATO ships."

14 None of the incidents cited, you may observe, were  
15 suggested to involve British trawlers. None were  
16 suggested to have occurred on the North Cape Bank of the  
17 Barents Sea. Nonetheless, it was a theory put forward  
18 with considerable gusto and force, and some families,  
19 you may think wholly unsurprisingly, believed it. Some  
20 still do.

21 MR JUSTICE DAVID STEEL: Indeed, as I understand it, of  
22 course, having seen the first part of this programme,  
23 which was of course an example of using a piece of  
24 circumstantial evidence relating to the life belt, which  
25 had some significant oddities which I will not deal with

1 at the moment, the commentary actually expressed what  
2 appeared to be the belief of the producers of the  
3 programme that the only explanation for the oddities was  
4 that the life belt had been deliberately dropped as some  
5 ploy, and the disbelief that the Gaul had been lost.

6 So it is perhaps not surprising, it seems to me,  
7 that members of the family, horrified, appalled and  
8 dismayed by the total lack of any information as to what  
9 had happened to the vessel, felt comforted by the fact  
10 that a television programme appeared to subscribe to  
11 what might initially appear as a somewhat speculative  
12 concept.

13 MR SALOMAN: Absolutely, sir. But this collision with  
14 a submarine theory was taken further with yet greater  
15 reinforcement in 1996. At page 101, we look at the 1996  
16 programme of "The Riddle of the Gaul". The discussion  
17 that I want to look at starts at page 101, two thirds of  
18 the way down, Dermot Murnaghan voiceover:

19 "So could the Gaul have been using such equipment --  
20 working in an area where submarines patrolled? And  
21 would this have put her in danger?"

22 There is then music from Vaughan Williams' "Dirge  
23 For Two Veterans" to make us suitably hyped up for the  
24 theories which will follow.

25 Then Mr Wilson says:

1           "By and large we'd be putting submarines into very  
2 similar situations to wartime situations particularly  
3 the United States and British boats going up north to  
4 activity finding information. The other things both  
5 sides tried to do, the Soviets with the Western forces  
6 and the British and American with the Soviet forces, was  
7 to try and trail the ballistic missile submarines as  
8 they left their bases because they were so difficult to  
9 find that if you tried to get a trail on them and keep  
10 with them as they left their bases then obviously you'd  
11 know where they were.

12           "Obviously they were high risk and very occasionally  
13 boats came into close quarter situations -- extremely  
14 close quarter situations."

15           The commentator then intervenes:

16           "In these circumstances, accidents did happen. As  
17 the Russian Navy now admit -- one almost ended in  
18 catastrophe."

19           And then there is a reference to a 1992 collision  
20 taking place in a naval test area within Northern Fleet  
21 Waters in Russian territorial waters with the US  
22 submarine Baton Rouge. And further down the page --  
23 well, perhaps I ought to mention, in connection with the  
24 Baton Rouge:

25           "As our submarine was surfacing, it hit the

1       Baton Rouge's hull with such force that if our captain  
2       started to surface a few seconds earlier, then the  
3       American ship's hull would have been ruptured and it  
4       would have quickly gone down ...

5               "Commentary: And if submarines can collide  
6       underwater -- they can also collide with surface ships.  
7       Submarines rely on sonar to alert them to the presence  
8       of other vessels. But if there's a storm up above -- as  
9       there was on the night the Gaul disappeared -- the  
10      picture becomes distorted and the submarine gets harder  
11      to control."

12              And then that particular point is reinforced.

13              If I move to page 104, by which time Kalinnikov's  
14      Symphony Number 1 has been reintroduced followed by the  
15      commentary:

16              "If the Gaul was sunk by a submarine and if it had  
17      become public knowledge -- it would have caused a major  
18      international incident. It was also known that Gaul was  
19      a spy ship. This might have tipped the Cold War into  
20      open nuclear conflict -- a catastrophe that both sides  
21      of the divide would have done almost anything to avoid."

22              This passage you may think is important, sir:

23              "Both NATO and the Russians have adamantly denied  
24      any responsibility, but the evidence strongly suggests  
25      that she was sunk by a submarine."

1           You can only but imagine the impact of that kind of  
2 statement on the relatives whom I represent.

3           There was a further passage at the very top of the  
4 page which I passed over and should not have done, which  
5 you will have noticed:

6           "If you came up underneath a surface ship it would  
7 certainly knock holes in her bottom."

8           An opinion maintained on the television for over  
9 20 years, and put forward with such dogmatism, has  
10 influenced many families.

11           This RFI has looked at evidence. Indeed, the sole  
12 external shell plating damage found was on the vessel's  
13 bow. The bow damage port side lacked on all the expert  
14 evidence the characteristics of collision damage, or  
15 indeed of missile damage. The damage was on both sides  
16 of the bow, not just one. The damage was described as  
17 "pinching damage", a hallmark of pressure damage.  
18 Insofar as the bow damage would have admitted seawater,  
19 sinking would not have resulted because of the collision  
20 bulkhead anyway.

21           Because the ROVs could not access all the external  
22 parts of the Gaul, there is a theoretical possibility  
23 that her bottom may have been holed by a collision, but  
24 there is no positive reason in the evidence to believe  
25 that this happened. That is because there was no

1 evidence found of penetration "right through the double  
2 bottom tank"; in other words, through two layers of  
3 shell plating. Had there been such penetration, we  
4 would have seen extensive oil damage within the  
5 structure of the Gaul: RFI Day 15, page 19, lines 4 to  
6 6; RFI Day 18, page 93, lines 1 to 7. If there was  
7 penetration only through the bottom shell plating, the  
8 Gaul would not have sunk: RFI Day 15, page 19, lines 8  
9 to 13.

10 Many seamen were asked at this Inquiry whether  
11 warships or submarines were seen on or believed to haunt  
12 the North Cape Bank. The evidence was negative. There  
13 was evidence from Skipper McCarthy on Day 8, page 68,  
14 from Mate Petty on Day 3, page 44, from Skipper Suddaby  
15 on Day 3, page 125, and from Radio Operator Waterman on  
16 Day 4, at page 125. There was a reference by Radio  
17 Officer Waterman to getting submarines "popping up out  
18 of the water at Kildean", which is eastboard of the  
19 North Cape Bank.

20 You may think that all these considerations point,  
21 on any objective review of the evidence, overwhelmingly  
22 against the likelihood of collision with a submarine or  
23 with any other vessel, and so do considerations of  
24 common sense.

25 The next question is: was the Gaul fishing or

1 involved in a fishing operation at the time of her loss?  
2 There was no evidence at the OFI of the Gaul fishing  
3 after she hauled at around 5 am. None of the witnesses  
4 who had been on the bank were aware of any ship fishing  
5 after the morning hours. Skipper Madden doubted whether  
6 the Gaul could have been fishing in the weather  
7 conditions prevailing. However, during the 1998 survey,  
8 the Gaul family representatives, Ken Collier,  
9 Aubrey Bowles and John Bevan, raised the possibility --  
10 and I quote from the letter we have at bundle AG20.1:

11 "The ROVs have been surveying all day --

12 "First we found that the door from the trawl deck to  
13 the factory is open fully -- nets blocking the entrance  
14 apparently been carried in with the inrush of water.

15 "We have then established without doubt that two  
16 hydraulic hatches are open -- one (port) fully and the  
17 other (starboard) at 90 per cent with the cod end nets  
18 passing down into the pound as if they had just hauled."

19 Sir, these facts indicated that an accident may have  
20 occurred just after hauling. That was why that issue  
21 was comprehensively explored, largely at my instigation.

22 Net in the factory access door is the first piece of  
23 evidence we need to consider. On the evidence that  
24 emerged, the net in the factory access door was probably  
25 not the Gaul's working net; that was Skipper Thresh's

1 evidence at Day 13, page 128.

2 So what about the Gaul's working net? Well, that  
3 was found laid across the arena to starboard. It was  
4 identified by Mate Petty and Skipper Suddaby during the  
5 2002 survey. Their identification in their report is  
6 reliable because the net which they identified as the  
7 working net was attached to the bobbins, and because  
8 Skipper Nellist had told Mate Petty that he was happy to  
9 retain the bobbin rig which had been used on the  
10 previous voyage. You have references for that.

11 The net in the factory access door was therefore  
12 probably the Gaul's spare net and had been "sucked in"  
13 during the sinking process. It was described in  
14 Skipper Thresh's evidence, this net being sucked in, in  
15 this way:

16 "This is the factory access door from the trawl deck  
17 ... At the moment it is shrouded in nets, probably when  
18 the vessel was going down. I think these nets into  
19 there are the spare nets that were in the arena  
20 underneath the working trawl, personally ... But the  
21 fact that they had been sucked into the opening of the  
22 hatch as the downflooding was occurring probably  
23 indicates that the nets were present on the ship as she  
24 was sinking rather than the nets of some passing ship  
25 later on."

1           Then there was the net seen in the starboard fish  
2 hatch which struck the attention of Messrs Bowles,  
3 Collier and Bevan. Could we have GC image 10. This  
4 net, seen in the starboard fish hatch, was found draped  
5 over the A frame. It was not being lowered from the  
6 block underneath the top of the A frame, rather being  
7 draped over it.

8           Next if we could look at the image of the block at  
9 the top of the A frame, which is Experts 108 and 109.  
10 Perhaps we can see those on both screens. That is the  
11 image of the block with the gilson wire, 109, coming  
12 down from it. It is not connected to the net; that is  
13 to say the wire is not connected to the net. And on  
14 Experts 108 we see the top of the A frame itself and the  
15 uppermost part of the wire.

16 MR JUSTICE DAVID STEEL: Does GC11 show that the actual net  
17 is draped over the top of the A frame itself?

18 MR SALOMAN: No, sir. No, sir, it does not.

19 MR JUSTICE DAVID STEEL: So where do we get that from, the  
20 net was draped over the A frame?

21 MR SALOMAN: It was Skipper Thresh's evidence, and we will  
22 provide the reference for that. It was also the  
23 evidence set out in the MAIB report, sir --

24 MR JUSTICE DAVID STEEL: Okay.

25 MR SALOMAN: -- which we will also provide the reference

1 for.

2 On reviewing the video footage, Skipper Thresh did  
3 not think that the net had ever been attached to the  
4 tipping gilson wire, the parted end of which we see. He  
5 concluded that someone had come fast, in other words  
6 a ship had come fast to the wreck and the trawl net had  
7 become lost on it. He said:

8 "When we look at the A frame, I think that netting  
9 goes all the way up to the A frame and seems to have no  
10 relevance whatsoever other than the fact that somebody  
11 has once again come fast to the wreck and there is  
12 netting strewn across it."

13 We have here the MAIB reference: AG20, page 57 in  
14 their report in 1999:

15 "A careful reanalysis of the video data showed that  
16 the cod end was draped over a tied-off wire and was not  
17 connected to the wire which would have been used to lift  
18 it over the hatches. The end of that parted wire was  
19 found hanging loose. Although the net was similar in  
20 construction to those used in the Gaul it has been  
21 assessed that it was a net belonging to another  
22 trawler."

23 There was a useful photomosaic in the back of the  
24 MAIB report at page 215, figure 39 of bundle AG20.

25 In any event, closing down that topic, the net, sir,

1       which was seen in the fish hatch was not connected to  
2       the bobbins. The bobbins were connected to the net  
3       which had been found laid across the arena to starboard.  
4       Perhaps we can look at image GC12. Thank you. There  
5       you can see the net with bobbins laid over to starboard.  
6       This is in itself further evidence that the net found  
7       draped over the A frame was not the Gaul's working net.

8               Coming on to ramp gates. The ramp gates were found  
9       open and duly recessed in their positions in the wreck  
10       on the seabed. Mate Brayshaw had arguably given  
11       evidence that they were closed when he passed the Gaul  
12       at 1030 hours. I cross-examined witnesses on that  
13       basis. If the ramp gates had indeed been closed at that  
14       stage, then, viewed in isolation, it probably would have  
15       indicated that the Gaul was fishing, as ultimately  
16       conceded by Skipper Thresh.

17               However, Mate Brayshaw's evidence on the issue was  
18       realistically highly confused, and sufficiently confused  
19       to make it doubtful that he saw the ramp gates closed at  
20       all. However, if the ramp gates were closed at around  
21       1030 -- and the Tribunal will have to make its mind up  
22       on that issue -- there was a suggestion that they might  
23       have been opened in order to throw away large stones or  
24       large duffs -- RFI Day 13, pages 118 to 123 -- or used  
25       as an additional freeing port; in other words, to allow

1 water more readily to be released: RFI Day 14, page 34.

2 We consider the latter explanation possible and  
3 infinitely more probable than Skipper Nellist suddenly  
4 deciding to fish.

5 No locking pins. The fact that there were no  
6 locking pins in the fish hatches suggests that the fish  
7 hatches were indeed not open immediately before she  
8 sank. The locking pins would have been put in when the  
9 fish hatches were open on the evidence of  
10 Skipper Wharram on Day 7, page 161; also the evidence of  
11 Skipper Thresh, RFI Day 13, page 4 to 5.

12 I will not repeat the evidence that has been  
13 mentioned in the Counsel for the Inquiry's speech of the  
14 very nasty incident at Bear Island which had taken place  
15 shortly before the Gaul was lost, when a man had his arm  
16 cut off. That is, we suggest, precisely the sort of  
17 incident that would have been known about generally in  
18 the trawler fraternity.

19 The net store hatch was found open but unpinned.  
20 There was no need to have it open for fishing, per the  
21 evidence of Skipper Thresh, Day 13, pages 124 to 125.  
22 If the crew had opened it, there is no reason to believe  
23 that they would not have pinned it. Therefore, the  
24 preferable analysis is that the net store hatch was  
25 closed but undogged and opened under gravity.

1           I will deal later with the possible scenario of an  
2           incident on the trawl deck when the men may have been  
3           mending nets or doing some other deck work.

4           Factory access door found secured open.  
5           Mate Petty's evidence was that this door did not need to  
6           be opened for shooting or hauling, since that involved  
7           the deckhands, not the factory hands. I put to  
8           Skipper Thresh the possibility that the deckhands would  
9           have been going in and out of the factory, and that  
10          could have explained why the factory access door was  
11          opened, and indeed was consistent with her having been  
12          involved in a hauling operation. The evidence that  
13          emerged was against the possibility that I put:

14                 "That was not the normal access door. When they had  
15                 finished hauling the trawl on the deck, most fishermen  
16                 would go to take their oilskins off, their deck oilskins  
17                 before going down into the factory, where you are going  
18                 to be garbed rather differently. So it does not follow  
19                 that, if the ship was fishing, it would need to be open  
20                 to give access to the fishermen off the deck squad."

