



**TYNWALD COURT  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
QUAIYL TINVAAL**

**PROCEEDINGS**

**DAALTYN**

**(HANSARD)**

**SELECT COMMITTEE OF TYNWALD  
ON REDRESS FOR  
MR & MRS SPADONI  
(ACTIONS OF THE MARINE  
ADMINISTRATION)**

**BING ER-LHEH TINVAAL MYCHIONE  
LHIASAGHEY ACCAN MNR. AS VNR. SPADONI  
(GAGHTEY STIUREY COOISHYN NY MARREY)**

**Douglas, Wednesday, 13th May 2009**

**Members Present:**

Chairman: Mr D M W Butt, MLC  
The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson)

*Clerk:*  
Mr R I S Phillips, Clerk of Tynwald

*Apologies:*  
Mr J D Q Cannan, MHK

**Business transacted**

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*The Committee sat in private at 5.26 p.m.*

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## Select Committee of Tynwald on Redress for Mr and Mrs Spadoni (Actions of the Marine Administration)

*The Committee sat in public at 2.30 p.m.  
in the Millennium Room,  
Legislative Buildings, Douglas*

[MR BUTT *in the Chair*]

### Procedural

**The Chairman (Mr Butt):** Thank you, ladies and gentlemen. Can I welcome you all to the first public hearing of the Committee set up by Tynwald – a Select Committee – to look into issues concerning the fishing vessel, *Suzanna D*.

I am the Chairman; I am Dudley Butt, Member of the Legislative Council. With me on the Committee is the Lord Bishop, Robert Paterson, also MLC. The Clerk is Mr Roger Phillips, and our *Hansard* Clerk is Mr Clive Alford. A third member of the Committee is Mr David Cannan MHK, who is unable to be with us at the moment and he gives his apologies.

Can I ask everybody present in the room, please, to switch off any mobile phones, if you have any, because they could not only interrupt the process but also interfere with the recording equipment.

I would just, before we commence proceedings, for the benefit of the *Hansard* and those here, point out to you what the remit of this Committee is:

‘Tynwald has appointed a Committee of three Members with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to investigate and report on the conduct of the Marine Administration –

(a) in preparing ministerial briefing for the debate in Tynwald in November 2003, with special reference to allegations that Mr and Mrs Spadoni had breached fishing-vessel regulations; and

(b) in investigating the causes for major stability failure of the fishing vessel *Suzanna D*, owned by Mr and Mrs Spadoni in May 2000;

and any other relevant matter and make such recommendations as it sees fit.’

A history of this matter – not ‘the’ but ‘a’ history – is set out in the Report of a Committee established by the Council of Ministers which was chaired by Mrs Clare Christian, and there will be reference to this Report, I suspect, during these proceedings.

So thank you, everyone.

### Administration of the Oath

**The Chairman:** We have asked witnesses to come forward today and our first witness is Mr John Rimington.

Could I ask you to come forward, Mr Rimington, and could I ask you to read the words on the card and take the oath, please?

*Mr Rimington took the Bible in his right hand and repeated the Oath.*

**The Chairman:** Thank you.

### EVIDENCE OF MR J RIMINGTON Evidence commenced

**The Clerk:** First, can I just ask you, for the tape etc, to give your name and your current position.

**Mr Rimington:** Yes. My name is John Rimington. I am a former parliamentary representative for Rushen, representing my former constituents, Mr and Mrs Spadoni, currently teaching mathematics.

**The Chairman:** Thank you.

Mr Rimington, there was a Tynwald debate last month where there was a motion to bring you to the Bar, to give some evidence on behalf of Mr and Mrs Spadoni, which did not succeed. I wonder if this would be the occasion where you could perhaps today give the basis of what you were going to say, and then perhaps we could ask you questions afterwards. Would that be the way you wish to proceed?

**Mr Rimington:** Yes, certainly. Roughly, if I may start off and expand on a few issues, and then feel free to interrupt me as I go along. Do you mind if I stand up?

**The Clerk:** If we seem to be picking it up okay, yes.

**Mr Rimington:** I have a back problem and sitting down is something I am trying to avoid at the moment.

**The Chairman:** By all means, yes.

**Mr Rimington:** The first thing is that there is one new piece of evidence I am going to give to the Committee, and that is contained in this proverbially-described ‘brown envelope’, which is a tape recording I took discreetly of a meeting between myself and the Chief Minister on 6th February 2004.

I am not proud to have done that – it is probably what I would call a dishonourable move – but at that time I felt that I was being treated dishonourably by many parties around the place and I felt I could trust nobody. My abilities as an amateur sleuth are close to zero and you will find that the tape is rather mottled and indistinct, but there is a transcript there, such as it is, and obviously you can play with the tape as you wish to verify the transcript.

