

< 1> <Day 10.  
< 2> Wednesday, 18th October 2000.  
< 3> (10.00 a.m.)  
< 4> LORD JUSTICE CLARKE: Perhaps we can begin.  
< 5> MR TEARE: Mr Dwan?  
< 6> <MR KENNETH VICTOR DWAN, affirmed.  
< 7> <Examined by MR TEARE.  
< 8> Q. Good morning, is it Mr Dwan or Dwan?  
< 9> A. "Dwan".  
<10> Q. Mr Dwan, then volume 20 of the witness bundles, page  
<11> 5878. At page 5878 is there a copy of the statement of  
<12> the evidence that you have given to this Inquiry?  
<13> A. That is correct.  
<14> Q. Would you also look, please, at page 5906? Is that a copy  
<15> of a further statement which you have made in relation to  
<16> life saving appliances and escape routes?  
<17> A. Yes, it is.  
<18> Q. Mr Dwan, in late 1980s were you one of two directors of  
<19> Tidal Cruises with Mr Ludgrove?  
<20> A. That is correct.  
<21> Q. Which of you was responsible for safety of navigation of  
<22> the vessels owned and managed by Tidal Cruises?  
<23> A. I was.  
<24> Q. Was that a responsibility which was shared with  
<25> Mr Ludgrove?  
<26> A. It was shared in the fact that we spoke about everything

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- < 1> that needed to be spoken about, but the ultimate end story  
< 2> was that I had to implement it.
- < 3> Q. Could you look, please, at paragraph 28 of your first  
< 4> statement? At page 5884 in paragraph 28 you refer to  
< 5> auditing or monitoring the performance of the crews on the  
< 6> various vessels. Did you regard it as part of the  
< 7> function of ship management to monitor the operation of  
< 8> the vessels for which you were responsible?
- < 9> A. As much as possible, yes.
- <10> Q. Did you monitor the performance of crews on the vessels?
- <11> A. Most of the time, yes.
- <12> Q. How did you do that?
- <13> A. The fact that I was working on the boats and on the  
<14> moorings all day long, I was in constant contact with the  
<15> boats all day.
- <16> Q. It was easy for you to travel on any of the boats?
- <17> A. Yes, it was.
- <18> Q. It was easy for you to ask questions of the Skippers and  
<19> crews about their navigational practices?
- <20> A. I had the opportunity to, but it was mainly a more general  
<21> discussion than actually monitoring and asking them  
<22> questions.
- <23> Q. But if you had wished to ask them about their navigational  
<24> practices, could you have done so?
- <25> A. Yes, I could.
- <26> Q. As a result of such monitoring or auditing as you did, did

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< 1> you learn in 1988 and 1989 that Mr McGowan on the BOWBELLE  
< 2> -- on the MARCHIONESS when he was the second crew member  
< 3> did not regard it as his duty to keep a lookout?  
< 4> A. Could you ask me that again, please, sorry?  
< 5> Q. Did you learn in 1988 and 1989 that Mr McGowan, when  
< 6> acting as the second crew member on the MARCHIONESS, did  
< 7> not regard it as his duty to keep a lookout?  
< 8> A. No, I was not aware of that.  
< 9> Q. As a director of Tidal Cruises, did you ever consider what  
<10> would be a safe practice for keeping a lookout on the  
<11> MARCHIONESS?  
<12> A. Yes, I did.  
<13> Q. And what conclusion did you reach?  
<14> A. The conclusion of the company's system up until that time  
<15> of the Skipper being at the helm, the crew member being  
<16> around the wheelhouse most of the time or on the deck  
<17> around the wheelhouse most of the time, being able to look  
<18> aft at any time.  
<19> Q. That was a system which you thought was being operated?  
<20> A. It was a system I believed was being operated.  
<21> Q. Was the role of the second crew member in that system to  
<22> keep a continuous lookout or only to do so intermittently?  
<23> A. I would have thought intermittently.  
<24> Q. As director of Tidal Cruises, did you ever examine the  
<25> practices on the six vessels owned or managed by Tidal  
<26> Cruises to see what their practices were with regard to

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< 1> keeping a lookout?  
< 2> A. I did not examine as such, but the fact that I was working  
< 3> with every crew member, be it as a Captain on their boat  
< 4> or as a crew member on their boat, and I was satisfied  
< 5> with the procedures that were working at the time.  
< 6> Q. You say that you had considered what a safe system was, is  
< 7> it right that you gave no written instructions to the  
< 8> Skippers and crew to carry out that system?  
< 9> A. I personally would never have given a written instruction,  
<10> no.  
<11> Q. You say you personally would not have done so, is it right  
<12> that you did not do so?  
<13> A. I did not do so, no.  
<14> Q. Do you recall the collision in 1981 between the HURLINGHAM  
<15> and the BOWTRADER?  
<16> A. Yes, I do.  
<17> Q. You were the Skipper of the HURLINGHAM?  
<18> A. I was.  
<19> Q. You recall this was investigated by the PLA?  
<20> A. Yes, it was.  
<21> Q. Is it right that you never saw the BOWTRADER?  
<22> A. I or my crew members never saw the BOWTRADER.  
<23> Q. Could you look, please, in the chronological bundle to  
<24> page 237? This is a note, I think, emanating from the  
<25> Port of London Authority in relation to the collision. At  
<26> the bottom of the page under the heading "HURLINGHAM" the

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< 1> note says:  
< 2> "Master acknowledges that he was aware of  
< 3> BOWTRADER coming down river astern of him from information  
< 4> heard on VHF, but was apparently unaware of closeness of  
< 5> BOWTRADER when going under the bridge - possibly because  
< 6> view aft from vessel's bridge is obstructed due to high  
< 7> after accommodation."  
< 8> Do you recall after the collision between the  
< 9> HURLINGHAM and the BOWTRADER that concern was expressed as  
<10> to the means of visibility aft from the vessel such as the  
<11> HURLINGHAM?  
<12> A. Yes, I was aware of that.  
<13> Q. After that collision, did you issue any written  
<14> instructions to the crews of the vessels managed by you  
<15> about keeping a lookout aft?  
<16> A. I did not, no.  
<17> Q. You say you did not; is it right that Tidal Cruises did  
<18> not?  
<19> A. I believe Tidal Cruises did.  
<20> Q. And when you say you believe Tidal Cruises did, what do  
<21> you have in mind?  
<22> A. I remember having a discussion about the incident,  
<23> obviously, with Mr Ludgrove in the office afterwards, and  
<24> it was felt that a reminder should go out to our crews.  
<25> If I can remember it rightly, that is what we did. We put  
<26> a reminder out to our own crews.

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< 1> Q. This was a matter concerning safety of navigation?

< 2> A. Yes, it was.

< 3> Q. That was your responsibility?

< 4> A. Yes, it was.

< 5> Q. If a reminder was to go out to the crews, surely, it would  
< 6> be a reminder sent out by you?

< 7> A. The procedure in the company at that time was that after  
< 8> discussion in the office with Mr Ludgrove of any relevant  
< 9> information that the crew should be aware of, i.e. safety  
<10> or that sort of thing, a letter would have been typed in  
<11> the office. That would have been given to me or put on  
<12> the crews' weekly sheet or daily sheet. The fact that  
<13> I was the person that was out on the boats all of the  
<14> time, I personally handed to the crews any information  
<15> that needed to go to the crews on safety. Not only did  
<16> I hand them this information, I had the opportunity to  
<17> discuss the problems with the Captains and the crews at  
<18> all times.

<19> The fact that we would go off afloat, all the  
<20> crews, all the crews on our company, went to work at the  
<21> same time every morning, so as the crews came into the  
<22> office they were given their information, or I would take  
<23> it out to them. We would be off on the moorings. A  
<24> discussion would be held between all of the crews about  
<25> relevant information and, therefore, they had it in  
<26> writing and they had it verbally.

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< 1> Q. Now, you say that you believe that Tidal Cruises through  
< 2> Mr Ludgrove issued such a reminder. Do you have any  
< 3> recollection of ever seeing such a written reminder?  
< 4> A. It is very hard to remember. It was a long while ago, but  
< 5> I believe I did remember seeing it go out there.  
< 6> Q. Could you look, please, in the bundle at page 5903 in the  
< 7> witness bundle? This is a part of a statement made by you  
< 8> to the Police in March of 1990. Page 5902, this is part  
< 9> of a witness statement made by you to the Police in March  
<10> 1990.  
<11> A. Yes.  
<12> Q. And if you turn to page 05903, about five lines down, you  
<13> say:  
<14> "The Standing Orders do not cover matters  
<15> relating to navigation since all Captains employed on our  
<16> vessels are fully qualified in all aspects relating to  
<17> operating boats on the River Thames and are therefore  
<18> presumed by us to be conversant with navigation and the  
<19> byelaws."  
<20> A little further down that page, you say:  
<21> "My company did not issue any specific  
<22> instructions as to lookouts which matter was solely down  
<23> to the Captain."  
<24> Mr Dwan, in this statement you make no mention  
<25> of any written reminders being sent to the crew about the  
<26> question of lookout aft. Are you sure that in 1981 a

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- < 1> written reminder to the crews was sent out on the subject  
< 2> of lookout aft?
- < 3> A. I am sure, yes, I am sure.
- < 4> Q. Why did you not mention it in this statement?
- < 5> A. I do not -- I believe that this statement was a statement  
< 6> about the MARCHIONESS incident.
- < 7> Q. Yes.
- < 8> A. The fact that the HURLINGHAM incident had been that many  
< 9> years before, and it was important that our company people  
<10> know about the incident, which they knew about anyway.  
<11> I remember that one going out, but I did not at this stage  
<12> relate that to the HURLINGHAM incident.
- <13> Q. But you were dealing in this statement with the question  
<14> of whether or not written instructions were given to the  
<15> crew on the question of lookout?
- <16> A. Basically, the question was about standing orders is the  
<17> way I understood it, and our company did not have a system  
<18> about having standing orders. We did not actually call  
<19> them or term it as "standing orders".
- <20> Q. Now, in your statement, let me just ask you this: apart  
<21> from your evidence that you believe and, indeed, say you  
<22> recollect a written reminder being sent to the crew, was  
<23> anything, was any other written notice sent out by Tidal  
<24> Cruises concerning lookout aft following the 1981  
<25> collision?
- <26> A. I cannot remember, but I do not think there was.



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- < 1> Q. If you look in your main statement, please, paragraph 53  
< 2> which can be found at page 5890?
- < 3> LORD JUSTICE CLARKE: It does come up on the screen.
- < 4> MR TEARE: Paragraph 53, you say:
- < 5> "Following the collision between the HURLINGHAM  
< 6> and the BOWTRADER we reminded the crews at Tidal Cruises,  
< 7> in writing and verbally, to be cautious when the BOW boats  
< 8> were on the river. We also put a notice through the  
< 9> Federation reminding all crews that the BOW boats were a  
<10> problem."  
<11> Did you put a notice through the Federation?
- <12> A. I personally would not have, no.
- <13> Q. So, what is the basis of this statement in your evidence?
- <14> A. Well, if I put that down, it would have been on the basis  
<15> that the company would have reminded the Federation.
- <16> Q. You say "would have reminded", do you have any  
<17> recollection that they did?
- <18> A. I do not, no.
- <19> Q. You have not a copy of this notice sent through the  
<20> Federation, have you?
- <21> A. No, I would not have.
- <22> Q. In your statement in paragraph 16 on page 05881 you make  
<23> certain observations about wheelhouse visibility on the  
<24> MARCHIONESS. Did you ever skipper the MARCHIONESS?
- <25> A. Yes, I did.
- <26> Q. How often before 1989?

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- < 1> A. It is hard to remember, but I would have thought at least  
< 2> once or twice, three times a week.
- < 3> Q. Now, in paragraph 16 you refer to the use of the step and  
< 4> handrail on each side of the wheelhouse.
- < 5> A. Yes.
- < 6> Q. Was that the means you used to keep a lookout aft when you  
< 7> were the Skipper of the MARCHIONESS?
- < 8> A. It was one of the means, yes.
- < 9> Q. What other means did you use?
- <10> A. This is before the accident, this?
- <11> Q. Yes.
- <12> A. This is before the accident?
- <13> Q. Yes.
- <14> A. Is it before the hatch went in, because I used the hatch  
<15> way. If this was before the hatch went in, then I used  
<16> the steps or stepped to the side of the boat or got the  
<17> crew member to step to the side of the boat. If this was  
<18> the time when the hatch was in, then I used the hatch as  
<19> another means, especially when the crew member was not in  
<20> the wheelhouse.
- <21> Q. So you used both the step outside the wheelhouse and the  
<22> hatch in the roof of the wheelhouse?
- <23> A. I used all the means that we had, yes.
- <24> Q. Did you have any view as to which was the best method of  
<25> keeping a lookout aft?
- <26> A. Personally, both methods was good. If the crew member was

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- < 1> around you on deck or in the wheelhouse with you, it was  
< 2> easier for him to step to one side or the other and  
< 3> I stayed at the wheel or, alternatively, it was as easy --  
< 4> basically, you did not have to go right to the side of the  
< 5> boat all the time. Depending on what reach you were in on  
< 6> the bends of the river or anything like that, you only had  
< 7> to step to the side of the wheelhouse and not go to the  
< 8> step to the side of the boat.
- < 9> Q. At the beginning of the voyage did you give any  
<10> instructions to your crewman as to what you wished him to  
<11> do?
- <12> A. Whenever I was working with the crews, we had a set  
<13> pattern and it was laid out by me and what I expected of  
<14> him, yes.
- <15> Q. What did you have as your set pattern?
- <16> A. The set pattern that I would say 90 per cent of the time  
<17> the crew member was around the wheelhouse or in the  
<18> wheelhouse with me. After we have met the passengers as  
<19> they come on to the boat, it was my opinion that we did  
<20> not have to be involved with the passengers any more  
<21> during that party, except when something was a problem.
- <22> Q. So did you instruct the crewman to remain in or by the  
<23> wheelhouse?
- <24> A. I did instruct him, yes, to stay around me until I needed  
<25> him to go somewhere else.
- <26> Q. Every voyage?

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< 1> A. I would say most voyages, yes. Once I had worked with a  
< 2> crew member, he knew my work pattern and I knew his. So  
< 3> I did not have to instruct him every time.  
< 4> Q. So not every voyage?  
< 5> A. Not every voyage, no.  
< 6> Q. Only when you first worked with a new crew member?  
< 7> A. If I had a new crew member, I needed to lay down to him  
< 8> the patterns I wanted him to work under.  
< 9> Q. These were instructions you gave orally to a new crew  
<10> member?  
<11> A. Yes, it would.  
<12> Q. But is it right that in your capacity as director of Tidal  
<13> Cruises you did not give the same instructions in writing  
<14> to all the crews?  
<15> A. I never gave any instructions to the crews in writing.  
<16> Q. In paragraph 17 you say this:  
<17> "From the wheelhouse of the MARCHIONESS you  
<18> could see through the front and to the side of the top  
<19> deck. You could see directly astern if there was nobody  
<20> standing on the top deck, but the view was obstructed if  
<21> there were passengers standing in the top deck."  
<22> You make no mention here to the use of the  
<23> hatch. Are these comments made on the basis that one is  
<24> not using the hatch or that one is using the hatch?  
<25> A. These comments were made on the fact that I had all means  
<26> of the hatch and the steps and, in my opinion, on that

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< 1> boat you could see through the top deck on certain times.  
< 2> Q. If you looked aft from the wheelhouse position at night,  
< 3> would there not be glare in your eyes from the lights of  
< 4> the bar deck?  
< 5> A. Definitely not.  
< 6> Q. Or from the disco deck?  
< 7> A. Definitely not.  
< 8> Q. There must have been some glare?  
< 9> A. There was no glare whatsoever.  
<10> Q. If there were people in the bar deck, you could not see  
<11> aft from the wheelhouse position, could you?  
<12> A. Directly astern, no.  
<13> Q. Even in day time the bar would obstruct your view from the  
<14> wheelhouse looking aft?  
<15> A. It depended on what trips you were on.  
<16> Q. But if there were people in the bar, your view would be  
<17> obstructed?  
<18> A. If there were people on the top deck sitting down, you had  
<19> a vision through the after window.  
<20> Q. If there were people standing up at the bar your view  
<21> would be obstructed?  
<22> A. Then you did not have, but, as I say, it depended on the  
<23> trips that you were doing. If you were doing site seeing  
<24> trips, then everybody was seated, and if you were doing  
<25> parties where there was functions, people moved around the  
<26> boats. So that was dependent on that.

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< 1> Q. Are you sure that you, as a matter of practice, used the  
< 2> hatch in the wheelhouse because there is no mention of it  
< 3> in these paragraphs 16 to 21 where you are referring to  
< 4> visibility aft from the wheelhouse?  
< 5> A. I definitely used the hatch in the roof of that boat. How  
< 6> I answered these questions was on my experience of her  
< 7> rear vision from the wheelhouse.  
< 8> Q. Now, in 1984, following the collisions between the BOW  
< 9> vessels and other passenger vessels, do you have any  
<10> recollection of Tidal Cruises being requested to give an  
<11> undertaking to the Department of Transport that a crewman  
<12> other than the man at the wheel should keep a lookout?  
<13> A. I have got no recollection of that, no.  
<14> Q. Could you look in the chronological bundle to page 445?  
<15> This is a letter from Mr Clifford of the Department of  
<16> Transport dated February '84 in relation to the  
<17> MARCHIONESS. It is addressed to Mr Ludgrove, but in the  
<18> first paragraph he says:  
<19> "Further to my visit to the above vessel with  
<20> Mr Dwan and later to my telephone conversation with  
<21> yourself, the Department recommends", and then they refer  
<22> to the platforms on either side of the wheelhouse. In the  
<23> second paragraph the author says:  
<24> "Under all the circumstances, it will be  
<25> necessary to detail one crew member in addition to the  
<26> person at the control position to maintain the all-round

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< 1>           lookout."

< 2>                           Is your evidence that you have no recollection  
< 3>           of this requested undertaking?

< 4>    A.    I remember quite fully the actual running trials that we  
< 5>           did with the Department, but I do not remember, I cannot  
< 6>           honestly say I remember the letter that came back.

< 7>    Q.    So is it right that you have no recollection that  
< 8>           Mr Ludgrove told you that he had given such an  
< 9>           undertaking?

<10>   A.    At this time I cannot remember, no.

<11>   Q.    Do you recall that Tidal Cruises applied to the Department  
<12>           for permission to reduce the crew of the VISCOUNTRESS from  
<13>           three to two?

<14>   A.    I do remember that, yes.

<15>   Q.    Do you recall that the Department in the response  
<16>           requested an undertaking from Tidal Cruises that a crew  
<17>           member in addition to the man at the helm should keep an  
<18>           all-round lookout?

<19>   A.    I remember the application going in. I cannot honestly  
<20>           say I remember the declaration coming back to say that we  
<21>           had to keep permanent lookout at all time. I knew that,  
<22>           obviously, we had to keep a lookout, but I do not remember  
<23>           that declaration.

<24>   Q.    Then in relation to the HURLINGHAM, do you have any  
<25>           recollection that the Department requested the same  
<26>           undertaking when Tidal Cruises sought to have the crew

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- < 1> numbers reduced from three to two?
- < 2> A. I do not, no.
- < 3> Q. If you look in your statement at paragraph 23 on page
- < 4> 5883, just a few lines into paragraph 23 you say this:
- < 5> "The Department did not require us to maintain a
- < 6> designated lookout on either the HURLINGHAM or the
- < 7> VISCONTESS." Having looked at the documents, do you now
- < 8> accept that that is incorrect?
- < 9> A. After seeing the documents, yes, I do.
- <10> Q. Do you recall that before a Passenger Certificate was
- <11> issued by the Department, the Department required Tidal
- <12> Cruises to sign a number of written undertakings?
- <13> A. I remember we had to sign a declaration.
- <14> Q. If you look, please, in the COR bundle at page 432 you
- <15> will find there a documented headed "Undertaking". Then
- <16> underneath it says, "To be signed by the owner of the
- <17> passenger ship who wishes to obtain a Passenger
- <18> Certificate", and the various undertakings are set out.
- <19> If you look at the bottom of the page, the signature is
- <20> yours, is it not?
- <21> A. That is correct, yes.
- <22> Q. Do you recall that throughout the 1980s, from, at any
- <23> rate, about 1984, it was you who signed this written
- <24> undertaking on behalf of Tidal Cruises?
- <25> A. Yes, I do -- I signed all the company declarations after
- <26> running trials.



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- < 1> Q. If you look at these undertakings, some of them relate to  
< 2> operational matters. If you look at No. 1: "Passengers  
< 3> will be carried on the ship only when the weather is  
< 4> settled and the sea is calm". If you look at No. 4: "The  
< 5> ship will be kept clean and free from loose oil and refuse  
< 6> and the fire extinguishing equipment will be kept in an  
< 7> efficient condition." Did you, as the director of Tidal  
< 8> Cruises responsible for safety, take any steps to bring  
< 9> these operational undertakings to the attention of the  
<10> crews of your vessels?
- <11> A. All the crews did the running trials with me, and  
<12> obviously see the declaration. How much notice they took  
<13> of it, I do not know, but it was common practice that  
<14> obviously if a Captain felt that there was a problem with  
<15> the weather, then he would first inform me that he was not  
<16> going to sail and we would stop the sailing.
- <17> Q. Did you have any system by which copies of these  
<18> undertakings were provided to the Skippers and crews of  
<19> the six vessels managed or owned by Tidal Cruises?
- <20> A. No, we did not.
- <21> Q. You say that the crews would attend the surveys when these  
<22> matters were discussed, but, presumably, that would only  
<23> be the crew of the vessel for that day?
- <24> A. When I say the surveys, the crews never attended the  
<25> surveys. They attended the running trials which was  
<26> predominantly for safety, for fire fighting and for

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- < 1>            general running of the vessel. Surveys was a whole survey  
< 2>            which was when the boat was out of the water in the boat  
< 3>            yard, and did not apply to running trials.
- < 4>    Q.    Do you have any recollection of informing, either in  
< 5>            writing or orally, the Skippers and crews of the vessels  
< 6>            of the undertakings which Mr Ludgrove gave to the  
< 7>            Department about a dedicated lookout?
- < 8>    A.    I said earlier I did not remember the declarations going  
< 9>            out, so if I did not remember, I would not remember  
<10>           whether I gave them any orders.
- <11>   Q.    Is it your evidence that, so far as you can recollect,  
<12>           Tidal Cruises did not bring those undertakings to the  
<13>           attention of the Skippers and crews of the vessels?
- <14>   A.    The undertakings on this declaration?
- <15>   Q.    No, the undertakings given by Mr Ludgrove?
- <16>   A.    Any relevant information that came out from the office  
<17>           from Mr Ludgrove went to the crews in a memo and  
<18>           verbally. What they all were and what they exactly are at  
<19>           this time, I cannot remember.
- <20>   Q.    But you yourself have no recollection of these  
<21>           undertakings at all?
- <22>   A.    No, I do not.
- <23>   Q.    It follows you have no recollection of any written  
<24>           information being given to the crews about them?
- <25>   A.    About the declaration, no.
- <26>   Q.    Even though you were the director responsible for safety?

DWAN: X - TEARE

- < 1> A. That is correct, yes.
- < 2> Q. Since you are the director of Tidal Cruises responsible  
< 3> for safety, I must suggest to you that Tidal Cruises did  
< 4> not inform the crews of the vessels of these undertakings  
< 5> which had been given to the Department?
- < 6> A. I would not agree with that. If we did have any  
< 7> information that was sent to us and if I did remember it,  
< 8> and it was there, it would have gone to the Skippers and  
< 9> crews.
- <10> Q. Going back to the statement bundle, page 05903, the  
<11> statement which you made to the Police in 1990, about  
<12> standing orders. There is no mention there of the crews  
<13> being informed of undertakings given by Tidal Cruises to  
<14> the Department being passed on to the crews. So, is this  
<15> right, in 1990 when you made this statement you also had  
<16> no recollection then of the undertakings which Mr Ludgrove  
<17> had given to the Department?
- <18> A. That is correct.
- <19> Q. You had no recollection then of any instructions being  
<20> given to the crew about those undertakings?
- <21> A. I have no recollection of the standing orders because we  
<22> did not call them standing orders but ----
- <23> Q. Are you aware of the evidence which Mr McGowan gave that  
<24> he had not been informed that his duty was to keep a good  
<25> all-round lookout when he was Mate on the MARCHIONESS?
- <26> A. I am not aware of Mr McGowan's statements.

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- < 1> Q. Well, he has given that evidence. You have said that you  
< 2> would expect matters such as the undertakings given by  
< 3> Mr Ludgrove to be passed on to the crew. Can you explain  
< 4> why Mr McGowan was unaware of any instructions to that  
< 5> effect?
- < 6> A. I cannot answer that. I do not know.
- < 7> Q. Now, when the MARCHIONESS, indeed any of the vessels owned  
< 8> or managed by your company, were carrying passengers, if  
< 9> there were problems with the passengers, who was to deal  
<10> with them?
- <11> A. It depended on the nature of the problem. The first  
<12> report would have predominantly come from bar staff to say  
<13> that there was a problem inside of the boat somewhere.  
<14> Then the Mate was sent to investigate and see what the  
<15> problem was.
- <16> Q. So the Mate would have to go off into the bar?
- <17> A. The Mate would have to investigate what the problem was  
<18> and report back to me any problems.
- <19> Q. If you look in the statement bundle at 05859, this is a  
<20> code of practice used in November '89 just after the  
<21> collision, but do you see it is headed "Code of practice  
<22> when dealing with disturbances on vessels". Item 2: "If  
<23> violence does occur on board, the Master should not leave  
<24> the wheel if he has any doubts at all about the safe  
<25> navigation of the vessel. He should send the Mate to  
<26> establish the severity of the disorder and call the Police

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- < 1> if considered necessary."
- < 2> Does that instruction reflect what you have just
- < 3> told the Inquiry, that it would be the Mate who would go
- < 4> off to investigate the problem?
- < 5> A. Yes, it would.
- < 6> Q. So from time to time the Mate had to keep an eye on the
- < 7> passengers, did he?
- < 8> A. He would only have to keep his eye on the passengers if
- < 9> there was a problem which he had been informed by the bar
- <10> staff.
- <11> Q. And if he was attending to passengers whom he might
- <12> consider to be acting unruly, he could not keep a lookout
- <13> as required by the DOT, could he?
- <14> A. It is a very difficult thing to say. The fact is that
- <15> whenever you were inside of the boat, it was still your
- <16> responsibility to be keeping a lookout, albeit that you
- <17> are attending to something else. You should be aware of
- <18> what is coming round or passed you, and there was many a
- <19> time when a crew member had gone inside the boat that he
- <20> would come out and mention to you, "Have you seen a vessel
- <21> here?" or "Have you seen a vessel there?" and nine times
- <22> out of 10 you had done, but it was just a reminder.
- <23> Q. When inside the boat, the Mate obviously could not be
- <24> keeping a good all round lookout?
- <25> A. When I was Skipper of the vessels, the crew were
- <26> instructed that if there was a major problem, i.e. with

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< 1> unruly passengers, the last thing that the crew did was  
< 2> got involved with unruly passengers. If there was a fight  
< 3> going on on that boat, then the bar was automatically  
< 4> shut, the music was shut down, the crew would report back  
< 5> to the wheelhouse that there was a problem, the Police  
< 6> would be called and invariably the crew would shut  
< 7> themselves in the wheelhouse after checking with the  
< 8> organiser that it was, you know, that sort of a problem.  
< 9> Q. But, Mr Dwan, when the Mate is tending to the passengers  
<10> inside the boat, he could not keep an all-round lookout at  
<11> that time, could he?  
<12> A. In my experience of being inside of the boats at all  
<13> times, it was important that I was aware of what was  
<14> happening around me all the time. So when I was relieved  
<15> off the wheel and I was inside the boat, as most Skippers  
<16> are.  
<17> Q. It may be important, but he could not, could he, if he  
<18> was, for example, in the disco area?  
<19> A. But he still had large windows that could be -- basically,  
<20> he was there to appertain (sic) what the problem was.  
<21> Q. Mr Dwan, you could not aft, could he, from the disco deck?  
<22> A. He could not look aft, no.  
<23> Q. So if the Mate was from time to time or if there might be  
<24> an occasion when the Mate would have to keep an eye on the  
<25> passengers, would you accept that a crew of three was  
<26> required if there was to be compliance with the Department

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- < 1> of Transport requirements that the Mate keep a good  
< 2> all-round lookout?
- < 3> A. In context of your question, yes.
- < 4> Q. Now, Mr Faldo, can you recall when he first skippered the  
< 5> MARCHIONESS, just approximately?
- < 6> A. It was either the beginning of '89 or the latter part of  
< 7> the year before.
- < 8> Q. Is it right that you did not give him instructions when he  
< 9> commenced work as Skipper of the MARCHIONESS that the  
<10> crewman should a keep a good all-round lookout?
- <11> A. No, I did not.
- <12> Q. Is it also the case when Mr McGowan commenced work with  
<13> Tidal Cruises that you did not give him such instructions  
<14> either?
- <15> A. No, I did not.
- <16> Q. Just a question about life buoys: could you turn in the  
<17> chronology, please, to page 00771? This is the Passenger  
<18> Certificate for the MARCHIONESS and it was the one valid  
<19> at the time of the collision. In the middle of the page  
<20> reference is made to the life saving equipment, and do you  
<21> see there are seven life buoys?
- <22> A. That is correct.
- <23> Q. Do you recall whether any were fitted with self-activating  
<24> lights or smoke signals?
- <25> A. Two definitely were.
- <26> Q. You have a recollection of that, do you?

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- < 1> A. I know for certain.
- < 2> Q. And why do you know for certain?
- < 3> A. Because I was, it was -- I was instructed to make sure
- < 4> they were there.
- < 5> Q. Is there any record which Tidal Cruises has of two life
- < 6> buoys being equipped with self-igniting lights?
- < 7> A. If you look at the photograph, I do not know what one it
- < 8> is, but there is a photograph of the life -- light holders
- < 9> still on the boat.
- <10> Q. Thank you. If that photograph can be found, we will find
- <11> it. You have seen many passenger certificates relating to
- <12> your vessels, presumably?
- <13> A. I see them all the time, yes.
- <14> Q. Was it not usual for the Passenger Certificates to state
- <15> whether particular life buoys were equipped with any
- <16> particular equipment?
- <17> A. Yes, it was.
- <18> Q. This certificate does not state that the life buoys were
- <19> equipped, that two of them were equipped, with
- <20> self-activating lights?
- <21> A. That is correct.
- <22> Q. Is it possible your recollection is mistaken when you say
- <23> they were so equipped?
- <24> A. No.
- <25> Q. Are you able to explain why this certificate does not
- <26> state they were so equipped?



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- < 1> A. The certificates that we got from the MARCHIONESS never  
< 2> ever stated that they should have lights, nor does it even  
< 3> -- it does not even state that they should have two with  
< 4> lines as well. But each vessel of that class, as I was  
< 5> aware, had to carry two life rings with lights, and two  
< 6> life rings with lines.
- < 7> Q. Well, would you look, please, in the chronological bundle  
< 8> at page 00313? This is a Passenger Certificate for the  
< 9> MARCHIONESS for the year '83 to '84, and you see that  
<10> there are seven life buoys and the certificate states two  
<11> with lines.
- <12> A. That is what I have just said.
- <13> Q. My suggestion to you is that if they were equipped with  
<14> self-igniting lights, the certificate would have stated  
<15> so?
- <16> A. I cannot answer why it was not on the certificate. All  
<17> I know is that class of passenger boats had to have two  
<18> with lights and two with lines, and they had them.
- <19> MR TEARE: Thank you, very much, Mr Dwan. Please remain there.
- <20> LORD JUSTICE CLARKE: I am right in thinking, am I, that the  
<21> later certificates no longer say "two with lines"?
- <22> MR TEARE: Correct, sir.
- <23> LORD JUSTICE CLARKE: Whereas the logic of the point would  
<24> suggest that the lines were removed. But, still, there we  
<25> are.
- <26> MR TEARE: Or that they were different life buoys.