21           While we do not provide you with the references, the  
22           living survey record contains a number of references to  
23           the finding of the aprons that the factory hands wore in  
24           different parts of the ship.

25           Fishing lights. Could we see image GC3 from the

1 2002 survey. That is the switch for the Andanese  
2 lights. It can be seen clearly to indicate that the  
3 switch was not pointed, on any view, to "hauling" or  
4 "come fast" but towards "off". Skipper Suddaby thought  
5 that the fishing light indicator was indeed pointing to  
6 "off". There is a video clip which I would like to see  
7 for the period from SVHS tape 13 for 16th July, for the  
8 relatively short period from 06:27:00 to 06:27:20, a 20  
9 second clip. It is very clear. (Pause). Thank you  
10 very much.

11 The chart room. Mate Spurgeon's remains were found  
12 in the chart room: AG17.1/38. He would not have been in  
13 the chart room but rather on the trawl deck if she had  
14 been hauling.

15 So far as the survey evidence on fishing is  
16 concerned, the only expert images that we need to see  
17 further to what have been shown are Expert image 76,  
18 first of all, which is one of the winches, the port  
19 trawl warp winch drum, which we can see to be fully  
20 coiled with warp.

21 And then GC7, please. That is the starboard trawl  
22 winch and, once again, fully coiled with warp, albeit  
23 more frayed on the external part.

24 It is appropriate to remark in passing that the  
25 theory put forward via intermediaries on the BBC News of

1 loss by trawling astern or from a Polaris submarine, the  
2 submarine having caught the trawl of the Gaul, is wholly  
3 inconsistent with the images that we have all  
4 collectively recorded in the last ten minutes or so of  
5 this hearing, showing the main winch drums to be fully  
6 coiled with warp. Not to mention the evidence of the  
7 port and starboard trawl doors being found neatly either  
8 on the deck of the wreck or just beside it.

9 The evidence does not make it probable that there  
10 was an accident during hauling. There is no survey  
11 evidence either to support an accident during shooting.

12 It may be a convenient moment, sir, to stop to  
13 relieve the shorthand writers, if that is convenient to  
14 you, sir.

15 MR JUSTICE DAVID STEEL: Thank you.

16 (11.40 am)

17 (A short break)

18 (11.55 am)

19 MR SALOMAN: Sir, the next topic is the evidence of  
20 Skipper Nellist's actions and intentions. The court  
21 will no doubt want to look at the evidence in the round  
22 and draw commonsense inferences from the evidence it can  
23 accept.

24 There was evidence from two skippers who were in the  
25 area at the time, Skipper Madden and Skipper Wharram,

1 that it was dangerous to fish. I will not, in this  
2 chapter of the evidence, recount wholesale all the  
3 evidence that Counsel to the Inquiry has already taken  
4 you through, as it would be a complete waste of public  
5 time and money. However, there are mentioned here the  
6 references to Madden and Wharram's evidence.  
7 Skipper Waller's evidence was to the same effect, that  
8 fishing would have been "very dangerous for the deck  
9 crew". If that be correct, fishing would have been  
10 against common sense.

11 There was also a reference from Mate Patterson on  
12 Day 4, page 116, that it was definitely not safe to  
13 fish.

14 Put another way, the conditions on that basis were  
15 such that there would have been a clear risk in fishing.  
16 The evidence is that Skipper Nellist was not a risk  
17 taker.

18 The second point, really, is one based on logic.  
19 For Skipper Nellist to have stopped fishing at  
20 0500 hours in deteriorating but not extreme weather, and  
21 resumed fishing in markedly worse and still  
22 deteriorating weather conditions after 1045 hours, would  
23 have been the mark of irrationality, even if there had  
24 been no evidence from other witnesses of his actual  
25 intentions.

1 Skipper Boughen heard Mate Spurgeon saying, "The  
2 skipper says he thinks we are in for a long dodge".  
3 With or without hindsight, those intentions were prudent  
4 intentions.

5 Mate Brayshaw's evidence was consistent with this.  
6 I quote:

7 "He was more or less waiting for the report coming  
8 in to know what he was doing, or he was going to dodge  
9 in to get alee of the land."

10 Pressed on where he meant, he explained nearer the  
11 North Cape itself.

12 A long dodge was explained in evidence to mean  
13 dodging for a long time and not a long distance.

14 The Gaul's final position is a fact. That final  
15 position is, to put it no higher, consistent with her  
16 proceeding from her last reported position in the  
17 direction of the North Cape for shelter. There was no  
18 pressure on Skipper Nellist to fish. Fellow BUT  
19 skippers Madden, on the Kelt, and Peter Abbey on the  
20 Arab were not fishing.

21 MR JUSTICE DAVID STEEL: Forgive me, the reference to the  
22 last reported position and its comparison to the final  
23 position is what?

24 MR SALOMAN: The last reported position --

25 MR JUSTICE DAVID STEEL: Oh yes, I understand now. It is

1 about 20 miles north north west.

2 MR SALOMAN: Yes, 72, 25 --

3 MR JUSTICE DAVID STEEL: That is her reported position, is  
4 it?

5 MR SALOMAN: Correct.

6 MR JUSTICE DAVID STEEL: I meant the position reported by  
7 her.

8 MR SALOMAN: Yes, I am just going to check that out of the  
9 MAIB report. I believe it is. Sir, it is on the basis  
10 of the evidence given by Mate Brayshaw --

11 MR JUSTICE DAVID STEEL: It is slightly more tricky.

12 MR SALOMAN: -- which is more tricky.

13 MR JUSTICE DAVID STEEL: Yes.

14 MR SALOMAN: I have said there was no pressure on  
15 Skipper Nellist to fish. On Skipper Wharram's evidence,  
16 there may have been actually some pressure on him not to  
17 fish because there were several top skippers on the bank  
18 who would have been known about by Skipper Nellist who  
19 were not fishing.

20 In conclusion, you may doubt whether fishing was  
21 inconceivable on grounds of the weather alone.

22 Generally, it appeared that the skipper's abilities to  
23 tolerate fishing in pretty extreme weather conditions  
24 came out clearly at this Inquiry. There is certainly no  
25 "bright line" which tells a skipper when he should stop,

1 and if he thinks his ship is capable of handling the  
2 task, he may fish. But what did emerge was that the  
3 skippers will consider very carefully the danger to the  
4 men involved in any shooting or hauling operation, and  
5 that is where the impact of bad weather most obviously  
6 counts.

7 Skipper Nellist's known actions that day, and the  
8 evidence of his intentions, point strongly against the  
9 probability of his fishing after 0500 hours; so do the  
10 weather conditions prevailing and the actions of all  
11 other ships in the near vicinity. So far as the survey  
12 findings of 2002 and 1998 are concerned, they positively  
13 exclude the possibility of her trawl being on the seabed  
14 at the time. They therefore exclude the possibility of  
15 her being involved in actually fishing at the time of  
16 her loss. The survey findings support neither the  
17 likelihood of an accident during hauling nor shooting.

18 However, there is perhaps this to be said about any  
19 notion that the men may have been working on their nets  
20 or doing other fishing related work. OFI bundle 1,  
21 page 114, the Orsino skipper's schedule for 2330 hours  
22 on the 7th February. That entry reads:

23 "Gaul: haul paralysed laid mending."

24 So she was paralysed laid mending late on the  
25 previous evening. That was when her trawl seems to have

1       been repaired, or certainly mending work was going on.  
2       If the Gaul had actually reported, as she did, that she  
3       was paralysed laid and mending the previous night, then  
4       it is perhaps strange that she did not report likewise  
5       being laid and mending, or doing some such work, at 1030  
6       the next day. Instead, it reported at 1030 that she was  
7       simply laid and dodging.

8               As for the position where the working net was found,  
9       it was found, sir, in the arena. Skipper Thresh thought  
10      the spare net would have been in the arena and then  
11      worked its way, during the sinking process, into the  
12      factory access door. Those details may be inconsistent  
13      with the possibility of her indulging in -- or the  
14      skipper allowing the deckhands to do that work in the  
15      morning when the weather conditions were deteriorating.

16              That point too, the deterioration of the weather, is  
17      one which we submit makes it inherently unlikely that  
18      they would be taking the risk of mending in very bad  
19      weather when they were unwilling to take the risk of  
20      shooting in bad weather, if the previous analysis is  
21      right.

22              At all events, if and insofar as there was any risk  
23      involved, that risk would have been out of character for  
24      Skipper Nellist to take.

25   MR HOPPER: Can I just be clear. Are you suggesting that

1 the paralysed trawl from the night before, 2300 hours,  
2 was possibly being considered for repair during the  
3 hours of daylight?

4 MR SALOMAN: Yes. I am simply saying this: that nobody in  
5 this room probably has a particularly clear scenario of  
6 what precise operation might have been carried out on  
7 deck, if one was carried out on deck, on the day in  
8 question, 8th February, but it seems sensible to explore  
9 the possibility that for some reason men may have been  
10 working on the deck, and see whether the evidence as  
11 a whole supports the probability that, for example,  
12 hatches were open for the purposes of such work and that  
13 a terrible accident may have befallen the ship during it.

14 One possible scenario is that, well, the men may  
15 have been working on their nets on the morning in  
16 question, on the day in question, 8th February. We say  
17 to that, well, that is what they were doing the previous  
18 night. What is more, when they were doing it they  
19 reported that they were doing it. We know that they did  
20 not report that they were doing it on the 8th.  
21 Logically, that is an indication that they were not.  
22 So, too, the evidence that they were describing their  
23 activity as laying and dodging.

24 If there had been some terrible incident while men  
25 were working on deck with various hatches or any hatches

1 open on the 8th, such incident might, you may think,  
2 have been observed by the bridge and a distress signal  
3 sent.

4 Snagging on an underwater cable. At this Inquiry  
5 a seabed cable can be relevant only in two possible  
6 ways: first, if it caused the loss of the Gaul. For  
7 that purpose, it would not technically matter what sort  
8 of cable it was. Secondly, if the cable was a military  
9 or SOSUS cable, was known to the government and caused  
10 it not to search for the Gaul.

11 On the question whether it could have caused the  
12 loss, as has already been observed, it could only have  
13 caused the Gaul's loss if she was fishing. For these  
14 purposes, let it be assumed she was fishing. Was  
15 a telecommunications cable or a military surveillance  
16 cable on the seabed in the vicinity of the Gaul on  
17 8th February 1974? Nobody has suggested that there were  
18 any ordinary telecommunications cables in that area.  
19 There would have been no purpose in laying them there.

20 However, it has been suggested by Mr Long, as part  
21 of his theory of snagging, that there could have been  
22 a military surveillance cable -- that is AG10.2,  
23 page 36 -- and discussion has particularly focused on  
24 whether there was a SOSUS cable in that vicinity.

25 Does the evidence demonstrate the probability of

1       there having been, in February 1974, a SOSUS cable on  
2       the seabed in that particular vicinity? The video  
3       images we have reviewed at the RFI were retained  
4       respectively in 1997 and 1998. On the basis of these  
5       video images, we venture to doubt whether they enable  
6       you to form any definitive conclusion as to the nature  
7       of the cable or warp, whatever, which was filmed in 1997  
8       or indeed in 1998.

9             You may possibly have felt, during the oral evidence  
10       that Mr Peck gave, that the more dogmatically that  
11       Mr Meeson QC insisted that it was not a military cable,  
12       and indeed the more dogmatically that Mr Peck insisted  
13       that it was, that only one thing clearly emerged: that  
14       the video images did not lend themselves to dogmatic  
15       conclusions one way or the other as to the precise  
16       nature of the cables or wires we were looking at. Of  
17       course, it might have been rather different if any  
18       sample of the cable had been taken in 1997.  
19       Unfortunately it was not. As it is, the issue will be  
20       a difficult one for you to resolve.

21             That said, the characteristics of the cable were  
22       collectively viewed on the 1997 raw Anglia footage. It  
23       was clear that Mr Peck had difficulty in demonstrating  
24       different characteristics in terms of appearance, size  
25       or tautness from ordinary trawl warps during his

1 evidence. On the other hand, many families were much  
2 impressed in the Guild Hall when they saw their video by  
3 the apparent size and weight of the cable which they saw  
4 being lifted and immediately dropped by the arm of the  
5 ROV on the 1998 survey. They are convinced that the  
6 cable was dropped more quickly and suddenly than now  
7 appears on the video footage, which they have  
8 collectively seen at this RFI.

9         There was also some striking evidence from trawler  
10 skippers and trawler mates who sailed the Bank. Their  
11 evidence must be most relevant to the question whether,  
12 at that time, there were, or may have been,  
13 a substantial military cable in that area. That  
14 evidence did not lend any support whatever to the  
15 existence of any cable on the North Cape Bank in the  
16 vicinity of the Gaul's loss in the 1970s or to any  
17 reports or rumours that such a cable existed. You have  
18 the evidence of Skipper Wharram and Mates Patterson and  
19 Petty on that.

20         If, however, a major cable was indeed there on the  
21 Bank during that period, it does perhaps strain  
22 credulity to suppose that none of the many hundreds of  
23 seamen who trawled the Bank knew about it, and had not  
24 received any reports of or rumours concerning such  
25 a cable, and that there were no known snaggings for such

1 a cable and no reported snaggings of such a cable.

2 You may also feel doubt, indeed considerable doubt,  
3 as to whether the cable or wire that was observed by  
4 Mr Fenton in 1997 was the same one as MAIB identified as  
5 the "mystery cable" in 1998. At bundle 10.4, page 4 --  
6 we do not need to refer to it again -- the what I might  
7 call Norman Fenton cable track is shown. There is no  
8 reason for concluding that the cable which was lost  
9 sight of by the ROV in period 3 was the cable which the  
10 ROV crossed at period 7.

11 How do we know what happened to the cable we saw at  
12 period 3? The period 7 cable was close to the MAIB's in  
13 1998, and yet there is no evidence that the  
14 Norman Fenton cable, at period 3, was close to the  
15 wreck. The very large wire seen at AG4, the subsea  
16 bundle reference, which was sampled, which we do have,  
17 was obviously not a telecommunications cable.

18 The cable -- I use that word loosely -- the cable or  
19 warp which MAIB found seems clearly to have been warp,  
20 plain and simple: AG20, page 47. If the cable that MAIB  
21 found was Mr Fenton's cable, then self-evidently it  
22 follows that Mr Fenton's cable was warp too. If, on the  
23 other hand, the cable found by MAIB was not Mr Fenton's  
24 cable, then the 1998 evidence logically does not advance  
25 the debate as to the type and nature of the cable or

1 warp which was found by Mr Fenton in 1997.