**The Chairman:** Can I stop you there, Mr Rimington: was the Chief Minister aware he was being taped at the time?

**Mr Rimington:** No, he was not, so I accept that it is not a... That is why it has not been used up to this point. It does not reflect poorly on the Chief Minister, but possibly on other parties.

**The Chairman:** I would just like to query: would this be admissible in this type of hearing? One for the Clerk, maybe.

**The Clerk:** I think that I could, on your behalf, examine the transcript before you decide whether to accept it as evidence, Chairman. I do not know whether Mr Rimington intends to speak to the tape, of course, with the contents, but if you were to submit this so that I could examine it and then report back to you.

**The Chairman:** Yes. I think if this was a court of law it would not be admissible, and this is in some ways a court of law.

**The Clerk:** The normal rules of evidence do not apply to the Committee, sir.

**The Chairman:** That is okay. That is fine then, yes. Could you then, Mr Rimington, while the Clerk reads that, progress on another avenue?

**Mr Rimington:** Yes, I certainly can. During the course of what I am going to describe, I will refer to the expression that was used in the debate in Tynwald, which was that expression 'criminal negligence', and I hope that what I am going to describe will give some meaning, if not precision, to that term.

When I was investigating this matter over the many years, I came into contact with a journalist who had previously been following the issue called the *Reeman* affair – and the *Reeman* affair is intrinsically linked with this particular matter. She told me that there was a strong suspicion of corruption on the south coast of the United Kingdom by the regulatory authority responsible for fishing boats. She also said there was no evidence, and so obviously that matter had never gone any further forward. I would contest that the evidence in the file that you have and the file that is here gives strong backing to that suspicion, and evidence which is strong enough for some other party – be it the Police or whoever – to make those formal investigations and decide what should go forward from that.

I will have to give you the background to the boat and its problems, as I see it, and how that evidence fits in. The boat came on to the UK register – this is all known – in 1981 and it was under the care of a certain surveyor who had the responsibility for it, called Mr Jones. Mr Jones is the same surveyor who is named in court in the *Reeman* affair and he had been found to have (a) miscalculated tests and (b) given out a false test by, in fact, just rubbing out the date of a previous test and putting in a new date – so tests that did not exist.

**The Chairman:** Are those allegations part of the *Reeman* case, that he did do this?

**Mr Rimington:** Yes, these are the matters which were accepted in the court and in the transcripts that you will have somewhere. Certainly they are in there that that is accepted evidence. Mr Jones was in charge, or was the surveyor responsible for the *Suzanna D* up to some point after 1992. I do not know quite the exact date when he was taken off that. At no time did the vessel ever comply with the 1975 UK regulations on fishing. It was, by design, unable to comply.

**The Chairman:** Can you explain why you say that? What

is the evidence of that?

**Mr Rimington:** The evidence of this is, first of all, in the Marine Administration's own internal memo, document 437. It has also been evidenced by Chris Baker of Marine Data in his communications with, I think, both Mr and Mrs Spadoni and the Marine Administration at that time in 2000, and it has been looked at by other professionals, and in a sense that is accepted fact. It is not –

**The Chairman:** The reason I ask is because we have not seen document 437 yet, but you obviously have.

**Mr Rimington:** Yes

**The Chairman:** It is not in the file of the Committee of the Council of Ministers.

**Mr Rimington:** No. Obviously, I will leave you with my copy of it in that case, which is that memo from... Also, we have a variety of letters which I have...

**The Chairman:** Can I ask where did you get document 437 from, then? Where did you obtain that?

**Mr Rimington:** I would rather not answer that... (*Interjections by Mr and Mrs Spadoni*) Mr and Mrs Spadoni supplied it to me.

It is a document that, when I asked for all documentation relating to this particular case from the DTI in 2001, should have been supplied, and I actually had to go to the commissioner at that time, under the Code of Practice on Freedom of Information, and it was not supplied.

**The Chairman:** Sorry to interrupt. Can you go back to where we were, then. You said it was unstable for all that period – when Mr Jones had charge of it, in effect, as surveyor – and the evidence is in Mr Baker's Report in 437, so we will go on from there, yes?

**Mr Rimington:** Yes. There is a letter here from Mr Baker to the Spadonis, which is document 6 in the file:

'It is unlikely that the vessel has ever met the current twin-boomed stability criteria.'

That is one example.

Actually, the boat was... I would not say faulty in design. I think maybe when it was built – I think it was 1966 – it probably met the regulatory regime at that time and in Holland, but it did not meet the regulatory regime in the United Kingdom after the regulations before Tynwald in 1975.