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< 1> LORD JUSTICE CLARKE: It could be convenient if we could  
< 2> collect together all the certificates in one place.

< 3> MR TEARE: Yes, sir. That is being done.

< 4> LORD JUSTICE CLARKE: It is also not terribly easy to fit  
< 5> together all these various documents, but we will come  
< 6> back to that. Yes, Mr Mansfield?

< 7> <Cross-Examined by MR MANSFIELD

< 8> Q. Mr Dwan, I represent the Marchioness Contact Group which  
< 9> represents a large number of families of victims and  
<10> others, you appreciate. At the start I want to make a  
<11> clear suggestion to you on their behalf, that throughout  
<12> the years of your work for Tidal Cruises, or whatever name  
<13> it came under at various times, whether you were a Skipper  
<14> or a director in whichever role you performed your work,  
<15> you had no proper regard for any system of lookout on the  
<16> river. Now, what do you say to that?

<17> A. It is rubbish.

<18> Q. It is rubbish, is it?

<19> A. Yes.

<20> Q. I am going to suggest to you -- I want to take you through  
<21> rather carefully -- that when you were Skipper, you paid  
<22> no real attention to all-round lookout, nor did you when  
<23> you were director, do you follow?

<24> A. I hear what you are saying, yes.

<25> Q. We will start with an example which you have been asked  
<26> about today. I am sorry to say, of course, it is some

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< 1> time ago now, but I am going to suggest to you it is the  
< 2> kind of collision you do not forget. 1981, which was  
< 3> eight years or so before the collision that is now being  
< 4> examined, do you remember that collision in 1981?  
< 5> A. Yes, I do.  
< 6> Q. You do? Do you accept that one of the reasons that there  
< 7> was a collision in 1981 was because you just did not look  
< 8> astern at the relevant times, did you?  
< 9> A. I do not agree with that.  
<10> Q. Do you not?  
<11> A. No.  
<12> Q. Because that is what you have said in the past, Mr Dwan,  
<13> is it not?  
<14> A. I do not know.  
<15> Q. Well, have you had a chance before giving evidence today  
<16> to look at your statements on this matter?  
<17> A. Yes, I have.  
<18> Q. And you have read them carefully?  
<19> A. I have read them, yes.  
<20> Q. Right. You had two crew members with you on that  
<21> particular voyage?  
<22> A. That is correct.  
<23> Q. Dealing with you, first of all, could we have WIT\_05826,  
<24> please? Could we have paragraph 35 and could we have the  
<25> last sentence so you can see it? "On handing over", that  
<26> is handing over the wheel, "to the Mate, I was satisfied

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< 1>           there was no vessel ahead of us, but I did not  
< 2>           specifically check astern because of the difficulties  
< 3>           presented by the after cabin top which would in any event  
< 4>           have precluded me seeing a vessel astern of us unless she  
< 5>           was very close". Do you see that?  
< 6>        A.    I see that.  
< 7>        Q.    Is that true?  
< 8>        A.    It was, it was difficult to see through the top deck on  
< 9>           that night, yes.  
<10>       Q.    Well, let us just go through this. The first part of this  
<11>           is, "I did not specifically check astern", is that true?  
<12>        A.    This is after the accident has occurred, is this, or is  
<13>           this before the accident has occurred?  
<14>        Q.    Well, do you mean the statement or what?  
<15>        A.    Sorry? This statement, I am reading this bit here.  
<16>        LORD JUSTICE CLARKE: Well, the statement -- I think,  
<17>           Mr Mansfield, to be fair to the witness, you should  
<18>           explain to him what the date of the statement is.  
<19>        A.    Is this after the accident has occurred? I have been hit  
<20>           at the stern and I am now sorting out the problem? Is  
<21>           this?  
<22>        MR MANSFIELD: No. I will explain the chronology of this.  
<23>           This is a statement, so you know when you made the  
<24>           statement -- I will come to the point you are making in a  
<25>           moment -- you made this statement on 5th November 1981.  
<26>           So the statement is made plainly after the collision

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< 1> because you could not make the statement before, do you  
< 2> follow?  
< 3> A. Yes.  
< 4> Q. Now, paragraph 35 is dealing with the position just before  
< 5> the collision and, if you like, I will go through this  
< 6> page with you. 05826 from the top, please. Paragraph 33:  
< 7> "We were still maintaining about I think it is  
< 8> five to six knots over the ground and it was my intention  
< 9> on drawing clear below Tower Bridge to ease over to  
<10> starboard to give the BOWTRADER plenty of room to pass  
<11> down our port side. When ultimately we were in the bridge  
<12> arch with our head just beginning to come clear below,  
<13> I decided to hand over the wheel to the Mate so as to  
<14> permit me to follow my normal practice at about this stage  
<15> of a voyage down to Greenwich of checking the proper flow  
<16> of the cooling water which simply involved going down to  
<17> main deck level and looking over the side".  
<18> Then we come to this particular paragraph: "I,  
<19> therefore, at this point", do you follow, this is before  
<20> the collision, is it not?  
<21> A. Yes, I know where you are now, yes. That is fine.  
<22> Q. Yes, "... handed over the wheel to Mr Terence Ward, the  
<23> Mate, telling him, 'Hold her over to the south side to  
<24> give him room coming down'. I did not mention the  
<25> BOWTRADER by name, but we had all been listening to her  
<26> reports and the Mate would have appreciated I was talking

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< 1> about that vessel.  
< 2> "On handing over, I was satisfied there was no  
< 3> vessel ahead of us, but I did not specifically check  
< 4> astern because of the difficulties presented by the after  
< 5> cabin top which would in any event have precluded me  
< 6> seeing a vessel astern of us unless she was very close."  
< 7> Now, it is clear that you are describing a  
< 8> circumstance just before the collision, are you not?  
< 9> A. Yes, I appreciate that now, yes.  
<10> Q. Because the next paragraph, so you see the full context,  
<11> 36:  
<12> "Having handed over the wheel, I made to go down  
<13> the ladder at the aft end of the wheelhouse and had taken  
<14> possibly two or three steps when there was a loud bang or  
<15> crash from aft"?  
<16> A. That is correct.  
<17> Q. So, in fact, at the point you handed over the wheel to the  
<18> Mate, the BOWTRADER must have been feet away from your  
<19> stern, must it not?  
<20> A. That would appear that way, yes.  
<21> Q. Well ----  
<22> A. Yes, well, it would, yes.  
<23> Q. That is fair, is it not?  
<24> A. Yes.  
<25> Q. There was a party going on that night on the HURLINGHAM?  
<26> A. Yes, there was.

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< 1> Q. How many people, roughly?  
< 2> A. I cannot remember now how many people exactly.  
< 3> Q. Well, 100?  
< 4> A. At least 150, I would have thought.  
< 5> Q. At least 100?  
< 6> A. 150, something like that.  
< 7> Q. 150. You put 150 peoples' lives at risk that night, did  
< 8> you not?  
< 9> A. I do not agree with that, no.  
<10> Q. Well, let us go back to the position. My proposition to  
<11> you was that you just did not look behind or, putting it  
<12> more nautically, astern and that is correct, is it not?  
<13> A. No, it is not. On that particular night we knew that the  
<14> BOWTRADER was proceeding downriver. We had heard his  
<15> broadcasts and we were aware that he was coming down  
<16> astern of us. Again on that night in question, the Port  
<17> of London was full up with NATO warships which were spread  
<18> alongside HMS Belfast. There were some on the buoys above  
<19> Tower Pier, and the whole of that area had ships around in  
<20> the area which did not particularly give us a very good  
<21> vision from the stern of the HURLINGHAM up through towards  
<22> London Bridge where we knew the BOWTRADER was coming  
<23> from.  
<24> Now, on that particular night, because there was  
<25> war ships in the Port of London, they were carrying the  
<26> lights of ships with explosives aboard, and things like

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< 1> that. So the lights of the navigation lights did mingle  
< 2> in with all the other lights of the ships on the  
< 3> moorings.

< 4> Now, below the HMS Belfast there are some barges  
< 5> moored on the southern shore. So, although we knew the  
< 6> BOW boat was coming down, we were looking for him and if  
< 7> you -- I do not know if it is in these reports, but if you  
< 8> go back to the report of the time when we had the meeting  
< 9> with the PLA, one of the main factors of this thing was  
<10> that at no time did we see the BOW boat, and I state that  
<11> probably in this statement somewhere, because there was no  
<12> chance of seeing his navigation lights from where we  
<13> were.

<14> So the vessel that we were in, or the vessel  
<15> I was skippering at that time, held over to the southern  
<16> side of the river, as is Rule 19 states now, giving the  
<17> BOW boat the majority of the bridge arch if he was that  
<18> close to us. But I also said that, in my opinion, that  
<19> the BOW boat should have been lit up with special  
<20> navigation lights prior, after that accident because we  
<21> just physically did not see him.

<22> Q. Mr Dwan, would you kindly listen to the question again?

<23> I am going to put it again. Did you specifically look  
<24> astern before you handed the wheel over to the Mate or  
<25> not?

<26> A. I had looked astern coming down that reach, but as



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- < 1> I handed the wheel over, no, I did not.
- < 2> Q. Right. So you did not look behind as you handed the wheel
- < 3> over. Did you look behind before you handed the wheel
- < 4> over?
- < 5> A. Yes, I did.
- < 6> Q. When before did you look behind?
- < 7> A. Before we approached Tower Bridge.
- < 8> Q. Before you approached Tower Bridge, and what could you see
- < 9> looking behind from the wheelhouse?
- <10> A. I told you what I just see, all the warships laying on the
- <11> moorings and no visible sign of the BOW boat.
- <12> Q. In those circumstances, of course, if you cannot see
- <13> behind for whatever reason and you did look before at an
- <14> earlier stage, it is then extremely dangerous to be
- <15> anywhere near the centre of the river, is it not?
- <16> A. It is not sensible to be in the centre of the river while
- <17> large vessels are coming down the river. But if you have
- <18> got nowhere else to go, there is nowhere else you can go.
- <19> Q. Did you do any radio communications: "Look, this is a
- <20> terrible situation. We cannot see the BOWTRADER. We do
- <21> not know where it is. We know it is coming down the
- <22> river"? Did you do anything like that?
- <23> A. The only broadcast I made was after the impact of the BOW
- <24> boat.
- <25> Q. Yes, before the BOWTRADER hit you, did you do anything at
- <26> all to alert anyone that the problem you had was you could

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- < 1> not see anything?
- < 2> A. I did not make a radio broadcast to the BOW boat because
- < 3> at that time we had not seen him and we were holding over
- < 4> to the south side; and, to be honest, there is no way at
- < 5> that time I could not believe that the BOW boat came over
- < 6> that far to us. He had all the centre of the river to
- < 7> come down, but he still managed to hit us.
- < 8> Q. Just moving on, not only, I suggest, did you not look
- < 9> astern, you had two crew members in the wheelhouse, did
- <10> you?
- <11> A. I had one crew member in the wheelhouse, one on deck.
- <12> Q. And one on deck, or were both of them, that is both of the
- <13> crew, sitting in the wheelhouse?
- <14> A. What, you are asking me to say that they were definitely
- <15> there or they were not there?
- <16> Q. I would like to ----
- <17> A. My recollection was there was only one, but it was a long
- <18> while ago.
- <19> Q. I appreciate. Would you see WIT\_05822, please? Paragraph
- <20> 22, this is the same statement in 1981:
- <21> "During the course of the passage downriver,
- <22> I was at the wheel whilst the other two crew members were
- <23> sitting down in the wheelhouse". Do you see that?
- <24> A. I do.
- <25> Q. Is that the true position?
- <26> A. I cannot honestly remember that at this time, but, as

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- < 1> I said earlier, 90 per cent of time the crew were in and  
< 2> around the wheelhouse, yes.
- < 3> Q. Well, if you could not see anything from where you were in  
< 4> the wheelhouse, did you ask one of them to go outside and  
< 5> have a look?
- < 6> A. We were all looking at the time for that BOW boat coming  
< 7> down because we were aware that he was coming, yes.
- < 8> Q. Mr Dwan, what was the question?
- < 9> A. I do not know. Could you repeat it, please?
- <10> Q. Please listen so I do not have to repeat. The question  
<11> was, did you request a lookout to go outside the  
<12> wheelhouse and have look astern?
- <13> A. I cannot honestly remember, but I know that we were  
<14> looking out for the BOW boat coming down. I may have sad  
<15> him to look out the wheelhouse, I may not. I cannot  
<16> remember.
- <17> Q. The position is that none of you, that is you or any crew  
<18> member, saw the BOWBELLE because none of you were really  
<19> looking, were you?
- <20> A. I do not agree with that, no.
- <21> Q. You do agree, do you not, that before this incident in  
<22> 1981, so far as the HURLINGHAM is concerned, it was a  
<23> vessel with obstructed and impeded visibility, was it not?
- <24> A. Yes, it was.
- <25> Q. You know (and I do not perhaps need to go through) you  
<26> appreciate that after the accident everyone who examined

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- < 1> this situation came to pretty well the same conclusion  
< 2> about the HURLINGHAM and its visibility, did they not?  
< 3> A. Yes, they did.  
< 4> Q. So that it is clear where the references are -- I do not  
< 5> ask for them to called up -- COR\_00315 to 316, a series of  
< 6> experts all indicated that one of the problems and  
< 7> contributory factors to the collision was the impeded  
< 8> visibility from the HURLINGHAM. You know that, do you  
< 9> not?  
<10> A. Yes, I do.  
<11> Q. I mean, you took a considerable interest, you would have  
<12> done after this collision, to know what the experts  
<13> thought was contributing to the collision? Do you agree?  
<14> A. Yes.  
<15> Q. I want to know as a result of recognizing, you say, that  
<16> there was that impaired visibility, before 1981 and  
<17> skippering it, what had you done yourself on behalf of the  
<18> company to ensure on the HURLINGHAM, first of all, there  
<19> was good all round visibility?  
<20> A. What had I done personally? The fact that the HURLINGHAM  
<21> was similar to every other boat that we had encountered  
<22> and worked in, it was always part of our training that  
<23> there should be a lookout kept at all times. At that  
<24> time, apart from dead astern, the visibility on the  
<25> HURLINGHAM was not that bad.  
<26> Q. Your view, if I can put it globally, on all these vessels

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- < 1> through the 1980s was that, despite the structure of the  
< 2> HURLINGHAM and the MARCHIONESS, visibility was not too  
< 3> bad, putting it colloquially, was it not?  
< 4> A. My experience of working those boats was that it was not a  
< 5> predominant factor.  
< 6> Q. Exactly. Your attitude to visibility was, "If I cannot  
< 7> see, I will jiggle the boat around until I can see", was  
< 8> it not?  
< 9> A. No, it was not.  
<10> Q. So going back to the question, would it fair to say that  
<11> before 1981, in terms of structure, although you knew  
<12> there was impaired visibility, you did the nothing to  
<13> improve the structure of the HURLINGHAM in order to  
<14> improve the visibility, would that be fair?  
<15> A. After '81 there was an improvement made on the vessel.  
<16> Q. No, sorry, before 1981?  
<17> A. No, there was nothing, no.  
<18> Q. You knew there was impaired visibility, but you were  
<19> prepared to take it out on the river despite that without  
<20> doing anything about it, correct?  
<21> A. Correct.  
<22> Q. Correct. You think that is very responsible as a river  
<23> user with 150 people on board?  
<24> A. You could argue now that it is much better with an  
<25> all-round vision, but at that time that is the working  
<26> boats that would come through.

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- < 1> Q. Or was it just the practice on the river not to be too  
< 2> worried about all round vision; all of you in the close  
< 3> knit community did not think it was very important?  
< 4> A. It was always very important to keep a good all round  
< 5> lookout.  
< 6> Q. After 1981, as you have just said, what physical  
< 7> differences did you make to the HURLINGHAM?  
< 8> A. I believe after that the pod was put on the top.  
< 9> Q. The pod?  
<10> A. The pod was put on the top.  
<11> Q. If, as you have just said, keeping an all-round lookout at  
<12> all times is imperative, is it not ----  
<13> A. It is very important, yes.  
<14> Q. --- and that is particularly relevant on the stretch of  
<15> river we are dealing between the bridges, Westminster Pier  
<16> downriver through the bridges and so on, that stretch  
<17> where there are a number of bridges in close proximity,  
<18> extremely important?  
<19> A. It is important all the time, but it is important in that  
<20> area, yes.  
<21> Q. It is not just other vessels, there may be obstructions,  
<22> there may be all sorts of things that appear until the  
<23> river overnight?  
<24> A. Correct.  
<25> Q. I just want to know whether you considered after 1981 that  
<26> it would be desirable to have somebody -- never mind

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- < 1> regulations -- whose sole function was lookout on these  
< 2> vessels that you operated?
- < 3> A. Well, you could argue after the accident, you could say,  
< 4> yes, after the accident. At that time it was considered  
< 5> that both crew members were sufficient to keep a good  
< 6> all-round lookout on that boat.
- < 7> Q. Mr Dwan, I am going to ask the question again. Did you  
< 8> consider specifically designating -- whatever word you  
< 9> want to use -- specifically appointing a crew member to  
<10> carry out the function you have agreed is important of  
<11> all-round lookout?
- <12> A. No, I did not.
- <13> Q. Why not?
- <14> A. Because I felt that the two men keeping a lookout was  
<15> sufficient.
- <16> Q. You have been asked about this particular matter, but  
<17> I want to pursue it a little further with you. I think  
<18> you said you have a recollection of some kind of reminder  
<19> after the collision being sent out. Do you have a  
<20> recollection of that?
- <21> A. Yes, I do.
- <22> Q. When you made your statement this year about these  
<23> matters, did you have a recollection this August that a  
<24> reminder was sent out or did somebody prompt your memory?
- <25> A. I cannot honestly remember at this time. I do not know.
- <26> Q. Well, WIT\_05890 please, and it is paragraph 53 which you

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< 1> have seen earlier this morning:  
< 2> "Following the collision between the HURLINGHAM  
< 3> and the BOWTRADER, we reminded the crews at Tidal Cruises  
< 4> in writing and verbally to be cautious when the BOW boats  
< 5> were on the river." I want to deal with that first of  
< 6> all.  
< 7> Was this reminder handed out by you as you  
< 8> implied this morning?  
< 9> A. It would have been handed out by me, yes.  
<10> Q. I mean, you remember doing it, do you? I know it is a  
<11> long time ago?  
<12> A. Well, I think I remember doing it, yes. I cannot be  
<13> certain, but I know that we discussed it and it needed to  
<14> go out to the crews and something was done.  
<15> Q. Well, it is the something that was done. You see, do not  
<16> appoint a lookout, you have agreed specifically. I want  
<17> to know what the terms of the reminder were that you think  
<18> you remember handing out. What did it say to the crews on  
<19> your vessels in 1981/82?  
<20> A. I cannot honestly remember that.  
<21> Q. Well, I would like you to help. Did it just say something  
<22> to the effect: "Watch out for the BOWS"? In other words,  
<23> the responsibility really, "It is all the BOW boats and  
<24> the BOW fleet, they are the ones that are causing the  
<25> problem, not us", was it that sort of approach, or was it,  
<26> "We have a responsibility and these are the following



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< 1> things you must do"? Do you follow the difference?  
< 2> A. It would have probably come as a general reminder to be  
< 3> aware of the BOW boats and any other shipping that was  
< 4> coming down the river, and a reminder to the crews to make  
< 5> sure they keep to the side of the river and keep a very  
< 6> good lookout. That is what I presume. I cannot be  
< 7> certain of that, but it would have been more down that  
< 8> line then than the first one that you said.  
< 9> Q. You see, because saying keeping a lookout, a good lookout  
<10> all round, you have indicated this morning you thought a  
<11> lookout would be intermittent rather than continuous. Why  
<12> did you think that, if the responsibility is to keep good  
<13> all round lookout?  
<14> A. The responsibility from anyone that had come through from  
<15> an apprentice was to be aware of every vessel that was  
<16> manoeuvring around you and, therefore, you were taught in  
<17> your training as an apprentice, six years apprenticeship,  
<18> on the river, to be aware of other vessels and what they  
<19> might be doing and when they would be proceeding up the  
<20> river and when they would proceed down the river.  
<21> The fact that when you were at the wheel you  
<22> were not standing looking dead ahead all day long, there  
<23> was a movement in the wheelhouse that gave you the ability  
<24> to look aft, look to the side, look round, and if you were  
<25> really worried, you needed to make eye contact, you asked  
<26> one of the crew to have another good look for you.

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- < 1> Q. The lookout between the bridges should be continuous,  
< 2> should it not?
- < 3> A. I suppose you could argue, in hindsight, yes, it should  
< 4> be.
- < 5> Q. No, Mr Dwan. Are you seriously suggesting it requires  
< 6> hindsight?
- < 7> A. No. What I am saying is at this time it has been proven  
< 8> that a good lookout at all time would be better than an  
< 9> intermittent lookout.
- <10> Q. You were aware of the M Notices, were you?
- <11> A. I was not, no.
- <12> Q. You were not?
- <13> A. No.
- <14> Q. Can we see MSN, page 14, please? MSN, page 14. This is  
<15> M 756, so that you know what it is, and it was issued, so  
<16> you know the date, in April 1976. I just want you to read  
<17> that and see whether you have ever seen anything like it  
<18> before today.
- <19> A. I cannot say I have seen this before, no.
- <20> Q. Can you explain how someone who is in charge of safety for  
<21> Tidal Cruises has never seen anything like that before?
- <22> A. I would have only received the information that had been  
<23> sent to the company through the office to myself and out  
<24> to the boats.
- <25> Q. Well, would it surprise you to learn that the office, if  
<26> that office is in the embodiment of Mr Ludgrove, he too

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- < 1> has never heard or had not ever heard of and M Notice.  
< 2> Does that surprise you?  
< 3> A. Well, it does not surprise me because if he would have  
< 4> seen it, then I would have seen it.  
< 5> Q. It means Tidal Cruises were operating in ignorance of  
< 6> M Notices. Does that surprise you?  
< 7> A. I would have thought it was important that we did know all  
< 8> the relevant information that needed to have come out,  
< 9> yes.  
<10> Q. Could we have MSN 00011 please. It is just an earlier  
<11> page of the same document, M 756. You see, this is not  
<12> hindsight, Mr Dwan. It is, in fact, something that goes  
<13> back many years. You will see in paragraph 1: "There are  
<14> at present", 1976, "four current Merchant Shipping Notices  
<15> on keeping a safe navigational watch. These are M 621  
<16> stressing the vital importance of ensuring that a proper  
<17> lookout is kept", in capital letters, "AT ALL TIMES". Do  
<18> you see that?  
<19> A. Yes, I do.  
<20> Q. Yes. You have not seen that before?  
<21> A. No, I have not. If I had seen it, then an all time  
<22> lookout would have been there.  
<23> Q. Absolutely. Can you explain how Tidal Cruises was  
<24> operating so much in the dark?  
<25> A. No, I cannot.  
<26> Q. Do you now agree, looking back on it all, the company was

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- < 1> in dereliction of its duty?
- < 2> A. If you are saying that had we had all this information and
- < 3> we had not carried out the instructions, then I can say
- < 4> yes; but if we did not have these instructions, we were
- < 5> working to the normal rule of the road.
- < 6> Q. No. I am suggesting the normal rule of the road, as you
- < 7> put it, was supposed to be keeping a proper lookout at all
- < 8> times, but some of you amongst the river community were
- < 9> not that bothered because you thought your vessels were
- <10> quite adequate enough for the business that you had, do
- <11> you follow?
- <12> A. I hear what you are saying, but I do not agree with that.
- <13> Q. All right. I am not going to take up time going through
- <14> all the other Merchant Notices. There is one I will have
- <15> to come to. But it follows then after 1976 throughout the
- <16> whole of the time up until today, you have not seen any of
- <17> the M Notices at any time?
- <18> A. Up until that accident and this information that you
- <19> showed me on these screens, we have not seen any relevant
- <20> information that has come from the Department or the PLA,
- <21> that comes into the office, is seen by me and passed on to
- <22> the boats now.
- <23> Q. Can I go back because this stems from a question on
- <24> page 5890 in your witness statement, paragraph 53?
- <25> LORD JUSTICE CLARKE: Just before you do that, could I put in a
- <26> plea for the relevant M Notices to be put in the

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- < 1>           chronological bundles? Thank you.
- < 2>   MR MANSFIELD: Yes. Thank you very much. Paragraph 53, just
- < 3>           dealing with the reminder that you seem to remember
- < 4>           handing out, how frequently after 1981 did you hand out
- < 5>           these reminders?
- < 6>   A.   Of that incident or of general rule of the road
- < 7>           reminders?
- < 8>   Q.   That is it, the general rule of the road?
- < 9>   A.   When anything came to the office appertaining to
- <10>           navigation, Notice to Mariners, Board of Trade
- <11>           information, would have all been handed to most of the
- <12>           crews.
- <13>   Q.   Would they?
- <14>   A.   Yes.
- <15>   Q.   So they should be?
- <16>   A.   Relevant information.
- <17>   Q.   Relevant information?
- <18>   A.   Yes.
- <19>   Q.   So there should be quite a lot of that information?
- <20>   A.   There was so much information at sometimes it got to the
- <21>           point where most of the crews could not read it.
- <22>   Q.   You must have been concerned about that?
- <23>   A.   I was and they were aware at all times that they had to
- <24>           have it aboard the boat and check it through.
- <25>   Q.   What steps did you take to make sure they did?
- <26>   A.   Well, they were just constantly reminded they had to be

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< 1> studied and checked.  
< 2> Q. You just said, "I thought that they did not manage to get  
< 3> through it all"?  
< 4> A. I said there was so much paper work coming through at  
< 5> times when it was a problem and you had to worry about the  
< 6> fact they could actually get through most of it.  
< 7> Q. Did you check whether they had?  
< 8> A. I cannot say I did.  
< 9> Q. Why not?  
<10> A. I suppose it was handed to the crews and I expected them  
<11> to read at it, yes, but I cannot answer.  
<12> Q. Or was it, in fact, virtually nothing handed to the crews,  
<13> Mr Dwan?  
<14> A. I can guarantee that quite a lot was handed to the crews.  
<15> Q. Was it?  
<16> A. Yes, it was.  
<17> Q. So when in 1990 you were asked by the Police about what  
<18> the crews were given in the way of instructions and  
<19> standing orders, I assume you could have produced a whole  
<20> box load of what they had been handed, could you?  
<21> A. I never kept a record personally of the information that  
<22> was handed to the crews.  
<23> Q. No, no, please follow. Do you agree that in 1990, before  
<24> you made the statement that we have seen, and we can just  
<25> go back to that for a moment, the statement on 1st March  
<26> 1990 -- could we have that, it is WIT\_05853, please --

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< 1> this is the statement: "Further to my statement my  
< 2> company" and then you talk about standing orders. I am  
< 3> going to have to come back to this. But before that  
< 4> statement was taken, on 27th February of that year you  
< 5> were interviewed, were you not, by the Police? Perhaps  
< 6> you do not remember?  
< 7> A. I cannot say as I do remember, but if you ----  
< 8> Q. Would you accept from me that you were interviewed by the  
< 9> police?  
<10> A. Yes.  
<11> Q. Would you accept from me what the Police were interested  
<12> in -- this is after the MARCHIONESS -- was to discover  
<13> what paperwork there was between your company and the  
<14> crews, and so on, were they not?  
<15> A. If that is what the conversation was, I can take it that  
<16> you are telling me it was.  
<17> Q. And it ended up with this statement on 1st March. If what  
<18> you are saying is true, that there was just so much  
<19> paperwork being handed to the crews from time to time that  
<20> there was a difficulty that they would even get through  
<21> and read it, by 1990 there must have been box loads of  
<22> information on all these ships, vessels? Do you agree?  
<23> A. I do agree, yes.  
<24> Q. Were there?  
<25> A. There was, yes.  
<26> Q. There was?

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- < 1> A. Yes.
- < 2> Q. Did you go, immediately the police came in February, on
- < 3> 27th, off to the vessels and say, "Hey, look, we need all
- < 4> these boxes of information so we can show the Police
- < 5> exactly what we have been telling the crews"?
- < 6> A. No, I did not.
- < 7> Q. Why not?
- < 8> A. Because the information that was on the boats needed to
- < 9> have been on the boats and not in a police station.
- <10> Q. Well, it all came yesterday, did it not, in boxes? Did
- <11> you know that?
- <12> A. I did, yes.
- <13> Q. Yes. It is not on the boats now, is it?
- <14> A. I know, and I have instructed the Captains that if the
- <15> MAIB was to come on board the boat, they had to say that
- <16> the boxes were at the Inquiry because really the vessels
- <17> should not be sailing without them aboard.
- <18> Q. Of course. So you could have done that in 1990, could you
- <19> not?
- <20> A. The question goes on here about standing orders.
- <21> Q. Yes, I will come back to that.
- <22> A. And we did not call them "standing orders" as such. We
- <23> have never had a thing in the company of standing orders
- <24> as it being called standing orders.
- <25> Q. Really? I will come back to the standing orders in a
- <26> moment. The fact is you did not produce to the Police in



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< 1> 1990, do you agree, any boxes filled with information  
< 2> instructions, reminders, memoranda to any of the crews,  
< 3> did you?  
< 4> A. I cannot remember the Police meeting, but I know I would  
< 5> not have done.  
< 6> Q. No, you agree you did not?  
< 7> A. Well, if that meeting took place, I would not have taken  
< 8> all the boxes of paperwork, no.  
< 9> Q. No, all right. You could have allowed the Police to go on  
<10> board and have a look, could you not?  
<11> A. We could have, yes.  
<12> Q. Yes. Did you tell the Police, "Look, I cannot take them  
<13> off because the vessels cannot sail, but are you entitled  
<14> to nip down to Westminster Pier and have a look inside"?  
<15> Did you tell them that?  
<16> A. No, I did not.  
<17> Q. Why not?  
<18> A. I cannot remember now.  
<19> Q. Because they did not exist, did they, Mr Dwan?  
<20> A. They have always existed.  
<21> Q. Did you go through the boxes that were produced yesterday  
<22> before they were produced?  
<23> A. Yesterday?  
<24> Q. Yes, some boxes have come to the Inquiry yesterday, a box  
<25> at least?  
<26> A. I only went through the boxes that morning.

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- < 1> Q. Yesterday?
- < 2> A. Yesterday morning.
- < 3> Q. Right. Please forgive me. We have not had an opportunity
- < 4> to go through every single document, but the covering
- < 5> letter that we have had indicates that the boxes only
- < 6> contain materials since the collision; is that right?
- < 7> A. Well, I am sure that the crews would not keep information
- < 8> on the boats for 11 years, would have needed Hayes
- < 9> Depository to have put all the paperwork that we had. But
- <10> the information at the relevant times, Notice to Mariners,
- <11> we have to have passenger counting, systems that we have
- <12> to -- we have to have on board that the Department of
- <13> Trade know where our accounting systems go, the fire
- <14> fighting certificates, we have to have the life saving
- <15> equipment certificates, rule of the road things and
- <16> general reminders on things that appertain to them trips.
- <17> Q. Mr Dwan, the point I want to make to you is that we do not
- <18> appear in the boxes so far examined, save for an odd
- <19> certificate relating to pre1989, Passenger Launch
- <20> Certificate, other than that, there is not any
- <21> documentation that you have produced at any time relating
- <22> to the period before the MARCHIONESS collision?
- <23> A. No, there would not be.
- <24> Q. I am sorry?
- <25> A. There would not be.
- <26> Q. Why not?