2 If what was seen in the Anglia uncut footage was  
3 only trawl warp, nobody has suggested that it could have  
4 caused the Gaul's loss. If, on the other hand, what was  
5 seen was a SOSUS cable, then a fundamental question  
6 arises: was it on the seabed on or about  
7 8th February 1974 when the Gaul was presumably lost? At  
8 this juncture you may think, sir, that the waters become  
9 murkier still. Mr Peck accepted that there was no way  
10 of telling the age of the cable shown on the video. He  
11 said that it was "impossible" to tell the age.

12 Mr Peck also accepted that there was no way of  
13 telling whether the cable which he reviewed on the uncut  
14 Anglia footage was there when the Gaul sank: Day 17,  
15 page 75 lines 22 to 24, and the earlier reference lines  
16 14 to 18.

17 On the question of when a SOSUS cable was laid  
18 there, if it was laid at all, this issue was raised in  
19 the 1996 television programme. That is in bundle 36,  
20 page 100. It is a passage which was put by me to  
21 Mr Peck:

22 "Mr Pavelin: The loss of the Gaul dates back to  
23 1974. And why was 1974 significant [this is of course  
24 an extract from Mr Pavelin's statement]. 1974 was the  
25 year when the Americans, using bases in Iceland, bases

1 in Great Britain and bases in Norway, began building  
2 their strategic underwater observation system, what they  
3 called SOSUS."

4 I think that is the relevant passage, that 1974 was  
5 the year when the Americans, using bases in Iceland,  
6 began building their strategic underwater observation  
7 system called SOSUS.

8 MR JUSTICE DAVID STEEL: This is all in the context of  
9 a suggestion that the Gaul had been used to lay a cable,  
10 as I understand it.

11 MR SALOMAN: Possibly, sir.

12 MR JUSTICE DAVID STEEL: Well, as I understand it, that is  
13 the point of the passage at the top of 101.

14 MR SALOMAN: But either way, it is covering the very issue  
15 of whether the cable was there at the time of the Gaul's  
16 loss.

17 MR JUSTICE DAVID STEEL: Right.

18 MR SALOMAN: No doubt, we submit, on the basis that  
19 submarine military cable systems are rather like Rome,  
20 they are not built in a day, or even in five weeks,  
21 Mr Peck acknowledged, in cross-examination, that he had  
22 no basis for saying that the SOSUS cable system was  
23 completed by 8th February 1974; that is to say in the  
24 year 1974. And indeed he told me that he had never  
25 suggested otherwise.

1           Then the important, perhaps all-important, question  
2           of causation. For this purpose, we are assuming that  
3           there was a SOSUS cable on the seabed in the vicinity of  
4           the Gaul in February 1974, and considering whether it  
5           caused the Gaul's loss.

6           In the light of the evidence heard at this RFI, the  
7           difficulties in establishing any way in which the Gaul's  
8           snagging on a cable could have caused her to be lost  
9           have been fundamental. It would be quite time-wasting  
10          to list all possible difficulties that have emerged in  
11          way of the snagging theory of loss, and I would simply  
12          point out a few which we consider, on any view, fatal.

13          The first one is that since the Gaul sank in  
14          900 feet of water, that the length of cable which it  
15          would be necessary to raise to the surface could be  
16          considerably -- or would be considerably in excess of  
17          1,000 metres or so because of its inflexibility. That  
18          involves a very considerable load. Any measurement of  
19          the length of cable that would require to be raised  
20          involves making an assumption of how sharply the cable  
21          would drop from its snagged position when held at the  
22          top of the sea downwards. And on the evidence of  
23          Mr Peck himself, the cable was a relatively inflexible  
24          thing, and therefore we have to posit or suppose that  
25          much greater length of cable. I have given you the

1 references to his evidence on that.

2 The power of the main winch would not have been  
3 sufficient to lift the weight of such length of cable to  
4 the surface. The main winch pull may have been of some  
5 20 tonnes, but it would not cope with 1,000 metres or so  
6 of cable.

7 Even if the gilson wire was used, it would not be  
8 able to sustain the weight of the cable. Either the  
9 wire or the 5 tonne cargo winch used on the scenario of  
10 Mr Eric Long would fail.

11 I am not going to go through all the evidence about  
12 whether or not a gilson wire would have been used. You  
13 have been given that in detail already, and I have  
14 collected it for you in my note.

15 Even if the gilson wire and the 5 tonne cargo winch  
16 sustained successfully the load of the cable, and the  
17 Gaul became anchored by her A frame, the wire having  
18 slipped the starboard gallows, the evidence is that she  
19 would not have heeled sufficiently to sink. On the  
20 evidence tendered, she would have heeled only a very few  
21 degrees and at most 3 to 4 degrees, and that would not  
22 have compromised her safety at all: Day 15, pages 72 to  
23 74.

24 The probable cause of the loss. Based on the 1998  
25 and 2002 survey evidence, and the expert evidence, the

1       probable cause of the loss was the accumulation of water  
2       on the factory deck, followed by a large, sudden and  
3       disabling roll to starboard, possibly triggered by  
4       a heavy wave or succession of heavy waves breaking on  
5       her trawl deck and causing the ship to lose her ability  
6       to recover.

7               As for the source of the water on the factory deck,  
8       the strong probability is that seawater ingressed  
9       through the duff and offal chutes and thereafter through  
10      the factory access door and successive downflooding  
11      points. By that, I do not mean, of course, that the  
12      factory access door is the first downflooding point  
13      after the duff and offal chutes.

14             Later on we will address the speculative possibility  
15      that internal water caused or contributed to her loss  
16      and submit that the probabilities are against that loss  
17      scenario.

18             There are a number of reasons for holding that water  
19      ingress to the Gaul's factory deck caused her loss. It  
20      would not be appropriate to repeat the basic evidence  
21      and reasoning already set out exhaustively in the  
22      earlier speech, but it is appropriate to state the key  
23      points which we consider compel this loss scenario.

24             First, a feature which has overarched this whole  
25      tragedy is the lack of any distress message from the

1 ship. It is a feature of the story which any correct  
2 theory of Gaul's loss must accommodate. It is a theory  
3 which the theory proposed does accommodate. The Gaul's  
4 radio telephone and wireless telegraphy system are  
5 proven to have been functioning on 8th February 1974.  
6 Therefore, whatever the manner of the Gaul's loss, it  
7 must have been sudden and dramatic and prevented any  
8 sending of any distress message.

9 A second key fact, which is linked to the first, is  
10 that the bridge was manned at the least by  
11 Mate Spurgeon, so that he, in particular, was disabled  
12 from sending a distress call, and it appears no one else  
13 could do so. On the evidence, but for his disablement  
14 Mate Spurgeon could have sent a message via the Redifon  
15 Rescu-Phone R610 found in the chart room. We have  
16 mentioned also, and it should be recalled, that tuning  
17 the transmitter to 2,182 kilocycles was not an  
18 instantaneous process and could take a couple of minutes  
19 on Radio Operator Waterman's evidence at AG10,  
20 page 78.2, paragraphs 4 to 5.

21 Thirdly, we know that the Gaul sank, and we know, on  
22 the evidence of the NMI reports, the MAIB report and the  
23 joint experts' report that she needed sufficient water  
24 on her factory deck in order to get her down, in order  
25 to sink her. The question then becomes whether water

1 could and did ingress into her factory deck.

2 On that theme, fourth point, the duff and offal  
3 chutes were found open. That is an inexorable fact.  
4 They were a potential source of water entry near the  
5 design waterline. They are chutes which would be  
6 increasingly near the water in the weather conditions  
7 that are proven to have been prevailing, and all the  
8 more so with the ship having a 9 foot stern trim.

9 Fifth point. We know from the Marin research that  
10 seawater would downflood through the chutes, with  
11 weather on her port quarter, speedily and in quantities  
12 which would disable the crew and eventually sink the  
13 ship if she was in stern quartering wave directions, or  
14 indeed anywhere within a sector of approximately  
15 90 degrees on her port quarter.

16 Downflooding rates are harder to be precise about,  
17 but they seem to have varied between 1 tonne per minute  
18 for intact condition -- that is with no water on the  
19 factory deck -- and 8 tonnes per minute in a damaged  
20 condition -- that is when the vessel already had water  
21 on her factory deck. We had illustrated by the experts  
22 the dramatic speed of water intake of which the chutes  
23 were capable.

24 The sixth point is this: the Marin research did  
25 establish that she would have rolled sufficiently

1 heavily under the conditions which are assumed in order  
2 to have immersed intermittently her duff and offal  
3 chutes. We have also had evidence from the skippers of  
4 Ranger C-Class vessels that they rolled heavily. We  
5 have had evidence from a lower level in the pecking  
6 order from Timothy Hackett. He wrote around  
7 26th January 1974, a period of which there is at least  
8 no evidence as to the weather conditions being extreme,  
9 that she was, and I quote, "rolling like hell ...  
10 I can't get the hang of walking around ... meals sliding  
11 up and down the tables". That, sir, was on  
12 26th January.

13 Skipper Peter Abbey had the diligence, during the  
14 period of the search for the Gaul, to go back to the  
15 area where she was believed to have been and to see how  
16 the ship would roll, and whether she would roll, how she  
17 would behave in that location, and when laid beam on to  
18 the seas. His evidence is that, in that condition, the  
19 Arab rolled heavily.

20 You have had the other references given to you of  
21 Skipper Madden's and Skipper Suddaby's evidence.

22 The seventh key fact is that the rudder was found  
23 hard over to port. The probability is that the vessel  
24 was turning hard to port immediately before she was  
25 lost, and that she already had a significant quantity of

1 water on her factory deck. There would have been a wind  
2 factor as well. As such, on the basis that she was  
3 turning, her turn could only have aggravated her  
4 existing condition. It could only have increased her  
5 list or angle of loll. Significant water ingress  
6 through the chutes could have occurred while turning.

7 We have provided for you the references from the  
8 Marin model tests at AG8, pages 23 to 25 and 32, and the  
9 substantial downflooding rates revealed during turning  
10 of 2.4 tonnes per minute for intact conditions to about  
11 5 tonnes per minute for partially flooded conditions  
12 through the duff and offal chutes.

13 Then there was the evidence of the Fredyn  
14 simulation, and table 19. That showed that for all the  
15 turning simulations in the DOT's load condition, the 75  
16 degree roll limit was exceeded with one exception, run  
17 505. With an initial floodwater quantity of 125 tons  
18 the ship exceeded the 75 degree roll limit during the  
19 first turn. Those are most dramatic findings. High  
20 roll angles were found to have occurred during the  
21 turning manoeuvres when the wave direction was between  
22 beam to following seas.

23 The wreck of the Arctic Rose revealed -- of course,  
24 it was a case on its own facts, but it revealed  
25 a situation where a ship was lost through water in her

1 factory deck through duff and offal chutes, where the  
2 rudder was again found hard over to port: AG38, tab 6,  
3 page 45 and page 52.

4 The very detailed findings included this one:

5 "The rudder position is indicative of a human's  
6 natural reaction to correct ... a starboard list.  
7 However, initially this action would likely prolong or  
8 increase the starboard list and allow seawater to  
9 initially enter the vessel ..."

10 Eighth key point: factory deck flooding would not  
11 necessarily be noticed elsewhere on the ship, and  
12 noticing might depend entirely upon somebody entering  
13 the factory deck. We refer to the experiences given by  
14 the witnesses at this RFI and the evidence of the cases  
15 collected in the other incidents, bundle AG38.

16 There was the experience of Skipper Thresh of water  
17 flooding the factory deck of the Arctic Raider. The  
18 first Skipper Thresh, on the bridge, knew about the  
19 water on the factory deck was when the steering failed,  
20 the water having got into the steering flat. Later  
21 Boyd Line fitted all their trawlers with float alarms so  
22 that if there was water on the factory deck a loud bell  
23 would sound and a red light would flash up on the  
24 bridge. That was Day 14, pages 26 to 29.

25 Then, again, we heard the experience of

1 Ronald Bateman on the Hammond Innes. That led him to  
2 recommend to his union the installation of cameras on  
3 stern trawlers so that the factory deck could be  
4 monitored: AG10/151, RFI Day 17, page 142 to 144.

5 Other tragic losses are proven, for example the  
6 Aleutian Enterprise. No significance was attached to  
7 a minor list in that case until suddenly it dramatically  
8 increased.

9 "... there was a list for about five minutes [a key  
10 witness said], but I didn't think anything of it,  
11 because you know, the boat's tilted farther than that  
12 before, so I just kept working."

13 In addition to the recorded losses that we have in  
14 that bundle, for those who went on the Kappin trip, the  
15 visit to the vessel Kappin, former sister ship of the  
16 Gaul, that ship had a serious incident involving water  
17 coming through duff and offal chutes in circumstances  
18 where the chutes we saw with our own eyes were open, and  
19 necessarily open, because the counterbalance weight had  
20 been locked off.

21 At the time of that near miss the weather was from  
22 the starboard side, approximately force 6 to 7, with the  
23 vessel rolling. Those weather conditions were reached  
24 on the day of Gaul's loss but considerably exceeded.

25 The ninth fact, or at least strong grounds for

1 believing in the possibility of heavy waves playing  
2 a contributory part to this tragedy: it is possible that  
3 the Gaul was hit by a heavy wave or succession of heavy  
4 waves at a time when she already had significant water  
5 on her factory deck, disabling the crew and accelerating  
6 her demise. For this purpose, we accept, realistically,  
7 the lack of sufficient appropriate physical evidence of  
8 damage to support a theory of knockdown, but we do not  
9 for one moment accept the lack of evidence to support  
10 the thesis that the ship rolled to at least 90 degrees.

11 On the evidence of the occurrence of very large  
12 waves in the area of the Gaul's loss at the following  
13 times, we heard from these witnesses: Skipper Madden, on  
14 the Kelt, referred to experiencing an "extremely large  
15 wave" in the early morning of 8th February.

16 At the RFI we heard evidence from the Swanella mate  
17 that between 1100 and 1115 hours on 8th February the  
18 Swanella experienced three huge waves. Now, of course,  
19 we know that the ship was functioning and radio  
20 telegrams were being sent during that particular period,  
21 between 1100 and 1115. The evidence of Mate Brayshaw  
22 was that these waves occurred no later than 11.30:  
23 Day 4, page 29 and AG9/34.

24 Skipper Boughen was a witness to whose evidence the  
25 first Inquiry found itself able to place great reliance

1 in its report. Skipper Boughen, on the Cordella,  
2 experienced weather which was as bad as they could  
3 comfortably handle. They came into contact with big  
4 waves, albeit she, the Cordella, was undamaged by them:  
5 Day 6, page 24.

6 We also had evidence that the Farnella was hit by a  
7 "tremendous sea head-on", which damaged her bow either  
8 side of her stem. That was evidence given in the first  
9 Inquiry by Skipper Eagle, and it related to  
10 9th February, not 8th February.