During the period when Mr Jones had it, there were a number of roll tests, all of which – and this is using other people's analysis – were unsatisfactory for one reason or another, i.e. they were never considered to be valid tests. Often, it was failing tests but then it would come back and it would mysteriously pass tests!

**The Chairman:** To clarify again, you say 'when Mr Jones had it' – Mr Jones was an employee of the MCA –

**Mr Rimington:** Yes.

**The Chairman:** – and he was a surveyor who had –

**Mr Rimington:** He was the surveyor responsible.

**The Chairman:** Looking after it, yes, okay.

**Mr Rimington:** Again, this is evidenced by document 437, which you do not appear to have, but you can see that in that at no time did it satisfy the rules. None of the tests were valid.

So we know from the evidence in the court, and indeed from looking at the file, that there was something seriously wrong with the way Mr Jones was handling things and the boat probably should at that time have been pulled to one side and said, 'You either have got to meet the stability requirements and they have got to be judged professionally, or indeed the boat modified or scrapped,' but that did not happen. Some time after 1992, Mr Jones no longer had responsibility for that. He was already being investigated in relation to this other matter, the *Reeman* affair, and I believe he died in 1994, as was said in court.

The vessel then came under the responsibility of another surveyor – just called surveyor A at this point – and it was tested in 1996 after it had had the fish-room floor replaced, the wooden floor replaced with concrete. So what was like a floor and a hollow area underneath then became solid concrete. There was what is judged to be an additional 12 tonnes – probably 14 tonnes of weight in total, but an additional 12 tonnes of weight approximately – went into the boat at that time. The new surveyor, in testing the boat... Obviously, one of the first things they need to do, in terms of the test, is measure the boat as it sits in the water, stern, aft and midships. The measurements of the vessel at this time, when he did this 1996 test, were exactly the same as the measurements of the 1992 test, after this additional 12 tonnes of weight – coming up close to 20 per cent additional weight of the vessel – had taken place. Even without any extra weight in a vessel, it is highly unlikely that you would get two identical sets of measurements over a period of four years, because changes take place in vessels.

**The Chairman:** When you say 'measurements', do you mean the measurements of the roll tests or the physical dimensions?

**Mr Rimington:** The physical measurements of it sitting in the water.

**The Lord Bishop:** The freeboard measurements?

**Mr Rimington:** The freeboard measurements.

So it is highly unlikely that these would be identical. Even two fishing boats in the Isle of Man... There is always something that has changed over four years, whether it is a displacement where the gear is sitting on board or whatever, there will be some change in the measurements. To be absolutely identical after an additional weight of 12 tonnes has come in is nigh impossible. That alone is indicating that, not only did we have the first surveyor, Mr Jones, who was now established as not being up to scratch, but we had another surveyor who was prepared to actually put in wrong measurements and pass the boat for stability when it should not have passed, and then that boat to be sent out to sea, or allowed to go out to sea.

**The Lord Bishop:** How do you draw that conclusion?

You could draw the conclusion that one or other was wrong without saying that both were wrong. You could say 1992 was wrong or 1996 was wrong and that is why they came up to the same conclusion after the addition of 12 tonnes, but it does not mean that both were wrong.

**Mr Rimington:** All the measurements through to that point had showed a certain consistency in terms of the freeboard. They are in there and they are in the file of the tests, with obviously some variation depending on the condition of the boat each time it was tested.

**The Lord Bishop:** So your statement about these measurements being the same after four years... are in the files which Mr Baker has looked at. Is that right?

**Mr Rimington:** Yes, and the Marine Administration.

What we are illustrating with that point is that what it indicates... I do not say, as the Bishop quite rightly pointed out, that it conclusively proves, but it gives you a strong suspicion that the previous figures have been lifted and placed in. In itself it is not proved, as you quite rightly say.

The boat is then allowed to go out and fish. We already knew that it was unstable. It is now further unstable and people's lives are being placed in danger when they are on that boat.

**The Chairman:** Can I interrupt again? Isn't it possible sometimes the addition of weight can make a boat more stable, if it is in the right place?

**Mr Rimington:** Yes, it is possible.

**The Chairman:** So is it possible, then, that the addition of 12 tonnes of cement may have made it more stable?

**Mr Rimington:** Not in this case, because it took the measurement beyond that.

You are quite right, the addition of weights can help in particular situations, but not in this case. What is critical, obviously, in measuring the stability, according to the roll-test formula, is the freeboard measurements, and obviously if the freeboard reduces too much, then it does create significant problems.

**The Lord Bishop:** This is just to clarify my own mind in the physics of the thing: presumably the reason why it would be more unstable would be either because there was too much concrete in, or because there was too much concrete away from the keel of the boat, from the centre line, which would therefore make it wobble, essentially?