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- < 1> A. Because, as I say, it was 11 years ago.
- < 2> Q. Well, is it thrown away?
- < 3> A. I would presume the crews when they felt they did not need  
< 4> it to be on the boat destroyed it, yes.
- < 5> Q. Destroyed it? Did you know that, that is what they were  
< 6> doing?
- < 7> A. Well, I would not expected them to have kept it.
- < 8> Q. Why not? Because when we get to Mr McGowan, you see, he  
< 9> would need to know, since he has not been serving as long  
<10> as you have, exactly what he is supposed to be reminded  
<11> of, would he not?
- <12> A. But he would not have needed to be reminded of 11 years  
<13> ago. He would need to be reminded -- you know, things  
<14> have changed with the boats now. The boats have got  
<15> all-round vision. They do not need to have someone  
<16> conning a lookout astern now.
- <17> Q. Mr Dwan, I am dealing with the period between 1981 and  
<18> 1989.
- <19> A. I thought you just brought the period up now.
- <20> Q. Yes. No, '81 ----
- <21> LORD JUSTICE CLARKE: So did I. I do not think you made that  
<22> clear, Mr Mansfield.
- <23> MR MANSFIELD: I am very sorry. It is my fault.  
<24> (To the witness): It is 1981 to 1989 -- I am sorry to  
<25> have confused it -- the box we were given, do you follow,  
<26> of materials ----

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- < 1> A. Yes.
- < 2> Q. --- does not seem to have any documentation before 1989.
- < 3> In other words, it all covers the period since the
- < 4> collision?
- < 5> A. So have we gone back to that period? Are we talking about
- < 6> now? It would not have stuff in that box appertaining to
- < 7> pre89, would it? Why would it need to have stuff pre?
- < 8> Q. Because we have been requesting documentation from Tidal
- < 9> Cruises that relates to the period '81 to '89 in order to
- <10> establish whether or no you ever did issue a single
- <11> document to your crews. Now do you follow, Mr Dwan?
- <12> A. I hear what you are saying, yes, but what we have already
- <13> been telling you is that we haven't got any of that
- <14> documentation.
- <15> Q. Where is it?
- <16> A. I do not know.
- <17> Q. I would like you to think, in charge of safety, where are
- <18> the documents that relate to safety for this period?
- <19> A. I would not have a clue at this time.
- <20> Q. Are they in store somewhere?
- <21> A. No, they would not be in store, no.
- <22> Q. They would not be in store. Nobody seems to have seen any
- <23> copies of any of it at all? Do you follow?
- <24> A. I cannot answer. All I know is that before that period
- <25> and at the period at that time they would have had their
- <26> documentation.

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- < 1> Q. Can I just come forward to Mr McGowan? You see, the  
< 2> reason I asked the questions is can you explain how  
< 3> Mr McGowan was unaware of what he was supposed to be doing  
< 4> on the vessel?  
< 5> A. I cannot answer.  
< 6> Q. Namely lookout?  
< 7> A. I cannot answer. The fact is that we had we had not seen  
< 8> the M Notice at that time, I do not believe, of making him  
< 9> a full-time lookout at all time.  
<10> Q. Never mind the M Notice. Mr Teare here took you through.  
<11> You know accept there was documentation coming from the  
<12> Department requiring you to designate a lookout. You  
<13> accept that now?  
<14> A. I think I said I did not remember them letters.  
<15> Q. You do not know about M Notices, you do not remember  
<16> correspondence on this very topic; all I want to know from  
<17> you is if, in fact, you sent out reminders that you have  
<18> to keep a lookout, how is it McGowan was quite unaware of  
<19> it in 1989?  
<20> A. I cannot answer for why Mr McGowan said that.  
<21> Q. You see, you are the one person who should be in a  
<22> position to answer it since you see the crews on a daily  
<23> basis, yes?  
<24> A. Yes.  
<25> Q. And you hand on information on a daily basis?  
<26> A. Correct.

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- < 1> Q. So you would know whether they were doing their jobs or  
< 2> not, would you not?  
< 3> A. Yes, I would.  
< 4> Q. You would need to know?  
< 5> A. I would.  
< 6> Q. You do not just have a little conversation in the pub  
< 7> about the weather; you want to know the details of the  
< 8> daily working to ensure it is working properly, do you  
< 9> not?  
<10> A. Personally, I do not go into pubs but...  
<11> Q. Never mind that. But you know what I mean? You want  
<12> serious conversations about the working ----  
<13> A. We had discussions constantly about the problems on the  
<14> river, yes.  
<15> Q. What it comes to is you never discovered in the time that  
<16> McGowan was working as Mate that there was no system, no  
<17> system at all, on the MARCHIONESS in relation to lookout?  
<18> A. Well, I believe there was a system on the MARCHIONESS.  
<19> Q. Yes, you believed it, but you had never discovered that  
<20> there was not one?  
<21> A. In my experience of working on the boat with both crews,  
<22> there was a system.  
<23> Q. Had you worked with Mr McGowan?  
<24> A. Yes, I had.  
<25> Q. And he kept a lookout, did he, all the time?  
<26> A. He was in and around the wheelhouse most of the time and

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- < 1> he did assist in keeping a lookout, but not all the time.
- < 2> Q. Not all the time?
- < 3> A. No.
- < 4> Q. Had he ever been told by you, "I want a lookout on the deck looking out all the time, particularly through the bridges, and I want to be told about every vessel and every object that might provide a potential danger"?
- < 5>
- < 6>
- < 7>
- < 8> A. No, he was not.
- < 9> Q. A pretty simple instruction?
- <10> A. It is a simple instruction.
- <11> Q. Yes. He was not either told it and it goes without saying it was not written down either. You have already said
- <12> that?
- <13>
- <14> A. I believe not, no.
- <15> Q. You see, the combination of your ignorance of M Notices, your not remembering correspondence, your failure to issue instructions orally or in writing, do you not now agree amounts to a serious dereliction of duty by Tidal Cruises?
- <16>
- <17>
- <18>
- <19>
- <20> A. I do not agree with that, no.
- <21> Q. You still do not agree?
- <22> A. No.
- <23> Q. In fact, looking back on it, you do you think Tidal Cruises did anything wrong at any time?
- <24>
- <25> A. I would say we did the best we possibly could under the circumstances of everything, yes.
- <26>

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< 1> Q. Just looking back on it, would you do anything differently  
< 2> now?  
< 3> A. On looking back, I think the fact that the wheelhouses  
< 4> have now been raised should have been done earlier on. It  
< 5> would at that time have been better to have had a  
< 6> full-time lookout, and that is looking back.  
< 7> Q. Can I go back, please, to 05890, the paragraph I was on,  
< 8> 53, 05890, please? Just a short question about the second  
< 9> sentence -- sorry, 5890 -- the second part of this  
<10> paragraph, just a further question: "We also put a notice  
<11> through the Federation reminding all crews that the BOW  
<12> boats were a problem". Now, this morning you said you did  
<13> not remember that?  
<14> A. I did not remember that, no.  
<15> Q. How did you remember did in August then?  
<16> A. Well, I know that the letters went out to the crews on our  
<17> vessels, the HURLINGHAM and the MARCHIONESS, at the time.  
<18> I believe that some sort of a notice was sent to the  
<19> Federation. I am not 100 per cent certain on this, but  
<20> I believe that is what happened. I know the messages went  
<21> out on to the boats about the collision because we felt  
<22> that our crews, as every other crew, bearing in mind that  
<23> at the Westminster Pier where we were boating from  
<24> Westminster, not only was it our crews that went off  
<25> afloat, every crew in the passenger boat industry as such  
<26> used to go to work at the same time on the LIBERTY boat,



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< 1> and that LIBERTY boat took the crews to their various  
< 2> vessels for their day's work; and the whole of the  
< 3> conversation was on the fact of the MARCHIONESS -- of the  
< 4> HURLINGHAM incident, as is whenever there is any other  
< 5> incident on the river.  
< 6> Q. Was the thrust, therefore -- final question on this point  
< 7> -- of what the discussion and the notice you seem to  
< 8> remember going through the Federation was that it was the  
< 9> BOW boats who were the problem, not the passenger  
<10> vessels? Was that the thrust?  
<11> A. The BOW boats were always a problem and, in our opinion,  
<12> an even bigger problem when they took the pilots out, yes.  
<13> Q. Can we back to 585?  
<14> LORD JUSTICE CLARKE: Could I just ask this? In that sentence  
<15> where you say: "We also put a notice through the  
<16> Federation reminding all the crews", what does that mean?  
<17> What were the Federation to do with this notice?  
<18> A. Well, the Federation -- I believe, if I am correct, that  
<19> Bill -- Mr Ludgrove and myself sat down and spoke about  
<20> what needed to be reminded to the crews, and I believe it  
<21> was felt that we should notify the Federation who, in  
<22> turn, would be able to notify through their other boat  
<23> owners to notify their crews of the problem.  
<24> Q. I see.  
<25> A. And a general reminder was our intention.  
<26> Q. This is a notice to the Federation for members of the

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- < 1> Federation to remind their crews?
- < 2> A. To remind their crews, albeit that their crews knew about
- < 3> it -- obviously, that accident happened early hours of the
- < 4> morning.
- < 5> Q. That was not a method of notifying your crew?
- < 6> A. Our crews were important in our company, but it was
- < 7> important to remind the rest of the boat owners that there
- < 8> was a problem and it needed to have been addressed.
- < 9> MR MANSFIELD: 05853, please? This is the statement I looked
- <10> at briefly before, which was taken after you had been
- <11> interviewed on 27th February by the Police. The document
- <12> has not been scanned, the interview, but I will just put
- <13> the question you have been asked before this statement by
- <14> the Police on 27th February, amongst a large number of
- <15> others. One of the questions you were asked was this:
- <16> "Can you supply a copy of standing orders in the future?"
- <17> Answer: "Yes, I will get them to you on Thursday."
- <18> That is the precursor. Now if we look at the
- <19> statement, 583, your paragraph: "Tidal Cruises issues
- <20> standing orders to our Captains." Do you see that?
- <21> A. Yes.
- <22> Q. Now what you told the Police in the interview and what you
- <23> put in the statement was completely misleading, was it
- <24> not, Mr Dwan?
- <25> A. Well, I do not believe so.
- <26> Q. You did not issue any standing orders on any topic to any

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- < 1> Captain at any time, did you?
- < 2> A. They were not known as "standing orders". If you are
- < 3> asking me standing orders, I did not know what standing
- < 4> orders meant.
- < 5> Q. So when the Police asked you in February about a month
- < 6> before this, well, less than that, a few days before this
- < 7> -- this statement is 1st March -- why did you not say,
- < 8> "Pardon? I do not know what standing orders are. We do
- < 9> not have anything called 'standing orders'. All we do is
- <10> reissue the odd thing that comes to us".
- <11> A. If I was to relate back now to what a standing order is,
- <12> as in the context of what they were asking me for standing
- <13> orders, then I could argue now that we did issue standing
- <14> orders, but it was never ever called a "standing order".
- <15> Q. Well, what did you think "standing orders" meant?
- <16> LORD JUSTICE CLARKE: I think one has to look at the
- <17> conversation, Mr Mansfield. It appears to me to be quite
- <18> clear that if one reads through the document I have just
- <19> been handed that a distinction is drawn between standing
- <20> orders, on the one hand, and instructions relating only to
- <21> rowdyism and noise. Indeed, the rowdyism and noise, the
- <22> standing orders or what are described as standing orders
- <23> are actually exhibited to this statement.
- <24> MR MANSFIELD: Yes, sir.
- <25> LORD JUSTICE CLARKE: Those only relate to rowdyism and noise.
- <26> So I think one has to put it slightly more fairly, if

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< 1> I may say so, to the witness.  
< 2> MR MANSFIELD: Well ...  
< 3> LORD JUSTICE CLARKE: As I read the materials, and obviously we  
< 4> can debate this later if it is really necessary, a  
< 5> distinction is drawn in the interview between standing  
< 6> orders, on the one hand, and rowdyism instructions on the  
< 7> other which, I agree, were treated as standing orders.  
< 8> But it is a long time ago. The witness has not seen this  
< 9> material.  
<10> MR MANSFIELD: Is there a copy of the interview because I think  
<11> it may be ----  
<12> LORD JUSTICE CLARKE: I think there must be because we have  
<13> been handed one just about a quarter of an hour ago.  
<14> MR MANSFIELD: Yes, it is not scanned, I am afraid, but there  
<15> are copies. Could the witness have a copy and for those  
<16> who would like a copy? It is not in the bundle. I think  
<17> it is A007005, A0070005.  
<18> LORD JUSTICE CLARKE: I think the witness has it now in hard  
<19> copy.  
<20> MR MANSFIELD (To the witness): I just want to pursue one point  
<21> with you about this question of how you responded and what  
<22> was produced at that time.  
<23> This is an interview that starts with the  
<24> question: "Is it correct that only yourself and  
<25> Mr Ludgrove are in sole control of Tidal Cruises?" "Yes,  
<26> that is correct". "Does Tidal Cruises have any standing

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< 1> orders?" "Yes, the crew have." So nothing has preceded,  
< 2> as far as one can see. What did you think the Police were  
< 3> asking about?

< 4> A. I would have thought they were asking for the general  
< 5> information that was handed to the crews.

< 6> Q. Yes, all right. That is how you interpret it. General  
< 7> information. Further down the page, as you can see: "Do  
< 8> you have a copy of those orders?" "We have one on file.  
< 9> The others are kept on the boats. I cannot get the file  
<10> copy. It is locked up and I have not got the key". "Were  
<11> there any in existence before the incident?" "Yes, they  
<12> were. They were drawn up in conjunction with the Police  
<13> and the PLA. They mainly covered noise levels and  
<14> disturbances on boats". "Were there any in relation to  
<15> noise levels before the incident?" "Yes, instructions  
<16> were issued", and so on, "five years ago limiting noise  
<17> levels".

<18> Then I do not go through the rest of that page,  
<19> but you return to the topic on the third page of this  
<20> interview: "Can you supply a copy of standing orders in  
<21> the future?" "Yes, I will get them to you on Thursday".  
<22> Question: "Other than noise and rowdyism instructions,  
<23> what else do they contain?" "None. After that they", the  
<24> Captains, "are controlled by river byelaws". Then it goes  
<25> on to deal with another matter. So when you were asked  
<26> the question about standing orders, you interpreted it as

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- < 1> meaning just instructions, did you?
- < 2> A. I interpreted it to mean navigation matters and
- < 3> instructions to the crew.
- < 4> Q. Then there comes the statement, 5853, and the paragraph
- < 5> I was about to ask you about:
- < 6> "Tidal Cruises issue standing orders to our
- < 7> Captains. These are mainly to cover such matters as noise
- < 8> levels from audio equipment on our vessels and
- < 9> instructions to Captains in respect of drunkenness and
- <10> rowdyism on board from clients. I produce a copy of the
- <11> standing orders which were in force on 20th August.
- <12> KVD 6."
- <13> You have already been asked, first of all,
- <14> before we go to KVD 6, there was no indication to the
- <15> Police at any time that there were boxes on board of other
- <16> instructions and memoranda, was there?
- <17> A. I believe not, no.
- <18> Q. No, but you interpreted the question "standing orders" as
- <19> instructions, did you not?
- <20> A. As information, yes.
- <21> Q. Yes, so why did you not tell the police, "Well, actually
- <22> I can get you to see a whole box load"?
- <23> A. Well, I do not know that, but all I know is the boxes have
- <24> always been on the boats.
- <25> Q. Yes. What you produced we see at 05857. In other words,
- <26> by the time of this statement, 1st March, you produced a

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- < 1> document dated 17th November 1989 from the Thames  
< 2> Passenger Services Federation. Do you see that?  
< 3> A. Yes.  
< 4> Q. I do not go through it, and another document with it,  
< 5> 5859, which is code of practice when dealing  
< 6> with disturbance. Someone noticed on the day that clearly  
< 7> that notice, that particular notice, post dated the  
< 8> collision and they came back to you and said, "Well, wait  
< 9> a minute, as it post dates, what was in force at the time  
<10> of the collision?" Do you follow?  
<11> A. I do not remember them coming back, but I remember this  
<12> thing, yes.  
<13> Q. 05860, please, is a statement dated the very same day,  
<14> 1st March 1990, which in the first sentence refers back  
<15> again to standing orders: "This is my exhibit. It will  
<16> be noted it is dated 17th November. This is because these  
<17> documents represent a reissue of the same papers on exact  
<18> format as these in force on 20th August 1989".  
<19> Once again, being asked carefully what was in  
<20> force in August, why did you not just say then, "Look  
<21> here, I am sorry about that, all the documents that were  
<22> in force are sitting in boxes on the other vessels that  
<23> have not sunk"?  
<24> A. I cannot remember.  
<25> Q. Sorry?  
<26> A. I cannot remember that.

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- < 1> Q. No, you cannot remember. Why did you not just say that to  
< 2> the Police instead of producing, I suggest, a document  
< 3> which only came into existence, that particular version of  
< 4> it, after the collision?  
< 5> A. I cannot answer. I do not know.  
< 6> Q. You see, put shortly, I suggest to you you did not have a  
< 7> single instruction or standing order or anything other  
< 8> than the one you have shown (which post dates) before the  
< 9> collision in 1989, did you, Mr Dwan?  
<10> A. Yes, we did.  
<11> Q. I want to just go back, if I may, to a position which  
<12> existed right at the beginning when you first took on the  
<13> MARCHIONESS. Could we have, please, CHR\_00125? This is  
<14> dated 22nd January 1979, and could it be scrolled up,  
<15> please? Thank you. Towards the bottom: "It is  
<16> considered". Would you like me to go slower so you can  
<17> look at it in more detail? Can we scroll up again so we  
<18> can see your name is at the top here?  
<19> "The vessel is now with new owners, Tidal  
<20> Cruises, and when the undersigned attended at Eel Pie  
<21> Island on 18th January, the attached new general  
<22> arrangement drawing was discussed with Mr Dwan, the  
<23> director of the owners"?  
<24> A. Yes.  
<25> Q. I do not suppose for a moment you actually remember the  
<26> meeting?



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< 1> A. I do remember.

< 2> Q. You do remember. Very well. Can we scroll up now and you  
< 3> will see all sorts of things are gone through there. It  
< 4> is considered at the end of it after item No. 7 that  
< 5> owners should be recommended to engage in naval  
< 6> architecture, draw up detailed plans.

< 7> Mr Ludgrove was asked about this and I want to  
< 8> ask you about this, as you are directly concerned. Did  
< 9> you consider getting a naval architect?

<10> A. My belief at the time when we first bought the MARCHIONESS  
<11> was with a view of converting the MARCHIONESS. Thames  
<12> Launches Yard at that time were a very large commercial  
<13> yard, that employed something over about 60 or 70 people,  
<14> all of which included naval architects, surveyors, and all  
<15> various trades that went with the building of in their day  
<16> passenger boats, gunboats and commercial tugs, barges,  
<17> landing craft and various vessels that they built.

<18> All of the previous vessels that Thames Launches  
<19> had owned had been converted at the Thames Launch Yard at  
<20> Eel Pie Island with drawings that were done by the naval  
<21> architect and surveyors in that yard at that time. The  
<22> fact that all of the other boats -- we are talking  
<23> somewhere in the region of about 20 odd boats had been  
<24> converted and passed and were working on the river at that  
<25> time with the drawings and the plans that had come from  
<26> Eel Pie Island -- at that time the fact that the drawings

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< 1> or the design that we got came from that yard at that  
< 2> time, I was virtually certain that that had come through  
< 3> their drawing offices, and via their architects and  
< 4> surveyors.  
< 5> Therefore, when we decided to do the  
< 6> conversions, it was not drawn up by ourselves; it had been  
< 7> drawn up by naval architects from Eel Pie Island. We then  
< 8> just, we felt, needed the guidelines from the Department  
< 9> to make sure that we were not doing anything that we could  
<10> not do.  
<11> Q. So is the answer to the question, in the light of what you  
<12> have said, that you did not actually engage a naval  
<13> architect to draw up ----  
<14> A. We, as a company, did not, no.  
<15> Q. There are two aspects to this, as originally designed and  
<16> as it turned out, do you follow, that I want to ask you  
<17> about?  
<18> A. Yes.  
<19> Q. One is visibility and the second is safety?  
<20> A. Yes.  
<21> Q. For these purposes, it may be easier just to actually look  
<22> at what we have as to how the MARCHIONESS first appeared.  
<23> Could we have photo bundle 00087? First of all, just to  
<24> mind ourselves, it is as used as a troop ship. Just for a  
<25> moment, one can see there that there are life belts  
<26> attached to the railings around the open deck, foredeck --

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< 1> it is very difficult to see the helm position there  
< 2> because it is dark -- and the open deck at the rear and  
< 3> the funnel. So that is just a general picture?  
< 4> A. Yes.  
< 5> Q. We now have another one at photograph 00124.501. Once  
< 6> again it is possible in that top photograph -- sorry, it  
< 7> is top on our page, but it is on the screen -- to see  
< 8> there are a number of life boys or rings on the outside of  
< 9> the vessel. Would you help me about this, it also appears  
<10> that on the open foredeck there are places where you can  
<11> exit the foredeck in the shape of white railings?  
<12> A. That is correct.  
<13> Q. That is correct. So there would be two to port and two to  
<14> starboard?  
<15> A. Correct.  
<16> Q. It is also clear, of course, that the upper deck is open  
<17> and clearly at the stern there is an open area?  
<18> A. Correct.  
<19> Q. In addition to that, just to make a rather obvious point,  
<20> as constructed then, is it right there was an exit from  
<21> the internal areas of the deck to the stern open area?  
<22> A. In this picture here, it is underneath the stairs that  
<23> come from the top deck to the bottom deck aft, yes.  
<24> Q. Dealing with, first of all, safety. As originally  
<25> designed -- I think just one other postscript to that,  
<26> originally, it was intended to be a passenger launch that

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- < 1> would ply the river in the reaches of the river above  
< 2> Richmond, did you know that?
- < 3> A. She was designed to work -- I think she was built in  
< 4> Oxford is where she was built.
- < 5> Q. Yes, built in Oxford.
- < 6> A. And she was built for Joe Mears to specifically run  
< 7> between Westminster and Hampton Court. That is why the  
< 8> gates are as they are.
- < 9> Q. I just want to ask you this question on the safety  
<10> aspect. So that is how you acquired it. When you were  
<11> considering conversion, did you at any time, without going  
<12> through the various phases, and coloured in mauve and all  
<13> the rest of it, did you at any time consider that the  
<14> original design provided ready means of escape from the  
<15> vessel, from all areas of the vessel?
- <16> A. Now we are talking about over the handrails and not  
<17> through the gates is what you are saying? Any open boat  
<18> is an all round evacuation point, yes.
- <19> Q. Yes. So, as designed, it provides ready escape routes,  
<20> does it not?
- <21> A. As designed, it is easier to get off, yes.
- <22> Q. It is easier to get off. I am putting it in simplistic  
<23> terms. At the time, of course, it was carrying, or was  
<24> licensed to carry, the kind of numbers that were being  
<25> carried in 1989?
- <26> A. No. The numbers had dropped since when the conversion was

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- < 1> done.
- < 2> Q. They dropped, but, effectively, when it was an open boat,
- < 3> it carried even more?
- < 4> A. Yes, it did.
- < 5> Q. All right. The question is this, that when you considered
- < 6> conversion, did you, or whoever was engaged with you in
- < 7> the process of conversion, say to yourselves: "We must
- < 8> maintain a level of egress, a level of exit, from this
- < 9> vessel in case she sinks?
- <10> A. Yes, it was. That is why all of the windows were made of
- <11> the sliding type.
- <12> Q. So you thought, did you, that windows would be sufficient?
- <13> A. We felt at the time that the more exit points that that
- <14> boat could have during the conversion, the better it would
- <15> be.
- <16> Q. But the more exit points that you considered would be
- <17> satisfactory were not actually exit doors but windows.
- <18> That is how you looked at it, is that fair?
- <19> A. We looked at it that every means of escape should be there
- <20> on that boat in connection with the conversion, ie the
- <21> doors on to the front, the windows on the foredeck, the
- <22> windows on the top deck and the windows down below and the
- <23> escape hatch.
- <24> Q. We will come back to how it turned out in a moment. But
- <25> you are saying you did consider the importance of
- <26> providing every means of escape from this vessel?

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- < 1> A. Most certainly, yes.
- < 2> Q. And as much life save buoyant apparatus as is possible?
- < 3> A. As is possible.
- < 4> Q. The second area I want to ask you about as it was, as it
- < 5> were, is the question of visibility by the helm. When you
- < 6> took it on in the way it is depicted in the photograph,
- < 7> visibility astern was itself at that stage even impeded,
- < 8> was it not?
- < 9> A. Yes, it was.
- <10> Q. It was impeded -- again it is not a very good photograph
- <11> for these purposes, but it would be impeded in the sense
- <12> that the funnel was behind the helms person?
- <13> A. Yes.
- <14> Q. And also the helmsman, I do not know whether the other
- <15> photograph of different vessels helps? Could we call it
- <16> up in case it does? It is obviously a different vessel.
- <17> It is the previous photograph, 500, just to see if it is
- <18> of any use? 124.500, please. I appreciate it is not the
- <19> same vessel and it is a different funnel, and so on. Is
- <20> it possible to discern exactly where the helm was or not?
- <21> A. The helmsman's position, if you count the stanchions from
- <22> the cabin top.
- <23> Q. Have you got a mouse. Sorry to interrupt. Do you have a
- <24> mouse there that you could just -- it is perhaps a little
- <25> bit easier if you could just point it out?
- <26> A. If you put that there, that is the steering position

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< 1>           there.  
< 2>    Q.    Well, without wishing to be too obvious, I think from that  
< 3>           position the likelihood of seeing anything astern is  
< 4>           probably nil, is it not?  
< 5>    A.    I was Skipper on the MARCHIONESS before the conversion,  
< 6>           and even in them days you had to step to the side of the  
< 7>           boat to have rear vision.  
< 8>    Q.    Yes.  Can I just take it in stages?  There is a genuine  
< 9>           reason because I want to find out how much regard was had  
<10>           to visibility, do you see?  So when you took it on, would  
<11>           it be fair to say, and you did skipper it before  
<12>           conversion, if you were at the helm, you could not see  
<13>           anything astern?  
<14>    A.    You had to step to the side of the vessel to look aft.  
<15>    Q.    Yes, the question was if you are at the helm?  
<16>    A.    At the helm you could not see astern.  
<17>    Q.    You could not see anything.  So you would have to either  
<18>           leave the helm and go to the side of the vessel?  
<19>    A.    Yes.  
<20>    Q.    And, basically, looking at the vessel as constructed, you  
<21>           would have to go right to the side and lean over?  
<22>    A.    Yes.  
<23>    Q.    Now again I appreciate it is sometimes possible to let a  
<24>           boat go on auto pilot and all the rest of it, it will just  
<25>           go, but you would want someone at the helm while you did  
<26>           that?

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< 1> A. That is why I said 90 per cent of the time there was  
< 2> always someone around the wheelhouse.  
< 3> Q. Yes. So even before conversion it was necessary for  
< 4> someone to stay at the helm and to have somebody who was  
< 5> able to look out on either side of the unconverted vessel?  
< 6> A. To assist you in looking round.  
< 7> Q. Yes, and you would need to have that, especially on a busy  
< 8> river, all the time, would you not?  
< 9> A. You needed to have them most of the time.  
<10> Q. Most of the time. All right. I am not going to quibble  
<11> about 100 per cent or 99 per cent. So did that concern  
<12> you at that time when you were skippering this vessel with  
<13> such limited visibility?  
<14> A. We are talking about the before, when it went in ----  
<15> Q. Before?  
<16> A. --- before she was converted?  
<17> Q. Yes, before the conversion.  
<18> A. If the crew were working in a proper fashion, it was  
<19> always fairly reasonable to be able to have a good  
<20> knowledge of what, you know, you were not looking round  
<21> all of the time.  
<22> Q. No.  
<23> A. There were reaches on the river and times on the river  
<24> when you were in a long reach, you would look to stern,  
<25> there was nothing coming up astern, so you did not have to  
<26> have someone permanently looking aft. But there were



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- < 1> reaches when you needed to have a little bit more of  
< 2> awareness of what was around you, ie, when you were  
< 3> upriver near Richmond and Kew, you had people in rowing  
< 4> boats, you had people in little hired boats. So you  
< 5> needed to be aware at different times.
- < 6> Q. So what comes down to, even before conversion, it is  
< 7> necessary for a lookout who has, if a lookout is  
< 8> appointed, to be sure of which stretches of river really  
< 9> need the closest attention. That is the first obvious  
<10> point.
- <11> A. It was always important to be aware of what was around  
<12> you.
- <13> Q. So, clearly, night time travel under bridges that are very  
<14> close to each other is one of those stretches of river  
<15> that would need at night careful look out, would it not?
- <16> A. You would need to have known what was coming around you,  
<17> yes.
- <18> Q. Yes, you would, right. Now, when the vessel was  
<19> converted, aware as you were of the limited visibility,  
<20> did you think, "This is the chance, I can now make this a  
<21> vessel with all round visibility"?
- <22> A. At the time of the conversion thought was given to the  
<23> visibility in a big way.
- <24> Q. Right.
- <25> A. One of the factors was of the boat being able to ply most  
<26> of the reaches of the Thames, be it from Greenwich to

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< 1> Hampton Court. A factor that was taken into account was  
< 2> the lowness of some of the bridges, and we felt that the  
< 3> steering position when it was renewed was a better  
< 4> position than before it was converted, because you were  
< 5> nearer the bow of the boat, your superstructure was  
< 6> further away aft which gave you a little better lookout  
< 7> down the side of the boat, and they were the  
< 8> considerations that were taken in, was the lowness of the  
< 9> bridges and being able to ply most of the routes all the  
<10> time.

<11> Q. Was consideration given to providing the MARCHIONESS at  
<12> the time of conversion with all round visibility from the  
<13> wheelhouse?

<14> A. No.

<15> Q. Why not?

<16> A. Because of the design of some of the bridges and the  
<17> plying of the river that we wanted to go on.

<18> Q. It would have been quite possible at that time, would it  
<19> not, to have provided a wheelhouse with all round  
<20> visibility and commensurate with clearing the bridges,  
<21> would it not?

<22> A. It would have been able to have put the wheelhouse up and  
<23> clear all bridges at all times? Is that what you are  
<24> asking?

<25> Q. To design the vessel in such a way that the wheelhouse  
<26> cleared the bridges and had all round visibility?

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- < 1> A. No.
- < 2> Q. You could not have come up with any design of that kind?
- < 3> A. Not that high, no.
- < 4> Q. Did you consider it?
- < 5> A. We did not consider it because of the lowness of some of
- < 6> the bridges, and at that time we were worried about,
- < 7> obviously, hitting bridges rather than -- we felt that was
- < 8> a bigger problem.
- < 9> Q. What was the clearance under the bridges as it was, in
- <10> fact, designed?
- <11> A. Well, the clearance of one of the worst bridges was at
- <12> Hammersmith, which is about 12, 13 feet on high water,
- <13> which the boat would still have not got through at that
- <14> time, but if we had raised the wheelhouse even higher it
- <15> would have put us a lot slower in being able to get
- <16> upriver.
- <17> Q. So would it come to this, that provided you had a
- <18> particular voyage, as it were, which did not embrace
- <19> bridges that provided a difficulty of clearance, in other
- <20> words, bridges down towards Tower Bridge, a different kind
- <21> of route, you could have had all-round vision even when it
- <22> was converted?
- <23> A. If our boat had been going on different routes and we did
- <24> not need to go right upriver, then the wheelhouse could
- <25> have been all round.
- <26> Q. Yes, and, clearly, this is something that the authorities

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- < 1> could have considered, that if, in fact, a vessel has not  
< 2> got all round visibility, then it should not be travelling  
< 3> in areas where in order to have it it would be a danger to  
< 4> bridges, do you follow?  
< 5> A. I know which way you are going, yes.  
< 6> Q. In fact, what happened -- we can see if you look at  
< 7> another photograph PHO\_0093, that is a view of the  
< 8> wheelhouse before the accident or the collision. 00093.  
< 9> That is looking, as it were, straight on to the wheelhouse  
<10> as designed. By this stage, of course, there was an upper  
<11> enclosed deck, was there not?  
<12> A. Yes, there was.  
<13> Q. One can see if you look at photograph 00135, although the  
<14> deck has gone, the two rear windows in the wheelhouse.  
<15> 00135. Then there is another one, 00184. In other words,  
<16> the two windows in the rear housing of the wheelhouse do  
<17> not give all round visibility themselves, do they?  
<18> A. No.  
<19> Q. In fact, they give very limited visibility from inside the  
<20> wheelhouse, do they not?  
<21> A. Very?  
<22> Q. Limited?  
<23> A. Limited visibility dead astern.  
<24> Q. Well, yes, certainly dead astern, up to how many points,  
<25> roughly?  
<26> A. I would have said of each quarter.