11 At this Inquiry, a junior officer on the Farnella,  
12 Mr Keillor, had given evidence in his witness statement  
13 that this incident occurred on 8th February, but we are  
14 bound to point out that caution is required before  
15 accepting that evidence, there being an inconsistency of  
16 a clear kind with Skipper Eagle's contemporaneous  
17 evidence that this damage incident occurred on the next  
18 day.

19 There remain two speculative possibilities. First,  
20 that internal water supply outlets on the factory deck  
21 were left on, and the Turo pumps were left off; or else,  
22 secondly, the water supply outlets were left on and the  
23 Turo pumps were also left on but were blocked and  
24 inoperable. We have given you the evidence, as indeed  
25 has Mr Meeson QC, on Turo pumps becoming blocked;

1 evidence given by Skipper Peter Abbey, Arthur Myers,  
2 Skipper Suddaby, Mate Petty and Chief Engineer Sim.

3 There is no evidence that either of these two  
4 scenarios occurred. The first one, of the hoses being  
5 left on, water outlets being left on, and pumps not  
6 being left on but being off is, we submit, the most  
7 improbable of the two. It seems to us inevitable that  
8 the pumps would have been run during the processing  
9 stage to make the factory deck tolerable to working. If  
10 that is right, then a deliberate act would have been  
11 required to turn off the pumps, yet it is hard to  
12 envisage the crew deliberately turning off the pumps  
13 without at the same time turning off the water supply.

14 The second scenario is that hoses were left on,  
15 pumps were also left on but proved inoperable. We  
16 submit that that is in itself improbable. In the first  
17 place, there was no reason for leaving water supply  
18 outlets on when processing finished. In the second  
19 place, there would be even less reason for the factory  
20 hands to leave them on when they returned two hours  
21 later to remove the fish from the freezer plates at  
22 0915 hours: that is OFI5, page 246.

23 Blockage of the pumps was likeliest, in our  
24 respectful submission, to have occurred, if it was going  
25 to occur at all, during the processing phase, or perhaps

1           shortly afterwards. And any flooding resulting from any  
2           blockage would, on that basis, generate relatively early  
3           in the morning of the 8th, and there would be a real  
4           possibility, to put it no lower, of the resulting  
5           floodwater being detected at 0915 hours. That was  
6           indeed Skipper Madden's view at the OFI, on Day 2,  
7           page 56.

8           Nonetheless, it is improbable to exclude either of  
9           the two possibilities already discussed. They remain,  
10          we submit, speculative ones only.

11          It may be, sir, that this is a convenient moment if  
12          you are considering stopping, but we can carry on, if  
13          you like, for a number of minutes.

14   MR JUSTICE DAVID STEEL: Yes, why do you not perhaps finish  
15          this section.

16   MR SALOMAN: Very well. Certainly.

17          There is a scenario which is perhaps more likely  
18          than the two just mentioned: that is that the water  
19          supply was turned off when processing finished. There  
20          was no reason to leave the water running afterwards.  
21          There is undoubtedly evidence from Chief Engineer Sim  
22          that water was sometimes left on. You have been given  
23          all the references to that, and we are giving them to  
24          you as well, at AG9, page 255 and OFI Day 8, page 30  
25          being the principal ones.

1           However, the balance of the evidence goes the other  
2 way and suggests that they would have been turned off.

3           Mate Petty, on Day 3, page 17:

4           "... I seen them turn the taps off."

5           "Skipper Suddaby:

6           "Nobody left the factory with water running."

7           Skipper Suddaby at the OFI, on Day 6, page 75, was  
8 asked by Mr Brice whether there were any orders  
9 regarding the turning off of water from either the  
10 donkeys or the actual factory machinery, and he replied:

11           "You automatically do this. Others have been in  
12 these ships longer. The men in these factories had been  
13 in these tanker ships a lot longer than I have. There  
14 was a lot of experience in these type of ships."

15           You may, sir, think nonetheless that there might  
16 well have been some occasions when water was left  
17 running in the factory decks, as Chief Engineer Sim had  
18 said it was, but nonetheless that he was exaggerating  
19 the depth of water that was generated on any such  
20 occasions as occurred, and that the water depths that he  
21 described were perhaps unreliable. If, on the contrary,  
22 the relatively minor amounts of water recalled by  
23 Skipper Suddaby to have been found on an occasion at the  
24 extreme stern end of the factory deck were all that  
25 there were, then you may venture to wonder whether



1 almost inevitable" that the non-return flaps would seize  
2 up after a while. That was on Day 12, at page 50. As  
3 to how the flaps precisely would become seized, we had  
4 evidence from Mr Colman as to the process he envisaged.  
5 He said this:

6 "Looking at it the other way, the flap would not be  
7 allowed to seize in the closed position. The crew need  
8 the flap open for the device to work. So if it did  
9 start to get sticky, what I think would happen is that  
10 the crew would find that they needed greater and greater  
11 amounts of offal, or duffs, to actually make the flap  
12 operate, because the hinge would start using up the  
13 35 lb balance that is available from the counterweight.  
14 It may be that it was found that in order to get stuff  
15 out in reasonable quantities they may have had to push  
16 the flap down, or perhaps push the counterweight up, to  
17 make sure that the rubbish was being thrown out, was  
18 actually leaving the ship. It seems possible to me that  
19 as that hinge gets worse and worse and stickier and  
20 stickier, one day the flap actually did stay down  
21 without actually having to support the counterweight; in  
22 other words, the whole 35 lb balance was actually used  
23 up by corrosion, friction and possibly even muck under  
24 the flap -- one does not know -- and that thereafter,  
25 from the crew's point of view, I suppose, the problem of

1       having to push the flap down no longer existed."

2             The court will naturally consider for itself how the  
3       duff and offal chute flaps could have become seized  
4       open, and the families submit that the answer involves  
5       consideration of their design and of their maintenance.

6             Last of all, it involves taking into account what  
7       appears to have been a collective failure to instill in  
8       the minds and disciplines of skippers, officers and  
9       factory hands alike that the very safety of the ship  
10       depended upon keeping these chutes closed.

11            As for design, the design of the flaps, we submit,  
12       was inadequate. They required relatively heavy weights  
13       of at least 35 lbs to open them. The design was very  
14       elaborate for the purpose of operating the flap. This  
15       was described by Mr Tanton in his evidence.

16            There would be a real risk of the flaps  
17       progressively seizing up, and the people working on the  
18       factory deck, who, of course, had the least knowledge of  
19       the stability implications of these chutes, they would  
20       have the greatest possible incentive to ensure the  
21       quick, easy and effective disposal of the rubbish from  
22       the deck.

23            On the Gaul, this is what seems to have happened,  
24       since the flaps were found seized open in their position  
25       for ready use.

1           The next question is: when did the flaps become  
2 seized open? In view of the shortness of the voyage, it  
3 seems likely that the flaps were in this state when the  
4 vessel left Hull. As the Tribunal will know from its  
5 collective experience, seizure of parts on a ship tends  
6 to occur over a period of time; perhaps months or even  
7 longer. We had Mr Tanton's evidence about this capacity  
8 for parts, and in particular parts such as the  
9 non-return valve flaps, to seize over a period of time.

10           Why, one asks, were the duff and offal chute flaps  
11 not properly maintained before the beginning of the  
12 voyage? The repair records before this court do not  
13 contain evidence of any work being carried out to the  
14 duff and offal chutes. These chutes fell under Mr Dry's  
15 jurisdiction. His evidence was that he never looked at  
16 the chutes on the Gaul, or on any other vessel, because  
17 nothing, in his view, could go wrong with them: that was  
18 Day 7, page 78.

19           Mr Sabberton did not ask Mr Lee or anybody else to  
20 check them: that was Day 7, page 25.

21           There was never, sir, any discussion with the shore  
22 staff about the duff and offal chutes on the evidence of  
23 Mate Petty -- RFI Day 3, page 14 -- and he never saw  
24 them being oiled. That other Ranger C-Class ships did  
25 not have their chute flaps regularly inspected perhaps

1 gains support from the evidence of Mr Scott concerning  
2 the condition of the flaps on Kurd and Kelt. On any  
3 view, Mr Scott's evidence about the condition of the  
4 flaps on the Kurd confirms their condition. He sets out  
5 his evidence on both of those ships and their condition  
6 in his preliminary inquiry report, which, regrettably,  
7 was not put before the original Court of Formal Inquiry  
8 in 1974.

9 You may also think that this is not one of those  
10 cases where one has to speculate about the condition of  
11 the flaps on the Gaul, the non-return valve flaps of the  
12 duff and offal chutes on the Gaul, because we have the  
13 evidence of the condition of the flaps on the Gaul,  
14 therefore one does not need to resort to the evidence of  
15 Mr Scott relating to the condition of the same parts on  
16 the Kurd and the Kelt anyway. That said, the evidence  
17 that Mr Scott did give is wholly supportive of, and  
18 probative of, the likely condition of the Gaul. The  
19 evidence that we have seen at this Inquiry on the screen  
20 proves that he was right.

21 So far as the Kelt's Skipper Madden is concerned, he  
22 said that he had never arranged for their condition to  
23 be checked. But he also pointed out to us that as the  
24 skipper, he would not be involved with the actual  
25 operation of the duff and offal chutes anyway: that was

1 Day 10, page 61.

2 Maintenance at Hellyers. So-called "planned  
3 maintenance" -- that was the phrase used by Mr Sabberton  
4 in his evidence to the first court of inquiry -- whereby  
5 parts of the ship are checked against standard form  
6 maintenance sheets, whether or not there has been  
7 a specific request from the ship to inspect or repair  
8 that part or not, that system of planned maintenance was  
9 not brought in, unfortunately, by Hellyers until the  
10 summer of 1974. The evidence is at OFI Day 8, page 20  
11 to page 21. Mr Oswald accepted this evidence when he  
12 was asked about it at this reopened formal  
13 investigation. In short, the effect appeared to be that  
14 there were no adequate shoreside inspection arrangements  
15 catering for the duff and offal chutes in place in the  
16 period before the Gaul sailed.

17 In principle, the somewhat reactive system employed  
18 at Hellyers, whereby the shoreside staff would act upon  
19 reports provided by people coming off the ship on the  
20 last voyage, was inadequate. It was, of course,  
21 a thoroughly sensible first start to take evidence and  
22 information from those on board the ship on the previous  
23 voyage as to what they thought required inspection and  
24 repair, but it was not in itself sufficient. The lives  
25 of seamen on board ships during a fishing voyage are

1 very busy ones indeed, and to depend upon the  
2 sufficiency of their reports back to the shore seems  
3 unreasonably optimistic.

4 Effective shoreside inspection and repair  
5 arrangements were required, and Captain Newbury, who  
6 gave evidence on this aspect, did agree with that.

7 Turning from the principle of the system in place to  
8 the actual practice of it. It appears to have been  
9 inadequate precisely because closing appliances are of  
10 such fundamental importance on a ship, important to her  
11 safety and her very seaworthiness, that they require  
12 inspections ashore before every voyage takes place.

13 In practice, the ship would make specific work  
14 requests. They would not necessarily be implemented.  
15 We have been reminded of Benjamin Ashcroft's evidence --  
16 he was a ship's husband in the shipwright department --  
17 about the "hacking of work lists to death" that was done  
18 by management. Sometimes it seemed that the "hacking"  
19 was somewhat inept, or, if that puts the matter too  
20 strongly against Hellyers, at least unfortunate and  
21 imprudent.

22 Thus Chief Engineer Sim's request for smaller mesh  
23 strainer grids was made to the shore. It was refused on  
24 the grounds that smaller mesh would cause clogging of  
25 the grids. However, in evidence, Mr Sabberton certainly

1           accepted that as between the two possible evils of  
2           getting your pumps blocked in the suction section with  
3           whole fish which had got through the strainer grids, and  
4           getting the grids themselves blocked, blocked grids, he  
5           acknowledged, were easier to clear.

6           In practice, the amount of work which was done by  
7           the shipwright department seems to have been minimal,  
8           and, according to their repair list at page 101 of the  
9           first OFI bundle, obviously did not extend to the  
10          closing appliances, or in particular the duff and offal  
11          chutes.

12          There may -- and this appears from the documents we  
13          have -- have been a rather more proactive system of  
14          inspection and maintenance at Ranger Fishing Company,  
15          and at least all watertight hatches and doors were  
16          required to be checked and freed as necessary. In  
17          repair lists that we have, escape hatches were asked to  
18          be checked and hose tested, and similarly, there were  
19          requests for the checking of fish hatch dogs and for  
20          them to be made free.

21          There is the matter of the statutory framework, or  
22          non-existent statutory framework that prevailed to place  
23          obligations on owners at the time of the Gaul's last  
24          voyage. This topic, which I explored with Mr Tanton in  
25          evidence, will be covered in some detail by Mr Terry

1           Munyard in his address. There was no statutory  
2           obligation on trawler owners at that time to make  
3           trawlers seaworthy at the beginning of a trawler voyage,  
4           or to exercise due diligence to make them seaworthy,  
5           rather as they would have been had they been carrying  
6           cargo under bills of lading.

7           Sir Deric Holland-Martin's committee had requested  
8           the imposition of an express statutory requirement of  
9           seaworthiness on the shipowners in his report of  
10          July 1969. That was recommendation 20.

11          It does follow logically from the fact that  
12          Sir Deric made that recommendation that in his opinion,  
13          annual class surveys, however prudent and useful,  
14          surveys which had existed for many moons, must have been  
15          deemed in themselves insufficient for ensuring ship  
16          safety.

17          It did not really seem appropriate to expect the  
18          insurance company to sure-up defects in owners' systems.  
19          In the event, it appeared from the evidence that we  
20          heard that the insurance company had the power to  
21          inspect trawlers but would not in practice do so without  
22          making a special ad hoc arrangement. Day 12, page 102  
23          to 103. It seems somewhat unlikely that they did so  
24          other than for the purpose of assessing insurance  
25          claims. None of the statements for the OFI referred to

1 insurance company inspections, and those statements  
2 were, of course, more contemporaneous with relevant  
3 events. Their lack of reference to insurance company  
4 inspections is perhaps telling.

5 When confronted by the evidence in Mr Scott's  
6 preliminary report, the DOT decided that BUT's  
7 inspection arrangements needed to be explored, at least  
8 the contemporaneous memoranda that we looked at told us,  
9 if they were going to criticise the owners: AG11, tab 5,  
10 page 60.

11 In the event, the only evidence put before the OFI  
12 of BUT/Hellyer's inspection arrangements were two short  
13 statements by Mr George Lee, at AG9/146 to 148 and 149  
14 to 150, and oral evidence that we had from him on Day 8,  
15 at pages 51 to 54.