**Mr Rimington:** I will pass on being a marine surveyor in this case, because it is getting too complicated.

**The Chairman:** Are you saying also, because it was sitting lower on the water, on the roll it would capsize sooner because it was lower in the water and there would be less freeboard? (*Interjection by Mr Spadoni*)

**Mr Rimington:** I hear a 'yes' behind me, but... Yes, in this particular case, the extra weight had a further damaging effect in terms of its stability.

Even without that issue of the weight, it is not considered

that the roll test was valid, anyhow, and that there were mistakes in the way it was conducted. Under the same surveyor, it was tested again in 1998 and on this occasion the freeboard figures again did not reflect... Although the freeboard figures changed at this time – there had been a winch added to the back – the freeboard figures did not reflect any additional weight close to 12 tonnes of concrete at that point.

That particular test – the 1998 test – I think was invalid for a number of reasons. One I can remember quite clearly myself, having looked at it, is that they used the incorrect coefficients. You measure the freeboards, you use a table of values which are prescribed under the 1975 Regulations, and you use that table of values, depending on your freeboard measurements, to give you coefficients which you apply in your formula. The surveyor at that time did not apply the coefficients according to the freeboard measurements that he took on that test; he used the coefficients of the previous test and, having used the coefficients of the previous test, it passed, on his calculations. Having used the coefficients of the freeboard measurements of that particular test, it maybe would affect...

**The Chairman:** This surveyor in 1998, was this surveyor A still?

**Mr Rimington:** Surveyor A.

**The Chairman:** Still Surveyor A.

**Mr Rimington:** So another incidence of an incorrect test being performed and incorrect values being used in the test. This is obviously from a professional marine surveyor, and the mathematics involved in these tests are not beyond GCSE; they are relatively straightforward.

The boat was bought by Mr and Mrs Spadoni and it was tested again after their refit in November 1999. Again, the boat passed but the freeboard measurements remained on a par with the previous freeboard measurements and did not reflect this extra weight that had arrived in the boat in 1996.

**The Chairman:** Can you give an explanation as to why that would be so? Surely there is a boat, there is the water, there is a tape measure or whatever: why would they get it wrong?

**Mr Rimington:** This is the question: why?

You see – this is my supposition – when Mr Jones, the first surveyor, had this vessel in his responsibility, and when he was known to have been a problem surveyor and having done negative actions – and this was established – the sensible thing for any public authority is to then audit all the boats in his possession, or in the files in his possession. There is no evidence of that audit having taken place. If they had, then something would have happened to the *Suzanna D*. It would have been pulled to one side, examined thoroughly, put through a full inclining test – a more complicated stability test – and appropriate action taken, whatever that might have been. But it was not. No-one seems to have checked back over Mr Jones's work.

Then we have one surveyor, who was negligent and established as such, followed by another surveyor who makes particular mistakes of a similar nature by putting wrong

values in and incorrectly calculating.

Then you get a third surveyor, and I do not know the answer why. This is why there is this suspicion that there was a regime within the south coast at that time where things were done illicitly, for what reason we can only speculate.

**The Chairman:** So you are suggesting, then, that either they did not measure at all and they just used the old figures, or they measured the same just to protect the person who went before them.

**Mr Rimington:** Yes.

**The Chairman:** Is that likely? We are talking eight, 10 years, maybe more between these incidents happening. Why would they have a loyalty to that person who has gone and has been discredited?

**Mr Rimington:** Surveyor B would have a loyalty to surveyor A, and surveyor A would have maybe a loyalty to surveyor... Mr Jones. Who knows?

**The Chairman:** Who by that time is deceased.

**Mr Rimington:** But the suspicion is that if a boat is unstable and it requires considerable works to make it stable, those considerable works are very costly to the owner. They require quite a large amount of capital expenditure and a large amount of downtime from the vessel, and obviously crew have got to be... So it is a very expensive matter.

The concern is that people are short-cutting that process by means that will require further investigation by other authorities, which I cannot do from this point.

**The Lord Bishop:** Do you know when these facts came to light – the freeboard measurements and so forth – when somebody put two and two together and worked out that the freeboard measurements had not changed? When was that? Do you know when that was first noticed?

**Mr Rimington:** Yes, I do. From my point of view, it was noticed on 7th February 2004, and that relates to the tape which... I should possibly explain that element of it at a further point. We do know, from the Questions that have been asked in Tynwald and answered – and as they are all in the documentation, that will be accessible to you – that when the Marine Administration received the file of the vessel, they saw that this extra weight had been added and they did a review of the various tests, and I presume that they would have seen that there had been no change in the measurements of the freeboard at that time, which presumably leads them to the comments that they have made in their own document:

'The MFV *Suzanna D* has consistently failed roll tests and should have been assessed fully by the MCA.'