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< 1> Q. This was compounded, this view, although it is not easy to  
< 2> see from the picture, by the fact that there was an upper  
< 3> deck enclosed?

< 4> A. Yes.

< 5> Q. And in order to see anything at all, even beyond those  
< 6> from inside the wheelhouse, you would have to be looking  
< 7> through the upper deck windows, would you not?

< 8> A. Yes.

< 9> Q. If it was raining and if there was condensation on the  
<10> windows, and if there were a lot of people on the upper  
<11> deck, there was a major problem, was there not?

<12> A. You could not see through there.

<13> Q. You could not see through there. I want to pause for a  
<14> moment to ask you this. Were you aware in 1983, so we are  
<15> passed 1981 and your own problems in 1981, of more  
<16> collisions on the river involving passenger vessels?

<17> A. Yes, I was.

<18> Q. So you can just be quickly reminded, could we have the COR  
<19> bundle at 338 and 339 onwards? 338, in 1983 you will see  
<20> -- I just want to run through it very quickly -- there is  
<21> the casualty, the collision between the BOWBELLE and the  
<22> PRIDE OF GREENWICH on 9th June. Then there is reference  
<23> to the SHELL distributor and the NEW SOUTHERN BELLE. I am  
<24> not going to read all the way through it; it is just to  
<25> remind you about those aspects of it.

<26> Then if you could go over the page to 339,

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< 1> please, you will see there later in the year, 7.7.83:  
< 2> "As I have already stated, the authority remains  
< 3> concerned about the navigation problems upriver to the  
< 4> extent we requested we obtain a meeting", and so on.  
< 5> If you could just scroll down the page, please,  
< 6> on 339 to the bottom:  
< 7> "On 22nd of the 7th, a list of river craft  
< 8> inspected for visibility from the wheelhouse and found to  
< 9> be unsatisfactory. 20 craft were listed including the  
<10> MARCHIONESS". We saw the list yesterday and I am not  
<11> going to ask for it to be drawn up.  
<12> So collisions on the river in '83, concern by  
<13> everyone that visibility was causing a problem. Could you  
<14> just look at one final page here, 342? On 27th September,  
<15> it is right at the bottom of the page, 342: "A meeting at  
<16> Companies House between passenger boat operators and the  
<17> Department". Can I just read this to you to see whether  
<18> it jogs any memory, this particular one:  
<19> "Almost 10 years ago, because of a number of  
<20> incidents involving Thames Passenger Launches in the  
<21> middle reaches of the Thames, a meeting was held in the  
<22> Marine Office, London, between the Department, the PLA,  
<23> the GLC, River Police and Thames Launch owners operating  
<24> draft downriver from Teddington Lock.  
<25> "The problems which existed then remain much  
<26> the same today which are inability to hear sound signals

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< 1> because of noise levels from discos; the need to keep a  
< 2> proper lookout or listening watch and the lack of a clear  
< 3> view astern for the helmsman."  
< 4> I appreciate you -- I am just going to pause  
< 5> there -- you did not go to very many meetings, did you?  
< 6> Just to have it clear, do you remember whether you went to  
< 7> this one or not?  
< 8> A. I would not have gone to this one.  
< 9> Q. But you would have been made aware, would you not, by the  
<10> passenger boat operators' organization or your  
<11> representative, Mr Ludgrove, or whoever went, would you  
<12> not?  
<13> A. Yes, I would.  
<14> Q. So this is in the sort of latter stages of 1983 and  
<15> September. On the next page, 343, itemised halfway down  
<16> in paragraphs 1 and 2:  
<17> "The salient points arising from discussion on  
<18> the items contained in the letter were as follows:  
<19> (1) a clear view astern. The outcome of the discussion  
<20> was that there was no substitute to having a clear view  
<21> astern for safe navigation and", another item, "wheelhouse  
<22> watchkeeping and unauthorized persons", and so on. "The  
<23> suggestion that the control of the craft on the river had  
<24> become lax was contested, but it was agreed there is a  
<25> need to stress to the crews of craft their  
<26> responsibilities for safe navigation of their vessels."

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- < 1>                    You agree that you did know about this kind of  
< 2>                    discussion in 1983?
- < 3>    A.    Yes, I did.
- < 4>    Q.    I am not going to show you an M Notice in 1986 dealing  
< 5>           with same topic because you will not have seen it, will  
< 6>           you?
- < 7>    A.    No.
- < 8>    Q.    All right, but there was one in 1986. All I wanted to ask  
< 9>           you was in this period, 1983 to 1986 to 1987, were any  
<10>           instructions reissued to your crew about the need for  
<11>           lookout and so on?
- <12>    A.    I cannot remember, but I just -- I do not believe so.
- <13>    Q.    Did you consider in this period of time that you ought to  
<14>           -- just going back to the MARCHIONESS and visibility,  
<15>           never mind the lookout point -- "Well, we ought to do  
<16>           something about the MARCHIONESS physically"?
- <17>    A.    No, I did not.
- <18>    Q.    You did not. Why not?
- <19>    A.    Because again of the plying areas of the vessel and the  
<20>           fact that we needed to be as low as we possibly could  
<21>           because of the up reach parties, the upriver parties.
- <22>    Q.    What I want to put shortly to you is do you agree that the  
<23>           physical alterations which did take place slowly on the  
<24>           MARCHIONESS were, in fact, quite inadequate for providing  
<25>           proper view astern, were they not?
- <26>    A.    You can say that, yes, now, yes.



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< 1> Q. You agree. Then I want to turn to the other topic which  
< 2> is the escape routes and safety in relation to the  
< 3> converted MARCHIONESS. Could we have a look at photograph  
< 4> 00114, please? That is a view unobstructed, as it were,  
< 5> of, if you like, the disco deck forward to the two doors  
< 6> that lead out on to the foredeck. Did you ask yourself  
< 7> this question at any time, that if you, as a passenger,  
< 8> were trapped on the vessel, a fire in the engine room just  
< 9> below, or it is sinking, did you envisage if you had 120  
<10> on board, or 100 plus on board, what it would be like to  
<11> get out of this vessel in a hurry?  
<12> A. Yes, I did.  
<13> Q. You did? Are you aware that, I am not suggesting it has  
<14> happened for vessels, but, so far as aircraft are  
<15> concerned, crew have to be fully conversant with how to  
<16> get a large number of people out of a confined space in a  
<17> very short space of time, do they not?  
<18> A. I am aware of that. Yes.  
<19> Q. Yes. Did any such thing apply to the river that you knew,  
<20> in other words, the need to get 120 people out in two  
<21> minutes flat?  
<22> A. We had spoken about it amongst ourselves ----  
<23> Q. Right.  
<24> A. --- with the crews, not with office, but amongst ourselves  
<25> we had obviously envisaged a fire problem which appeared  
<26> at that time that our main problem was always going to be

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< 1> a fire, and the need to evacuate people. That would seem  
< 2> to be the biggest problem that we were worried about.  
< 3> Q. I raised the question of fire, so I understand that, but  
< 4> were you not also, in addition, concerned or aware that  
< 5> the discussions going on between others, particularly  
< 6> those representing the BOW trade, the bigger vessels, was  
< 7> that there was the risk of a very serious casualty on the  
< 8> river, not so much through fire, but because one of their  
< 9> vessels might hit a passenger vessel and sink with a  
<10> considerable loss of life. You were aware of that risk?  
<11> A. I was aware of that risk many, many years ago when the  
<12> pilots were removed from the BOW boats.  
<13> Q. It is a continuing risk that you were aware of once the  
<14> pilots went. Now, so far as the continuing risk,  
<15> therefore, of getting the people out, were any tests done  
<16> by anyone that you are aware of for vessels of this kind,  
<17> passenger launch Class V, to assess how quickly 120 people  
<18> could be evacuated from the vessel?  
<19> A. I knew of a couple of tests that had been used for  
<20> evacuation.  
<21> Q. Right. How long did it take?  
<22> A. I think at the time when they did it they used the Army,  
<23> young fit men out of Woolwich, and I believe ----  
<24> Q. Did you say the "unfit" or the "fit"?  
<25> A. The very fit Army, and it was quite some considerable  
<26> time.

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- < 1> Q. Who is the "they" that did this?
- < 2> A. It would have been done by a company that was running hydrofoils.
- < 3>
- < 4> Q. What is the upshot, that it was satisfactory or it was not satisfactory?
- < 5>
- < 6> A. It was always going to be a problem.
- < 7> Q. Always going to be a problem. Because, quite simply, coming back to the particular design, I suggest, problems of the MARCHIONESS, if something happened, an emergency, by definition, you are working against the clock, are you not?
- < 8>
- < 9>
- <10>
- <11>
- <12> A. Yes, you are.
- <13> Q. So if it is a fire, you may only have seconds to get out?
- <14> A. You almost certainly only have seconds.
- <15> Q. And if it is sinking, you are almost certainly again going to have only -- well, you might have a bit longer if it is buoyant?
- <16>
- <17>
- <18> A. Depending on the design of the vessel, but if it was a vessel of the type of the MARCHIONESS, an open boat as such, then it would be sinking very quickly.
- <19>
- <20>
- <21> Q. So one has to be considering what can be done in those circumstances to ensure the maximum time and the maximum exit facilities?
- <22>
- <23>
- <24> A. Yes.
- <25> Q. You would agree?
- <26> A. Yes.

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- < 1> Q. And the MARCHIONESS -- could I have photograph 00114  
< 2> again; in fact, if you just glance at that and then could  
< 3> we go to 00116, which is the view the other way, that is  
< 4> the view the other way -- the fundamental position here  
< 5> where passengers might be in a state of panic because  
< 6> there is either the fire or the sinking which requires  
< 7> seconds, they are all going to rush to the two obvious  
< 8> exits doors, are they not?  
< 9> A. I would have, well, I would say yes, but that would be the  
<10> area I would want them to come to.  
<11> Q. That is precisely the problem, is it not, Mr Dwan, that if  
<12> you are going to get 120 people trying to get to the most  
<13> obvious exit doors of which there are only two, that is  
<14> when people get trapped, is it not?  
<15> A. Yes, it would be.  
<16> Q. Yes. Because from the lower deck, as we can see on 00116,  
<17> there is really only one staircase coming up and it is  
<18> quite narrow, is it not?  
<19> A. Yes, it is.  
<20> Q. So you are not going to get more than one person going up  
<21> at a time in the sense that you cannot have two alongside  
<22> each other?  
<23> A. Yes.  
<24> Q. And it only requires someone to slip on those steps and  
<25> fall back and you get a pile up of people trying to get up  
<26> those steps, do you not?

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< 1> A. Correct.

< 2> Q. What I want to suggest to you here, just on the means of  
< 3> egress, the most obvious thing I suggest to you that  
< 4> should have been considered by you or, for that matter,  
< 5> those who regulate you, was the introduction of at least  
< 6> two more exit points on this vessel amidships, as they  
< 7> say, two doors, one on the starboard and one on the port,  
< 8> near to the two sets of steps coming down in photograph  
< 9> 00116. Now, what do you say about that?

<10> A. Well, on all of our other vessels we have that layout. We  
<11> have the layout with the doors to the side of the vessel.  
<12> Because of the area of the dance deck on the MARCHIONESS,  
<13> and bear in mind any doors that go to the side of the  
<14> vessel have to be locked, and a key has to be put in an  
<15> emergency "break glass to open" situation, it was felt  
<16> that the area on that foredeck was a lot easier, you know,  
<17> as you are saying, what you do not want is the door would  
<18> have been the door width of a wheelchair probably, and if  
<19> in the case of what you are saying, the scenario of a  
<20> sinking or of a fire, passengers would have had to, even  
<21> to this day, come to that door, have to find the box to  
<22> break the glass to get the key, then open the door (which  
<23> would be an inward opening door) and then try to escape  
<24> out over and into the water.

<25> Now, it seemed at that time more practical to  
<26> have, being that it was a smaller foredeck, the people

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< 1> moving out -- you must imagine that in all our scenarios  
< 2> we never ever anticipated a large vessel of the size of  
< 3> the BOW boat sinking the MARCHIONESS as quickly as it  
< 4> did. In most circumstances, we would have imagined that  
< 5> on any slight collision, and any other vessel on that  
< 6> river apart from the BOW boat, had there been a collision,  
< 7> would have just done a side winder, even if you had hold  
< 8> yourself on the state of tide of that night, the talked  
< 9> about scenario was that the worst thing that you could do  
<10> is run the boat up the beach, beach her, the people come  
<11> through the foredoors, they go over the foredeck, on to  
<12> the beach and they are safe. And the same with a fire, in  
<13> the case of a fire; you would moor the boat up either  
<14> alongside of a barge, run up it the beach, people would  
<15> evacuate and you would have the controlled evacuation  
<16> system. But in an accident like what happened on that  
<17> night, there was no time to implement any form of safe and  
<18> sensible evacuation.  
<19> Q. Well, can I deal with that straightaway? First of all,  
<20> the premise on which you have built it all is that you say  
<21> it really was not foreseen that something like this would  
<22> happen and it would sink so quickly? That is what you  
<23> have been saying.  
<24> A. That is what I -- in that scenario.  
<25> Q. But that, if I may say so, was precisely what was foreseen  
<26> in the mid 1980s, and that was the discussion going on

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< 1> between the big BOWTRADERS and the smaller passenger  
< 2> launch association. Can I put it in a nutshell? The  
< 3> BOWTRADERS are saying, "Look, we are the big boys. We  
< 4> want right of way down here because if we do not get it,  
< 5> there is going to be a serious accident", and the  
< 6> passenger launches are opposing various introductions.  
< 7> They are saying the BOWTRADERS should be better lit up.  
< 8> All right? That is the debate? Fair enough?  
< 9> A. Yes.  
<10> Q. So it was known, or at least it was anticipated, that  
<11> unless something was done, there was a real risk of a  
<12> collision of this kind. You did appreciate that, did you  
<13> not?  
<14> A. I did, yes.  
<15> Q. Yes, thank you. Secondly, how do you get people out?  
<16> Well, one of the things would be an improvement, and I say  
<17> it is a matter of common sense to you, was to have ensured  
<18> that all crews were instructed on evacuation procedures,  
<19> do you agree?  
<20> A. Yes.  
<21> Q. Were they?  
<22> A. They were vaguely instructed, yes, they would have been,  
<23> yes.  
<24> Q. Vaguely instructed?  
<25> A. Well, every boat is a different sort of a boat, is it not,  
<26> and every different eventuality or anything that would

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< 1> happen, you could not legislate for every form of a  
< 2> problem.

< 3> Q. No, I quite agree. But was there any legislation for the  
< 4> MARCHIONESS and its crew about how you get 120 people off  
< 5> the MARCHIONESS if there is a fire or if there is a  
< 6> serious collision?

< 7> A. Well, as I said to you earlier, the discussions that we  
< 8> had had was that the boat in a case of a fire, once the  
< 9> crew had informed the Master of where the problem was, if  
<10> it was an engine room fire, you had the option of shutting  
<11> all fire doors, closing down the air to the engine room  
<12> which gave you the time then to evacuate the people. You  
<13> drop your anchor, you call for assistance, and you had  
<14> that sort of an evacuation system.

<15> If it was a hole in the boat, if you had the  
<16> choice of getting it up the beach, you got it up the  
<17> beach. If you needed to go alongside of the pier, you  
<18> went alongside of a pier, and a general evacuation was  
<19> taken. So there was a lot of talk and a lot of discussion  
<20> amongst the Captains in our company and myself of various  
<21> ways of what would our problems be.

<22> Q. Were there any written instructions?

<23> A. No.

<24> Q. No. Were the crews trained in any kind of procedure to  
<25> implement effectively evacuation procedures?

<26> A. No.



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- < 1> Q. And why was this not done?
- < 2> A. I just cannot answer that at this time.
- < 3> Q. Because one of the points, just going back to the two
- < 4> doors, is that, of course, if you have sufficient crew who
- < 5> are trained and know where the keys are, and they will be
- < 6> trained to react in an emergency situation, hopefully,
- < 7> they could open the doors, could they not?
- < 8> A. Not only they could open the doors; it needs to be that
- < 9> the passengers can open the doors as well.
- <10> Q. Of course.
- <11> A. And the same with windows and everything else, but most of
- <12> the crew at the time would have been around the
- <13> wheelhouse.
- <14> Q. Quite. So you have not got enough crew, have you?
- <15> A. Well, you could argue that now, yes.
- <16> Q. Well, I am not arguing it now, I am arguing it from then,
- <17> as it were, because if you anticipate the possibility of a
- <18> serious casualty, and you anticipate you need to evacuate
- <19> people at the time of a serious casualty, it is not
- <20> difficult then to anticipate, "How many people do we need
- <21> for 120 people to get out safely?"
- <22> A. But on the night of the MARCHIONESS accident, it would not
- <23> have mattered if there was 50 crew on that boat; the speed
- <24> of what happened they did not have time to evacuate.
- <25> Q. You see, I want to suggest to you, Mr Dwan, although there
- <26> is a great deal of emphasis on speed, an extra minute can

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- < 1> make a lot of difference, can it not?
- < 2> A. Yes, it can.
- < 3> Q. Thank you. The heeling tests that were being done were
- < 4> done in order, were they not, to see how buoyant the
- < 5> vessel was and how stable it was, were they not?
- < 6> A. Yes, it was.
- < 7> Q. And just to cut it short, not you personally necessarily,
- < 8> but Tidal Cruises were really rather reluctant to keep
- < 9> having these tests, were they not?
- <10> A. We were not reluctant in having the tests. What happened
- <11> was that we had done, I think, two tests on the
- <12> MARCHIONESS, and we felt at that time that the information
- <13> that the Department had at that time -- you know, with the
- <14> calculations that were done, and the fact that she did not
- <15> heel that much at the time of the first and the second
- <16> inclining, that the information and data they had was
- <17> sufficient to allow us not to have another inclining
- <18> test. The fact that if they had forced us to have it, we
- <19> would have had to have had it, but, in our opinion, it was
- <20> not necessary.
- <21> Q. You talked about a side winder a minute ago?
- <22> A. Yes.
- <23> Q. From which I interpreted you meant that the vessel would,
- <24> at it were, skew off if it were hit, is that what you
- <25> meant or did you mean something else?
- <26> A. I mean any boat touching you anywhere.

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- < 1> Q. You see, although the BOWBELLE is against the tide, and so  
< 2> on, as we know, on half a head that night, that is the  
< 3> speed it was doing and so on, and there is a three knot  
< 4> tide that night, if the MARCHIONESS had been more buoyant  
< 5> and more stable, although it might have sunk, it might  
< 6> have stayed afloat for longer, might it not?  
< 7> A. Yes, it would.  
< 8> Q. Thank you. If it had stayed afloat for longer, there  
< 9> would have been a much greater chance of people, more  
<10> people, being saved, would there not?  
<11> A. Yes.  
<12> Q. In those moments, short though they are, it would have  
<13> given people on board a greater opportunity if there had  
<14> been two doors amidships to open the doors amidships as  
<15> well, would it not?  
<16> A. If you have got time, yes.  
<17> Q. Well, if you have got efficient opening doors that are  
<18> tested regularly to make sure they do open ----  
<19> A. Yes.  
<20> Q. --- then it should not take you more than 60 seconds to  
<21> get them open, should it?  
<22> A. It should not do, but if you have 120 people pushing  
<23> behind you to get out the same door, then it would slow it  
<24> done an awful lot.  
<25> Q. I appreciate, but that is when the crew become important,  
<26> do they not?

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- < 1> A. Yes.
- < 2> Q. Because they are not only having to remember where  
< 3> everything is, but also control the passengers so that  
< 4> panic does not break out?
- < 5> A. Yes.
- < 6> Q. Anyway, you do not have the two doors. Just going back to  
< 7> a much earlier answer you gave today, you regarded the  
< 8> introduction of windows, sliding windows, as being  
< 9> sufficient?
- <10> A. Yes.
- <11> Q. The problem with sliding windows is they do not always  
<12> slide, do they?
- <13> A. That is correct.
- <14> Q. Was there a system for checking on these vessels before  
<15> they set off on every occasion that all the emergency exit  
<16> windows actually worked?
- <17> A. I would not say on every sailing, no.
- <18> Q. Well, whose responsibility was it to check them?
- <19> A. I would have thought the Captain.
- <20> Q. And you, where do you fit into this? Would you  
<21> occasionally have to make sure he was doing his job and  
<22> check the windows?
- <23> A. I would have to be making sure that the windows were  
<24> slideable and before them boats sailed on a daily basis  
<25> they were sliding.
- <26> Q. What was the position in August 1989 vis-a-vis the sliding

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< 1> windows?  
< 2> A. I believe they were all sliding open because they had all  
< 3> been refurbished at the time prior to that.  
< 4> Q. Well, it ----  
< 5> A. In the closed season, I think, they had been refurbished.  
< 6> Q. Well, I would like you to look, please, at COR\_00371. At  
< 7> the bottom of the page please -- this is also referred to,  
< 8> I will just give a cross-reference, it is also at  
< 9> CHR\_00660, anyway, I am taking it from here for the moment  
<10> -- "On 25th February 1988", in other words, the year  
<11> before, "Mr Nicholls", the principal engineer surveyor --  
<12> do you know him?  
<13> A. Yes, I do.  
<14> Q. Right. "... sent a letter to Tidal Cruises". I want to  
<15> know, first of all, whether you ever saw this letter.  
<16> These are extracts from it and you can see the original,  
<17> if you wish.  
<18> A. I do not remember seeing the letter, but I remember having  
<19> a memorandum from Mr Ludgrove of the contents of the  
<20> letter.  
<21> Q. Right. "Arising from my inspection of the vessel on 24th  
<22> February" -- were you present during the inspection?  
<23> A. Yes, I was.  
<24> Q. "... the following improvements are to be made  
<25> forthwith." Then one of the things he says is: "All  
<26> sliding windows are to be freed and handles provided as

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< 1> these are a means of escape and it is noted that in the  
< 2> upper saloon starboard side windows are non-opening.  
< 3> Arrangements should be made so that at least 50 per cent  
< 4> are changed to opening type."  
< 5> Do you recall that?  
< 6> A. Yes, I do.  
< 7> Q. How long by February 1988 had that situation pertained on  
< 8> the MARCHIONESS?  
< 9> A. Well, you do appreciate in February the boat was not  
<10> running. It was out of service.  
<11> Q. Right. How long it had been out of service?  
<12> A. I would think probably two months.  
<13> Q. Two months. Had it ever been on the river in service with  
<14> windows in that condition?  
<15> A. I do not believe so.  
<16> Q. Well, obviously, it is some time ago, and I am not going  
<17> to press if you really do not remember?  
<18> A. I remember the window -- I remember the survey and  
<19> I remember why the windows were broken. They were smashed  
<20> while the boat was moored on the embankment. Someone had  
<21> thrown some heavy stones off the embankment. They had  
<22> taken out, I think, the front two starboard top deck  
<23> windows, and that they had been taken out and a temporary  
<24> perspex push out window had been put in place of, that was  
<25> held with four small rivets. But it was, basically, a  
<26> very light plastic window that could be pushed out when it

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- < 1>           came up to the slipways.
- < 2>    Q.     Well, after this time, when it went back on service again
- < 3>           in 1988, what kind of windows were there there?
- < 4>    A.     They had been -- we had a window company come in to
- < 5>           inspect all the windows, which we do most years anyway, if
- < 6>           there is a problem with sliding windows or with any
- < 7>           windows, replacements, it is the winter period that the
- < 8>           glaziers come in and repair our broken windows.
- < 9>                         Now, I know we had a chap come down from
- <10>          Yorkshire who came down and he serviced all the windows.
- <11>          We replaced, because a lot of the sponge sliders on the
- <12>          bottom kink up a little bit during the course of the
- <13>          season with people constantly opening them. So they were
- <14>          replaced, the handles were replaced that were snapped off
- <15>          and the window replaced.
- <16>    Q.     What I want to come to and the reason I am asking you
- <17>           these questions is this, by August 1989, in other words,
- <18>           approximately a year later, the situation with regard to
- <19>           sliding windows was quite unsatisfactory, was it not?
- <20>           They were not, in fact, functioning properly?
- <21>    A.     They were functioning after this February.
- <22>    Q.     Well, you tested them, did you?
- <23>    A.     Sorry?
- <24>    Q.     Did you test them?
- <25>    A.     I was there when they were installed.
- <26>    Q.     Yes, I appreciate that, but by August of the following

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< 1> year, I suggest because of the nature of the windows  
< 2> themselves, they were not functioning properly, were they,  
< 3> as escape?  
< 4> A. I cannot answer that. I cannot answer that. I know most  
< 5> of the windows always work, but if you are asking me was  
< 6> every window on that boat working, sliding on that night,  
< 7> I cannot answer.  
< 8> Q. You see, it would have been, I know, a bit tedious, but it  
< 9> would have been quite straightforward for a Mate's task to  
<10> be on the night in question, or any other night, a check  
<11> list, do all the windows work? That is quite  
<12> straightforward, is it not?  
<13> A. We do have check lists now that run through this.  
<14> Q. Oh, you do now?  
<15> A. Yes, we do.  
<16> Q. I know. I appreciate you have them now.  
<17> A. But we did not have them at that time.  
<18> Q. Yes. Why not?  
<19> A. It was not a requirement at that time to have the windows  
<20> and everything checked on a daily check list.  
<21> Q. Well, you see, was the position of your company that,  
<22> "Unless we are forced to do it, we will not bother"?  
<23> A. No. A lot of the time it was if the crews reported that  
<24> they had a problem with anything on the boat, which was my  
<25> first port of contact. The crew would come to me and say,  
<26> "We have got a problem with this". It was whether --



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< 1> I then had to decide whether that boat could sail safely  
< 2> with that problem, or whether it had to be tied up and the  
< 3> problem sorted out. Now, you are asking me on that night,  
< 4> did I check the windows? No, I did not.  
< 5> Q. In fact, it would appear nobody checked the windows, do  
< 6> you see?  
< 7> A. Well, I do not know. I cannot say whether Mr McGowan did  
< 8> or not.  
< 9> Q. We have heard evidence from at least one passenger, at  
<10> least one, that they tried under water to get a window  
<11> open and they could not. It maybe they tried the wrong  
<12> way, of course. They felt it was stuck and they could not  
<13> get it open?  
<14> A. I cannot answer that one, can I?  
<15> Q. Well, I would like you to answer this, please? Could we  
<16> have expert bundle, it is EXP\_01619, 514. This is a  
<17> report by Captain Beetham who went on board the  
<18> MARCHIONESS and this is what he found in relation to the  
<19> disco deck. At the bottom of the page, please? The first  
<20> paragraph deals with the two doors at the forward end were  
<21> totally inadequate as the prime means of evacuation of  
<22> substantially over 100 passengers, there would be crowding  
<23> of people, and so on. I have dealt with that.  
<24> "There were four sliding windows. When I was  
<25> on the board MARCHIONESS these windows were very difficult  
<26> to move, being sliding perspex panels, but the aluminium

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< 1> frames were insufficiently rigid to prevent the slightest  
< 2> distortion of the superstructure from making these sliding  
< 3> panels inoperable."

< 4> Then he deals with the lower edge and the no  
< 5> handrail and so on. I do not deal with that, just the  
< 6> fact of the windows being very difficult to operate. Were  
< 7> you aware of that?

< 8> A. I was not aware that we had perspex panels in there. They  
< 9> were glass toughened glass windows and, in my opinion,  
<10> they were reasonably OK to slide open and shut.

<11> Q. So you were not aware of any difficulty in moving the  
<12> sliding windows, is that the position?

<13> A. Not really, no.

<14> Q. I want to move on again, please. It is all very well, as  
<15> it were, having resources on a boat like sliding windows  
<16> and so on and life belts, and that has already been  
<17> tackled, but of course the important thing is for the  
<18> passengers to know what you have got and what to do, yes?

<19> A. Yes.

<20> Q. As you know on aircraft for a long time there have been,  
<21> as it were, safety broadcasts at the beginning of a trip?

<22> A. Yes.

<23> Q. At that time did you give any consideration to ensuring  
<24> that the passengers knew what was there and emergency  
<25> procedures?

<26> A. No.

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< 1> Q. Why not?

< 2> A. Again because it was not a requirement.

< 3> Q. Well, it was required, you see. Did you know that?

< 4> A. No, I do not.

< 5> Q. You see, at the time, in fact in 1988, there was a  
< 6> requirement that you should in fact broadcast or at least,  
< 7> sorry communicate, communicate information. I would like  
< 8> you to see, please, I am afraid it is an M Notice but  
< 9> I want to see if the material in it was known to you. It  
<10> is M 01316 which is MSN\_00096. I appreciate you have said  
<11> you do not know about M Notices, but it is not the fact of  
<12> the notices but the fact of the detail. The introduction,  
<13> could I just read that with you for a moment:

<14> "The first purpose of this notice", and so you  
<15> know this is dated in 1988, February of 1988, so it is at  
<16> about the time that the MARCHIONESS is in dock being  
<17> attended to, "The first purpose of this notice is to draw  
<18> attention of all concerned to the relevant statutory  
<19> requirements on this subject and to make specific  
<20> recommendations on the provision of safety information, in  
<21> the form of broadcasts, notices and signs for use by  
<22> passengers in an emergency. The second purpose is to  
<23> remind owners and operators of passenger ships of the need  
<24> to ensure that adequate measures are taken to inform  
<25> passengers of the procedures which would be adopted in the  
<26> event of an emergency situation arising, and that it is

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< 1> particularly important that this information is  
< 2> communicated to passengers prior to or on departure from  
< 3> port." Now did you know any of that?  
< 4> A. I did not know anything. I have not seen this M Notice.  
< 5> I do know there were lots of discussion that were going on  
< 6> about signage on the boats.  
< 7> Q. Yes.  
< 8> A. And I knew there were discussions going on to formulate a  
< 9> system of informing passengers.  
<10> Q. So whether in the form of an M Notice or some other form,  
<11> you were unaware of any specific recommendations about  
<12> communicating safety information to passengers?  
<13> A. I did not know anything about that.  
<14> Q. You did not know?  
<15> A. No.  
<16> Q. Over the years you never thought to ensure that it was  
<17> communicated did you?  
<18> A. I did not think of it at the time, no.  
<19> Q. To be fair, it does not require hindsight, does it, if you  
<20> are really thinking yourself through an emergency? You  
<21> are a passenger, are you not, sometimes ----  
<22> A. Yes.  
<23> Q. --- of aircraft vessels. You may not always take notice of  
<24> it and that is a problem for the individual, but, on the  
<25> whole, it is good to know that somebody knows how to get  
<26> out?

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< 1> A. Most certainly.

< 2> Q. The bit that I would like you to look at is on page 00098,  
< 3> paragraph 5. Again the precursor is, of course, you did  
< 4> not see this M Notice, but I just want to know whether you  
< 5> knew about this:

< 6> "Means of drawing passenger's attention to  
< 7> passenger emergency instruction notices. It is most  
< 8> important (5.1) to draw the attention of the passengers to  
< 9> the location and contents of the passenger emergency  
<10> instructions notices and to encourage the passengers to  
<11> read the notices".