16 One possible inference is that a decision was made  
17 not to criticise the owners. If that was made, and had  
18 the consequence that the issue of owners' quality of  
19 maintenance of the Gaul and all her sister ships was not  
20 explored at the first Inquiry -- and we know it was  
21 not -- that consequence was particularly unfortunate.  
22 We know -- and I repeat -- that the preliminary report  
23 of Mr Scott was not put into evidence. Had it been, it  
24 seems inevitable that there would have been a much more  
25 fundamental and profound consideration of the question

1 of the likely state of the Gaul when she left on her  
2 last voyage.

3 In the light of Mr Scott's evidence, and with the  
4 benefit of our knowledge of the state of the Gaul's duff  
5 and offal chute flaps as demonstrated at this Inquiry,  
6 and of Mr Dry's evidence that they were not inspected  
7 before the voyage, it seems obvious that poor inspection  
8 arrangements played a critical part in this tragedy.

9 The hopper lid on the duff chute and one half  
10 section of the hopper lid on the offal chute were found  
11 to be open. We have seen that at this Inquiry. That is  
12 another fact which cannot be gainsaid by anyone, just as  
13 the poor condition of the chutes can be pointed to.  
14 However, the leaving off of the lids to the duff and  
15 offal chutes was precisely the type of error that could  
16 happen, particularly after a night's busy fishing and  
17 processing, if the importance of keeping these chutes  
18 closed, and indeed the lids on, had not been brought  
19 home to the crew by education and notice. I say by  
20 education and notices given to the crew; primarily, of  
21 course, to the skippers.

22 But this was a matter in which all people on board  
23 the ship were involved. It was of vital importance for  
24 all relevant personnel to be aware that the prevention  
25 of water ingressing through duff and offal chutes was

1 absolutely fundamental to the safety of the ship in any  
2 sort of heavy weather.

3 That leads to the final question of whether there  
4 was any evidence of any particular education or notices  
5 being issued to the skipper, in particular  
6 Skipper Nellist, before the final voyage, and further  
7 down the pecking order to the crew, and perhaps the  
8 factory manager, regarding the need for closure of the  
9 duff and offal chutes at all times when they were not in  
10 use.

11 The builders had found it necessary to add to their  
12 plan drawing of the duff and offal chutes a specific  
13 warning of the importance of keeping them closed when  
14 not in use. That warning was not passed to  
15 Skipper Suddaby -- Day 3, page 105 -- nor, it is clear,  
16 to Skipper Nellist himself.

17 The matter of the briefing of Skipper Nellist is  
18 more a matter for Mr Munyard to address. But it is, of  
19 course, a matter relevant to the safety of the crew that  
20 the skipper should have been adequately briefed before  
21 that voyage. It does not seem that the duff and offal  
22 chutes played any part in this briefing. It is  
23 difficult to blame Skipper Suddaby for that. There was  
24 no briefing given to him when he had joined the  
25 Ranger Castor. The truth seems to have been that there

1 was no sufficient consciousness within the organisation  
2 at Hellyers of the importance of duff and offal chutes,  
3 nor indeed at Purdys before Hellyers took over in  
4 September 1983. As Mr Meeson QC put it:

5 "Duff and offal chutes seemed to have fallen  
6 underneath everybody's radar."

7 Had any special notices been issued for the  
8 Ranger Castor in 1972 to 1973 or the Gaul in  
9 September 1973 onwards, as there had been for the ships  
10 Invincible, Illustrious and Implacable, there was no  
11 suggestion that Skipper Nellist was ever given them or  
12 made aware of them. That we have from the tantalising  
13 cover sheet to Hellyers' standing instructions, which  
14 refer to notices concerning those ships' duff and offal  
15 chutes.

16 The accurate position as to who briefed  
17 Skipper Nellist, namely Skipper Suddaby, and not Skipper  
18 Peter Abbey of the vessel Arab, was brought out in  
19 Mr Meeson's speech. While I have covered that in detail  
20 here, I do not need to say much more about it. Mr Abbey  
21 had been taken on, you will remember, as a marine  
22 assistant by Hellyers. He had been, some moons ago, an  
23 active skipper, and he had had some involvement at the  
24 trial stage with these ships. But Mr Oswald's sole  
25 involvement of Mr Leslie Abbey was on the grounds of

1 Leslie Abbey's involvement in crewing matters. That was  
2 undoubtedly his new role at Hellyers as a liaison man  
3 dealing with crew arrangements. In that capacity, the  
4 evidence Mr Oswald gave in 1974 was that  
5 Skipper Leslie Abbey had been used to arrange a briefing  
6 of Skipper Nellist, carried out by Skipper Suddaby.

7                   That is all I need to say about that.

8                   In Leslie Abbey's second statement he said this:

9                   "No one in the company asked me to pass on this  
10                  experience [and he meant the experience he had gained at  
11                  Ranger] ... I have not sent the standing orders to  
12                  skippers by British United Trawlers because I was more  
13                  involved with personnel than with the running of the  
14                  ships, nor have I seen a stability book for the Ranger  
15                  C-Class vessels."

16                  Skipper Peter Abbey, likewise, never suggested he  
17                  had anything to do with Skipper Nellist's briefing  
18                  before the voyage.

19                  I conclude that the most probable cause of the loss  
20                  of the Gaul was seawater ingressing the factory deck  
21                  through the duff and offal chutes.

22                  Secondly, water was able to enter through the duff  
23                  and offal chutes because the flaps were seized open and  
24                  the hopper lids were wholly or partially open.

25                  Thirdly, it is likely that the flaps were seized

1 open at the beginning of the voyage; as such, the  
2 closing arrangements were not in a fit and proper  
3 condition to prevent the entry of seawater onto the  
4 factory deck.

5 Fourthly, the condition of the flaps was causative  
6 of the loss in that if they had been in good condition  
7 and closed, they would, being non-return valves, have  
8 prevented any or any significant quantity of seawater  
9 from entering into the factory deck.

10 The poor condition of the flaps was attributable to  
11 lack of proper maintenance and an element of poor  
12 design.

13 Fifthly, as for what seems to have been an error on  
14 the crew's part in failing to close, or fully close, the  
15 hopper lids, we submit that this was the very sort of  
16 error that was liable to occur from time to time from  
17 inadvertence or even fatigue if proper education and  
18 training was not provided on the special dangers of  
19 leaving duff and offal chutes open.

20 Sir, there is a discrete topic that I need to  
21 address, and it concerns the Radio Operator John Doone.  
22 Two particular issues arise. First, did John Doone sink  
23 with the Gaul? There has been a suggestion that he may  
24 not have done. It arose in the early 1980s when  
25 a Mr Alan Waterworth claimed to have sighted John Doone

1 in a bar some years earlier in South Africa.

2 If the court's answer to that question, namely did  
3 John Doone sink with the Gaul, is yes, then a second  
4 issue has been raised, namely whether he had any  
5 physical injury or arthritic condition, as was alleged,  
6 which had any bearing on this casualty.

7 I address first the matter of the alleged sighting  
8 of Mr Doone. You have been given materials to peruse.  
9 Starting, if we may, at bundle AG36, page 24, this is an  
10 article from the Guardian newspaper. At the bottom of  
11 the middle column:

12 "What was strange was his disappearance ten days  
13 before the Gaul sailed. His wife, Sheila Doone, is  
14 convinced he was on some sort of secret mission.

15 'I then received a telegram from him asking me to ring  
16 him up at a Hull hotel. I telephoned the hotel but he  
17 was not there. I got a letter from him saying "by the  
18 time you get this, the Gaul will have sailed".'

19 Sir, just on that particular part of the story --  
20 admittedly it relates to the period before the Gaul  
21 sailed -- I have been asked now to say this on behalf of  
22 Mrs Doone, concerning the ten-day period before the Gaul  
23 sailed:

24 She had been told that John was staying at the Hotel  
25 Nord in Hull. However, as this article I have just read

1 records, when she rang the Hotel Nord at Hull, they  
2 confirmed his having booked in, and told her that he had  
3 not been seen for several days. She came to believe, at  
4 some stage, that he had been asked to attend GCHQ.  
5 However, she at a much later stage received a letter  
6 from Mrs Iris Galloway stating that John had stayed with  
7 her, and with her common law husband, for a few days  
8 before departing on the Gaul.

9 Mrs Galloway was traced by my instructing  
10 solicitors. She confirmed that John Doone had indeed  
11 become a friend of her partner, her common law husband,  
12 and during that period had spent a great deal of time  
13 with him in the day before staying at nights with the  
14 two of them. Yet Mrs Doone still believes that there  
15 would have been time for him -- that is to say John --  
16 to have gone down to GCHQ.

17 The materials now go from page 48.1 to 48.31.  
18 Further materials provided to us on 23rd February,  
19 sir -- that is two days ago, two or three days ago --  
20 included statements written by Mr Waterworth's wife, his  
21 daughter and his son, a statement from Mrs Doone and  
22 a statement from Frances Charles, all concerning the  
23 alleged sighting of John Doone by Mr Waterworth. They  
24 are here and available to us.

25 Before looking at them, Mr Alan Waterworth had

1           previously been a friend and colleague of John Doone.  
2           He claimed to have seen him in a bar in Port Elizabeth,  
3           South Africa, in 1978. To get the nub, or pith, of his  
4           story, please look at page 48.4, where we have his  
5           verbatim account in an article written by the  
6           Evening Star on February 12th 1982.

7   MR JUSTICE DAVID STEEL: That is the Port Elizabeth  
8           Evening Star, is it, or an English paper?

9   MR SALOMAN: No, sir, I think that is a UK newspaper,  
10           judging by the writers of the article, as you will have  
11           noticed.

12   MR JUSTICE DAVID STEEL: Yes.

13   MR SALOMAN: "A Pendle man living in South Africa believes  
14           he saw missing Brierfield seaman John Doone about three  
15           and a half years ago" -- just pausing there, sir, that  
16           takes us back to about August 1978 -- "more than four  
17           years after he is supposed to have died.

18           "Mr Doone was presumed lost along with his 35  
19           shipmates when the factory trawler Gaul disappeared off  
20           Northern Norway eight years ago this week.

21           "But Mr Alan Waterworth, who used to work with  
22           Mr Doone, says he is convinced he saw him alive and well  
23           in a Port Elizabeth bar.

24           "The news has stunned Mr Doone's wife Sheila, who  
25           lives in Sackville Street, Brierfield. 'It has numbed

1 me,' she said. 'I just don't know what to think now'.

2 "Mr Waterworth, interviewed by telephone, at his  
3 home in South Africa, said: 'I saw him in a bar. As far  
4 as I am concerned it was him. I knew at the time he was  
5 supposed to be dead. I was still in England when it  
6 happened. But unless that was his exact double, it was  
7 John Doone. I was shaken by it. It came as a bit of  
8 a shock. I have never seen him since, but he walked out  
9 of the bar when he saw me.

10 "'There was a bar full of people and I couldn't get  
11 across to speak to him. I picked him out as John Doone,  
12 and if he had simply been a double I would have seen him  
13 again about Port Elizabeth -- maybe in a bar somewhere.  
14 But I have never seen him again. He must not be around  
15 now.'

16 "The two men worked together at the Colne TV firm of  
17 Joe Arnold, which is now no longer in existence.

18 "Mr Waterworth, 44, is the manager of a TV  
19 engineering firm in Port Elizabeth. He, his wife  
20 Florence and sons David and Robert have lived there for  
21 six years. His daughter, Mrs Caroline Whittam, returned  
22 to Nelson three years ago. She has met Mrs Doone and  
23 told her what her father saw."

24 That is the nub of it.

25 You will have observed from the opening paragraph of

1 this article when the sighting was alleged to have taken  
2 place, about three and a half years ago. Thereafter, it  
3 seems that some considerable work, research and effort  
4 was taken and made into the question how Mr Doone could  
5 have been in South Africa at all. You will find  
6 evidence of these researches at 48.9 and following.

7 Page 48.9 is a document which is dated  
8 20th May 1982, written by the Provincial Hospital at  
9 Port Elizabeth to Mrs Parker:

10 "Dear Madam," it has the caption "Critically Ill  
11 Seaman".

12 "Your letter dated 23rd April 1983" -- I am so  
13 sorry, sir, I think I said it was 20th May 1982. It  
14 must have been 20th May 1983 when this letter was sent.

15 "I regret that I have been unable to trace any  
16 record of a Soviet seaman being admitted to this  
17 hospital during 1978."

18 We do not have the letter of 23rd April to which  
19 this is a response, but the inference may be that the  
20 hospital was being asked to say whether any Soviet  
21 seamen had been admitted to the hospital "during 1978".  
22 The Provincial Hospital continues:

23 "However, the St Josephs Hospital, Park Drive,  
24 Port Elizabeth, treated patient Serkis Dikici from  
25 11th October 1978 to 15th October 1978 ...", a seaman

1 that they think was a Soviet seaman from the ship  
2 Great Maurice.

3 These details were reported from Mrs Parker to  
4 Mr Graham Smith on 2nd July 1983 with suggestions as to  
5 the enquiries to pursue with Mr Waterworth. That is  
6 page 14 to 15.

7 Sir, there are great difficulties in reading this  
8 copy, which is the best we have. Suffice it to say that  
9 this letter does contain details of the enquiries which  
10 Mrs Parker would like Mr Smith to pursue with  
11 Mr Waterworth about what happened, or may have happened,  
12 in 1978, and about the significance of the dates of  
13 October 11th to 15th 1978.

14 There is a letter at page 10 from the South African  
15 shipping agents, which bears the date  
16 21st November 1989. This is a letter from Management  
17 Shipping and Trading, a company, or firm, at Bryanston,  
18 South Africa:

19 "Dear Mrs Parker,

20 "I apologise for not answering your first letter  
21 which I received, as it seems to have gone astray in the  
22 office. I did pass on your request for Mr Doone's  
23 address to our principals in Greece but unfortunately  
24 they advise that he left their employ some while ago and  
25 they do not have an address for him.

1           "Therefore I regret we are unable to assist you as  
2 we have no trace of his present whereabouts."

3           Sir, we do not have the letter to which this is  
4 a response. It continues:

5           "Perhaps you could write to a seaman's union as he  
6 may have joined another vessel from a different line.

7           "Sorry we cannot help you and good luck in your  
8 search."

9           There is also an exchange of correspondence we have  
10 from the period of August 2001 between the journalist  
11 Mr Smith and Alan Waterworth's son Dave about the events  
12 of October 1978. That is at page 21 to 22.

13           Before I read that, I am going to read, if I may,  
14 an e-mail from Dave Waterworth, at page 27. It is an  
15 e-mail dated 15th February 2004; in other words, about  
16 a week ago. He describes the day he recalls his father  
17 telling him of his sighting of John Doone:

18           "Hello Graham.