**The Chairman:** So if this is accepted, then, over the years that the vessel was never stable and would have failed all the tests, had the maths been done properly, had the surveyors done their job properly... if that is accepted – and the MCA have, in effect, accepted it, because they have paid compensation, they have taken the blame, at one point they offered to reconstitute the boat, refit it into a serviceable vessel – what do you think a Committee like this on the Isle of Man... What remit would we have to do anything about that?

The matter has been dealt with by the MCA, compensation paid, etc. Where do you see this Committee's role in that?

**Mr Rimington:** Right.

In explaining the background to what I have seen and what I think is there in the file of the vessel, i.e. these misdoings across the water, where it relates to this Committee and the conduct of the Marine Administration is what took place after it had been tested in the Isle of Man.

After it had been tested in the Isle of Man, it was found to be massively unstable. I would speculate to say that, for the first time, the additional weight of the concrete was properly recognised in the freeboard measurements.

**The Chairman:** I think the first test was marginal, was it not? Marginally unstable?

**Mr Rimington:** The 1999 test by the MCA was marginal

**The Chairman:** On behalf of the MA?

**Mr Rimington:** On behalf of the Marine Administration, but when it was actually tested in the Isle of Man, supervised by the Marine Administration, and the surveyor responsible was Chris Baker from Marine Data, then that was –

**The Chairman:** A substantial fail.

**Mr Rimington:** – a substantial fail and, obviously, a very professional test.

I would contest that, at this point – and this is where, I think, the failings of the Marine Administration came. When you find that a vessel that is in your possession, on your register, it has been sailing at sea, the lives of those fishermen have been in danger for the time that it has been fishing and you can see that there has been some form of breach of regulations in that here was a vessel that was supposedly stable or even, marginally stable, it is now massively unstable, then it is the responsibility – I will not say it is the legal duty – but it is the responsibility of the Marine Administration to investigate and investigate on, what I would call, a formal basis.

They had, from the evidence we have, already investigated on an informal basis. They have viewed the file, the tests had been done, people had come to conclusions which had ended up in 437, that the vessel, at no time, had ever passed and it was a failure.

**The Chairman:** You would say, though, that when the substantial fail occurred with Mr Baker, that the Marine Administration then withdrew the licence straightaway. It did not sail after that and there was no further risk to the crew.

**Mr Rimington:** Yes. That is absolutely right. They did the right thing.

Obviously, a public agency does not have statutory responsibility to investigate every breach of regulations and that is, sort of, common law, but if it does not investigate a breach of regulations which could be considered serious, then obviously, it can be held to account for that purpose and that is really the purpose of this Committee: one of the purposes of this Committee, I see, is, why did they not do that formal investigation? Yes, they may have known what was wrong

with the vessel, but they never wrote it down on a piece of paper which had been prepared to show anybody.

Indeed, indicative of that is the document 437 is not in the file that you have, because it explains precisely that they knew what was wrong with the vessel. They knew from the file that it has this extremely wobbly history, going through, now, three surveyors, yet they made no investigation to say, well, why is this vessel unstable, who has caused this breach of regulations. Was it Mr and Mrs Spadoni? If they may well have... Let us say Mr and Mrs Spadoni may well have done something to the vessel that they should not have done and they were at fault and they should have been prosecuted.

**The Chairman:** The report of the Council of Ministers actually does say, as you said, I think, just a few minutes ago, there is no statutory duty for them to investigate that and the report says that, as well, but the recommendations of the report do now say the DTI and the Ship Registry and the Manx Administration should, in future, set up a mechanism to do that. That, I believe, has been accepted by the DTI. Is that sufficient for what you are saying, now, for the future?

**Mr Rimington:** It is sufficient for the future, obviously, but there is no clarity about that in terms of what happened on this occasion from the report itself. The report, they were asked there, 'why did you not formally investigate?' And they thought it was, in the responses, 'not appropriate to comment.' And the Committee left it as that.

In terms of public administration and the Spadonis' concerns, that was their major concern: why did you not investigate what went wrong when it was established to be such a stability failure. Because what happens, if they had investigated and said, 'these are the reasons.' Whatever they were, however they wished to do it.

First of all, Mr and Mrs Spadoni would have been not held guilty or had any allegations against them, at any future point, by any other party, or they might have done, if they had been in some way partly responsible for the failure, but they were not, as far as I can understand, and they would have settled with the MCA, I am pretty sure, moderately quickly.

**The Chairman:** So, the failure to investigate has really just slowed things down. Is that what you are saying, because the end result is the same, is it not?