<12> First of all, did the MARCHIONESS even have  
<13> emergency notices on board?

<14> LORD JUSTICE CLARKE: I am not sure we have it on the screen  
<15> yet.

<16> MR MANSFIELD: I am so sorry, 00098.

<17> A. Yes.

<18> Q. It is 5.1. I will go back: "Means of drawing passengers'  
<19> attention to passenger emergency instructions notices. It  
<20> is most important to draw the attention of the passengers  
<21> to the location and contents of the passenger emergency  
<22> instructions notices and to encourage the passengers to  
<23> read the notices." Were there notices first of all?

<24> A. Yes, there were.

<25> Q. Right. Where were they?

<26> A. There were notices on all of the sliding windows which

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< 1> said "emergency exit slide to open". There were exits  
< 2> signs on the doors that went out on to the foredeck.  
< 3> There was an exit sign on the stairways that came from the  
< 4> lower saloon out on to the dance deck. There was  
< 5> I believe an emergency exit sign on the back top deck door  
< 6> that led into the bar store, and there was a sign,  
< 7> I cannot remember what it said now, that led from the  
< 8> lower saloon out into the bar deck on the lower saloon.  
< 9> Now I believe also at this time they had to be  
<10> illuminated, the emergency exit doors had to be  
<11> illuminated, of which they had lights over the emergency  
<12> exit doors as well.  
<13> Q. Can I just ask you something very quickly on that. So far  
<14> as emergency illumination is concerned, what was the  
<15> arrangement on the MARCHIONESS? Was it this, can I just  
<16> put it to you quickly, that in order to trigger any  
<17> emergency illumination it had to be switched on?  
<18> A. Yes, it was.  
<19> Q. Was that satisfactory?  
<20> A. It seemed satisfactory at the time, but since then signs  
<21> have changed drastically and we have now got the  
<22> illuminated signs that have their own power packs, but at  
<23> that time we did not have that facility I think.  
<24> Q. You may not have, but did anybody give consideration to  
<25> automatically triggering reserve power for emergency  
<26> exits? Did anybody consider it even?

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- < 1> A. I did not think -- we did not have that information to  
< 2> hand.
- < 3> Q. All right. Can we go back to 5.1: "There are various ways  
< 4> of doing this, although the most effective way is likely  
< 5> to be by means of the ship's public address system. On  
< 6> ships not fitted with a public address system portable  
< 7> loud hailers or direct oral announcements should be  
< 8> used." Did you know about any of this?
- < 9> A. I did not know anything about the -- all boats had public  
<10> address systems, but at that time, I know now we do have  
<11> to broadcast a safety broadcast before we sail. I think  
<12> at that time in the passenger boat industry there was  
<13> consultation going on about the best way of handling it,  
<14> but it had not been instructed to us at the time of the  
<15> accident.
- <16> Q. I am going to suggest it had?
- <17> A. Well, you may know better than me, but at that time I was  
<18> under impression that it was not.
- <19> Q. I will just finish this bit and then take you to a letter:  
<20> "The announcements should be made after all passengers  
<21> have boarded and either prior to or on departure from the  
<22> berth", and then in italics: "Since it is often difficult  
<23> to gain the full attention of passengers at this early  
<24> stage in the voyage, it is recommended that this type of  
<25> announcement be prefaced by a special signal." I cannot  
<26> quite read the word, "When the public address system is

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< 1> used and followed by a request for everyone's attention."  
< 2> There are more recommendations, I do not go  
< 3> through them. That is dated February 1988. I want to ask  
< 4> you in the light of your answers about a letter. I am  
< 5> sorry about this. It has only just been provided to us,  
< 6> so I do not think it is on the system yet. I think  
< 7> yesterday I received a letter which Mr Nicholls, the Chief  
< 8> Surveyor, sent. It is not entirely clear who the  
< 9> recipients were, but I just want to know whether you ever  
<10> saw a letter from Mr Nicholls about all this?  
<11> A. I do not remember seeing any letters from Mr Nicholls.  
<12> I remember having lots of consultation talks with  
<13> Mr Nicholls over, as I did with many other surveyors,  
<14> about the need for the signage and the updating of  
<15> everything.  
<16> Q. Well, lunch is approaching. May I just ask you, it  
<17> appears from the letter we have been given that it must  
<18> have been sent to passenger operators because it is  
<19> referring to the various classes of passenger vessels.  
<20> There is a paragraph: "Your passenger launch, i.e.  
<21> Class V, are covered by the recommendations and you are  
<22> expected to comply as soon as possible". Do you follow?  
<23> That is what the letter says?  
<24> A. Yes.  
<25> Q. In case it jogs more your memory, it is prefaced by the  
<26> fact this whole matter arose because of the formal



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< 1> investigation into the HERALD OF FREE ENTERPRISE and the  
< 2> need for passengers to be given information on emergency  
< 3> procedures. Now does that ring a bell?  
< 4> A. When was the letter dated?  
< 5> Q. 10th November, 1988.  
< 6> A. Well, I know there were lots of consultations with the  
< 7> Department over the upgrading of all signs, because up  
< 8> until, I cannot remember what year, we did not have an  
< 9> awful lot of signage and after the HERALD accident it was  
<10> upgraded an awful lot. We had to do lots of things like  
<11> emergency battery systems outside of the engine room in  
<12> case of an engine fire or an engine flooding. So there  
<13> was an awful lot of upgrading on signage and everything  
<14> else pertaining to safety and evacuation.  
<15> MR TEARE: Sir, could I say the letter may well be in the  
<16> chronological bundle at 718.  
<17> LORD JUSTICE CLARKE: Yes, Captain Bailey has just found that.  
<18> So there you have it, Mr Mansfield, in the bundles all  
<19> along. How are we getting on? I think your estimate is  
<20> getting a bit overtaken, Mr Mansfield. I am hoping we are  
<21> coming to near the end. Anyway 718?  
<22> MR MANSFIELD: 718.  
<23> LORD JUSTICE CLARKE: It is on the screen now.  
<24> MR MANSFIELD: In any event, can I just finish on this topic?  
<25> I am much obliged for that reference, CHR\_00718. Do you  
<26> have it on the screen? Yes. The Thames Passenger

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< 1> Services Federation. So it is going to the Federation  
< 2> that is very closely associated with you?

< 3> A. Yes.

< 4> LORD JUSTICE CLARKE: Indeed, it is the covering letter, is it  
< 5> not, for the M Notice?

< 6> MR MANSFIELD: Yes. (To the witness): So can you explain how  
< 7> it is once again that Tidal Cruises are operating in the  
< 8> dark?

< 9> A. They were not operating in the dark. We were having  
<10> consultation with the Department and they were informing  
<11> us of the procedures as they were going along. I do not  
<12> remember seeing this letter. I remember everything that  
<13> was going on after the HERALD OF FREE ENTERPRISE accident  
<14> and the upgrading of everything that we had to do.

<15> Q. You see, Mr Dwan, I do not want to go back over all the  
<16> points we made this morning, but do you accept there is  
<17> now a plethora of instructions and guidance from the  
<18> Department, either in the form of M Notices or in the  
<19> terms of correspondence, making suggestions and  
<20> recommendations about what you should do, none of which  
<21> you seem to remember?

<22> A. Well, obviously, any information that we would have been  
<23> given would have been of benefit, but, as you say,  
<24> I cannot remember this at this time. I remember having  
<25> the discussions with the Department. I do not remember  
<26> seeing any of the paperwork.

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- < 1> Q. Just going back to the questions of safety again, in  
< 2> relation to exit astern of the MARCHIONESS, would you  
< 3> accept, in general terms, that was really quite  
< 4> inadequate?  
< 5> A. From top deck or from bottom deck?  
< 6> Q. Bottom deck.  
< 7> A. It was not 100 per cent certain -- perfect, no.  
< 8> Q. Because you had to go through the bar and then up  
< 9> through ----  
<10> A. You had go into the bar cellar.  
<11> Q. Quite.  
<12> A. And then from the bar cellar there were doors that exited  
<13> either side.  
<14> Q. Right. So far as the another door, as it were, is  
<15> concerned, that is the hatch on the wheelhouse, was that  
<16> ever hinged -- it is just a quick question?  
<17> A. No, it was a hinged hatch.  
<18> Q. I am sorry?  
<19> A. It was hinged.  
<20> Q. It was hinged at one time.  
<21> A. And it had two supports at the back that held it up.  
<22> Q. We have also seen a photograph yesterday (and I can take  
<23> you to them, but quickly this) one of the two doors to the  
<24> wheelhouse itself was taped up, the starboard door, was it  
<25> not?  
<26> A. It had a draught excluder, yes.

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- < 1> Q. Did that prevent the door from being opened?  
< 2> A. No.  
< 3> Q. It could still be opened, despite that?  
< 4> A. It could still be open. It was a very heavy iron door and  
< 5> it never actually connected properly, and if you look in  
< 6> the photos -- I do not know which one they are -- the  
< 7> steering position from the MARCHIONESS was to that side of  
< 8> the wheelhouse because all of the controls was on that  
< 9> side.  
<10> Q. You had better have a quick look. Photograph 165 is the  
<11> best photograph for that. Photograph 165, please.  
<12> A. You can see the steering position on the MARCHIONESS was  
<13> to that side of the wheel because you have all your  
<14> controls that side. As you see, the lock piece was never  
<15> taped. It was just, in my recollection of it, it was  
<16> taped to one side of the door, and as the door shut, if  
<17> there was a draught about, you just run your finger down  
<18> the other bit to keep the draught out. But it was only a  
<19> draught excluder. As soon as you undone that catch, the  
<20> door would open.  
<21> Q. I have three more quick points, then I am going to finish,  
<22> so you know. Firstly this, in relation to the present,  
<23> are there three crew members being employed on your  
<24> vessels.  
<25> A. On our vessels?  
<26> Q. Yes.

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- < 1> A. Only on one vessel, the ROYAL PRINCESS.  
< 2> Q. Not on the others?  
< 3> A. Not on the others.  
< 4> Q. Are any specific instructions now issued about lookout?  
< 5> A. The wheelhouses have now all been raised, so it would be a  
< 6> general instruction for the Master at the wheel and his  
< 7> crew to keep a good visual lookout, but because of the  
< 8> nature of the raising of the wheelhouse, my interpretation  
< 9> of that is that a rear lookout is not required all the  
<10> time.  
<11> I think we were given an option. When the  
<12> Department changed the vessels, you were given the option  
<13> of raising the wheelhouse for an all-round vision from the  
<14> steering position, leaving the wheelhouses where they were  
<15> using fly bridges with walking controls and a rear  
<16> lookout, and some vessels chose that method, some vessels,  
<17> some companies chose the raising of the wheelhouse.  
<18> Q. Do they clear the bridges all right?  
<19> A. They do now, yes. We do not go upriver so much now.  
<20> Q. So it is possible for these vessels to be designed in such  
<21> a way that they clear the bridges and have all-round  
<22> visibility?  
<23> A. Not all the time, no, they do not clear the bridges. We  
<24> just have to now not take some of the jobs that we would  
<25> have taken when we had the MARCHIONESS.  
<26> Q. Very well. Are the instructions to the lookout now in

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- < 1> writing?
- < 2> A. No, they are not.
- < 3> Q. Within an hour of the sinking, I think the Police
- < 4> indicated to you that they checked the crew of the
- < 5> BOWBELLE, is that right?
- < 6> A. That is correct.
- < 7> Q. Which Police told you that?
- < 8> A. Chief Inspector.
- < 9> Q. And what were you told about that?
- <10> A. I was told that the best thing, you know, well, no best
- <11> thing to come out of an accident, but at least all the
- <12> crew have been checked for drinking and that everyone had
- <13> cleared positive, both boats.
- <14> MR MANSFIELD: Thank you.
- <15> LORD JUSTICE CLARKE: What did you mean by that last "everyone
- <16> had cleared positive"? What does that mean?
- <17> A. When I first arrived at Waterloo Police pier, I was told
- <18> to go straight to Wapping where there was an incident
- <19> room, and when I arrived at Wapping Police pier, the Chief
- <20> Inspector offered me a cup coffee, told me to sit in one
- <21> of the back rooms and he explained about what he knew of
- <22> the accident, and the good thing to come out of it all was
- <23> that both boats had been checked for drinking, and all of
- <24> them had proven clear.
- <25> Q. That is in a sense negative?
- <26> A. Negative, yes.

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< 1> LORD JUSTICE CLARKE: Thank you. Then I think we will adjourn  
< 2> now, if we may, until 2 o'clock. Perhaps I could ask you,  
< 3> Mr Dwan, not to discuss the case in the meantime? Thank  
< 4> you.

(Luncheon adjournment)

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< 1>  
< 2> (2.00 p.m.)  
< 3> LORD JUSTICE CLARKE: Perhaps we could continue,  
< 4> Mr Haddon-Cave?  
< 5> <Cross-Examined by MR HADDON-CAVE.  
< 6> Q. Mr Dwan, I represent the Marchioness Action Group. When  
< 7> was the starboard door on the wheelhouse taped up?  
< 8> A. The exclusion tape had been on there for many years.  
< 9> Q. Can you tell us approximately how many?  
<10> A. I cannot exactly, no, I cannot.  
<11> Q. Could we look at photograph 286, please? If you look at  
<12> that photograph carefully and could you also look at now  
<13> photograph 567 which is a close up of the tape on the  
<14> starboard door?  
<15> A. Yes.  
<16> Q. Would you agree with me that it looks like a permanent  
<17> taping up of that door?  
<18> A. I would say from that photograph it does, yes.  
<19> Q. That is why you told the MAIB in WIT\_05856, is it not,  
<20> two-thirds of the way down that page -- it will be on the  
<21> screen. It will be quicker, I think, if you look at the  
<22> screen. Thank you, Mr Dwan. Two-thirds of the way down,  
<23> just below "The MARCHIONESS had her hatch filled". You  
<24> said to the MAIB: "The right-hand side door of the  
<25> wheelhouse was taped up on the inside to exclude the  
<26> draught"



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- < 1> A. That is correct.
- < 2> Q. So the position is, is it not, that for many years this
- < 3> door had been taped up and not used?
- < 4> A. No.
- < 5> Q. By those in the wheelhouse?
- < 6> A. No, it was always used.
- < 7> Q. Can I suggest to you that that is not the impression
- < 8> either the photographs give or that your comment there
- < 9> gives?
- <10> A. No. That door was always able to be used.
- <11> Q. I suggest to you that you were aware that it was taped up
- <12> and you were also aware that it was never used.
- <13> A. I know there was a draught excluder there, yes, there
- <14> definitely was, but I know that the door was always used.
- <15> Q. We cannot find any tape on the port door.
- <16> A. That is correct.
- <17> Q. Why was there not a draught excluder on the port door?
- <18> A. Because, as I explained earlier, the steering position
- <19> from that boat was to the starboard side. The Skipper
- <20> would stand in that corner where all his controls were
- <21> and, therefore, it was far easier, rather than the Skipper
- <22> to have to move every time the Mate came into the
- <23> wheelhouse, it was easier for the Mate to use the port
- <24> door.
- <25> Q. Mr McGowan gave evidence that the starboard door was not
- <26> used.

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- < 1> A. I do not know what Mr McGowan said.
- < 2> Q. Can I next turn to explore with you a little Mr Ludgrove's
- < 3> surprising proposition yesterday that it was "by far
- < 4> easier for the helmsman on the MARCHIONESS to keep a
- < 5> lookout than on, for instance, the VISCOUNTRESS or the
- < 6> HURLINGHAM". Were you present yesterday when Mr Ludgrove
- < 7> gave evidence?
- < 8> A. I was here some of the time. I was not here all the time.
- < 9> Q. Does that statement by him surprise you, "It was by far
- <10> easier to keep a lookout on the MARCHIONESS"?
- <11> A. It was easier in as much as you had the options of moving
- <12> from side to side of the boat, whereas you did not have
- <13> that option in the HURLINGHAM or the VISCOUNTRESS.
- <14> Q. Can I explore that a little with you? On the HURLINGHAM,
- <15> the man at the wheel simply had to turn round and step up
- <16> and look aft, did he not?
- <17> A. That is correct.
- <18> Q. It would take a very short time to do that, would it not?
- <19> A. It would, yes.
- <20> Q. And he would be able to keep his hand on the wheel, would
- <21> he, if he needed to?
- <22> A. He probably would not if he was going up through the
- <23> hatch, no.
- <24> Q. But, at all' events, it would be a quick operation.
- <25> A. It would be in all times when you are looking astern. It
- <26> is not a very long process.

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- < 1> Q. The step was immediately behind him, is that right?
- < 2> A. The step was to his side and behind, yes. He had his
- < 3> first run on his, on the side of the wheelhouse, with the
- < 4> handle and the step going up round it, so ----
- < 5> Q. Even better?
- < 6> A. --- it was a right leg first on to the left leg.
- < 7> Q. Mr Ludgrove said he never used the hatch; he used the side
- < 8> steps on the extreme sides of the MARCHIONESS?
- < 9> A. I heard him say that, yes.
- <10> Q. To do that, you would have to leap across from the
- <11> wheelhouse step to the outer step, would you not?
- <12> A. You had, bear in mind that once you got to the side of the
- <13> wheelhouse, you had a fairly good view off of the
- <14> quarters, and it was only a matter of stepping across to
- <15> give you a direct look astern.
- <16> Q. If you were just on the wheelhouse step, you would not
- <17> have any better view, would you, than if you were at the
- <18> wheel itself? You would have to go to the extreme side?
- <19> A. You would get a better view from the side.
- <20> Q. And we can see from the door that the door into the saloon
- <21> might be in the way?
- <22> A. The doors on the saloons were mostly closed because they
- <23> had self-closers.
- <24> Q. I can show them to you, Mr Dwan, but we have several
- <25> photographs of parties on board with the doors open. Was
- <26> there any system for making sure the doors were shut?

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- < 1> A. On a normal sailing, the doors would have been opened just  
< 2> as the boat was sailing and when it was returning, and  
< 3> possibly there may have been passengers moving in and out,  
< 4> which they had hooked the doors open, but the doors would  
< 5> have been hooked, unhooked and they would self-close most  
< 6> of the time.
- < 7> Q. How would you explain, Mr Dwan, the fact that we have  
< 8> photographs of the vessel underway with the doors  
< 9> constantly open?
- <10> A. If you have got photos of that, then I would have to  
<11> explain why they were. But was the vessel underway when  
<12> the photos were taken?
- <13> Q. Yes, they were. You would have to, in order to keep a  
<14> proper lookout directly astern by this method, go round  
<15> from the port side and do exactly the same on the  
<16> starboard side, would you not?
- <17> A. Well, she did have the hatch, so if the door were open,  
<18> then you had the opportunity of the hatch to look stern.
- <19> Q. Mr Ludgrove said he did not use the hatch.
- <20> A. I this morning said I did.
- <21> Q. I am talking about Mr Ludgrove's proposition. Mr Ludgrove  
<22> did not like the hatch, presumably?
- <23> A. If Mr Ludgrove did not use the hatch, then he used  
<24> whatever measure he felt right at that time.
- <25> Q. Nor, it appears, did Mr Britton. Did you know that?
- <26> A. I do not know. As I say, again it would depend on the

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- < 1>            Skippers. The fact is you had the option of the hatch, of  
< 2>            the step to the side of the wheelhouse and the step to the  
< 3>            side of the boat.
- < 4>    Q.    Did you know Mr Willacott did not use the hatch either?
- < 5>    A.    I did not know that, no.
- < 6>    Q.    Did you have any idea what methods your Masters used?
- < 7>    A.    I left a lot to the Skippers to decide the best use of the  
< 8>            facilities that they had. Some Skippers are taller than  
< 9>            others, some probably found it difficult to use the hatch,  
<10>           I do not know.
- <11>   Q.    You seem to have left the matter entirely to the Skippers,  
<12>           is that not right?
- <13>   A.    The Skippers were reminded of keeping a lookout, and the  
<14>           Skippers were aware that at all time they should be  
<15>           keeping a lookout.
- <16>   Q.    When were they reminded, Mr Dwan?
- <17>   A.    I cannot answer. I would not say that I can remember  
<18>           that.
- <19>   Q.    Leaving the wheel for any significant period of time was  
<20>           an undesirable practice, was it not?
- <21>   A.    Yes, it was.
- <22>   Q.    Therefore, you would not agree, would you, with  
<23>           Mr Ludgrove when he says it was by far easier to keep a  
<24>           lookout using the side steps on the MARCHIONESS than it  
<25>           was on the other vessels?
- <26>   A.    In my opinion, and the method of use that I use, I use all

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< 1> methods, but I did use the hatch. If Mr Ludgrove has said  
< 2> he did not use the hatch, that is -- he probably felt  
< 3> there was a better position for him to look from. I do  
< 4> not know.  
< 5> Q. Could I then ask you about a drawing made following the  
< 6> HURLINGHAM/BOWTRADER collision? Could we look at  
< 7> chronology 00214, please? Do you recognize this drawing?  
< 8> A. I recognize it, I believe, as being the top deck of the  
< 9> HURLINGHAM, is it?  
<10> Q. As we understand it.  
<11> A. Yes. I do not remember the drawing, but I can see what it  
<12> is.  
<13> Q. What is the blockage there that we can see?  
<14> A. I would presume that one of the things would be a disco  
<15> speaker, the one in the back; the front, I would not know.  
<16> Q. You have been shown some documents of which you commented  
<17> at the time that you "did not particularly specifically  
<18> check astern because of the difficulties presented by the  
<19> after cabin top which would, in any event, have precluded  
<20> me seeing a vessel astern".  
<21> Could we compare that with photograph 72 which  
<22> is the MARCHIONESS? You can see it on the screen. If you  
<23> would just focus on the screen, I think it will be  
<24> quicker. That is looking aft, one of the photographs  
<25> looking aft at the bar on the MARCHIONESS?  
<26> A. From the top deck.

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- < 1> Q. From the top deck.
- < 2> A. Yes.
- < 3> Q. Would you agree that the visibility through the top deck
- < 4> of the MARCHIONESS in the wheelhouse was probably even
- < 5> worse ----
- < 6> A. Yes.
- < 7> Q. --- than the HURLINGHAM?
- < 8> A. Yes.
- < 9> Q. When you said earlier this morning that if people were
- <10> sitting down, one had a view and, indeed, in your
- <11> statement you talk about having an angled view, the sort
- <12> of view that you get through the back of the bar on the
- <13> MARCHIONESS is extremely poor?
- <14> A. Yes.
- <15> Q. Was there any reason why a removable pod should not have
- <16> been fitted to the MARCHIONESS to overcome the Hammersmith
- <17> air draught problem and the floor raised of the
- <18> MARCHIONESS in the wheelhouse?
- <19> A. There could have possibly been a pod put on the top of the
- <20> MARCHIONESS. I do not know whether the floor raising
- <21> would have been capable with just the pod, because the man
- <22> would have been steering -- you would have to raise
- <23> everything, steering, steering chains, quadrants,
- <24> everything.
- <25> Q. Do you know why that was not done at the time?
- <26> A. It was not done. I cannot remember why we chose the hatch

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< 1> over the pods at this time. I cannot remember why we went  
< 2> for the hatch rather than the pod.  
< 3> Q. Was it because it was the cheaper option?  
< 4> A. I do not think so. I do not think that came into it.  
< 5> I think it might have been something to do with weight  
< 6> because, obviously, the higher you put steelwork, the more  
< 7> the boat would need to have been tested and I think it  
< 8> probably was do with weight on the boat.  
< 9> Q. Would you agree that in 1989 the Skipper of the  
<10> MARCHIONESS alone could not keep a proper lookout aft  
<11> especially at night?  
<12> A. He needed to be assisted.  
<13> Q. You agreed with Mr Teare that a second crew member would  
<14> only be able to keep, at best, an intermittent lookout  
<15> aft?  
<16> A. Correct.  
<17> Q. Would you agree with me that the position, in practice,  
<18> was that a second crew member would only be able to keep a  
<19> lookout if he was actually in the wheelhouse or beside it?  
<20> A. Yes.  
<21> Q. And, secondly, he would only be looking out aft if he was  
<22> expressly instructed to do so by the Skipper?  
<23> A. I would have thought that he would have been aware of what  
<24> was coming up, you know, what was around him. I do not  
<25> say he would have been looking dead astern, but he would  
<26> have been aware to give any aid to the Captain from



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- < 1> anywhere on the boat is of benefit.
- < 2> Q. Were there always bar staff on board ----
- < 3> A. Yes.
- < 4> Q. --- the MARCHIONESS or were there occasions when there
- < 5> were no other staff other than the crew?
- < 6> A. There would have been bar staff, obviously, whenever the
- < 7> boat was working of a night time function or a day time
- < 8> function, but on some owe cases there would have only been
- < 9> the two crew for sight seeing trips.
- <10> Q. And on those occasions the only person to keep an eye on
- <11> the passengers would have been the Mate?
- <12> A. That would have been one of his functions, yes.
- <13> Q. You were shown this morning the undertakings that
- <14> Mr Ludgrove gave on behalf of Tidal Cruises to the
- <15> Department. Can we look at one example, chronology 00507,
- <16> for instance? That is one. Could we look at 00530 since
- <17> that is on Tidal Cruises notepaper. Could you just read
- <18> that letter to yourself?
- <19> A. Yes, I remember that.
- <20> Q. Would you agree with me that that letter means, and that
- <21> you would have understood it to mean if you had been shown
- <22> it at the time, that the Department required a designated
- <23> permanent lookout on board that vessel?
- <24> A. At relevant times, yes.
- <25> Q. What do you mean by "at relevant times"?
- <26> A. Well, the majority of the time he should be keeping a

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- < 1>           lookout, but there were times when he could not because he  
< 2>           would not be there in the wheelhouse.
- < 3>    Q.       Plainly, that is not what the Department meant, Mr Dwan,  
< 4>           is it?
- < 5>    A.       Well, I read that as being that a man at most times should  
< 6>           be a permanent on lookout, but ----
- < 7>    Q.       Look at it carefully, please. It says: "At all relevant  
< 8>           times", not merely the times that anybody chose to be  
< 9>           relevant.
- <10>   A.       I would have thought the relevant times mean when the  
<11>           Captain required it.
- <12>   Q.       Can I ask you to think very carefully about the next  
<13>           question, remembering that the purpose of this Inquiry is  
<14>           to try to establish the true facts. Thinking about this  
<15>           now, do you believe that you were or would have been shown  
<16>           this letter and the others by Mr Ludgrove at the time or  
<17>           did he simply file them? I would like you to think very  
<18>           hard about that question.
- <19>   A.       I cannot honestly say I remember these letters, but I know  
<20>           that any relevant letters that came from the Department or  
<21>           the Port of London was discussed and memos put out and  
<22>           reminders put out to the crews.
- <23>   Q.       Do you think now, thinking about it hard, that these  
<24>           letters were likely to be filed without a discussion with  
<25>           you?
- <26>   A.       I would think not because Mr Ludgrove did not work in that

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< 1> way.

< 2> Q. You talked about the policy of your company, and

< 3> Mr Ludgrove has, of passing on "information to the crew".

< 4> By that I understand you to include things like notices

< 5> from the Federation, is that right?

< 6> A. It would depend what notice the Federation was to send

< 7> because the Federation covered an awful lot more topics

< 8> and things than just any navigational topics.

< 9> Q. What information would ----

<10> A. Any relevant information.

<11> Q. --- you include as relevant?

<12> A. I would include information on navigation, on safety, on

<13> signage, or anything that came through.

<14> Q. Would you include in that PLA notices?

<15> A. Yes, I would.

<16> Q. So your policy was to copy them and pass them on to the

<17> crew, is that what you are saying?

<18> A. No, the extracts out of the letter that appertained to the

<19> crews went to the crews, not the full letters.

<20> Q. Can I suggest to you that what we are looking at here,

<21> chronology 530, is something quite different from

<22> information to the crew. What this is is a promise by the

<23> company to the Department to do something, and what it

<24> required was a special order by you to the crews?

<25> A. Well, as I say, I do not remember this particular letter

<26> or the other ones, but I know that letters that came from

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< 1> the Department were looked at, were read, were broken down  
< 2> and given to the crews and I would have thought if we had  
< 3> had a letter, if Mr Ludgrove had had a letter like this,  
< 4> he would have made a memo to be given to the crews. The  
< 5> crews would have been given that memo by myself and a  
< 6> discussion would have taken place on the fact that, you  
< 7> know, it is relevant that we keep a lookout at the best of  
< 8> times.  
< 9> Q. I suggest to you, Mr Dwan, that that is simply not the  
<10> case, and that the policy of the company to pass on  
<11> information would not cover this item because it was  
<12> simply not information?  
<13> A. Well, it is clearly information, though, is it not? It is  
<14> clearly information that we have got to put a man on the  
<15> boat to keep a relevant lookout at relevant times. So if  
<16> that information had come from the Department to the  
<17> company, why would the company not have passed it on? Why  
<18> just file it? It is important information.  
<19> Q. Because you had no proper regard at the time to these  
<20> matters. That is the position, is it not?  
<21> A. Well, we did have plenty of time to these matters and they  
<22> were very important matters.  
<23> Q. I suggest to you that there was no relevant paperwork.  
<24> Can we look at WIT\_05853, please? This is the statement  
<25> that you made in March 1990, and you say further down the  
<26> page:

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< 1> "Tidal Cruises issued standing orders to our  
< 2> Captains. These are mainly to cover such matters as noise  
< 3> levels, etc. I produce a copy of the standing orders  
< 4> which were in force on 20th August 1989". I emphasise the  
< 5> word "the" because the plain impression from that is that  
< 6> what you exhibit at KVD 6 are all the standing orders that  
< 7> were in force on 20th August 1989. Would you agree with  
< 8> me that is the impression that that gives?  
< 9> A. I would agree that the -- yes.  
<10> Q. As we have seen, what you exhibit at WIT\_05857 ----  
<11> LORD JUSTICE CLARKE: We have been through all this,  
<12> Mr Haddon-Cave.  
<13> MR HADDON-CAVE: Yes, I am coming to the new point.  
<14> LORD JUSTICE CLARKE: Good. I hope it will be a new point  
<15> because we have looked at these documents, we have looked  
<16> at the interview which preceded it and we can see the  
<17> documents.  
<18> MR HADDON-CAVE (To the witness): The impression from that  
<19> interview is there were no further written instructions in  
<20> force at that time, would you agree, other than this  
<21> reissue?  
<22> A. All I know is that there was paperwork going out on to the  
<23> boats issued and instructed as they came in.  
<24> Q. You said this morning: "I understand standing orders to  
<25> mean navigational matters and instructions to crew". Do  
<26> you remember saying that?