19           "I shall try my best to give you all the details  
20 I remember from the day my Dad told me of his alleged  
21 sighting of John Doone.

22           "It was in the early evening when my Dad got home.  
23 I was in the dining room of our house in Port Elizabeth  
24 and as I recall my mother was in the lounge. My Dad  
25 walked into the lounge looking somewhat shaken and leant

1 against the doorway without saying a word.

2 "My mother then asked him what was wrong?

3 "He replied, 'You'll never believe it but I've just  
4 seen John Doone in the Red Lion bar downtown'.

5 "My mother then told him not to be so daft but he  
6 was adamant he had seen what he said.

7 "He said he was in the Red Lion after finishing  
8 work. The bar was quite busy with other patrons from  
9 various other workplaces in the local area. My Dad told  
10 us he was at the bar having a pint and minding his own  
11 business when upon looking across the bar he noticed  
12 a person he believed to be John Doone. He then  
13 attempted to walk through the crowd, around the bar, to  
14 approach the person he thought he recognised as  
15 Mr Doone."

16 Just pausing there, sir, that does not contain the  
17 detail we picked up from the earlier verbatim account  
18 whereby Mr Doone was said to have seen Mr Waterman look  
19 at him.

20 Reading on:

21 "By the time my Dad had squeezed through to the  
22 place he saw 'Mr Doone', the person had left his seat at  
23 the bar. Dad then went out onto the street to see if he  
24 could see the man but it was impossible to see  
25 a specific person in the rush hour pedestrian traffic.

1            "As far as I know, Dad then left the Red Lion hotel  
2            and came home to tell us his story.

3            "Although Dad had been in the bar after work he  
4            didn't appear to be intoxicated nor, to my knowledge,  
5            had John Doone's name been mentioned around the house.  
6            Whatever or whoever my Dad saw that evening in the  
7            Red Lion, it certainly had a shocking effect on him  
8            which snowballed into the mystery we have today.

9            "I hope this is sufficient information. If not  
10           please don't hesitate to e-mail me and I'll furnish any  
11           other details I may know."

12           There is another e-mail from Dave Waterworth, sent  
13           about an hour and five minutes later, on the same  
14           evening of 15th February of this year. The subject of  
15           this e-mail is captioned "Just one question":

16           "Hello again Graham.

17           "In the preceding years [he means in the following  
18           years] after the sighting, my Dad never really mentioned  
19           it, I think because he was so shocked by the event and  
20           he thought that no one would believe his story.

21           "It's only in the passing the years that the story  
22           has become so big. Unfortunately, as you know, my Dad  
23           died in 1990 and the story has really taken off to  
24           a much greater extent in the past 14 years. I do know  
25           that when the story broke in the media it did worry my

1 Dad. I don't think he wasn't too keen being labelled  
2 a nutcase or a liar."

3 Next we have, at 31, an e-mail from Carole Whitham,  
4 nee Waterworth, Mr Waterworth's daughter. It is dated,  
5 you will note, 16th February 2004. She describes the  
6 day her father told her he had seen John Doone. This is  
7 what she says:

8 "I Carole A Whitham, nee Waterworth..."

9 Just pausing there, sir, this particular e-mail, you  
10 may notice, emanates from not Carole Whitham but  
11 florange2@btopenworld.com. The subject of the e-mail  
12 that florange2@btopenworld.com appears to be sending is  
13 "Carole". Florance is the mother of Mrs Whitham.

14 The communication reads:

15 "I Carole A Whitham, nee Waterworth,

16 "I was 26 years old when my father informed my mom,  
17 my brother and myself, he had seen John Doone on that  
18 day in Port Elizabeth, South Africa. He was very shaken  
19 and upset about it. He truly believed, all the years up  
20 to his death, that he had seen John and I believed him."

21 That is Carole Whitham.

22 Next, page 23 of the same section. This  
23 communication is, again, somewhat curious. It is  
24 a typed statement, there is no handwritten signature on  
25 it at all, but it appears to be a statement of

1 Florance Lund:

2 "I, Florance Lund" -- the statement is made on  
3 12th February of this year -- "was the wife of  
4 Alan Waterworth at the time of the alleged sighting of  
5 John Doone in 1978, in Port Elizabeth, South Africa.  
6 Along with my daughter and son, Alan told us what he had  
7 seen. Now, as then, I have no reason to disbelieve  
8 anything he told us, as he himself was convinced."

9 Next, page 24.

10 MR JUSTICE DAVID STEEL: We ought to take a break soon.

11 Shall we do that now?

12 MR SALOMAN: Certainly.

13 (3.10 pm)

14 (A short break)

15 (3.25 pm)

16 MR SALOMAN: Sir, we were about to look at page 24, and

17 I was reminded to remind you all that it is AG36/48 and  
18 then, in the sequence following, point 24.

19 It is a three-page document sent by Frances Charles  
20 on 14th February, described as, "To whom it may concern.  
21 Statement from Frances Charles -- my association with  
22 Florance and Alan Waterworth".

23 She records her association with Florance and  
24 Alan Waterworth and describes her enquiries made in 1999  
25 to 2000 in relation to the alleged sighting.

1            "In December 1978 I emigrated to Port Elizabeth,  
2            South Africa from Salisbury, Rhodesia with my husband  
3            and two small children. In June 1979 we purchased  
4            a house, no 52 Benno Road, Charlo, Port Elizabeth and  
5            introduced ourselves to our neighbours. Florance and  
6            Alan Waterworth lived next door to us. Florance and  
7            I chatted to one another over the next few months and  
8            I often saw Alan Waterworth taking his son David to  
9            cycle race meetings with David's bike on the roof rack  
10           of his vehicle" --

11 MR JUSTICE DAVID STEEL: Forgive me for interrupting. Can  
12           I suggest we perhaps focus on that bit of the statement  
13           which does perhaps grapple with the issue that you are  
14           asking us to decide.

15 MR SALOMAN: Yes, gladly. I think it is really two thirds  
16           of the way down the page:

17           "During 1999 and 2000 I spoke to various  
18           acquaintances" -- I am sorry, sir, I am afraid I am  
19           going to have to start a bit earlier than that.

20 MR JUSTICE DAVID STEEL: Do take it from wherever you think  
21           would be appropriate. I am sorry to have interrupted.  
22           I just thought there were some bits which may be rather  
23           extraneous.

24 MR SALOMAN: I am going to start halfway down the page:

25           "My host had indeed heard of the Gaul and remembered

1 a newspaper article in the South African Sunday Times.  
2 I confirmed with Florance that I would communicate with  
3 Graham Smith and, in fact, Graham and my host in  
4 Spalding spoke to one another on the phone. After  
5 a further two weeks holiday I returned to Port Elizabeth  
6 at the end of July 1999 and asked my husband whether  
7 Alan had ever mentioned the Gaul and John Doone. He did  
8 not recall Alan ever mentioning the aforesaid.

9 "During 1999 and 2000 I spoke to various  
10 acquaintances regarding the Gaul and corresponded with  
11 Graham Smith first by fax and then by e-mail. Having  
12 received copies of the article on the alleged sighting  
13 of John Doone by Alan Waterworth at the Red Lion Hotel,  
14 I also took photographs of the Red Lion Hotel, sent  
15 these over to Graham Smith, and I spoke on a number of  
16 occasions to the Port Captain in Port Elizabeth. He was  
17 most helpful and researched his records in connection  
18 with the arrival and departure of the ship the Maurice  
19 in Port Elizabeth harbour. The Maurice was a ship which  
20 had docked in Port Elizabeth the same week that  
21 Alan Waterworth allegedly saw John Doone. The Maurice  
22 had docked in Port Elizabeth for one of the crew to  
23 receive medical treatment. This was confirmed by  
24 medical records at St Josephs Hospital, off Park Drive,  
25 now renamed St George's Hospital."

1           Pausing there, sir, you will already have seen from  
2           the Port Elizabeth Hospital letter that the first  
3           mention of the dates 11th to 15th October were as dates  
4           provided by the St Josephs Hospital, where a sick seaman  
5           had been attended to from the ship Great Maurice. Those  
6           dates were produced in answer to a request from  
7           Mrs Parker as to whether anyone had been admitted by the  
8           Provincial Hospital "during 1978".

9           "This was confirmed by medical records at St Josephs  
10          Hospital. I also learned from the Port Captain that  
11          a record was kept of all crew members who visited  
12          Port Elizabeth off the ships. This was handed to the  
13          relevant authorities. In this case the Maurice was  
14          registered as having Greek owners and the list was then  
15          sent to the Greek consulate in Port Elizabeth. In turn,  
16          these records were then sent on to either Greece or  
17          Cyprus after approximately one year. Sheila Doone also  
18          spoke to me on the telephone from England and I agreed  
19          that I would assist, where possible, in gaining any  
20          relevant information.

21          "In 2001 I travelled to Johannesburg and stayed  
22          overnight in Bryanstone. It turned out that I was one  
23          mile away from the Bantry Road house that featured in  
24          a letter to Mrs Betty Parker."

25          I am not sure whether the next section is really of

1 assistance, until about a third of the way down, about  
2 12/13 lines down:

3 "The owners were listed as Management Shipping and  
4 Trading Company. This was the same company that wrote  
5 a letter to Betty Parker confirming that 'a John Doone'  
6 had been in their employ in 1982 but that they had no  
7 further records."

8 Sir, that is not quite an accurate account of the  
9 letter that Management Shipping and Trading Company sent  
10 at all.

11 I do not think that the next several dense lines  
12 take us further forward, but you will read it, sir, to  
13 yourself.

14 Two thirds of the way down, a sentence starting, "In  
15 communication with Graham Smith ...":

16 "In communication with Graham Smith I learned that  
17 at the time of the alleged sighting of John Doone,  
18 clothing had been left at the Red Lion Hotel. The  
19 clothing was identified as having belonged to a seaman  
20 from the North of England. The Red Lion Hotel had also  
21 changed owners and the contents of the hotel were  
22 dispersed."

23 This is a very interesting revelation, sir, around  
24 the year 2000 that this information is obtained about  
25 clothing left at a hotel in Port Elizabeth in or about

1 1978.

2 "However, there were records indicating that various  
3 items including the seaman's clothing had been sent to  
4 Durban for storage. The storage company was contacted  
5 but confirmed that after ten years any items not claimed  
6 were disposed of. The present owner of the Red Lion  
7 Hotel has also been contacted on numerous occasions but  
8 no other records/clothing have been found ...

9 "Since then, the wreck of the Gaul has been found,  
10 DNA evidence gained, but the mystery of John Doone  
11 continues ... The most important fact remains -- why can  
12 Sheila Doone not marry her partner Ernest Green. Why  
13 has Sheila Doone been told that in order to marry  
14 Ernest Green, she must divorce John Doone. If  
15 Alan Waterworth's sighting of John Doone is correct, why  
16 did John Doone disappear from the Red Lion Hotel. Why  
17 was there only one Greek ship in the Port Elizabeth.  
18 Harbour that week. The Maurice was not scheduled to  
19 dock in Port Elizabeth harbour. Serkis Dikici was the  
20 sick seaman taken ashore. I wonder who he was and where  
21 he went to ...

22 "As far as can be ascertained the Waterworth family  
23 had no contact with Sheila and John Doone whilst the  
24 Waterworth family were in South Africa and it would  
25 indeed have been a shock for John Doone to have

1 encountered Alan Waterworth in a bar at the Red Lion  
2 Hotel, in Port Elizabeth. John Doone and  
3 Alan Waterworth had worked together in England prior to  
4 Alan Waterworth and family emigrating to South Africa,  
5 so it certainly seems that this would not be a case of  
6 mistaken identity."

7 Sir, so great, it seems, was John Doone's shock that  
8 an old friend and established colleague of his,  
9 Alan Waterworth, when he sighted Mr Waterworth for  
10 himself over the other side of the bar, it caused him to  
11 turn on his heels and leave the bar altogether. So much  
12 for Mrs Charles' statement.

13 Next we have a handwritten statement of Mrs Doone,  
14 at page 29 of the same section. Her statement was made  
15 on 16th February, and it details that on the eighth  
16 anniversary of the disappearance of the Gaul, which, of  
17 course, was on 8th February 1982, she was telephoned by  
18 a lady, presumably Carole Whitham nee Waterworth,  
19 telling her that her Dad had seen John in a bar in  
20 Port Elizabeth, South Africa in 1978, and generally  
21 recounting the incident as above. I will read it:

22 "About 10 pm on the eighth anniversary of the  
23 disappearance of the Gaul the phone rang. This lady  
24 told me her Dad had seen John in a bar in Port Elizabeth  
25 South Africa in 1978. I didn't know what to say. Then

1 I asked her if I could tell the local paper, she agreed.  
2 The next morning I rang our local paper, they asked me  
3 to go to the office. Later that afternoon then they  
4 would ring Port Elizabeth. The reporter spoke to  
5 Alan Waterworth, then I spoke to him. I knew him. John  
6 used to work with him. He told me the same story as his  
7 daughter had told me the night before. He went into the  
8 bar of the Red Lion, looked across the bar, saw John,  
9 went round to see John, but he had disappeared. It  
10 upset him. He knew John was on the Gaul. He didn't  
11 want to tell me. He knew it would upset me, so he told  
12 nobody, only his family."

13 Then a further handwritten statement of Mrs Doone,  
14 dated 16th February 2004, at page 30:

15 "Statement from Mrs Sheila Doone ...

16 "One night about three years ago the phone rang, it  
17 was about 11 pm. The conversation went as follows.

18 "Me: Hello.

19 "Caller: Do you want some of John's radio  
20 equipment?

21 "Me: Pardon.

22 "Caller: Do you want some of John's radio  
23 equipment?

24 "Me: Who is this?

25 "Caller: Get yourself here. (He gave me an address

1 in Burnley, can't remember it).

2 "Me: No, you come here tomorrow. You know the  
3 address.

4 "Nobody came.

5 "Mrs S Doone."

6 Sir, the OFI and this RFI has elicited relevant  
7 evidence. First, Skipper Thresh told us that sched  
8 reports came through in Morse code and that the radio  
9 operator would decode them: RFI Day 18, page 92, line 6  
10 to 11 and page 97/1 to 4. The Gaul reported at  
11 skipper's sched at 10.30 on 8th February 1974.

12 Secondly, sir, at OFI5, pages 14 to 15, we have  
13 a record of the Gaul having sent two telegrams at 1106  
14 and 1109 hours on 8th February 1974.