**Mr Rimington:** No, it is not.

**The Chairman:** There has compensation been paid; the responsibilities have been omitted by the MCA –

**Mr Rimington:** The end result is not the same.

**The Lord Bishop:** What is missing is clarity, is it not?

**Mr Rimington:** Yes. You see, they did not do the investigation and they still have not, to this day, put on record why did this boat fail, who was responsible for that failure? There is no piece of paper which says that, except the piece of paper that you are not allowed to see, which is document 437, and which they obviously knew what had taken place. Not only did it mean that it slowed the whole process of dealing with the MCA right down for Mr and Mrs Spadoni and protract this affair –

**The Chairman:** It slowed things down -

**Mr Rimington:** It slowed things down considerably. As it happens – and we can come to this later – it also means that when they went in to the mediation process with the MCA, they had nothing to fight with; they had no formal piece of paper to say why was our boat unstable, from their own regulatory authority, and the MCA were denying: ‘Oh, it is not this; it is not that: whatever.’ They were playing games.

So, I mean, the fact that they settled is a different matter, but we will come to that later. It also means that, if they had done that formal investigation and just set the record of what had taken place, that at this future point, these allegations which were made in Tynwald against Mr and Mrs Spadoni would not have been made. That is the critical issue here.

As I have said, I have pointed out, well... it has been pointed out, the incongruity of the same time frame: we were lifting the *Solway Harvester* and investigating the cause of those deaths and taking court action: deemed appropriate, and yet a boat that had not gone down, but was clearly quite capable of going down, because there was such massive stability failure, we made no investigation of who was at fault.

I would allege – and this is my concern with the Marine Administration of that day – and you appreciate that I do not wish to reflect on the integrity of people who are in office at this moment, but they knew what was there in the file and they knew that a formal report would have been so damaging that, to fight the MCA itself, would have to have gone, in my mind – there is this evidence of surveyors taking these various steps through – you would have had to go to whatever authority in the UK for investigation. In my mind, I believe that there would have been a criminal investigation: whether or not proceedings would have come out of that is obviously not for me to judge, but that would have been the process I would have expected to have taken place.

The Marine Administration, at that time, was suddenly... has a close working relationship, and still does, with the United Kingdom MCA, or whatever they are called nowadays. I think it would have placed a great strain on that working relationship and it appears to me that they decided to bury that evidence, as far as they were concerned, and leave Mr and Mrs Spadoni to seek their own compensation with the MCA, which is possibly right, but without that actual explanation of why their boat was unstable, because they did not want to make that investigation which would be so damaging to their working relationship and could well have required an investigation by other parties in the UK on the conduct of the surveyors.

**The Chairman:** You say that, but that is speculation by you. You have no evidence of that, have you?

**Mr Rimington:** No I cannot... Unfortunately, there is a very healthy area where there is not evidence.

The second thing arising from that is that, having denied this evidence by not doing this investigation, they then continued to deny that there was anything wrong with the vessel and certainly, in my discussions with them and in various letters, they were saying, no, perhaps it is Mr and Mrs Spadoni whose refit has muddied the waters or caused a problem, which, if they had investigated, they would have found whether it had or it had not.

We were pretty convinced that it had not and, in effect, they became on the side of the MCA: that there was nothing necessarily wrong with the boat, there was just one negligent

test in 1999 which you need to resolve.

**The Chairman:** Can I come back on that. You say they were in league with the MCA over this. Surely in January 2000, when the issue was first raised, they – the MA – over here said they were not happy with the stability, were reluctant to give a certificate. They then gave one for a month only while they looked for further evidence from the MCA.

Then, after pressure from, I suspect, Mrs Spadoni, the advocates and also the MCA, they issued another certificate for two years, again, reluctantly, asking for further tests and they offered to pay for a further test at that time, as well, instead of the Spadonis paying, so they were, at that stage, warning there were problems with the boat, there was instability. ‘We will pay for a proper test to be done: we will only give a licence under conditions.’

**Mr Rimington:** Agreed. I am not –

**The Chairman:** It does not show they are in cahoots with the other side –

**Mr Rimington:** No, certainly. I do not have a particular problem with how they conducted themselves at that point. I am taking it from the point afterwards; this lack of formal investigation, because that would have placed themselves in a very difficult position with the MCA, or might well have done.

**The Chairman:** So you are talking about after the final stability test, which showed up –

**Mr Rimington:** I can only speculate on the reasons. Another speculation might be that there were surveyors involved in the UK who they knew, because the world of marine surveyors is not that large, but that is pure speculation. I have no idea what that reason could be. That would appear to me to be the likely point, because we had upset the United Kingdom authorities by lifting the boat, the *Solway Harvester*: that was against their normal practice.