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- < 1> A. I remember saying that, yes.
- < 2> Q. That understanding, Mr Dwan, covers all relevant matters
- < 3> of paperwork. Can we turn to 5876, please? This is part
- < 4> of a cross-examination by Mr Purnell of you during the
- < 5> criminal prosecution. At E, if we can look at E, you were
- < 6> asked: "In 1989, were there no formal standing
- < 7> instructions provided by Tidal Cruises?" "There was a form
- < 8> of standing order, yes". "Is that right?" "Yes". "When
- < 9> you say 'a form of standing order', what do you mean? Do
- <10> you mean on collisions?" "On anything. We had a system
- <11> of working the boats that we knew what procedures to take
- <12> at what particular time". "That is because you are all
- <13> experienced people, but there were no written standing
- <14> orders?" "We did not have a written standing order, no."
- <15> So you were saying quite plainly then that you
- <16> had no standing order, you had no written navigational
- <17> documents or instructions ----
- <18> A. No, I did not say ----
- <19> Q. --- of any sort?
- <20> A. I just said that we did not have any standing orders
- <21> because we did not work a system of standing orders at
- <22> that time.
- <23> Q. You have told us, Mr Dwan, that your understanding of
- <24> standing orders was ----
- <25> LORD JUSTICE CLARKE: Mr Haddon-Cave, we have been through this
- <26> endlessly. We know what the witness's is; we will have to

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< 1> evaluate it in due course, but I think we have grasped  
< 2> this point.  
< 3> MR HADDON-CAVE: There is one further document I would like to  
< 4> put to the witness on this important topic.  
< 5> (To the witness): Could you look at the manuscript of the  
< 6> Police interview which you gave on 27th February and turn  
< 7> to page 4? On page 4, a third of the way down, can you  
< 8> see, question: "Did this company issue any specific  
< 9> instructions about lookouts?" "No, that was left solely  
<10> down to the Captain." So, you were confirming there, were  
<11> you not, Mr Dwan, that there were no documents at all  
<12> about lookouts, not even in 1981 memo or reminder?  
<13> A. Well, I know we put out a document after the HURLINGHAM's  
<14> collision. I cannot remember what that document was at  
<15> this time, and I cannot remember whether -- I do not think  
<16> we did.  
<17> Q. That would have been a document about lookouts?  
<18> A. And a document to remind people of the dangers around them  
<19> and to beware of keeping a lookout at most times.  
<20> Q. So why did you not tell the Police that there were no  
<21> specific instructions about lookouts?  
<22> A. I do not know. I cannot remember.  
<23> Q. Can I suggest to you that there was no 1981 memo and there  
<24> were no other instructions of any sort? As regards this  
<25> box on board, that box only came into existence after the  
<26> collision, did it not?

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- < 1> A. Most boats always kept a box or a file in the wheelhouse  
< 2> for information that they needed to know about.
- < 3> Q. And the reason that the box now contains post 1989  
< 4> documents is because there were none before.
- < 5> A. Well, all I know is there was always boxes, in all my  
< 6> years of ever working passenger boats, there were folders  
< 7> and files kept in the wheelhouse ----
- < 8> Q. Not on yours?
- < 9> A. They were kept on all boats.
- <10> Q. The reason you were only able to produce one document to  
<11> the Police, and a post collision one at that, was because  
<12> after the collision you realized the importance of  
<13> standing orders, and so you thought that something was  
<14> better than nothing, is that not right?
- <15> A. No. After the collision, there was an update on most of  
<16> the equipment and everything that needed to be done. So,  
<17> therefore, most of the stuff that would have been there  
<18> precollision would have been obsolete anyway.
- <19> Q. Can I next ask you about monitoring? Mr Ludgrove was  
<20> asked yesterday about monitoring. He said that he did not  
<21> think that the company could really monitor. There were  
<22> practical difficulties unless you were on board in  
<23> monitoring the crews' navigational habits.
- <24> You told Mr Teare this morning that you had  
<25> opportunities to ask the crews about their procedures.  
<26> There would have been no difficulty whatsoever, would



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- < 1>           there, in having regular meetings with the crews to  
< 2>           discuss navigational issues?
- < 3>    A.    I had regular meetings with the crews at all time.  I was  
< 4>           with them daily.  Most of the navigational discussions  
< 5>           would have come through Notice to Mariners that had  
< 6>           appeared on the pier that we discussed through some reason  
< 7>           or the other, that...
- < 8>    Q.    So you disagree with Mr Ludgrove when he said that there  
< 9>           would have been difficulties monitoring the crews?
- <10>   A.    It would have been very difficult to monitor the crews  
<11>           apart from actually riding on the boat without the crew  
<12>           knowing I was there.  That is the only monitoring I could  
<13>           have done for them.
- <14>   Q.    Is the reality of your so-called system, Mr Dwan, that  
<15>           Mr Ludgrove left it to you to look after navigational  
<16>           safety and you simply left it to the Skippers?
- <17>   A.    No, that is not true.
- <18>   Q.    And that amounts to no system at all, does it not?
- <19>   A.    We did have a system.
- <20>   Q.    You said this morning that you never imagined that large  
<21>           ships like the BOWBELLE could sink the MARCHIONESS as  
<22>           quickly as it did on this case?
- <23>   A.    I do not think I said that.  I think I actually was  
<24>           talking about the fact that the scenario of the big ship  
<25>           hitting the MARCHIONESS, that was one that really was  
<26>           never seriously considered at the time.

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- < 1> Q. He scenario of a big BOW ship hitting one of the  
< 2> passengers vessels in the Thames was not considered by  
< 3> you, is that what you are saying?  
< 4> A. Any accident is always considered, but the scenario of  
< 5> that boat hitting that MARCHIONESS, or any other boat, was  
< 6> not, you know, considered.  
< 7> Q. Mr Dwan, you, above all, should have had that scenario in  
< 8> mind because, firstly, you were the Skipper of the  
< 9> HURLINGHAM when she nearly had that catastrophic collision  
<10> in 1981 with the BOWTRADER.  
<11> A. And the crews were reminded of that because we constantly  
<12> spoke about it, but to actually force the vessel down in  
<13> one hit, we never ever -- I did not imagine that at any  
<14> time.  
<15> Q. And you were also the Skipper of the ENSIGN and witnessed  
<16> the collision between the BOWTRADER and the PRIDE OF  
<17> GREENWICH, did you not?  
<18> A. That is correct.  
<19> Q. We can tell that from MET\_01394?  
<20> A. Yes -- no, I was there. I was a witness.  
<21> Q. And that was a potentially very serious accident too, was  
<22> it not?  
<23> A. Yes.  
<24> Q. So it is extraordinary to hear you say that you never  
<25> imagined this sort of scenario. It was plainly obvious to  
<26> everybody, particularly you?

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- < 1> A. I can agree that now.
- < 2> Q. Can I ask you a question about VHF signals? Were there
- < 3> any dead areas, to your knowledge, where it was difficult
- < 4> in King's Reach to pick up VHF signals?
- < 5> A. At that time, no.
- < 6> Q. When were VHF sets installed on the MARCHIONESS?
- < 7> A. I believe they were installed in 1981, I think, when we
- < 8> first started doing the conversions.
- < 9> Q. Could I ask you one or two further questions about means
- <10> of escape? Could you turn to your joint statement,
- <11> WIT\_05911? In the middle of the page you are describing
- <12> the doors and the after end port side of the upper deck
- <13> opening inwards and then the two doors on the after deck
- <14> also opened inboard with the hinge aft. You are there
- <15> describing, are you not, the two doors in the beer cellar?
- <16> A. The two iron doors leading off the after deck, the beer
- <17> cellar, yes.
- <18> Q. You go on to describe the steps from the upper deck door
- <19> port side to the cover deck, covered after deck, "and
- <20> there were three light wooden treads set in two light
- <21> wooden boards (one either side), the feet of which sat in
- <22> two raised metal cups in the deck. The head of the steps
- <23> rested on the forward bulkhead of the covered after deck.
- <24> The port side door of the after covered deck could be
- <25> opened a little, about halfway, with the steps in place.
- <26> Mr Dwan could get in and out of the door with the steps in

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- < 1> place."
- < 2> That is the important passage: "To open the
- < 3> door fully, you would have to lift up the light wooden
- < 4> steps and put them to one side"?
- < 5> A. That is correct.
- < 6> Q. Do you see that? So the position is that in order for the
- < 7> port side door to be opened, this emergency exit, anybody
- < 8> coming down the steps would have to take the steps and put
- < 9> them to one side?
- <10> A. Yes.
- <11> Q. Well, that is an extraordinary state of affairs, is it
- <12> not?
- <13> A. I do not see why.
- <14> Q. If you have a whole lot of people trying to escape out of
- <15> the aft of the vessel, the first person down has to remove
- <16> the very steps to get down from the bar to the after deck
- <17> in order to open that door?
- <18> A. Yes.
- <19> Q. How are the other people supposed to get down without
- <20> considerable difficulty?
- <21> A. You could see that once the door was opened, it was only a
- <22> short jump down to be straight out the side.
- <23> Q. But imagine a serious crisis, a fire, everybody rushing
- <24> out?
- <25> A. It would have been -- it would not have been perfect, but
- <26> it was a means of escape.

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- < 1> Q. There would be a huge melee, would there not?
- < 2> A. There would be a problem, but if you look preMARCHIONESS,  
< 3> before the conversion, her hatch way from the lower saloon  
< 4> out on to the after deck also had to have ladders removed.
- < 5> Q. Well, as has been demonstrated preconversion, it was a  
< 6> much easier vessel to escape from?
- < 7> A. Not from the lower saloon.
- < 8> Q. Would there not also have been a problem with people  
< 9> coming up through the hatch into the very same area where  
<10> all these people would be trying to escape from?
- <11> A. I would have presumed it would not have been 100 per cent  
<12> perfect, but any means of getting off that vessel in a  
<13> hurry was a good means. They had the other door there to  
<14> go out. If they were coming through the bottom hatch,  
<15> they would have had both doors to have gone through, so  
<16> the majority -- if you think of most of the people would  
<17> have been going forward, as the gentleman said earlier,  
<18> because they were the clearest marked exit doors and the  
<19> rest would have been going out through the bottom end and  
<20> out through the windows.
- <21> Q. The simple position is that if there was a fire in the  
<22> engine room, people would not be able to escape through  
<23> the forward doors, would they?
- <24> A. If there was a fire in the engine room, it could have been  
<25> contained in the engine room. Why would it have gone up  
<26> into the top deck?

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- < 1> Q. Let us assume that it did; there was a huge amount of  
< 2> smoke, everybody would rush to the back, would they not?  
< 3> A. Everybody would -- you would be able to use the windows or  
< 4> the back end, yes.  
< 5> Q. Can I suggest to you that this particular aspect of the  
< 6> port aft door is a highly unsatisfactory aspect for means  
< 7> of escape, would you agree?  
< 8> A. I would agree.  
< 9> MR HADDON-CAVE: Thank you very much. No further questions.  
<10> LORD JUSTICE CLARKE: Mr Purnell?  
<11> MR PURNELL: No questions of Mr Dwan.  
<12> LORD JUSTICE CLARKE: Mr MacDonald?  
<13> <Cross-Examined by MR MacDONALD.  
<14> Q. Mr Dwan, I have a few questions, please, for the  
<15> Department of Environment Transport and the Regions.  
<16> First of all, can I ask you a bit about skippering night  
<17> cruises? In your statement to the investigation you  
<18> describe how you have skippered night cruises in the  
<19> MARCHIONESS in the past. Did you ever have any problem  
<20> with hooliganism or drunks?  
<21> A. If I did, it was a very small amount of a problem. It was  
<22> not a big problem.  
<23> Q. And by day, I would imagine, that particular sort of  
<24> problem with day time type of passengers would not exist?  
<25> A. It did not exist. The worst that you could have had in a  
<26> day time cruise is if someone came to the boat drunk

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- < 1> before they -- and they would not have been allowed on the  
< 2> boat anyway.
- < 3> Q. Right. Would you agree (and this applies day or night)  
< 4> that once the MARCHIONESS was underway there was not much  
< 5> for the second man, that is the man not at the helm, to do  
< 6> except keep a lookout?
- < 7> A. In my opinion, 90 per cent of his time was in and around  
< 8> the wheelhouse.
- < 9> Q. And if a serious problem occurred with passenger  
<10> management, a serious fight breaking out, or something  
<11> like that, could the Skipper preserve the safety of  
<12> navigation in a number of ways, perhaps by slowing down,  
<13> hugging the starboard bank, or even anchoring or going to  
<14> a pier?
- <15> A. Yes, he could.
- <16> Q. In fact, I think -- we need not bring them up -- the  
<17> standing instructions that you had on board for  
<18> disturbances included going to a pier?
- <19> A. Yes, they did.
- <20> Q. Let me ask then, please, about VHF: did disco noise  
<21> interfere with keeping a VHF watch?
- <22> A. Never.
- <23> Q. When you were skippering, did the VHF enable you to tell  
<24> whether a BOW ship was moving in the river?
- <25> A. Yes, it did.
- <26> Q. If, as Skipper at night in the MARCHIONESS, you heard by

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< 1> VHF that a BOW ship was outbound behind you, could you use  
< 2> the second man to keep a sharp lookout astern?  
< 3> A. Yes, you could.  
< 4> Q. If for some reason that was not possible, could you simply  
< 5> keep well to starboard until the BOW ship had passed you?  
< 6> A. Yes, you could.  
< 7> Q. So if we look at the context of this sad casualty, could  
< 8> I suggest that there were perhaps four points for a  
< 9> Skipper to watch? First of all, the BOW ships could be a  
<10> hazard, second, use your VHF, third, use your second man  
<11> and, fourth, keep to starboard?  
<12> A. Yes.  
<13> Q. Now, are those points that could have been put into  
<14> writing by Tidal Cruises and passed to Skippers?  
<15> A. They probably would not have been.  
<16> Q. Well, you have answered my next question, so they could  
<17> have been but probably they were not ----  
<18> A. They were not, no.  
<19> Q. --- at least in those terms, no. A more general  
<20> question: when you were navigating from Blackfriars  
<21> Bridge to London Bridge, and beyond, in a vessel such as  
<22> the MARCHIONESS at night, would you say that was an easy,  
<23> difficult or averagely demanding passage?  
<24> A. An ordinary, a very ordinary, easy passage.  
<25> Q. Now can I ask a little bit about the hatch in the  
<26> MARCHIONESS? There was a time in October 1984 when you,



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< 1> Mr Ludgrove and a Captain Clipsham of the Department met  
< 2> at Westminster Pier and reached an agreement to fit the  
< 3> hatch, do you recall?  
< 4> A. I remember that.  
< 5> Q. Was it your understanding that the hatch was to supplement  
< 6> the use of a side step and the side rails?  
< 7> A. Yes, it was.  
< 8> Q. For your part, did you think a hatch was necessary?  
< 9> A. At that time I did not, but it was obviously an added aid  
<10> to that boat.  
<11> Q. When I say "you", I did not mean you personally. Do you  
<12> whether Mr Ludgrove shared that view?  
<13> A. I think we both shared the view that the hatch at that  
<14> time was not particularly necessary, but it was always an  
<15> aid that was of benefit to us.  
<16> Q. I ask because in Mr Ludgrove's letter of agreement, as it  
<17> were, he said you had good experience of the steps and  
<18> rails, you had been quite satisfied with the level of  
<19> lookout and safety that that gave?  
<20> A. Yes.  
<21> Q. You were asked by my learned friend Mr Mansfield and  
<22> invited to use hindsight. One of the things you said was,  
<23> looking back, the wheelhouses could or should have been  
<24> raised. OK? So we are not talking pods or hatches. We  
<25> are talking about a rebuild of the wheelhouse area. If  
<26> the Department had suggested that for the MARCHIONESS in

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- < 1> 1984 the wheelhouse should have been rebuilt, would your  
< 2> company readily have complied?
- < 3> A. Yes.
- < 4> Q. Were you not concerned about air draught?
- < 5> A. We were concerned about air draught, but once the  
< 6> Department had said that that is the way they wanted it to  
< 7> go, we would have followed.
- < 8> Q. What was the air draught of the MARCHIONESS, do you know?  
< 9> If you cannot, say now ----
- <10> A. It was either 13 and a half or 14 and a half feet,  
<11> I believe.
- <12> Q. Is it possible at that time, 1984, that she might have  
<13> traded upriver of your base as well as down?
- <14> A. Yes.
- <15> Q. In relation to the conversion which we are going back then  
<16> to about 1981, 1980/81, Mr Mansfield put to you that the  
<17> alterations were inadequate from the standpoint of rear  
<18> vision, and you said -- this is page 81 today's transcript  
<19> -- "You can say that, yes, now". At the time did you  
<20> think the alterations were inadequate from the aspect of  
<21> rear vision?
- <22> A. No.
- <23> Q. After the alterations when you skippered the MARCHIONESS  
<24> -- I am sorry, I will rephrase that. After the  
<25> conversion and the hatch and steps and rails had been  
<26> fitted, so after all that, when you skippered the

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< 1> MARCHIONESS, were you able to keep a satisfactory  
< 2> all-round lookout using the second man as necessary?  
< 3> A. Yes.  
< 4> Q. Now, you were asked some questions about means of escape.  
< 5> One of the topics raised was fire. Is it right that the  
< 6> machinery space o the MARCHIONESS had fire resistant  
< 7> bulkheads?  
< 8> A. It had a fire resistant hatch on to the top deck above the  
< 9> engine.  
<10> Q. That is the deck head?  
<11> A. Yes.  
<12> Q. Can you remember what the position was about bulkheads  
<13> fore and aft, the ----  
<14> A. Fore and aft, there was a period, and I am not remembering  
<15> whether this was after the HURLINGHAM or after the  
<16> MARCHIONESS, when we had to fire clad all of the engine  
<17> rooms and the bulkheads. What I cannot remember is  
<18> whether that was before the accident or after the  
<19> accident.  
<20> Q. OK.  
<21> A. But I know the hatch always had a very heavy steel fire  
<22> cladding, an asbestos on a steel hatch from the main  
<23> engine, and also the main hatches or the hatch for getting  
<24> in and out had a fire door and that there were fire flaps  
<25> that went in the side of the boat.  
<26> Q. In fact, if I may suggest this, it was a Department

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< 1> requirement in place and in force prior to the disaster  
< 2> that the bulkheads of the machinery space, including the  
< 3> deck head, as you say, had to be fire resistant for a  
< 4> fixed period of time?  
< 5> A. Yes. Well, if that was -- I know we did all of the fire  
< 6> cladding on both bulkheads, forward and aft, and on the  
< 7> deck head and the hatch.  
< 8> Q. Right. So if there had been a fire in the engine space  
< 9> and there were passengers on the disco deck, would those  
<10> present on that deck have had a period of time in which to  
<11> move forward or to whatever escapes were available?  
<12> A. Yes, they would. I forget what the timing was, but there  
<13> was a specification came out with the fire cladding  
<14> material that gave you the time, I think it was quite some  
<15> time before it actually became a problem.  
<16> Q. So there is no question of a sudden fireball exploding  
<17> into the disco deck?  
<18> A. No, we could not have that.  
<19> Q. And what about smoke?  
<20> A. Smoke, probably some of the smoke would have come out  
<21> around the engine room hatch, but the options, obviously,  
<22> were for the shutting down of the engine which had the  
<23> means of the wheelhouse or the fuel shut off. You would  
<24> shut your emergency flaps which should starve the oxygen  
<25> into the engine room which should have put out any fires  
<26> that had a problem in that area.

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- < 1> Q. Presumably, if there is a fire in the engine space, one of  
< 2> the first things you do is to stop the engine and then  
< 3> shut the space down?  
< 4> A. Stop the engine and shut fuel off, shut the engines down,  
< 5> shut all fire flaps.  
< 6> Q. If there were passengers in the after parts of the ship,  
< 7> they too then would have a period of time in which to move  
< 8> across the disco deck in comparative safety.  
< 9> A. Yes, more than enough time.  
<10> Q. Or they could, of course, leave by other escapes?  
<11> A. Sorry?  
<12> Q. Or they could, of course, leave by other escapes?  
<13> A. Yes.  
<14> Q. You were asked to consider, I think, some sinking  
<15> scenarios. Was the MARCHIONESS subdivided forward of the  
<16> lower saloon?  
<17> A. The vessel, when she was originally built, was a  
<18> subdivided vessel. There came a time when the Department  
<19> were worried about the boat being still a subdivided  
<20> vessel, and I think the vessel was then classed again as  
<21> being an open vessel, but she did have watertight and  
<22> collision bulkheads throughout the boat.  
<23> Q. And if she had been holed forward of the dining saloon  
<24> which was the big space, if you like ----  
<25> A. Yes.  
<26> Q. --- would she have sunk quickly?

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- < 1> A. With just a hole in the engine room, no, she would not.
- < 2> Q. And, of course, rate of sinking depends on a lot of
- < 3> things, the size of the hole, the pressure head, and so
- < 4> on?
- < 5> A. Yes.
- < 6> Q. It was suggested that she might have had two mid length
- < 7> shell exit doors, like your other ships, and a point you
- < 8> made, commenting on that, was that these would have to be
- < 9> so designed as to be secure in ordinary service, is that
- <10> right?
- <11> A. Yes.
- <12> Q. And that would limit their usefulness in a casualty?
- <13> A. Yes.
- <14> Q. In a drastic casualty, that would severely limit their
- <15> usefulness?
- <16> A. I think so, yes.
- <17> Q. You were also asked a question which was based on a
- <18> hypothesis that the MARCHIONESS had been more stable,
- <19> "more stable or buoyant", is how it was put, than she
- <20> actually was, did you think she would have stayed afloat
- <21> longer, do you remember?
- <22> A. Yes.
- <23> Q. Can I ask you to assume -- you were not there --
- <24> that within a few seconds of being hit by the BOWBELLE the
- <25> MARCHIONESS was on her beam ends with the bar deck
- <26> superstructure ripped off; in those circumstances, do you

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< 1> think she would have stayed afloat longer if initially she  
< 2> had been even more stable than she was?  
< 3> A. I think she would -- if that, just that top deck going,  
< 4> she would have stayed afloat.  
< 5> Q. On her beam ends?  
< 6> A. I would think so.  
< 7> Q. Can I ask some questions about the Department's annual  
< 8> survey? I gather you were usually the person in  
< 9> attendance at these surveys?  
<10> A. Yes.  
<11> Q. Is it right that there were two phases or steps? There  
<12> was a dock survey when the vessel would be out of the  
<13> water?  
<14> A. Yes, there was.  
<15> Q. And then there would be an afloat survey?  
<16> A. The running trial, yes.  
<17> Q. With a running trial?  
<18> A. Yes.  
<19> Q. At the second stage, did the attending departmental  
<20> surveyor check for the presence, condition and operability  
<21> of the life saving appliances?  
<22> A. Yes, he did.  
<23> Q. And if you can think generally of these running trials on  
<24> the MARCHIONESS or, if you can, the last one before the  
<25> disaster which inspection would have been in early 1989.  
<26> Can you recall whether there were present on the vessel at

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< 1> that time life boys with lines attached?  
< 2> A. Yes, there were. Lines attached or life?  
< 3> Q. To the life buoys. Sorry, lines attached to the life  
< 4> buoys?  
< 5> A. Yes, there were two.  
< 6> Q. Not attached to the ship?  
< 7> A. No, there were two.  
< 8> Q. There were two. Can you remember whether there were any  
< 9> life buoys with self-igniting lights?  
<10> A. Yes, there were two.  
<11> Q. Would those be different from the ones with lines?  
<12> A. Yes, they were.  
<13> Q. And can you remember where they were stowed, the ones with  
<14> lights?  
<15> A. The ones with the lights were stowed just behind the  
<16> wheelhouse roof, just behind the wheelhouse. One with a  
<17> line was placed on the foredeck right in the bow of the  
<18> ship, and one was on the side, just outside the wheelhouse  
<19> door. So that if there were someone in the water and you  
<20> needed to get them out quick, the ones with the lines were  
<21> the first ones that you needed to use.  
<22> Q. Thank you. Can I ask this, were there buoys present with  
<23> smoke signals fitted?  
<24> A. We did not have any with smoke signals. We had gone  
<25> through a phase where we had to, and then it was decided  
<26> that the class of vessel that we were on -- they said that



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< 1> the smoke flair signal, or the smoke light signal, was  
< 2> designed to drop about 15, 20 foot from a side of a ship  
< 3> with a roll in life ring.

< 4> In our vessels, the fact that you were only  
< 5> about 12 feet off the water, it was considered that by the  
< 6> time that all went in the water, it would have been too  
< 7> much of a problem, and we did have a couple of experiences  
< 8> where some had been let off accidently and quite a lot of  
< 9> the people had become very distressed with the orange  
<10> smoke that was being inhaled by all the passengers. So we  
<11> did come away from the smoke flares. But we had had them  
<12> and we had, you know, with the permission of the  
<13> Department replaced them with the lights.

<14> Q. Yes. Can you remember, this may be impossible to answer,  
<15> but even by a year, when the phase where you had two life  
<16> buoys with smoke signals came to an end?

<17> A. I cannot remember that, but it would have been on the  
<18> certificates when we had to have that period. I know they  
<19> were great big things that stood about that high, and they  
<20> were more of a problem than they were of help.

<21> Q. Thank you. Still on the running trial and the afloat  
<22> survey: did the Department surveyor check that the  
<23> escapes were labelled free to open and unobstructed?

<24> A. Yes, they did.

<25> Q. I think you were shown earlier a document from a  
<26> Mr Nicholls showing ----

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< 1> A. Yes.

< 2> Q. --- the Department taking an interest in that sort of  
< 3> thing? You were also shown by Mr Mansfield (and I do not  
< 4> think I need to have it brought up to the screen) a report  
< 5> which stated that some of the windows in the disco deck,  
< 6> I think, were stuck or not easily moved, do you remember  
< 7> that?

< 8> A. I do remember that, yes.

< 9> Q. I do not know whether you appreciated that those  
<10> observations were made by a man who boarded the wreck  
<11> after it had been run down, sunk, and raised by two PLA  
<12> salvage vessels using wire strops. Would it surprise you  
<13> if after those procedures the windows worked less well?

<14> A. I would not have thought so. At the time when we put the  
<15> windows in, it was -- or the time when the windows was,  
<16> they were all upgraded after the HERALD OF FREE  
<17> ENTERPRISE.

<18> Originally, the windows were only openable from  
<19> the inside of the vessel, and after the HERALD OF FREE  
<20> ENTERPRISE experience, it was decided that they should  
<21> have openings on the inside and on the outside of the  
<22> vessel because they found it difficult to get, you know,  
<23> if you are being saved on the boat, and the window needs  
<24> to be opened, you need to be opening it from both sides.

<25> So a whole lot of new handles and new fittings  
<26> were brought in and fitted to enable the windows to be

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- < 1> opened on the inside and the out. Now, the fact there  
< 2> were wire strops distorting the boat and coming round the  
< 3> boat when she came up, I am not surprised that there was  
< 4> not more damage really.
- < 5> Q. So that improvement to the windows must have happened  
< 6> between the HERALD disaster in 1987 ----
- < 7> A. Yes, it did.
- < 8> Q. --- and this further disaster?
- < 9> A. Yes.
- <10> Q. Can I ask, finally, three rather disconnected questions  
<11> about photographs? Could we have photo 73, please?  
<12> I hope either on the small screen or the big screen, it  
<13> may be better on the big screen above the Wreck  
<14> Commissioner's head, you can see there is a wooden notice  
<15> stuck up somewhere in the MARCHIONESS which -- thank you  
<16> very much -- says something to the effect: "Seated  
<17> passengers only to [something] on top deck". Can you  
<18> remember that notice?
- <19> A. I do remember it now, yes. I do not remember what it  
<20> fully said, but there was one that side and there was one  
<21> the other side as well above the stair ----
- <22> Q. When you say "that side and the other side", on which  
<23> deck?
- <24> A. There was one on the top deck, looking aft, looking  
<25> forward, you could read them above each stairwell.
- <26> Q. Thank you. Now, photo 124.501, please, it is the upper

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< 1> photograph I would like enlarged, please, if that is  
< 2> possible? It is the picture of the MARCHIONESS in a  
< 3> former stage of her life. I just wanted to ask you about  
< 4> the white gates or railed parts of the bulwark which are  
< 5> forward of the lower saloon. One is perhaps a little bit  
< 6> forward of amidships and one is quite near the bow, at  
< 7> least looking at this picture. Is it right that these  
< 8> were fitted for operational reasons?  
< 9> A. Yes, they were.  
<10> Q. Something to do with the configuration of the piers at  
<11> Westminster and Hampton Court?  
<12> A. And all the piers through to Hampton Court, yes.  
<13> Q. Thank you. Finally -- sorry?  
<14> A. I was going to say, on some of the piers you only had two  
<15> piles, so you had to marry your middle gate up with those  
<16> two piles and with any stream you could not have held the  
<17> boat alongside so...  
<18> Q. So they were not fitted as escapes or anything like that?  
<19> A. They were fitted to be able to go on and out the piers  
<20> from Westminster to Hampton Court.  
<21> Q. Last, could we have photo 567, please? It is again the  
<22> upper of the two pictures that perhaps we could have  
<23> enlarged, please? The material which is across the  
<24> closure of the starboard wheelhouse door looks to me a bit  
<25> like what I call parcel tape?  
<26> A. It was that similar sort of stuff, yes.

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- < 1> Q. Sort of thick sellotape?
- < 2> A. Just sellotape, yes.
- < 3> Q. Could that be easily disturbed by pulling the door inwards
- < 4> to open it?
- < 5> A. The door was of such a heavy nature that all you had to do
- < 6> was unclip it and it came away. Bear in mind that had
- < 7> been on there for many years so that the actual stickyness
- < 8> of it was only on the one side of the door and it just
- < 9> flapped over the other.
- <10> Q. So if you had to use the door and then you closed it
- <11> afterwards, you just pressed on the sticky tape?
- <12> A. You shut the door and you just rolled your hand down it.
- <13> Q. And the draught was excluded?
- <14> A. Yes.
- <15> Q. Yes, thank you very much, Mr Dwan.
- <16> Sir, you asked about the M Notice, M 316, and
- <17> its distribution. Could I just tell you for your
- <18> reference -- I will not ask the witness about it -- at
- <19> DETR\_02404, there is a version of Mr Nicholls' covering
- <20> letter which is identical to the one in chronology 718
- <21> except it is marked as a proforma addressed to operators
- <22> between Teddington and Graves End. It might be useful for
- <23> that to be called forward into the chronological bundle as
- <24> well.
- <25> LORD JUSTICE CLARKE: I agree, thank you very much, together
- <26> with the M Notice itself. Yes, Miss Cameron?

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- < 1> <Cross-Examined by MISS CAMERON.
- < 2> Q. Mr Dwan, on behalf of the Port of London Authority, I have
- < 3> very few questions for you. Could I ask you, first of
- < 4> all, to go to the last paragraph of your statement which
- < 5> is WIT\_05891, paragraph 59 of your statement? Half way
- < 6> through that paragraph you tell us, well, it is the whole
- < 7> of the paragraph really after the first sentence:
- < 8> "The crew of the MARCHIONESS were already
- < 9> scheduled to work on a cruise at 8 p.m. on the night of
- <10> the collision. I had spoken to Stephen Faldo and given
- <11> him the option of engaging a relief crew or working the
- <12> second cruise and having the following two days off. He
- <13> decide to work the second cruise."
- <14> Was that because you were aware of the amount of
- <15> work he had already done for you during that week?
- <16> A. He had not done a lot of work immediately before the
- <17> accident. The boat was not in use for a couple of days.
- <18> So, like all of the crews, they have always got the option
- <19> of you how and when they want to work.
- <20> Q. So you said if he did two trips, in other words, the early
- <21> evening trip and the night trip, you would give him the
- <22> following two days off?
- <23> A. That is what we were talking about, yes.
- <24> Q. Were you concerned generally that the Skippers did not do
- <25> too many runs on the go because of the need always for a
- <26> Skipper to be alert on the river?

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- < 1> A. That is correct, yes.
- < 2> Q. Could we just look briefly then at 5860 WIT\_05860? This
- < 3> is a statement you made in 1990 when you referred to your
- < 4> desk diary and you explained what work Mr Faldo had done
- < 5> in that week. I draw your attention particularly to
- < 6> Thursday 17th, when he started at 10.00 a.m. and finished
- < 7> at 1.00 a.m. the morning of Friday 18th, which I make 15
- < 8> hours. He recommenced at 10.00 a.m. that same Friday and
- < 9> finished at 0100 on the Saturday 19th, which I again make
- <10> 15 hours, and then he recommenced work on the Saturday
- <11> afternoon at 1700 and, according to what you have just
- <12> told us, was due to work until about 2300 on the first
- <13> trip?
- <14> A. That is correct.
- <15> Q. Is that right? So he had already had two long trips that
- <16> week on the Thursday and the Friday, had he not?
- <17> A. It would appear so. My recollection -- I believe so, yes.
- <18> Q. Well, that is what you said in 1990. Your recollection
- <19> and reference to your desk diary then presumably told you
- <20> the accurate position at the time?
- <21> A. I am trying to think back to that time, but I know that
- <22> the vessel itself had gone to Eel Pie Island for a couple
- <23> of days. Now, I cannot remember whether that was the
- <24> Tuesday and the Wednesday or the Thursday -- I cannot
- <25> remember that, but if the records in the diary are saying
- <26> that, then I am to presume that is what he was doing.