15 Thirdly, at OFI Day 5, page 30, lines 12 to 13 and  
16 page 35, lines 2 to 14, we have the evidence of the  
17 shipping master Robert Northard. It concerns his  
18 contemporaneous notebook at OFI5, page 77. Could we  
19 please look at that. OFI5, page 77 is a dense list,  
20 written in handwriting, with against most of the names  
21 a tick. On the left-hand side you see an entry for  
22 "J Doone, Nord Hotel, Anlaby Road" and a tick against  
23 it; that being Mr Northard's tick, as confirming that  
24 John Doone boarded the ship and that he, Robert  
25 Northard, checked him on.

1           Mr Northard gave oral evidence in this matter at  
2 Day 5 of the transcript, page 30, first of all,  
3 questions 12 to 13. He is being asked about the  
4 22nd January 1974 entry:

5           "Question: Did you see her sail?

6           "Answer: Yes.

7           "Question: What were you doing between 2 am and  
8 6 am?

9           "Answer: Checking the crew.

10          "Question: Where?

11          "Answer: On the dock and on the ship."

12          At page 32, Mr Brice asks Mr Northard, at question  
13 14, on page 32:

14          "... I would like you to read down the list there,  
15 count the people who boarded the ship so far as you knew  
16 in Hull and who were official members of the crew in  
17 Hull, would you? Would you just count them?

18          "Answer: Just in Hull, yes. George Petty, the  
19 mate, Sidney Broom, senior officer, Chisholme, junior  
20 officer, Norman Peterson, the cook, a second cook was  
21 D Wheater, the cook assistant was KJ Straker, wireless  
22 operator J Doone; deckhands B Dubbing, C Nowles,  
23 PE~Clark, H Wilson, R Chisholme, J O'Brien, F Riley."

24          And he goes on to deal with other crew members after  
25 that. That is all we need see there.

1           Mate Petty gave evidence that he was introduced to  
2           John Doone on the day he joined the ship in dock, and  
3           that he was on board for the voyage -- that is to say  
4           Doone was on board for the voyage. He also gave  
5           evidence to us that when he left the ship at Lodigen on  
6           26th January 1974, Doone did not get off but remained on  
7           the ship: RFI Day 2, page 62 and OFI1, page 121.

8           Finally, Mate Spurgeon joined the vessel at Tromso  
9           on 28th January, two days later. Mr Oswald gave us  
10          evidence that none of the crew members were flown back  
11          at the time Mate Spurgeon joined the vessel at Tromso.  
12          The references are given.

13          Claims that John Doone was, or was believed to be,  
14          in South Africa are based solely on the evidence of  
15          visual identification of Mr Alan Waterworth. Not only  
16          human experience, but long experience of courts of law  
17          has shown that claims based on evidence of visual  
18          identification require to be approached with great  
19          caution. The reason for that is that it is possible for  
20          an entirely honest witness to make a mistaken  
21          identification. Such witnesses, witnesses who give  
22          evidence of having seen or sighted other persons, are  
23          often palpably honest witnesses; they are often  
24          convinced that they have seen Mr X; and they can be very  
25          convincing.

1           History shows countless examples of honest  
2 witnesses, and apparently convincing witnesses, making  
3 mistakes over identification. They prove to be  
4 convinced people but mistaken people. That is why up  
5 and down the courts of law every single day the greatest  
6 caution is taken before relying upon evidence of visual  
7 identification.

8           In this case, the claim is based on a fleeting  
9 observation by Mr Alan Waterworth from one side of  
10 a public bar to another in 1978. It was fleeting  
11 because, on Mr Waterworth's evidence, Doone had  
12 disappeared by the very time that Waterworth had himself  
13 gone round to the other side of the bar to speak to him.  
14 It took some three and a half years for anybody to tell  
15 Mrs Doone about the sighting. Obviously it put her in  
16 a great uncertainty and state of anxiety about it, and  
17 it has had, as you know, very unfortunate consequences  
18 for her.

19           Those being the facts, the court is respectfully  
20 asked to decide the question whether Radio Operator  
21 Doone sank with the Gaul.

22           As to the second topic of John Doone's physical  
23 condition, I need say only two things. The suggestion  
24 that he may have had an arthritic hip, which was made in  
25 the preliminary investigation report in April 1974, was

1           contrary to the medical records that you have seen, that  
2           we do not need to revisit, at bundle AG12, 157 to 160.  
3           Those medical records testify that Mr Doone had -- and  
4           I quote -- "the full use of all his limbs, was  
5           physically suitable for his employment and that there  
6           were no circumstances connected with his health which  
7           disqualified him from performing efficiently the duties  
8           of a radio operator on a ship".

9           You will recall that I exhaustively covered these  
10          medical details with Mr Scott in evidence on RFI Day 5,  
11          page 116 in particular.

12          The evidence that he had any arthritic problem was  
13          also contrary to the evidence of Mrs Sheila Doone read  
14          out on Day 10, page 36, lines 20 and following.

15          In conclusion, we respectfully ask the court to  
16          consider making a finding which suitably reflects the  
17          evidence as to John Doone's physical condition, and also  
18          in finding, if you will, that insofar as the crew  
19          generally became disabled at some critical stage of this  
20          casualty, John Doone was no better or worse able to cope  
21          with those circumstances than any of the other crew  
22          members.

23          Sir, those are my submissions.

24          MR JUSTICE DAVID STEEL: I am grateful to you, Mr Saloman,  
25          and of course your junior for all the work that has gone

1 into that presentation, which is enormously helpful to  
2 us. Thank you very much indeed.

3 Now, Mr Meeson, I know there are one or two members  
4 of the families who would like to say something to us.  
5 I think we have got some time to hear from one or two  
6 today, and then perhaps anybody else tomorrow, if that  
7 is convenient.

8 MR MEESON: Sir, yes.

9 MR JUSTICE DAVID STEEL: They are extremely welcome to come  
10 forward in any order they like, and if they want to be  
11 accompanied by a friend or family, that is entirely all  
12 right with me. Perhaps they could come and sit up here  
13 much closer.

14 MR MEESON: Sir, the first person is Mrs Pickering.

15 MR JUSTICE DAVID STEEL: Mrs Pickering is Mr Nellist's  
16 sister; is that right?

17 Statement by MRS SHIRLEY PICKERING

18 MR JUSTICE DAVID STEEL: Hello, Mrs Pickering. Take a seat,  
19 please. Mr Meeson will look after you. Please do not  
20 be nervous.

21 MRS PICKERING: No, I am not, not at all.

22 MR JUSTICE DAVID STEEL: We are just going to get you  
23 a microphone so that you do not have to shout. You have  
24 our attention, you have the floor.

25 MRS PICKERING: I am hoping that you will indulge me because

1 I just want to set the character of my brother,  
2 Skipper Peter Nellist. We can say all the words we  
3 want, I have got a list of words here that have been  
4 used to describe him, but they are words, are they not?  
5 I would like to just tell a story, if I may, and of  
6 course to tell the story I have got to set the scene,  
7 but it only takes five minutes.

8 MR JUSTICE DAVID STEEL: No hurry at all.

9 MRS PICKERING: Just to prove what a resourceful person he  
10 was. I would say resourceful and resilient. When Peter  
11 had a decision to make, he did not dither or behave  
12 rashly; he would think through a problem and act  
13 decisively.

14 Now I will set the scene. It would be 1940 to 1941,  
15 the Second World War, and at that time there was only  
16 four in the family: Peter, aged 11; my sister, Valerie,  
17 10; I was 8; and a younger sister who was 6. Our father  
18 was a skipper on minesweepers, sailing out of Aberdeen  
19 and Oban, and he wanted to get the family to a safer  
20 place because Hull was rather bad at that time and he  
21 wanted to make sure we were safe while he was away  
22 minesweeping.

23 So he scoured around the Aberdeen area, and I do not  
24 know whether you know about these little stone cottages  
25 in the middle of fields in Scotland, a but'n ben, it

1 would be, a little place, and he found one which he  
2 could rent. It was in the middle of a field, in the  
3 middle half seemed like nowhere in the Highlands of  
4 Scotland. No electric, no gas, no water, no drains, no  
5 phone, no coalman or milkman.

6           Anyway, my father repaired the roof and put new  
7 gutters on, with fall pipes that came into barrels  
8 because you needed your rainwater. He put a galley  
9 stove in the kitchen and built four bunk beds for us  
10 children. And then he set about making a sawing horse,  
11 and he would use a huge cross cut saw, a large axe,  
12 a chopper, a milkmaid yoke and a large tank with a tap  
13 at the bottom.

14           The sawing horse was for logs. We needed a fire to  
15 cook by, and he had this galley stove. So he showed us  
16 how to saw logs with this huge saw, and how to split the  
17 thickest of the logs with the axe. He also told Peter  
18 that there would be trouble if he came home from sea and  
19 did not find the barn filled from floor to ceiling with  
20 logs. You had to be ready for every eventuality. So  
21 that took care of the logs. Although how we thought  
22 that we, at our ages, were going to use this cross cut  
23 saw, but we did. Every one of us used that cross cut  
24 saw, and the axe.

25           Then became the problem of water. Well this cottage

1 was called Cairnwell, because it was on a hill and there  
2 was a well somewhere about. One field away there was an  
3 underground spring, and Dad showed us how to put the  
4 milkmaid's yoke on, and you would walk across this field  
5 and fill your two buckets of water, bend down and hook  
6 your milkmaid's yoke onto them. Every Saturday morning  
7 we had to bring up 22 buckets of water -- I cannot  
8 believe that we did it, really, we were so small -- to  
9 fill this huge tank that he had brought. So that was  
10 our drinking water. And, of course, my Mum used the  
11 rainwater that came into the barrels for washing clothes  
12 et cetera.

13 Now onto the toilet. He built a sentry box down at  
14 the other end of the garden and made sort of an earth  
15 closet in there. But, of course, that had to be emptied  
16 every week, discreetly, and it was usually Peter and  
17 I who did that. It was quite a pantomime, and I will  
18 not talk any more about that because we all know how to  
19 clean and get rid of that sort of stuff. I will say  
20 there is some beautiful bright yellow gorse bushes in  
21 the corner of a field in Scotland. So that was our  
22 Saturday morning routine for four years. We had the 22  
23 buckets of water to fetch, and then we had the toilet to  
24 see to.

25 And then of course for lighting we needed paraffin

1 lamps because there were paraffin lamps or candles.  
2 That meant that the paraffin had to be carried from  
3 a village three miles away, and so had all the shopping.  
4 We bought milk and butter from the nearest farm. We  
5 jogged three miles to school every morning, and I cannot  
6 ever remember being late. And funnily enough, we all  
7 passed our scholarships while we were there.

8 We had quite long holidays because there were no men  
9 to work on the farms, and at one time I remember we  
10 picked potatoes and helped with the harvest with Italian  
11 prisoners of war.

12 I have said all this, but the main person in all of  
13 this was Peter. I know we helped him, but he was the  
14 one who showed us what to do and watched that we did it  
15 correctly. And during the winter months he would have  
16 even more things to think about. For instance, he would  
17 always take a spade into the porch of the cottage on  
18 a night throughout all the winter months because some  
19 mornings you would wake up and the cottage would  
20 actually be practically buried by snow. You would not  
21 be able to get through the front door; it was just full  
22 of snow, and the windows were completely covered by  
23 snow. But Peter could dig us out, and of course he  
24 could dig a path to the barn so we could get fresh logs,  
25 even though we could not go to school when it was really

1 bad.

2 But this was Peter, and remembering how young he  
3 was. And that is the sort of life we were leading,  
4 a bit like the Waltons.

5 When we arrived in Scotland there were four of us,  
6 and when we came back to Hull in November 1945, we were  
7 six. In all that time there had been two births. We  
8 did have various crises, but Peter always did what had  
9 to be done, and I remember one night when the younger  
10 sister over here was born, he was out at about 2 o'clock  
11 in the morning with a torch, in the pitch black, trying  
12 to find a doctor, who was out on another case. Really,  
13 we thought the mother and Sheila would lose their lives  
14 that night. It was a terrible night. But we got  
15 through it, again. So for all those four years Peter  
16 kept us together. None of us were hurt and none of us  
17 went hungry.

18 I know we all helped, but Peter watched over us when  
19 we let him.

20 I would just like to say please forgive me for  
21 leaving my Mum out of this story. We had a wonderful  
22 mother. She cooked, she baked fresh bread every day,  
23 washed, ironed and looked after us all, and that is all  
24 you could ask of her. And Dad did have leave reasonably  
25 often, and he would cast a stern eye over us and tell us

1 about all the things we had not done.

2 I am sorry if I have made Peter sound like an angel.  
3 He was not, and neither were we. But we all have great  
4 memories of him, as do my daughters. He was great fun  
5 and had a terrific imagination, and I could speak  
6 endlessly about him. But he was in fact a safe pair of  
7 hands, and I know that on that voyage the safety of his  
8 crew and his ship would be his priority.

9 Thank you.

10 MR JUSTICE DAVID STEEL: Thank you very much. Those are  
11 remarkable memories. I am sorry my grandchildren are  
12 not here to hear them.

13 A. Thank you.

14 MR JUSTICE DAVID STEEL: Yes, Mr Meeson.

15 MR MEESON: I am not sure if Mr Atkinson is here. Yes, he  
16 is.

17 Statement by MR KEVIN ATKINSON

18 MR ATKINSON: I didn't realise it was all going to be -- at  
19 the end of it I was going to just have a little word.

20 MR JUSTICE DAVID STEEL: Well, you are welcome to do that as  
21 well, if that would suit you, but it seems sensible to  
22 let everybody hear what you want to say.

23 MR ATKINSON: It is just my thoughts --

24 MR JUSTICE DAVID STEEL: Thank you, Mr Atkinson, yes.

25 MR ATKINSON: -- and I think the MAIB didn't do a very good

1 job, and I think that, using your words, if you hoisted  
2 this cable up, I don't think it needs hoisting, a good  
3 tug and the government would be on the end of it with  
4 John Prescott anchoring it. That is what I think.

5 And as for the videos and all that that we saw at  
6 the Guild Hall, I took my own little video with me and  
7 it doesn't match up to what's been said here. That's  
8 all I wanted to say. That's my opinion.

9 I think it could have capsized and all that, but  
10 that cable was too much. That's all I wanted to say.

11 MR JUSTICE DAVID STEEL: Thank you very much.

12 Well, Mr Meeson anybody else is not here today; is  
13 that right? You have one or two --

14 MR MEESON: I have some statements to read out which I could  
15 perhaps do now.

16 MR JUSTICE DAVID STEEL: Perhaps that is as good a moment as  
17 any. Yes.

18 Statements read by MR MEESON

19 MR MEESON: Sir, can I start with a statement from  
20 Jennifer-Anne Griffin, who is the sister of John  
21 Heywood, the factory hand, who you may recall was not  
22 scheduled to sail on the Gaul but was signed on as an  
23 extra hand. She says:

24 "Sir, my name is Jennifer-Anne Griffin and I am the  
25 sister of factory hand John Heywood.