**The Chairman:** I have a view, because I helped lift it and I would not accept that, Mr Rimington.

**Mr Rimington:** Well –

**The Chairman:** Initially, there were problems, but not later.

**Mr Rimington:** Well, that is good, but certainly there were sensitivities around at that time with the *Solway Harvester*.

**The Lord Bishop:** Can I just pursue this idea of the reason that it was not investigated being that the MA had to be sure of its relationships with the MCA, but the MA in April 2000 had by that stage very clearly overturned the MCA’s decision on the boat.

So, relationships: what more was there to destroy?

**Mr Rimington:** Well, no. The relationship... There is a wider working relationship; this is one vessel.

**The Lord Bishop:** Over this boat, they had come to

opposite conclusions by this stage: what more was there to be gained or lost over the boat? Surely, at that point the Isle of Man authorities had now nailed their colours to the mast over this boat?

**Mr Rimington:** Well, I do not know. Again, we are in that field of speculation, but if they had set out clearly what they discovered and knew to be there in the file and said, these are the reasons why this boat had arrived with them in this condition, then that fact in itself would have been highly embarrassing on the conduct of the MCA.

You see, if there are two surveyors who are prepared to pass the *Suzanna D* as being stable, when it was not, how many other boats have they also treated in this way and have those boats been identified and dealt with? And at what cost would that be to the MCA? It would be huge, possibly, if there were other vessels of a similar nature.

**The Chairman:** But the point which the Bishop makes is, in April 2000, the Isle of Man did, in effect, expose the MCA to say, you were wrong all along and let the MCA in for lots of criticism, blame and eventually expense, so at that stage, the Isle of Man had done –

**Mr Rimington:** At that stage –

**The Chairman:** If there was a relationship, it would it have been –

**Mr Rimington:** It was not, just like an effect of criticism, it was all kept on a working relationship basis and that is what they had. The formal investigation would have been more embarrassing, because that would have placed more open and public criticism of the MCA.

**The Chairman:** But that would mean the Marine Administration here investigating the MCA in England, which was –

**Mr Rimington:** No, not investigate. It is not investigating, it is investigating the evidence in the file and setting out what they can see from there and then making sure that that evidence goes to the appropriate authorities in the UK for them to take the appropriate steps. That might have been the embarrassing part, because the evidence is quite strong that there was something seriously amiss.

**The Lord Bishop:** Just over twelve months ago, I brought two old cars to the Isle of Man. I had to have them both MOT'd before they left the UK, because their MOTs were up a matter of three weeks before I brought them to the Isle of Man and had them tested again. If one of them had failed, there would have been two reasons for it. One would have been that the Isle of Man test was more stringent in some respects. The other would have been... three reasons. The other would have been that something happened in between the two tests. The third would have been that there was a liability against one or other side for doing the test wrong.

Had I been able to prove – as it happened, it did not happen – that the UK test was faulty in some way, I would have considered that my responsibility to chase that one up. I would not have set the two testing departments against one another, I would have gone to the UK and said, 'you should have found this out.' I myself, as the owner of the car –

**Mr Rimington:** Except, when you have that test over here, the Department of Transport tester would have told you what was wrong.

**The Lord Bishop:** Yes.

**Mr Rimington:** And then you have had some information.

**The Lord Bishop:** Did not they say the reason is that the freeboard and the –

**Mr Rimington:** No, it just fails. Basically, it is measured; it goes through all the various tests, but there is no conclusion as to why. It does not say it is because you have got too much weight here or you have got too much top weight there or whatever reason it might be. So that is a far more complicated matter.

**The Chairman:** Okay. Moving on, please.

**Mr Rimington:** Right. I mean the other thing is, if they had done that formal investigation and set out clearly, they would not have been able to make the allegations in Tynwald in November 2003. In my opinion, no party should come to Tynwald and accuse another party of breaking the law, unless they have very strong evidence that that was the case.

Mr Downie, who was the Minister at the time, Mr Singer, who was a political Member at the time, let us say they were proxies, because they have given – and that is established by the Committee's report – they had the briefings from their officers which gave them information, sublimely called 'inaccurate information' in the report, and I would say that is somewhat of an understatement. That information was that the Spadonis had added concrete blocks to their vessel and they had breached regulations. It was an unauthorised action and it was an action which they could be prosecuted for.

I think – and it is only a select committee that can answer this and not a committee of Government, which Mrs Christian sat on – that is an abuse of Tynwald to actually, knowingly, send their proxies to Tynwald to accuse a third party of breaking the law, when they were the regulator and they had not investigated her, which they could easily have done. I mean, they did not investigate, I suspect, because they knew it did not exist. It was just a concoction and the subsequent test that took place at that time established that it was just a concoction!