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< 1> LORD JUSTICE CLARKE: We have your desk diary attached to the  
< 2> statement here, I think. If we turn on two or three  
< 3> pages, is that your desk diary beginning at page 05862?  
< 4> A. I believe it is my desk diary, yes.  
< 5> MS CAMERON: That is how you reconstructed the times that  
< 6> Mr Faldo had worked, whether it was on the MARCHIONESS o  
< 7> another boat, I am not necessarily suggesting it was the  
< 8> MARCHIONESS, he had worked for your company those hours  
< 9> because that is what your desk diary told you at the time?  
<10> A. Yes.  
<11> Q. Therefore, he was going to do another six hours on the  
<12> first trip and a further six hours on the second trip with  
<13> about an hour and a half break?  
<14> A. That is correct.  
<15> Q. Is that right?  
<16> A. Yes.  
<17> Q. But you left it to him, did you, Mr Dwan, rather than you,  
<18> as the employer, suggesting to him that he had perhaps  
<19> done enough without a long break. You left it to him to  
<20> decide whether he would take on another long period of  
<21> work for you as he did on that Saturday night?  
<22> A. Yes, I gave him the option.  
<23> Q. Could we then look at just one other point? Could we look  
<24> at 5854, please? 5854 again is a statement which you made  
<25> in 1990 and it is halfway down that page, the last  
<26> sentence in the paragraph which starts "the standing



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- < 1> order", the last two sentences, you say: "He had his own  
< 2> company trading as Top Bar Enterprises. My company paid  
< 3> his company for his services."  
< 4> A. That is correct.  
< 5> Q. And that was because Mr Faldo and Mr McGowan were,  
< 6> effectively, self-employed, but they operated through a  
< 7> company called Top Bar Enterprises?  
< 8> A. That is correct.  
< 9> Q. They were not direct employees of your company?  
<10> A. No, they were not.  
<11> Q. You employed them through their company, Top Bar  
<12> Enterprises, to act as crew, as Skipper and Mate, on the  
<13> MARCHIONESS?  
<14> A. That is correct.  
<15> Q. Were you aware that Top Bar Enterprises was a business  
<16> company which had a direct interest in relation to the  
<17> provision of the refreshments for the passengers on the  
<18> MARCHIONESS?  
<19> A. Yes, I was.  
<20> Q. Did that affect your consideration of the suitability of  
<21> employing them through this company?  
<22> A. No, it did not.  
<23> MS CAMERON: Thank you.  
<24> LORD JUSTICE CLARKE: Could I just ask a question arising out  
<25> of that? Was that the way it worked on all your vessels?  
<26> A. Not on all of the vessels. Basically, it became illegal

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< 1> to employ self-employed Captains and crew. It was not a  
< 2> legal thing that we could do because of tax reasons.  
< 3> Therefore, the self-employed Captains at that time, it was  
< 4> felt that it was far better that they would create  
< 5> themselves into a company and that we would employ them  
< 6> through their own company which made it legal for tax  
< 7> purposes to be able to work that way.  
< 8> Q. Did you do that with all your crews?  
< 9> A. Not all of them, no.  
<10> Q. But several of them?  
<11> A. Most of them.  
<12> Q. In each of those cases, did they have an interest in the  
<13> bar on night cruises?  
<14> A. They run the -- they run the whole of their boats, yes.  
<15> Q. So, for example, if Mr Faldo had declined your offer of  
<16> working the second cruise, somebody else would have run  
<17> the bar, would they?  
<18> A. He would have employed his own bar staff.  
<19> Q. What, the new Skipper?  
<20> A. No, the crew of that boat had their company on that  
<21> vessel.  
<22> Q. So that if Mr Faldo had declined your offer to work this  
<23> cruise, he would have lost any profit that there would  
<24> have been on the bar?  
<25> A. No.  
<26> Q. He would not?

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- < 1> A. No. His company would still be running that boat. The  
< 2> Skipper would have been replaced by one of our Tidal  
< 3> Cruises' relief Skippers or one of our permanent  
< 4> Skippers. He would have been just solely on the boat as a  
< 5> Skipper.
- < 6> Q. I see. Mr Faldo would still or Top Bar Enterprises would  
< 7> still be ----
- < 8> A. They would have still functioned the boat. They would  
< 9> have still run the bars and taken whatever there came from  
<10> that bar.
- <11> Q. We have heard that Mr McGowan did not really spend any  
<12> time in the wheelhouse and spent a certain amount of his  
<13> time, or most of his time, down below, clearing up glasses  
<14> and one thing and another?
- <15> A. Well, in my experience, that did not work like that.
- <16> Q. You were simply quite unaware of that, were you?
- <17> A. Unaware that?
- <18> Q. You were quite unaware of that?
- <19> A. Unaware that Mr McGowan was -- yes, unaware of that.
- <20> Q. And unaware that it happened on any other vessel?
- <21> A. I never experienced it on any of our vessels where the  
<22> crew actually, and it was stipulated when their companies  
<23> took over the bar that it should at no time ever distract  
<24> them from the jobs they had to do. They were there as  
<25> crew.
- <26> Q. Was that a written instruction?

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- < 1> A. I would not have thought it was a written instruction, no.
- < 2> Q. It might be thought that it is not really very desirable
- < 3> to have a Mate who has a personal interest in the bar
- < 4> without, at any rate, giving him express instructions that
- < 5> he is to spend the whole of the voyage in the wheelhouse.
- < 6> Would you agree with that or not?
- < 7> A. I would agree with that, yes.
- < 8> Q. But when you were the Skipper and, say, Mr McGowan was the
- < 9> Mate, you insisted that he should be, I think as you put
- <10> it, in or round the wheelhouse, is that right?
- <11> A. That is correct.
- <12> Q. But do I understand that is not the same thing as
- <13> expecting him to keep a permanent lookout?
- <14> A. He should not be -- I would not expect him to have been a
- <15> permanent lookout, but I would have at the relevant times
- <16> when we needed to be looking, I would have thought that he
- <17> should have been aware and looking out most of the time.
- <18> Q. But if the Skipper wanted him to take the responsibility
- <19> of keeping a proper lookout aft, he would have to give him
- <20> a further express instruction, would he?
- <21> A. If he desperately wanted him to look dead astern, I would
- <22> say yes.
- <23> Q. Never mind about desperately. If he wanted him to look
- <24> astern and keep a proper lookout astern, he would have to
- <25> give him a separate further instruction, would he?
- <26> A. Yes.

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- < 1> Q. So that, for example, if in your case Mr McGowan was the  
< 2> lookout and was in or around the wheelhouse and he  
< 3> happened to fail to spot a vessel coming up astern, he  
< 4> could not really be blamed for that, could he, on your  
< 5> system?
- < 6> A. I would have thought the Captain was responsible anyway,  
< 7> but, you know, it is right what you are saying, yes.
- < 8> Q. Do I understand you do not have any standing instructions  
< 9> now?
- <10> A. For keeping permanent lookout?
- <11> Q. Yes, or any other navigational matter or about anything  
<12> really?
- <13> A. We have orders that go to the crews stipulating any  
<14> navigational problems, and ----
- <15> Q. What written?
- <16> A. --- there are standing orders on the boats now.
- <17> Q. Are they in the box that arrived yesterday?
- <18> A. They would be in the box that arrived yesterday.
- <19> Q. Do you have a proper filing system on these vessels or are  
<20> they just a sort of box?
- <21> A. It is left to the Captain to keep his paperwork in order  
<22> the best way ----
- <23> Q. It might be thought to be desirable to have a proper  
<24> filing system on these vessels so that you have a system,  
<25> you have proper standing orders, you file those, you have  
<26> certificates, you file those, and so on. Would that be

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< 1> desirable, do you think, or not, for the future I am  
< 2> talking about?  
< 3> A. Well, bear in mind the wheelhouses are very small places  
< 4> and you need to keep, obviously, the information that you  
< 5> need to keep. But if you were to put everything in files  
< 6> in a filing cabinet, you would start losing your vision  
< 7> anyway.  
< 8> Q. I follow that if you had it in the wheelhouse, but I  
< 9> suppose you could use up a bit of the bar, perhaps, for  
<10> it, or you could put it somewhere on the vessel anyway?  
<11> A. Yes, you know, we do not encourage the crews to be behind  
<12> the bars, but it is a...  
<13> Q. I follow that. But, anyway, even now, do you have  
<14> available now the instructions that you give because ----  
<15> A. They are available.  
<16> Q. --- you appreciate ----  
<17> A. Yes, they are available.  
<18> Q. --- that we are interested not just in what happened in  
<19> the past, but also in the future?  
<20> A. As you know, everything is changing daily with the river  
<21> as it is and as it was. So, therefore, there is updating  
<22> of all the information and the standing orders, as they  
<23> are called, that is going out all the time now from the  
<24> Department; and over the last four or five years proper  
<25> volumed folders are put on the boat of every bit of  
<26> information that they should need to know, the fire

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< 1> fighting equipment, the bilge systems, the electric  
< 2> systems, the fuse, the life saving equipment, all of the  
< 3> crews have been on courses and all this, so that is all  
< 4> there now.  
< 5> LORD JUSTICE CLARKE: Thank you very much. Mr Reeder, I think  
< 6> in due course we would be interested to see what happens  
< 7> now because you will appreciate we are concerned with the  
< 8> future, not just with the past.  
< 9> MR REEDER: Indeed, sir. These documents only came off  
<10> yesterday.  
<11> LORD JUSTICE CLARKE: I understand that. I am not complaining;  
<12> I am just indicating.  
<13> MR REEDER: They will be put into some form of order.  
<14> LORD JUSTICE CLARKE: Thank you very much. I am sorry,  
<15> Miss Cameron.  
<16> MS CAMERON: I am finished.  
<17> LORD JUSTICE CLARKE: Mr Thwaites?  
<18> MR BEGG: No, thank you, sir.  
<19> LORD JUSTICE CLARKE: Mr Seligman?  
<20> MR SELIGMAN: Yes, please.  
<21> <Cross-Examined by MR SELIGMAN  
<22> Q. Mr Dwan, I represent the crew of the MARCHIONESS. Just to  
<23> clear up a couple of points there on Top Bar Enterprises  
<24> and their relationship with you. You were still,  
<25> effectively, the employer. This was something of a tax  
<26> arrangement that they be a separate entity, was it?

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< 1> A. Yes.

< 2> Q. You did things like you bought their -- if we bring up  
< 3> TCL\_00060 and 66 shortly after that -- no need to linger  
< 4> -- their clothing and I think we have got three shirts,  
< 5> trousers and the next one, 66, will be a boiler suit, but  
< 6> the sorts of things that an employer would buy for  
< 7> employees?

< 8> A. In all intents and purposes, they were fully employed by  
< 9> us.

<10> Q. Right. Thank you. You have said several times today and  
<11> in written evidence too that you thought that two crew  
<12> members was enough to keep a lookout but one was not. You  
<13> do not know why Mr McGowan did not know that, that he was  
<14> meant as Mate to help with the lookout.

<15> I would like to take you to the new statement,  
<16> the interview with the Police in 1990 -- it is not yet on  
<17> the system, but we all have had photocopies today -- and  
<18> take you back again to page 4, but higher up the page.  
<19> The question you were asked by Detective Sergeant Sinnert  
<20> was: "What is your opinion of the duties of Master and  
<21> Mate?" You say: "The Master's word is law. He makes the  
<22> final decision and controls all aspects of navigation and  
<23> conduct aboard the vessel. The driver Mate", Andrew,  
<24> "would look after the engines and relieve the Captain as  
<25> and when required."

<26> What you are describing there is one person



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- < 1> having complete control of the navigation of the vessel.  
< 2> My suggestion to you is that that quite plainly includes  
< 3> lookout, and that when Andrew McGowan relieved the  
< 4> helmsman he again would take over sole conduct of the  
< 5> navigation of the vessel.  
< 6> A. Now, my reading of that is that the Master is in charge of  
< 7> his vessel. He is the person that -- basically, we could  
< 8> have -- we could have had a scenario where I would have  
< 9> instructed, and I do not say that I did, but I could have  
<10> instructed Andrew McGowan from the company to have been on  
<11> that boat looking astern at all times.  
<12> Q. But that is not the way ----  
<13> A. Now, if and when he got on that boat the Master felt that  
<14> he could use that man in a different way and a better way  
<15> than what I had suggested, then he would have told the  
<16> Mate the way that he wanted to handle it. Now, that would  
<17> have put the Mate in breach of company policy because he  
<18> is obeying the Master of the vessel.  
<19> Q. That second scenario is exactly what you are describing  
<20> here, is it not, you knew very well ----  
<21> A. The Master would be in charge of his vessel at all times.  
<22> Q. Yes. You knew perfectly well at that time how this boat  
<23> was sailed and it was by the helmsman alone at the helm  
<24> and, coincidentally, that is also how you sailed it too,  
<25> is it not?  
<26> A. I believe that the Mates at all times should be helping

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< 1> the Skipper at all times to keep an all-round lookout.  
< 2> There are times when he cannot do that.  
< 3> Q. That is not what you are describing there, Mr Dwan. Can I  
< 4> take you to another piece of your evidence, WIT\_05856?  
< 5> This is at the bottom of -- I am sorry, that reference is  
< 6> wrong. Let me just get the right one. I am sorry, it is  
< 7> right. It is a little up from the bottom of the page  
< 8> beginning "notwithstanding":  
< 9> "Notwithstanding the question of the right of  
<10> way, I consider that the rear view from the wheelhouse on  
<11> the MARCHIONESS was all that was needed".  
<12> Now, that is a rear view from the wheelhouse,  
<13> that is the helmsman's rear view that you are referring  
<14> to, "... no reason to keep looking behind you, but you do  
<15> in any case. I would not expect the Captain to be more  
<16> vigilant than if he had been on another vessel. There was  
<17> enough vision for his needs".  
<18> What you are describing there is a system of  
<19> lookout that you think is satisfactory that works from the  
<20> wheelhouse. It is a one-man system?  
<21> A. I do not believe it is a one-man system, but at that time  
<22> I considered it to be reasonably satisfactory.  
<23> Q. All right. Let us move on. Now, there is another reason  
<24> why it had to be a one-man system particularly early in  
<25> the voyage. It is not only during emergencies that this  
<26> skeleton crew, if I can call it that, was busy, too busy

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< 1> to keep a lookout. In fact, early in the voyage, on every  
< 2> voyage, the Mate, as was the time at the time of the  
< 3> casualty in this case, is busy with passengers -- on this  
< 4> occasion Andrew McGowan was sorting out the disco,  
< 5> providing electricity supply -- and always in the early  
< 6> stage of the voyage is the time when the Mate, not in an  
< 7> emergency, but as a matter of course, will be busy down  
< 8> below and not at the wheelhouse available to help the  
< 9> Captain keep a lookout, as you say. That is right, is it  
<10> not?

<11> A. I do not agree with that, no.

<12> Q. In fact, the early part of a voyage downriver is a  
<13> particularly hazardous or important part of the voyage  
<14> because you are coming across from the north bank to the  
<15> starboard bank, you are in the congested area around  
<16> Charing Cross, the river has not yet widened out by  
<17> Tower Bridge, and that time when the Mate is so busy is  
<18> also a time when it is particularly important to have him  
<19> helping with the lookout, but that, to your knowledge, was  
<20> not possible?

<21> A. To my experience of handling our boats, the only time we  
<22> met the actual passengers was as they were boarding. It  
<23> was important for the crew, especially a Captain, more so  
<24> than the Mate, to make himself made known to the  
<25> organizer, to inform him if there were any problems where  
<26> we would be, and that is in the wheelhouse, and then the

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- < 1> boat would sail.
- < 2> Now, I cannot think of many reasons, there could
- < 3> have been times when, yes, as you say, if the disco was
- < 4> having a problem, he would have come to the wheelhouse and
- < 5> said, "I have problem, my jack plug will not work. I am
- < 6> only getting one speaker working", or something in that
- < 7> nature, and the Mate then would have been sent inside to
- < 8> have a look at what the problem was.
- < 9> Q. But this was a commercial operation, you are after
- <10> midnight, you have a party on board?
- <11> A. Yes.
- <12> Q. You have got to settle the customers down. You knew very
- <13> well, and it is why you describe what you describe on
- <14> page 4 of the interview, at this stage and particularly
- <15> early on in the voyage that the Mate would not be in the
- <16> wheelhouse. He might well be downstairs sorting out the
- <17> kinds of problems I have referred to?
- <18> A. I would say a very minute amount of time.
- <19> Q. Right. Now you have just been asked about this annual
- <20> survey, and you were the man that dealt with the
- <21> Department on the annual survey. Did they ever ask you
- <22> any questions about the bar and people standing up there?
- <23> A. I believe not.
- <24> Q. And did you ever have a system for telling the bar staff
- <25> not to have standing passengers up in the top bar?
- <26> A. No.

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- < 1> Q. Just one other point, just a point of detail really, but  
< 2> it, in fact, was a two stage done conversion, was it not?  
< 3> A. Three, I believe. Three.  
< 4> Q. It was three?  
< 5> A. Yes.  
< 6> Q. It was the final stage of the conversion, the addition of  
< 7> the top bar, that really caused the visibility problems on  
< 8> this boat?  
< 9> A. The final stage of the alteration was the after pier deck.  
<10> Q. Right. Then the second stage ----  
<11> A. The bar was the second one. The second bar deck would  
<12> have been when you lost, you know, some vision, yes.  
<13> Q. And that was the state of the conversion that depended on  
<14> a requirement for fixed seating which you at no time  
<15> complied with?  
<16> A. The actual layout on the MARCHIONESS on her top deck was  
<17> that most of the deck was covered in perimeter fixed  
<18> seating and there was not a lot of room for anything else  
<19> up there anyway.  
<20> Q. We had a look at that seating yesterday. I suggest that  
<21> that fixed seating could not seat more than, at the most,  
<22> 20 people?  
<23> A. That is probably about right, but you could not have got  
<24> many more people on that deck anyway with the chairs and  
<25> the tables that were laid out in that form.  
<26> Q. You could get them on standing up, could you not, and you

DWAN: XX - SELIGMAN

- < 1> regularly did?
- < 2> A. You could not get many.
- < 3> Q. Could I just ask you now about VHF? If we bring up
- < 4> WIT\_05855? You mention there that you thought Mr Faldo
- < 5> would have heard the approach of the BOWBELLE. Why did
- < 6> you think that?
- < 7> A. Because, knowing Mr Faldo's way of working, I knew that he
- < 8> would have had the radio on at all time.
- < 9> Q. You have been kind enough, and particularly given the tone
- <10> of my questioning, to describe him as a competent
- <11> character?
- <12> A. Very, very competent.
- <13> Q. One of the mysteries of this case is why he appears not
- <14> to, or if he did note, not to have responded to that
- <15> information. Have you formed any view?
- <16> A. I just do not, I just do not know.
- <17> Q. You have said the VHF reception was decent at the time,
- <18> but are you aware of problems at low tide when the boats
- <19> were lower in the river and the banks were proportionately
- <20> higher?
- <21> A. In my experience, the only ever areas where it could be a
- <22> problem was right upriver at Teddington where, although
- <23> you could hear all the broadcasts that the PLA were
- <24> giving, there were some times when the PLA could not hear
- <25> your broadcasts, but that was right upriver, but always
- <26> very, very good in the lower reaches.

DWAN: XX - SELIGMAN

- < 1> Q. If I could -- this is my final point -- approach it this  
< 2> way? If you blasted your horn in the bridge, did that  
< 3> make a lot more noise to you than if you blasted it out in  
< 4> the fairway?  
< 5> A. I suppose it would have echoed a lot more, yes.  
< 6> Q. Well, in the same way did you ever notice that when you  
< 7> went under the arches, the sound of the disco was much  
< 8> greater because of the reflection of the walls keeping the  
< 9> sound ----  
<10> A. You could hear it reverberate back, yes.  
<11> Q. Do you think that might have made the VHF harder to hear?  
<12> A. No.  
<13> MR SELIGMAN: Thank you very much.  
<14> LORD JUSTICE CLARKE: Mr Russell-Flint?  
<15> MR RUSSELL-FLINT: No, thank you, sir.  
<16> LORD JUSTICE CLARKE: Mr Caplan?  
<17> MR CAPLAN: No, thank you, sir.  
<18> LORD JUSTICE CLARKE: Mr Reeder?  
<19> <Cross-Examined by MR REEDER.  
<20> Q. Mr Dwan, just a couple of small points. Did you receive  
<21> Notices to Mariners issued by the PLA?  
<22> A. Yes, we did.  
<23> Q. What did you do with them?  
<24> A. They were placed on boards outside of the office, on all  
<25> of the piers there was already a sign and the crews would  
<26> have been passed on the Notice to Mariners with their work

DWAN: XX - REEDER

< 1> -- their daily sheets.  
< 2> Q. The MARCHIONESS was a Class V passenger vessel,  
< 3> I understand, and for use in smooth and semi-smooth  
< 4> waters, is that right?  
< 5> A. I being your pardon, sir?  
< 6> Q. The MARCHIONESS was a Class V passenger vessel for use in  
< 7> smooth and semi-smooth waters?  
< 8> A. That is correct.  
< 9> Q. She could not ply below Graves End?  
<10> A. They did change that to Greenwich, I believe. Originally,  
<11> it was Graves End and her heyday, but as we did the  
<12> conversion I think the note -- the certificate came  
<13> further upriver.  
<14> Q. Did you have any vessels that could ply to Graves End?  
<15> A. Did we have any?  
<16> Q. Yes.  
<17> A. No, I do not think we did in the end.  
<18> Q. No. Put it this way, none of your vessels could go to  
<19> sea?  
<20> A. No.  
<21> Q. All of your vessels plied within the PLA area?  
<22> A. That is correct.  
<23> Q. So any M Notices that applied to sea-going ships, that is  
<24> M Notices issued by the Department of Transport, would not  
<25> apply to all vessels if they only applied to sea-going  
<26> ships; is that right?



DWAN: XX - REEDER

- < 1> A. That would probably be right, yes.
- < 2> Q. Could we have up MSN 96? You were asked some questions by
- < 3> Mr Mansfield. I just want to see if I can help your
- < 4> recollection with this? Did you say that there was some
- < 5> discussion going on with the Department of Transport
- < 6> concerning emergency announcements and emergency
- < 7> information to passengers shortly before the MARCHIONESS
- < 8> was lost?
- < 9> A. I believe there was, yes.
- <10> Q. Have you any recollection of seeing M Notice, M 1316?
- <11> A. No, I have not.
- <12> Q. Could I just direct your attention to paragraph 1.2? The
- <13> notice says this:
- <14> "Although the recommendations in this Notice
- <15> are primarily intended for passenger ships for Classes II
- <16> and IIA, some of the recommendations will also be
- <17> applicable to certain passenger ships of classes", and
- <18> Class V is one of them, "and operators, designers and
- <19> builders of ships of these latter classes should examine
- <20> the recommendations and apply any which are appropriate to
- <21> a particular ship either as described in the Notice or
- <22> adapted as appropriate."
- <23> Can you tell the Wreck Commissioner what the
- <24> discussions with the Department of Transport were about?
- <25> A. At that time? I know there was a lot of discussion about
- <26> signage and updating of signage. I know quite a bit of

DWAN: XX - REEDER

- < 1> got implemented and some was still being talked about.  
< 2> The emergency lighting system was a thing that was being  
< 3> sorted out, of which I know we had to move batteries  
< 4> outside of the engine room and give a better -- so there  
< 5> were two areas where you could have an emergency light  
< 6> system in case of a fire in the engine room. I know  
< 7> lights had to be put over the exit signs on the doors to  
< 8> show the escape routes. I know there was some talk about  
< 9> the giving of a broadcast to the passengers, and lots of  
<10> different people had different ideas of whether it should  
<11> be taped or whether the crew should do it and they were  
<12> the discussions that were in progress I believe.  
<13> Q. So consideration, would it be fair to say, was being given  
<14> to the application to Class V passenger vessels of  
<15> recommendations with which this M Notices deals, which  
<16> were appropriate to them or appropriate as adapted?  
<17> A. Yes.  
<18> MR REEDER: Thank you, Mr Dwan. That is all I wanted to ask  
<19> you about.  
<20> LORD JUSTICE CLARKE: Thank you. Mr Teare.  
<21> <Re-Examined by MR TEARE.  
<22> Q. Mr Dwan, could you look at photograph 93, please? It has  
<23> come up on the screen. If you look at the door on the  
<24> port side of the wheelhouse you will see it is open.  
<25> A. Yes.  
<26> Q. Can you recall what kept the door open?

DWAN: Re-X - TEARE

- < 1> A. There was a small clip on the flap of the step there.
- < 2> Q. When it was open in the way shown in this photograph, did
- < 3> the door block part of the platform on the side of the
- < 4> vessel?
- < 5> A. Yes, it did.
- < 6> Q. So if it was open it was more difficult to use that
- < 7> platform?
- < 8> A. It would have been very difficult to use the platform.
- < 9> Q. Did you give any instructions to the crew to keep the door
- <10> closed?
- <11> A. I think we did. I think we did. If you look, the doors
- <12> had to be opened for loading and discharging because they
- <13> were permanently closing doors and if you had to load 120
- <14> odd people it was very difficult and uncomfortable for the
- <15> fact that as soon as they stepped on board the boat the
- <16> door shut in their face, sort of thing. So they were
- <17> hooked back for the loading and discharging, and as soon
- <18> as the boat sailed the Mate would let go of the rope which
- <19> is just on that quarter, you see the mooring rope there,
- <20> and as you stepped aboard his job was to flip the catch
- <21> off.
- <22> Q. Were you aware that the Department required these doors to
- <23> be kept closed when underway?
- <24> A. Yes, I was.
- <25> Q. Whether the door was closed or open, did passengers on the
- <26> a busy trip interfere with keeping a lookout aft by that

DWAN: Re-X - TEARE

- < 1> means?
- < 2> A. No, they did not.
- < 3> Q. Were they not in the way?
- < 4> A. You very rarely got passengers stand at the side of the
- < 5> wheelhouse. They would come through and stand out on the
- < 6> foredeck where they could stand and chat, but no one stood
- < 7> at the side of the boat. They were blocking the doorway.
- < 8> Q. Could you also look, please, at photograph 00199.503?
- < 9> Apparently it is not on the system. If you have the
- <10> bundle of photographs, it is a photograph of a number
- <11> life-saving appliances recovered after the collision. You
- <12> see there are seven lifebuoys stacked on top of the
- <13> buoyant apparatus?
- <14> A. I can see that, yes.
- <15> Q. Can you see lines or ropes attached to any of them?
- <16> A. There is a line there on the top of that life raft. I do
- <17> not know if that is coming from the life ring or from the
- <18> life raft, but not all of these life rings would have
- <19> belonged to the MARCHIONESS.
- <20> Q. Can one see two bundles of rope or line?
- <21> A. I can see bundles of rope there, yes.
- <22> Q. On these can one see any self-activating lights?
- <23> A. No, I cannot. As I say, these are not all the
- <24> MARCHIONESS's life rings.
- <25> Q. You said that the VHF broadcasts enabled you as Skipper to
- <26> learn if a BOW ship was on the river. Do you recall that

DWAN: Re-X - TEARE

- < 1> those broadcasts from Woolwich were made every half hour?
- < 2> A. Yes, I do.
- < 3> Q. If you set off on a trip shortly after a broadcast had
- < 4> been made, you would set off, would you, in ignorance of
- < 5> the information which had been broadcast?
- < 6> A. Yes, you would.
- < 7> Q. So is it right that there was no system which you operated
- < 8> by which Skippers ensured that they listened to the
- < 9> broadcast made before they set off?
- <10> A. No, there was not.
- <11> MR TEARE: Thank you very much.
- <12> LORD JUSTICE CLARKE: It might be thought, Mr Dwan, that a
- <13> proper system would have been ensured that the Skipper
- <14> listened to such a broadcast.
- <15> A. Yes.
- <16> Q. Would you agree?
- <17> A. That has changed now and it is important that they do
- <18> listen to broadcasts.
- <19> Q. Even at the time it was known, was it not, that Woolwich
- <20> Radio broadcast every half an hour?
- <21> A. At that time it was known, but, as I say, it was not a
- <22> requirement that boats had radios in them days. There
- <23> were lots of boats sailing, I am not that is the answer,
- <24> but I agree with what you are saying, it would have been
- <25> prudent, yes.
- <26> Q. If one had been sitting down and thinking of a prudent

DWAN: Re-X - TEARE

< 1> system, it would surely have included listening to the  
< 2> broadcast if, say, one was going to leave the quay, say,  
< 3> five minutes later in order to have the most up-to-date  
< 4> information. Would you agree with that or not?  
< 5> A. Yes.  
< 6> Q. Do you make announcements to passengers now?  
< 7> A. Yes, we do.  
< 8> Q. And what announcements are they?  
< 9> A. They would be informing passengers of the emergency escape  
<10> exits, where the life-saving equipment would be kept, the  
<11> information of when you hear a sound signal. Basically,  
<12> on the PA systems now there is the gong system that  
<13> attracts the attention of passengers. You then give a  
<14> broadcast system about the exits, the fire fighting  
<15> equipment, the life-saving equipment and that sort of a  
<16> broadcast.  
<17> Q. Do the Skippers have a written instruction about that or  
<18> was it oral?  
<19> A. The Skippers originally were given a written instruction  
<20> that came out throughout the trade, but it was left again  
<21> to the Skippers to do it. Some Skippers felt that it  
<22> frightened passengers at the beginning of a trip to be  
<23> told, you know, of a sinking situation, you will be  
<24> required to do this, that or the other, and therefore they  
<25> put it in different methods. But there was a basic  
<26> guideline that everybody keeps to.