1           "When the MAIB video of the 1998 survey was shown in  
2           the Guild Hall, I along with other family members  
3           watched it for five days.

4           "It was the first time we had seen the ship since  
5           her loss and watching that tape was very traumatic for  
6           all of us. I will never forget the moment when the ROV  
7           entered the mate's cabin and showed the open drawers,  
8           the bottomless chair and a table with an open suitcase  
9           on it. The ROV swung away from the table so the video  
10          operators were asked to stop the tape and rewind and  
11          freeze frame, to make sure that what we were looking at  
12          was indeed a suitcase, there was no mistake.

13          "I have not forgotten this because it was one of the  
14          few personal possessions seen. What I saw could not  
15          possibly be mistaken for anything else. One or two  
16          people may think that a cupboard could be a suitcase  
17          because of camera angles and murky conditions but  
18          certainly not a room full of people."

19          That is signed by Mrs Griffin.

20          Sir, there is also a statement from Mrs Griffin's  
21          husband, Mr Terence Griffin. He says:

22          "I am writing this statement in support of my wife  
23          and other relatives of the Gaul's crew.

24          "I have no axe to grind not having personally known  
25          anyone aboard the Gaul. To me it is merely a matter of

1 academic interest.

2 "There appears to be some dispute as to whether or  
3 not an open suitcase was seen in the video taken during  
4 the 1998 survey by the Mansal 18.

5 "Having been present at the viewing at the Guild  
6 Hall in Hull I can verify that an open suitcase was seen  
7 on a table in the mate's cabin. In fact it caused quite  
8 a stir at the time, it being the first and only artefact  
9 seen that was certifiably personal to any member of the  
10 crew. The video was stopped and replayed to verify what  
11 was seen and put into still mode so that we could be  
12 certain of what we saw. There was certainly no mistake  
13 as to what it was that we were looking at.

14 "If a decision is made without verifying what has  
15 happened to the video clip of the suitcase then the  
16 outcome of the Inquiry will always be in question as any  
17 decision will have been made without all of the evidence  
18 being presented.

19 "The question will always be: if that clip has been  
20 withheld, what else has?"

21 And then he turns on to consider some other matters:

22 "If the Gaul sank in ten minutes, as has been  
23 postulated, that means she had to take on 1,851 tonnes  
24 (or about 66,340 cubic feet) of water in that time to  
25 negate her buoyancy.

1            "That equals approximately 3,085 tonnes per second  
2            (110.5664 cubic feet). Once below the surface the  
3            remaining air space (approximately 120,000 cubic feet)  
4            would be displaced by water (some 3,300 tons) at an ever  
5            increasing rate dictated by the subsequent increase in  
6            pressure (0.5 lbs per square inch per foot depth). This  
7            would occur in less time than it took the vessel to sink  
8            below the surface because of the increasing depth and  
9            therefore pressure. This is further explosive inrush of  
10           water to fill the void would have caused even more  
11           damage and mayhem, especially when any trapped air was  
12           released, destroying virtually all non-steel bulkheads  
13           and ripping internal doors from their hinges.

14           "This expected damage is not confirmed by the dive  
15           images so far recovered from any of the surveys  
16           conducted on the wreck."

17           Then he adds in parenthesis:

18           "(All volumes et cetera are guesstimated owing to the  
19           lack of access to working engineering drawings of the  
20           Gaul)."

21           He then says:

22           "Another point I would like to raise is the split in  
23           the port bow in the lower rear edge of the anchor hawse  
24           port. It is the strongest part of the plating being on  
25           a corner and the split edges appear to be turned in.

1 This is in opposition of all known physics as a split  
2 caused by pressure would occur at the weakest point, not  
3 on a corner as that would be one of the strongest points  
4 in the structure and in my experience the edges would  
5 not curl in as they appear to have done in this  
6 instance. This is because of the venturi effect, as the  
7 split occurs and water rushes through the pressure drops  
8 drastically. I speak from experience because as an  
9 engineer I was often called upon to do pressure testing  
10 and have on more than one occasion seen the damage  
11 caused by the failure of components."

12 That is signed "Terence Griffin".

13 Sir, the next statement is a statement of  
14 Lynne Flay, who is the sister of Sidney Broom, the  
15 second officer. She says:

16 "As many family members of the crew of the Gaul  
17 hoped, I too have been hoping amongst hope to at least  
18 have some sort of sense made from the last 30 years of  
19 chaos, deceit and downright skulduggery. The families  
20 have been led one way then another. The so-called  
21 infamous "Stockdale Letters", the union's concerns of  
22 fishermen's safety at sea in 1974, they even sent their  
23 concerns to the MOD as it was felt the risk of the naval  
24 officers on board would jeopardise the safety of the  
25 deep water trawlers, was too great. This tribunal has

1       been given written evidence of this yet we hear MI5 and  
2       MI6 say this did not happen according to their records  
3       yet I believe a statement was made but no records were  
4       kept of officers boarding trawlers? Missing cables?  
5       Two surveys show this cable laid near the bow of the  
6       Gaul yet on the Seisranger in 2002 found this cable had  
7       vanished. Whether this was relevant to the casualty or  
8       not, this was weird to say the least.

9               "Mr Meeson has stated we cannot rely on witness  
10       statements from 1974 as over time this can become  
11       distorted. The writer concedes this to a point but what  
12       about convenient memory loss? There seems to be a lot  
13       of that about, or do we just believe what we are told  
14       to?

15              "My family, and I am sure others feel the same, have  
16       not gone through hell and back to be no further on than  
17       in 1974. All the families have ever wanted is the  
18       truth, nothing else, but I feel cheated by what has  
19       happened in this Inquiry. Counsel have got away with  
20       downright slander in some cases. Experts, well most of  
21       them could not answer any questions directly on C-Class  
22       trawlers and failed to find information on even some of  
23       the simplest things. All in all some of their lack of  
24       knowledge was ludicrous to say the least and I think it  
25       is safe to say that some of the families are more

1 confused now than ever before. I must say that it is  
2 noticeable that no factory hands or deckhands were  
3 called to give evidence. These are the very men we need  
4 as they worked in the areas that we need for their  
5 expertise, as this would help in the areas that have  
6 been mentioned so heavily in this Inquiry.

7 "The attack on Mr Peck I found unbelievable. This  
8 man came to the Inquiry to give his expert opinion on  
9 what is being called 'the mystery cable', not to submit  
10 scenarios on the cause of the casualty. It seems to  
11 have been conveniently forgotten this man could not  
12 answer questions on SOSUS cables directly as a result of  
13 signing the Official Secrets Act. I am sure Mr Cooper  
14 can tell us what happens to one who breaches this Act.  
15 The writer could continue on and on but I feel the point  
16 has been made. Let us hope we do see some light after  
17 a very dark 30 years."

18 That is signed by Lynne Flay.

19 The next statement is from Mrs Parker, who  
20 I understand to be the guardian of Harold Wilson,  
21 a spare hand. This is in the form of a letter, and it  
22 says:

23 "Dear Mr Laurance O'Dea,

24 "I write to you, sir, on behalf of myself and my  
25 family who have the same opinion as my Dad. I do not

1 wish to speak but would like you to note our theories  
2 which we believe could have happened.

3 "1. We believe the reason no search was made  
4 straight away for the Gaul was to let the Russians  
5 escort her to their nearest naval port.

6 "2. We still believe (like many more people) that  
7 the Gaul was on a spying mission on this her last trip,  
8 boarded and arrested while sheltering in a Norwegian  
9 fjord.

10 "3. Gaul lies too neat on the seabed to have been  
11 overwhelmed.

12 "4. We still feel the Gaul when first found should  
13 have been raised into shallow waters. In this way  
14 independent divers could have boarded her. This would  
15 have saved time and money and the real truth would have  
16 been told to all.

17 "5. As for these bones being found, could have been  
18 a plant."

19 "Yours faithfully, Mrs B Parker."

20 Sir, the next statement is from Pauline Sewell, who  
21 was the sister of Billy North, a factory hand:

22 "[She] would like to know why the crew's families  
23 were paid up to August 1974. When other ships have been  
24 lost they were only paid for a matter of weeks."

25 Her second question is:

1           "What was the work carried out on the Gaul when in  
2 dry dock? Length of time in dock (over one week). Does  
3 this mean she was having major repairs? If so, what was  
4 this for? The date for this period was around Christmas  
5 time until they sailed on 22nd January 1974."

6           The next letter is from Mrs Betts, the sister of  
7 Billy Jones, a factory hand. She says:

8           "I am Beryl Betts. My younger brother, Billy Jones,  
9 was a factory hand on the Gaul; he was 26 years old when  
10 he was lost on the trawler.

11           "This new Inquiry is something that I and some of  
12 the other relatives have been campaigning to have for  
13 a very long time. We thought that the first Inquiry had  
14 been a whitewash and we believed that something more  
15 than bad weather was responsible for the loss. I often  
16 used to see John Prescott and other local MPs about it  
17 and I also contacted a lot of other people as well.  
18 After the Labour Party got back in power I was very  
19 pleased when Mr Prescott said there would be another  
20 Inquiry, because I thought that this time it would be  
21 open and truthful. But that does not appear to be the  
22 case.

23           "There have been some important points that I do not  
24 think have been fully looked into; I am referring  
25 particularly to Mr Long's theory that the trawler may

1 have been fishing. Mr Long was, in my opinion, very  
2 badly treated by everybody connected with the Inquiry.

3 "I had to push very hard to have him appointed,  
4 although the lawyers had not retained anyone who had  
5 proper fishing experience. Nevertheless Mr Gold did not  
6 want to engage him and it was only after a meeting that  
7 I had with John Prescott that he said that he would.  
8 But after Mr Gold had been to see Mr Long and he had  
9 written his preliminary report, Mr Gold used to tell me  
10 that he was a valuable asset. But when Mr Long ran into  
11 difficulties agreeing matters with the Treasury  
12 Solicitor last year, Mr Gold did not help him to sort  
13 things out; I even had to stand up for Mr Long myself in  
14 court last July when our barrister didn't.

15 "We would have liked to have had a lot more  
16 investigation done into Mr Long's theory, which could  
17 have happened if he had been given the information that  
18 he kept asking for and he had had a proper chance to  
19 explain it. As it is, he became ill and his doctor told  
20 him that he was not well enough to travel to Hull.  
21 Mr Gold always said that he wanted all theories for the  
22 loss of the Gaul to be fully considered. I find that  
23 hard to accept so far as Mr Long's theory is concerned.  
24 I think that our lawyers joined up with everybody in  
25 condemning his ideas, even though he was never given

1 a proper opportunity to prepare a full report with all  
2 the information that he asked for. I remember that in  
3 his evidence, Mr Thresh said something about what  
4 Mr Long had written being the scribbling of a madman and  
5 threw it to one side. He said that he did not even read  
6 the report. I have a very strong feeling that our  
7 lawyers abandoned Mr Long because they listened to what  
8 Mr Thresh and others working for the official team had  
9 to say, rather than Mr Long. If they had supported him  
10 it might have been a different matter.

11 "Although no one wants to believe that the Gaul  
12 could have been fishing, the only other reason that they  
13 can come up with is that water must have come in through  
14 the duff and offal chutes.

15 "I am not a technical person, but from what I have  
16 heard, it seems to me that the experts have assumed that  
17 everything that could possibly have gone wrong on the  
18 Gaul did go wrong although that is all their theory,  
19 rather than what someone saw happen.

20 "Also as far as I can remember, none of the  
21 witnesses have talked about the fact that if there had  
22 been a lot of water sloshing about the factory deck as  
23 the trawler rolled from side to side, some of it might  
24 have tipped into the engine room below. I would also  
25 have expected that Mr Suddaby would have been questioned

1 about what was said in Norman Fenton's programme about  
2 the fact that if he had been the skipper he was certain  
3 that he would have been able to tell from the feel of  
4 the trawler when he was on the bridge that there was  
5 a problem below. Both these points were raised before  
6 the hearing started.

7 "Concerning the cable, Mr Long told me that he had  
8 given Mr Gold the name of Mr Peck as someone who might  
9 be able to help in identifying the cable a very long  
10 time ago, but Mr Gold never did anything about it.  
11 I got the impression that this was another topic about  
12 which our lawyers were not interested in.

13 "It seems to me that our lawyers have no time for  
14 people like Mr Long and Mr Fenton, who have wanted to  
15 make sure that the more controversial possibilities were  
16 also fully looked at. I wish that I could say the same  
17 about the people who have been paid to look after our  
18 interests, but I cannot. I have been at the Inquiry  
19 since it started. None of our lawyers have taken the  
20 trouble to talk to us about how it is going on. If we  
21 are not told what is going on it is not easy to get  
22 a clear understanding, and we cannot discuss with the  
23 lawyers what points we think are important. It is as if  
24 they are in their own little world doing exactly what  
25 they want to do, as they always have done.

1 "Someone, who is very closely involved in the  
2 Inquiry told me and two colleagues in London last year  
3 that this was going to be a whitewash. From what has  
4 been said in court over the last few weeks I have to  
5 agree.

6 "The only way this mystery could have been solved  
7 once and for all was to have lifted her."

8 That is sent by Mrs Betts.

9 Finally, I have a short statement from Caron Jones,  
10 who is also a sister of Billy Jones. She says:

11 "I, Caron Jones, would just like to thank Max Gold,  
12 Barry Tindall and everyone concerned for their help and  
13 support over the years. Everyone is entitled to views.  
14 It seems everyone concerned with this investigation has  
15 covered every possible scenario."

16 That is signed "C Jones".

17 Sir, I think there may be some more people tomorrow,  
18 but that is what I have for this afternoon.

19 MR JUSTICE DAVID STEEL: Let us hear from anybody else who  
20 wants to either give you a statement or to address us  
21 orally tomorrow morning.

22 Then Mr Munyard, I assume, will address us, and  
23 Mr Cooper, and you will have some points in reply.

24 MR MEESON: Yes.

25 MR JUSTICE DAVID STEEL: I hope that we will be able to

1 finish tomorrow. In the expectation that we probably  
2 can, because I have got quite a lot of other things on  
3 my plate, it would be difficult to start before 10, if  
4 that is not too inconvenient, so we will meet at 10 and  
5 we will sit, if necessary, to the normal finishing time.

6 Thank you very much.

7 (4.23 pm)

8 (The court adjourned until 10.00 am  
9 on Friday, 27th February 2004)

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25

INDEX

1		
2		PAGE
3	Closing Submissions by MR SALOMAN .....	2
	(continued)	
4	Statement by MRS SHIRLEY PICKERING .....	96
5	Statement by MR KEVIN ATKINSON .....	102
6	Statements read by MR MEESON .....	103
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