DWAN: Re-X - TEARE

- < 1> Q. So you essentially leave it to the Skippers, do you?
- < 2> A. It is left to the Skipper as he leaves the pier, he
- < 3> notifies Woolwich that he is going to leave the pier, he
- < 4> does his broadcast and then the boat sails.
- < 5> Q. I think you said that you remember having some discussions
- < 6> with the Department about providing information to
- < 7> passengers or systems to that end, is that right?
- < 8> A. I did not myself have any discussions with the Department
- < 9> on that, no.
- <10> Q. You did not? Just one very last point. Could you look at
- <11> CHR\_00718, please? You were asked about this by
- <12> Mr Mansfield I think. This is a letter dated 10th
- <13> November 1988 from Mr Nicholls to Mr Randell of the
- <14> Federation enclosing in fact M1316. I think you said you
- <15> have not seen M1316 or indeed any other M Notice, but if
- <16> you look at the bottom of page, the last paragraph,
- <17> Mr Nicholls is suggesting that there might be a meeting
- <18> between the Federation and some of its members with the
- <19> Department to discuss this topic. Do you have any
- <20> recollection of the Federation discussing that with the
- <21> Department or not?
- <22> A. I do not have any recollection of this, no.
- <23> LORD JUSTICE CLARKE: Thank you very much. Thank you very much
- <24> for coming, Mr Dwan.
- <25> MR MANSFIELD: Sir, I just raise one matter very quickly?
- <26> LORD JUSTICE CLARKE: Yes

DWAN: Questioned by CAPT BAILEY

- < 1> MR MANSFIELD: The box that I asked about is here and I think  
< 2> we are quite keen before it is sorted out that you see the  
< 3> state in which it was produced yesterday.  
< 4> LORD JUSTICE CLARKE: Right, hold up the box.  
< 5> MR TEARE: That is a bit difficult.  
< 6> LORD JUSTICE CLARKE: Let the record show Mr Teare holding the  
< 7> box. (To the witness): Which vessel did that box come  
< 8> from?  
< 9> A. I think it came off a couple. We went on to two vessels  
<10> to get the information we were looking for.  
<11> Q. Did you take the box with you or was the box on there?  
<12> A. The box is nothing to do with us, I am afraid. It is a  
<13> lot better than our one!  
<14> LORD JUSTICE CLARKE: Thank you very much. I think Captain  
<15> Bailey has one other question he would like to ask you.  
<16> CAPTAIN BAILEY: Yes, Mr Dwan, just to keep you a little  
<17> longer. You discussed with Mr Mansfield this morning the  
<18> question of safety training you did with the crews.  
<19> A. Yes.  
<20> Q. At the time prior to the collision. Could you tell us  
<21> now, please, what you do at the current time with your  
<22> crews in terms of safety training?  
<23> A. Well, at the current time the Skippers and the crews are  
<24> sent to Gravesend Nautical College where they do a  
<25> fire-fighter course; they do a sort of sea survival  
<26> course; they do radio courses to upgrade their radio



DWAN: Questioned by CAPT BAILEY

< 1> licences, and they spend quite a lot of time with the PLAs  
< 2> or with their people in the college running through PLA  
< 3> Rule of the road and byelaws. They do a course on the  
< 4> loading of vessels for inclining and stability. So they  
< 5> do a course on that. Then they do a first-aid course.  
< 6> I think that is about it on the course work that they do.  
< 7> Q. I see. Is any attention given to crowd management, how to  
< 8> deal with people?  
< 9> A. To what, sorry?  
<10> Q. Is any attention given to crowd management or how to deal  
<11> with people in an emergency? Is that covered in any way?  
<12> A. It is not actually no.  
<13> Q. Thank you. Does this apply just to the Skippers and Mates  
<14> or would it include the bar staff as well?  
<15> A. It has not included the bar staff up to yet. The bar  
<16> staff have been more of an in-house policy in the teaching  
<17> in the use of fire-fighting equipment and which  
<18> fire-fighting equipment would be used for whatever fires  
<19> they need, and general for passenger management on their  
<20> side, you know. They are the people that are in contact  
<21> with the passengers or the first contact. Therefore, it  
<22> is their job to inform the wheelhouse all the times of  
<23> what is going on. Then the Skipper would delegate. In  
<24> all the bars and all the catering facilities there are  
<25> signs put up expecting the bar staff to be doing this,  
<26> that or the other under the orders of the Captain.

DWAN: Questioned by CAPT BAILEY

- < 1> Q. Thank you. Would you expect that to be the same amongst  
< 2> all the owners?  
< 3> A. I am 99 per cent certain that is what every company is now  
< 4> doing.  
< 5> CAPTAIN BAILEY: Thank you very much.  
< 6> LORD JUSTICE CLARKE: Thank you, Mr Dwan.  
< 7> <(The witness withdrew)  
< 8> MR TEARE: The next witness is Mr Brittan.  
< 9> <MR BRITTAN, sworn.  
<10> <Examined by MR TEARE.  
<11> Q. Mr Brittan, if you could be shown volume 20 and turn to  
<12> page 5807 you will find there a copy of your statement  
<13> made for the purposes of this investigation?  
<14> A. Yes. I am sorry, could I just go and get my glasses?  
<15> Q. Yes, of course. Mr Brittan, in paragraph 11 on page 05809  
<16> you say that visibility was definitely a problem on some  
<17> of the boats prior to the MARCHIONESS disaster. Was  
<18> visibility a problem on the MARCHIONESS?  
<19> A. Yes.  
<20> Q. Why was that?  
<21> A. Because she could not see directly astern from the  
<22> wheelhouse position.  
<23> Q. When you were Skipper of the MARCHIONESS, how did you keep  
<24> a lookout astern?  
<25> A. Mainly when I was on the MARCHIONESS I would use the Mate  
<26> to look astern

BRITTAN: X - TEARE

- < 1> Q. Did you use the hatch in the wheelhouse roof?
- < 2> A. No.
- < 3> Q. Why not?
- < 4> A. I did not consider that it was the best way of looking
- < 5> astern.
- < 6> Q. Why was it not the best way?
- < 7> A. Because it was easier to ask the Mate and then it was also
- < 8> easier to step out of wheelbox and look behind yourself.
- < 9> It was an option to look through the hatch on the top of
- <10> the wheelhouse but I did not consider it was the best way.
- <11> Q. You mentioned using the Mate. When you were Skipper of
- <12> the MARCHIONESS did the Mate keep a permanent all-round
- <13> lookout or did he only keep a lookout on those occasions
- <14> when you asked him to do so?
- <15> A. On those occasions when I asked him to do so.
- <16> Q. Was he always by the wheelhouse?
- <17> A. Most of the time.
- <18> Q. Sorry.
- <19> A. Well, I have listened to Mr Dwan's answers to questions,
- <20> and I can say that when I was on that boat, which was not
- <21> that often, the Mate would let go on a party or a trip and
- <22> then he would come straight to the wheelbox. He would not
- <23> go into the boat to do other things unless there was a
- <24> problem that we were alerted to. So I would be with the
- <25> Mate from the beginning. If the Mate did go into the boat
- <26> for any other reason, I would want to know what it was and

BRITTAN: X - TEARE

- < 1> I would want to know that he was not going to be very  
< 2> long.
- < 3> Q. Did Tidal Cruises give you any written instructions as to  
< 4> how to cope with the visibility forward and aft on the  
< 5> MARCHIONESS?
- < 6> A. No.
- < 7> Q. You have skippered the VISCOUNTESS, the HURLINGHAM and the  
< 8> MARCHIONESS, is that right?
- < 9> A. Yes.
- <10> Q. Did you begin work for Tidal Cruises in 1985?
- <11> A. That is right.
- <12> Q. Were you ever instructed in writing by Tidal Cruises that  
<13> the Department of Transport required a lookout to be kept  
<14> by someone other than the helmsman?
- <15> A. No.
- <16> Q. Thank you very much. Just wait there. There may be other  
<17> questions.
- <18> <Cross-Examined by MR HADDON-CAVE.
- <19> Q. Mr Brittan, could you look at photo 00080, please? We can  
<20> see there looking forward from the dance floor on the  
<21> MARCHIONESS. Do you want to look at the screen, it is  
<22> probably better, but look at the hard copy, looking  
<23> forward on the MARCHIONESS, that is the door, the port  
<24> side forward door from the dance floor, is it not?
- <25> A. Yes.
- <26> Q. And it is open, do you agree

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- < 1> A. Yes.
- < 2> Q. Could you look at photograph 00083, please? Again we have
- < 3> both doors and both are open?
- < 4> A. Yes, the two forward doors.
- < 5> Q. How often when you were on board were the doors left open
- < 6> when the vessel was underway?
- < 7> A. Well, it is hard to say definitely because, as I have
- < 8> mentioned, I did not work on that boat a great deal, but
- < 9> I did not consider the doors being open a problem.
- <10> Q. Why not?
- <11> A. Because you could still step out on to the step and look
- <12> aft. The door was not a restriction, a total restriction
- <13> from you stepping on to the step and looking aft.
- <14> Q. Could we look at photo 00093, please? The door appears to
- <15> cover three-quarters at least of the step, does it not?
- <16> A. Yes.
- <17> Q. It would make it very difficult, would it not, for
- <18> somebody to step up and make a sustained look aft?
- <19> A. Very difficult for somebody to?
- <20> Q. To step up and remain there for a sustained period?
- <21> A. I do not think so, because you have still got a decent
- <22> foothold. You have the handrail as well. I do not think
- <23> it was a problem.
- <24> Q. So is it your evidence that the doors were left open in
- <25> your experience quite often?
- <26> A. It depended really. On a day-time cruise on a summer's

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< 1> day I could see no problem with the doors being open. On  
< 2> an evening cruise on a winter's night then doors would be  
< 3> closed.  
< 4> Q. On a warm ----  
< 5> A. I could see no problem either way.  
< 6> Q. On a warm summer's night?  
< 7> A. Yes, they could well be open.  
< 8> Q. Certainly the door being open would make it much more  
< 9> difficult for the man at the wheel to step across and look  
<10> over the side?  
<11> A. I do not think so. I am trying to indicate that I do not  
<12> think it was a problem.  
<13> Q. If he was wanting to step from the wheelhouse step right  
<14> across ----  
<15> A. Yes.  
<16> Q. --- he would have to be pretty agile to get round the  
<17> door, would he not?  
<18> A. Not really, because you can see that there is a foothold  
<19> to the side of the door and you have the handrail there.  
<20> I do not think the door being open was a problem.  
<21> Q. Did you commonly have passengers standing beside the  
<22> wheelhouse, particularly when the foredeck was crowded?  
<23> A. There may have been times when there were passengers by  
<24> the wheelhouse, but not generally because the MARCHIONESS  
<25> for the size of the boat it was did have a quite a large  
<26> forward deck. So it was more or less natural that people

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< 1> would tend to walk to the front of the boat. But there  
< 2> may have been times when there were people standing by the  
< 3> door there. If there were and I needed to look astern  
< 4> I would ask them politely to move out the way.  
< 5> Q. Were there occasions when you were on board and you did  
< 6> half the steering and handed over to the Mate or the other  
< 7> Skipper?  
< 8> A. There were times. There are times when I do not. There  
< 9> are times when I keep a control of the helm all the time.  
<10> Q. On the occasions that you did hand over, was it common for  
<11> the person who was being relieved to go and have a meal?  
<12> A. To go and have a meal?  
<13> Q. A meal, something to eat.  
<14> A. There is catering on the boats, as you can imagine with  
<15> disco parties, and the common thing is for the bar staff  
<16> or the waitresses to ask the crew if they want any food  
<17> and if they do to bring it to the wheelbox.  
<18> Q. Could two members of the crew eat in the wheelbox?  
<19> A. Yes.  
<20> Q. Could we look at photograph 00165, please? You can see  
<21> there the starboard door of the wheelhouse taped up.  
<22> A. Yes.  
<23> Q. Do you recall the right door being taped up?  
<24> A. Yes.  
<25> Q. Was it the position that the right door was not normally  
<26> used?

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- < 1> A. No. Well, not from my knowledge. As I say, I was not on  
< 2> the boat that often, but, no, if I wanted to use the door  
< 3> I would use it. Not being a regular crew I would not  
< 4> worry about the tape either.
- < 5> Q. Can you now actually recall using the right door or do you  
< 6> not know?
- < 7> A. Yes, I can recall using the right door.
- < 8> Q. Can you recall using it with the tape?
- < 9> A. With the tape?
- <10> Q. With the tape on it.
- <11> A. Yes, the tape was always on it. It did not do much good  
<12> really.
- <13> Q. You have described in paragraph 12 of your statement,  
<14> WIT\_05010, that you never used the hatch to look behind  
<15> because that would mean having to leave the wheel. Do you  
<16> see that? It will come up in a second.
- <17> A. Yes.
- <18> Q. 05810.
- <19> A. Yes.
- <20> Q. Did you think it was undesirable to have to leave the  
<21> wheel?
- <22> A. Well, you had to leave the wheel to step out and look aft  
<23> yourself anyway, but it was a stretch situation, whereas  
<24> if you turn round to climb up and lift the hatch and look  
<25> you were totally away from the wheel, whereas if you just  
<26> leaned out you were just a step away.



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- < 1> Q. At the bottom of that paragraph you talk about 360 degrees  
< 2> visibility. "Having said that, the issue of rear  
< 3> visibility was not really a concern amongst Skippers."  
< 4> You see that at the bottom paragraph. You are talking  
< 5> there of about 1989, are you?  
< 6> A. That is right, yes.  
< 7> Q. Were you aware of the difficulties that BOW ships had  
< 8> looking forward?  
< 9> A. Yes.  
<10> Q. And you were aware that the MARCHIONESS ----  
<11> A. I was not completely totally aware of their exact  
<12> difficulties, but I could see, anyone could see that they  
<13> would have a problem looking in front of them.  
<14> Q. You knew that the MARCHIONESS had a difficulty looking  
<15> aft?  
<16> A. Yes.  
<17> Q. Can you explain for us then why the issue of rear  
<18> visibility was not really a concern at that time amongst  
<19> Skippers?  
<20> A. Well, because even though the MARCHIONESS had poor rear  
<21> visibility from the wheelbox, you could still see if you  
<22> wanted to. If you were in the right position on the river  
<23> you would not really have needed to see a ship like the  
<24> BOWBELLE because she would be midstream. You would be on  
<25> the shore. That is how I see the incident.  
<26> Q. Did you take special precautions in looking aft when you

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< 1> went into the centre of the river?  
< 2> A. Yes.  
< 3> Q. What were those?  
< 4> A. Well, I would want to be totally aware of what is behind  
< 5> me if I was in a situation, in an overtaking situation  
< 6> against the tide, taking midstream. So I would want to  
< 7> know before I put the boat in that position what was  
< 8> behind me.  
< 9> Q. Were you aware that some Skippers and Mates had  
<10> involvement with running the bars ----  
<11> A. Yes.  
<12> Q. --- on board? Did you have such an arrangement similar to  
<13> Top Bar that Mr Faldo and Mr McGowan had?  
<14> A. Yes.  
<15> Q. Did that involve you in some tasks whilst you were on  
<16> board the MARCHIONESS?  
<17> A. Not to do with the bar, no. I did not have any  
<18> controlling interest in the bar on the MARCHIONESS. I had  
<19> a control interest in the bar of a different boat.  
<20> Q. Which was that?  
<21> A. At the time it was the ROYAL PRINCESS.  
<22> Q. When you were Skipper on the ROYAL PRINCESS, did you spend  
<23> any moment whilst you were on board attending to matters  
<24> involved with the bar?  
<25> A. We would attend to matters involving the bar prior to the  
<26> party function. In other words, we would try to prepare

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< 1> the bar for the coming function. Once that was done and  
< 2> the bar staff were on board, we would load the party and  
< 3> I would have no further interest in the bar.  
< 4> Q. When you say "we", that is you and the Mate?  
< 5> A. On the ROYAL PRINCESS there were three crew.  
< 6> Q. But if the bar staff had a particular problem, for  
< 7> instance, "We need a case of wine", and they asked you to  
< 8> get it, it would be natural for you to get it?  
< 9> A. Not me personally, no.  
<10> Q. Or the Mate?  
<11> A. Yes, one of the crew.  
<12> Q. Because you had loaded it on before?  
<13> A. Sorry?  
<14> Q. Because you may have loaded it on before?  
<15> A. If there was something the bar staff wanted they would  
<16> come the wheelhouse and ask the crew to help them. There  
<17> were three crew on the ROYAL PRINCESS, one of them, if  
<18> needs be, would go and help the bar staff.  
<19> Q. Finally could I ask you one question about paragraph 26 of  
<20> your statement where you say that: "The BOW boats would  
<21> always blow their whistles as they approached  
<22> Westminster"?  
<23> A. That is right yes.  
<24> Q. Is that your recollection of the practice up until 1989?  
<25> A. That is what I remember, yes. That was a common  
<26> occurrence during the day time.

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< 1> Q. I was going to ask you, was it the same at night?

< 2> A. No.

< 3> MR HADDON-CAVE: Thank you very much.

< 4> LORD JUSTICE CLARKE: Mr Mansfield.

< 5> MR MANSFIELD: No questions.

< 6> LORD JUSTICE CLARKE: Mr Purnell.

< 7> MR PURNELL: No questions.

< 8> LORD JUSTICE CLARKE: Mr Reeder?

< 9> <Cross-Examined by MR REEDER.

<10> Q. Just one question, Mr Brittan. You have given some  
<11> evidence at page 589 of your statement about qualifying as  
<12> a Skipper or a waterman. I take it, and correct me if  
<13> I am wrong, from this is paragraph 5 of your statement, as  
<14> I understand it, there was no course as such. You learned  
<15> everything in the job and then you went for an  
<16> examination, is that right?

<17> A. When I took my apprenticeship I started in the lighterage  
<18> trade, tugs and barges, and we went to lighterage school  
<19> for a short period and that was the only technical  
<20> instruction we had in our apprenticeships at that time.

<21> Q. Do you know that at about the time or before the  
<22> MARCHIONESS incident whether the apprentices who were  
<23> apprentice watermen went to some form of waterman's school  
<24> or was it all taught on the job?

<25> A. No, since my time the apprentices, and I am not too sure  
<26> when it started, but they had to go to the school at

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< 1> Gravesend to acquire the PLA courses. I am not too sure  
< 2> when that first came in.  
< 3> Q. Can you recollect whether it was before or after the  
< 4> MARCHIONESS disaster?  
< 5> A. I cannot be certain. I believe it was before.  
< 6> Q. Did you have any apprentices working with you?  
< 7> A. Yes.  
< 8> Q. Was it your practice to instruct them in, for example,  
< 9> lookout?  
<10> A. Yes.  
<11> Q. Was that how to keep a lookout when asked, or was it what  
<12> lookout was all about generally? Could you perhaps tell  
<13> the learned Wreck Commissioner what your  
<14> instructions would comprise?  
<15> A. Well, I would instruct the apprentices to look aft and  
<16> tell me what he could see. I mean on the boats I was on  
<17> I could see anyway, but for the sake of his apprenticeship  
<18> obviously I would try to coach him in the things to look  
<19> for, which was obviously other vessels approaching.  
<20> Q. Did you tell the apprentice when it was important in  
<21> particular parts of the river or at particular times when  
<22> it was important to look or not?  
<23> A. Yes, because the apprentice for the majority of time, he  
<24> was with me during the daytime and on occasions when we  
<25> had a function in the evening he would sometimes be there  
<26> as well. So it was during the daytime really that you

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- < 1> would try to teach the apprentice best practice, the best  
< 2> times, the necessary times to be looking astern.
- < 3> LORD JUSTICE CLARKE: Mr MacDonald.
- < 4> <Cross-Examined by MR MACDONALD.
- < 5> Q. Mr Brittan, I am here for the Department of the  
< 6> Environment Transport and the Regions. I have just a few  
< 7> questions, please. Could we have WIT\_05810, please, which  
< 8> is in your statement to the Inquiry, paragraph 12,  
< 9> please. The last sentence, you have been asked about this  
<10> moment ago: "Having said that the issue of rear visibility  
<11> was not really a concern among Skippers."  
<12> That particular remark applies to pleasure boats  
<13> generally I think, is that right?
- <14> A. Yes, I mean this statement was given in an interview, and  
<15> we were talking about my particular situation. I just  
<16> mention there I was brought up on the tugs where we had  
<17> virtually 360 degree views, and that when I came into the  
<18> pleasure boats I did find it unusual and of concern that  
<19> the visibility astern on the boats was not that good.
- <20> Q. Yes.
- <21> A. But what I was trying to say, the crews and Skippers that  
<22> had started on the pleasure boats and worked their way up  
<23> in the pleasure boats did find it a concern. That is what  
<24> I was trying to state at the time.
- <25> Q. Thank you very much. All I was after really was that the  
<26> pleasure boats generally would certainly include the

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< 1> MARCHIONESS. So this remark applies to the MARCHIONESS,  
< 2> amongst others?  
< 3> A. Amongst others the MARCHIONESS had poor rear visibility.  
< 4> Q. Yes. Can I suggest three possible reasons in relation to  
< 5> the MARCHIONESS why the issue of rear visibility was not a  
< 6> concern? The first is that rear visibility was adequate  
< 7> with the help of the Mate. Would you agree with that?  
< 8> A. Yes.  
< 9> Q. The second is that the VHF would let you know if a big  
<10> ship was approaching from behind? Would you agree with  
<11> that, assuming it was on and you were listening to  
<12> Woolwich?  
<13> A. Of course, yes.  
<14> Q. Do you agree with that?  
<15> A. Yes, the VHF is a big assistance but it is not a  
<16> guarantee.  
<17> Q. No.  
<18> A. It is not a guarantee. It is a big assistance but it is  
<19> not guarantee.  
<20> Q. The third reason perhaps is one you have already given,  
<21> which is that by keeping to the starboard hand in a  
<22> relatively small ship you could avoid the big ships  
<23> anyway?  
<24> A. That is right, yes.  
<25> Q. Just below that on the same page in paragraph 13 you  
<26> describe the roles of the Skipper and the Mate with regard

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- < 1> to a party on a night cruise. In your experience, was the  
< 2> Mate ever needed to manage incidents with passengers like  
< 3> fights or horseplay or anything of that sort?  
< 4> A. Yes.  
< 5> Q. Would that be a common occurrence or uncommon?  
< 6> A. No.  
< 7> Q. Not common?  
< 8> A. Not fights, no.  
< 9> Q. The incidents that needed intervention, generally how  
<10> common would they be?  
<11> A. There were times when the Mate was required to attend to  
<12> something inside the boat maybe with passengers or there  
<13> might have been a fault, as was mentioned, with disco  
<14> equipment and the Mate would need to go and look see if it  
<15> could be sorted out. There would be occasions when the  
<16> Mate would be required to carry out some duty inside the  
<17> boat.  
<18> Q. Would that happen every trip or every week or every  
<19> month? How common was it?  
<20> A. Well, I think every trip the Mate would go through the  
<21> boat and make sure everything was all right. That was  
<22> part of his duties, to make sure that everything was going  
<23> fine, for the clients as well as the running of the boat.  
<24> Q. So he would make a round, as it were, of the boat?  
<25> A. Yes, that is right.  
<26> Q. When you were Skipper and you had a Mate under your



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< 1> command, would he do that when you said?  
< 2> A. Yes, unless he was called by the bar staff, the catering  
< 3> staff, DJ or whatever that they had problem, we would  
< 4> consult together if we would go and have a look round and  
< 5> see if everything was all right. They would not just  
< 6> wander off without my say so.  
< 7> Q. Without your say so. Yes, I was going to ask about that,  
< 8> because you mentioned the question of helping bar staff  
< 9> might crop up and you described how they would come to the  
<10> wheelhouse and ask for help. Am I right in thinking that  
<11> if it was safe from the navigational standpoint you might  
<12> then detail the second man ----  
<13> A. That is right.  
<14> Q. --- to go and help?  
<15> A. Yes. If I needed the Mate to be with me for whatever  
<16> reason, looking astern being one of them, I would say,  
<17> "You'll will have to wait".  
<18> Q. Yes. Finally can I ask a more general question.  
<19> I imagine that you have navigated the Thames between  
<20> Blackfriars and London Bridge many times?  
<21> A. Many times, yes.  
<22> Q. Including at night?  
<23> A. Yes.  
<24> Q. In a vessel the size of the HURLINGHAM or the MARCHIONESS,  
<25> is that difficult or easy or average from the navigational  
<26> standpoint?

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< 1> A. I would say it is very easy.

< 2> MR MacDONALD: Thank you very much.

< 3> LORD JUSTICE CLARKE: Miss Cameron.

< 4> <Cross-Examined by MISS CAMERON.

< 5> Q. Just two points, if I can ask you, Mr Brittan. I am here  
< 6> and I want just to ask you on behalf of the Port of London  
< 7> Authority. The first matter is in your paragraph 18 which  
< 8> is at WIT\_05811. It is a section which you have in your  
< 9> statement telling us about that you always knew to be  
<10> aware of BOW boats. Then in paragraph 18 you say you did  
<11> not know about Byelaw 19 when it was first introduced.  
<12> Then you say, well, anyway it would not have changed what  
<13> you were doing because you were doing it before the byelaw  
<14> came into force, is that right?

<15> A. That is correct, yes.

<16> Q. You started for Tidal Cruises in 1985. You told us later  
<17> on in your statement, we need not perhaps turn it up but  
<18> it is in paragraph 25, you said that Tidal Cruises used to  
<19> pass on notices to mariners?

<20> A. That is right, yes.

<21> Q. I wondered if you remembered that there was a notice to  
<22> mariners which was introduced before you started, but  
<23> should have been there when you joined Tidal Cruise saying  
<24> about not impeding the passage of vessels which were more  
<25> than 40 metres in length. Do you remember being told  
<26> about that?

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- < 1> A. I do not remember being told about that, but I did know  
< 2> about that, not the particular byelaw number, but I did  
< 3> know that it was a PLA byelaw that small vessels should  
< 4> not impede vessels over 150 feet.
- < 5> Q. You have not seen the piece of paper, but you knew that  
< 6> that was another rule of the road?
- < 7> A. Yes.
- < 8> Q. Thank you. Then the other matter, Mr Brittan, can we look  
< 9> at paragraph 15, WIT\_05810, where you are telling us about  
<10> the rule of the river in keeping to the starboard side.  
<11> You say: "You can still use the centre arches of the  
<12> bridges if you need to". Sometimes arches would be  
<13> obstructed by works, would they not?
- <14> A. Yes, certainly.
- <15> Q. And there might be reasons why you needed to use the  
<16> centre arch, is that what you are telling us?
- <17> A. That is definitely one reason why you would use the centre  
<18> arch. If shore arch had work going on with restriction  
<19> you would need to take the centre arch.
- <20> Q. There were a lot of vessels obviously going up and down  
<21> the river all the time, were there not?
- <22> A. Yes.
- <23> Q. Do you think it was necessary to have this sort of  
<24> flexibility that you could use the centre arch if the  
<25> occasion arose?
- <26> A. Without doubt.

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< 1> MISS CAMERON: Thank you.

< 2> LORD JUSTICE CLARKE: Mr Thwaites?

< 3> MR THWAITES: No thank you, sir.

< 4> LORD JUSTICE CLARKE: Mr Seligman?

< 5> MR SELIGMAN: Yes, please, Sir.

< 6> <Cross-Examined by MR SELIGMAN.

< 7> Q. Mr Brittan, I represent the crew of the MARCHIONESS on the  
< 8> night in question. Just taking you back to something you  
< 9> were saying to Mr MacDonald. What happened on this  
<10> occasion with the boat leaving late, the DJ turning up  
<11> late, there being a problem with the disco equipment, him  
<12> needing some electricity supply, it was normal in that  
<13> kind of situation for the Mate to go and sort that out?

<14> A. Yes, it would be. If there was a problem with the DJ at  
<15> the beginning of the party, the Mate would go and check  
<16> and see if he could sort it out, yes.

<17> Q. Thanks. Secondly, the purpose of the wheelhouse hatch was  
<18> to enable the helmsman to keep a lookout aft, was it not?

<19> A. Yes.

<20> Q. In that context you were being asked about your  
<21> instructions to apprentices by Mr Reeder and your answer,  
<22> which is at the top of page 185 of today's transcript,  
<23> was: "Yes, because the apprentice for the majority of the  
<24> time, he was with me during the daytime and on occasions  
<25> when we had a function in the evening he would sometimes  
<26> be there as well". Why do you say "sometimes" in relation

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- < 1> to functions in the evening?
- < 2> A. Well, sorry, perhaps I should have phrased it
- < 3> differently. As the regular crew were not always together
- < 4> all of the time. Obviously we would be having days off,
- < 5> different days off. So we were not always together.
- < 6> Sometimes the apprentice might be working during the day
- < 7> but not working in the night time.
- < 8> Q. I see. I understand. So it is just that the apprentices
- < 9> are not always there with you in the evenings?
- <10> A. That applies to any of the crews. You know, you are not
- <11> always together all of the time.
- <12> Q. When you were showing an apprentice the best practice, you
- <13> did not personally like to use the wheelhouse hatch, did
- <14> you?
- <15> A. Not personally, no.
- <16> Q. But if a Master did, whatever he was asking the apprentice
- <17> to do, he would make sure that he also could be keeping a
- <18> lookout aft?
- <19> A. The Skipper or the Mate?
- <20> Q. The Skipper.
- <21> A. Yes.
- <22> Q. If it was his practice to use the wheelhouse hatch, that
- <23> is how he would do it?
- <24> A. Yes.
- <25> Q. So alone he would be navigating the vessel?
- <26> A. Well, I would not say alone, no. I mean, as I said, the

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< 1> best way or the majority of the time that I would look  
< 2> astern would be to use the Mate.  
< 3> Q. While he was done sorting out the problem with the disco?  
< 4> A. While he was not there, if I needed to look astern I would  
< 5> have to look myself, yes.  
< 6> MR SELIGMAN: Thank you.  
< 7> LORD JUSTICE CLARKE: Mr Russell-Flint?  
< 8> MR RUSSELL-FLINT: No, thank you, Sir.  
< 9> LORD JUSTICE CLARKE: Mr Caplan?  
<10> MR CAPLAN: No, thank you, Sir.  
<11> LORD JUSTICE CLARKE: Mr Teare?  
<12> MR TEARE: No thank you, Sir.  
<13> LORD JUSTICE CLARKE: I would just like to ask you this. You  
<14> said that notices to mariners were passed on to you?  
<15> A. That is right.  
<16> Q. Were they passed on to you as bits of paper?  
<17> A. They were pieces of paper, yes.  
<18> Q. Where did you keep them?  
<19> A. We used to keep them in the wheelbox. We have a folder.  
<20> I have always kept a folder with those pieces of paper. A  
<21> lot of them ran out of date and we used to go, well, go  
<22> through them periodically and get rid of the ones that  
<23> were no good any more and keep the relevant ones.  
<24> Q. Did the owners ever pass any other information to you in  
<25> writing other than notices to mariners?  
<26> A. Occasionally they did. What they were I cannot remember

BRITTAN: XX - SELIGMAN

- < 1> to be honest at the time.
- < 2> Q. Do you recall receiving any instructions from the owners
- < 3> as opposed simply to information from the owners?
- < 4> A. I cannot recall instructions from the owners, no.
- < 5> Q. About any navigational topic?
- < 6> A. No, I cannot really. I cannot really recall.
- < 7> Q. Did they pass on to you, for example, information or
- < 8> instructions from the Department, do you remember?
- < 9> A. Not that I know of, no. Normally it would be instructions
- <10> from the office.
- <11> Q. Like what sort of instructions?
- <12> A. Well, whatever they needed to tell us.
- <13> Q. Would they include navigational instructions?
- <14> A. No, as I say, not that I can remember too much about
- <15> navigation. I cannot remember receiving too much written
- <16> information from the office about navigation. We did
- <17> receive verbal instructions.
- <18> Q. You said that one of your roles was to give guidance or
- <19> instructions to the apprentices.
- <20> A. Not my role, no. I mean as a Skipper I would do that
- <21> anyway. It would not be my role really.
- <22> Q. Well, did the waterman's company, or indeed anyone else,
- <23> give you any guidance as to what to tell apprentices?
- <24> A. No.
- <25> Q. You said earlier that sometimes you hand over to the Mate?
- <26> A. Yes.

BRITTAN: XX - SELIGMAN

- < 1> Q. In those circumstances what would you then do?  
< 2> A. I would sit with him or if I had something to do I would  
< 3> go and do it.  
< 4> Q. Who would be the lookout then?  
< 5> A. The Mate. I would leave him in charge of the boat and he  
< 6> would know how to look astern.  
< 7> Q. But then he would have to look astern as the helmsman,  
< 8> would he?  
< 9> A. That is right, yes, as I would do if the Mate was not  
<10> there at the same time. I would be confident that I could  
<11> leave the Mate there and he would be able to look astern,  
<12> otherwise I would not leave him there.  
<13> Q. Would that include letting him carry out any manoeuvre  
<14> like moving into the centre of the channel to overtake  
<15> another vessel?  
<16> A. Yes, because I could see, you can tell even if you are  
<17> inside the boat where the boat is, what it is doing. Even  
<18> if you are inside the boat you can see what the boat is  
<19> doing.  
<20> LORD JUSTICE CLARKE: Thank you. Thank you very much for  
<21> coming.  
<22> <(The witness withdrew).  
<23> LORD JUSTICE CLARKE: I think we probably we will adjourn now,  
<24> but because we are a bit behind we will start at  
<25> 10 o'clock to have Mr Woollacott.  
<26> 4.30 p.m.



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(The hearing adjourned until the following day)

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