So, why did they – this is the question that the Committee has to... why did they not just give inaccurate information, but give information that was highly damaging to Mr and Mrs Spadoni? It has been highly damaging to them ever since and around, outside of Tynwald and elsewhere, people say they put concrete in their vessel and they just believe that they are on some form of trying to get one over the system.

So, I think that that is the particular reason why no formal investigation took place. It allowed them to deny the evidence that they had, that they knew what was wrong, and not just deny that evidence, but actually make these positively strong and damaging allegations on the floor of Tynwald against them.

**The Chairman:** So you are saying the lack of an investigation led to two things: delay with the MCA's negotiations and that allowed the slurs to be made against

the Spadonis, because there had not been an investigation as to the truth of the matter.

**Mr Rimington:** Yes. The third thing, though, surely, the Marine Administration is a Crown authority with responsibility to the public good as, indeed, is the MCA. One Crown authority finds misdoings or something considerably wrong in another Crown authority, it is their responsibility to the public good to raise that matter.

Where the mechanisms for raising that are, I am not sure in this case to which authorities they would submit that report or evidence, but it should be raised. It should not be just suppressed, because there were surveyors who were sending out people to sea in boats that were unstable. That practice needed to stop.

The fact that the Marine Administration did not make that report did not, then, lead to a situation in the UK where that practice was investigated and brought to a halt. We would hope that it did through other means, but we do not know. Surely, it is the responsibility of the Crown authority and this regulatory regime to report what was going wrong to somebody, at least, and not to deny that evidence?

**The Chairman:** Right. Let us just move on; we have limited time today, as you know.

The report of the Council of Ministers; there were several recommendations and the apologies were given by the Minister and her various Ministers. Is there anything in the report which – apart from the fact that there was a lack of investigation – you thought was wrongly concluded, that is relevant to us?

**Mr Rimington:** No. It is really a question of taking the report further. I think the report has laid bare a lot of evidence and what it has failed to comment on is the two lack of investigations: first, the formal investigation; second, what took place when these allegations were made by the MCA and so they should have investigated that. The boat was sitting there in the harbour, not going anywhere. They were a regulatory authority; they could walk over it any time.

**The Chairman:** I think we have lots of evidence in here: factual and written, etc. We are looking for any new evidence that might actually help us to move further on, as you say.

You start that off by saying you have new evidence, so I will ask Mr Phillips if you have got any view on the transcript.

**The Clerk:** Could we break for a moment and I could give you advice in private, Chairman, if that is appropriate.

**The Chairman:** Okay. Before we do that, have you anything further to say, Mr Rimington; any conclusions to come to? We may come back on this.

**Mr Rimington:** It will depend on what you will allow me to say in relation to that.

**The Chairman:** Okay. We will adjourn for five minutes, if that is okay. If you will leave the room please, ladies and gentlemen, and we will call you back in.

*The Committee adjourned at 3.30 p.m.  
and resumed at 3.37 p.m.*

### **Ruling by the Chairman Taped evidence not admissible**

**The Chairman:** It is 3.40 p.m. and we are about to resume the Select Committee evidence of Mr John Rimington.

During the adjournment, Mr Rimington, we discussed the question of the tape and the transcript and we feel that it cannot be accepted by us as this Committee, but as you are actually on oath and sworn on oath there is no reason why you cannot give evidence of what your conversation was with the Chief Minister on that day in February 2004, I think it was.

You have an *aide memoire* there in front of you, so we are quite happy to accept your verbal evidence on oath as to what was said during that meeting.

### **EVIDENCE OF MR J RIMINGTON Evidence concluded**

**Mr Rimington:** Thank you.

There are two points out of that conversation which perhaps I would draw everyone's attention to. The first one is on the issue of what eventually became the settlement and to my mind illustrates it is not an issue to do necessarily with the Marine Administration, but the deception that was taking place at that time and that the office of the...

I met with Mr Corkill on 6th February. He had been authorised via the Director of the Marine Administration, and from the United Kingdom authorities, that there was a substantial offer coming forward to Mr and Mrs Spadoni and he gave me a figure to which – or two figures – which it would lie between, which I was duty bound not to tell Mr and Mrs Spadoni. I have, in fact, kept that to this date, although a lower figure had already been put forward in another piece of evidence. Those two figures were between £1 million and £1.5 million and that offer was to come forward within two to three weeks.

On the basis of that evidence, of that offer, which I think being given through the Chief Minister of the day with the authorisation of the various parties that is an offer that you would expect to be honoured to there or thereabouts. Having received that offer, the matter was withdrawn from debate in Tynwald.

**The Chairman:** By you.

**Mr Rimington:** By me. I withdrew it again in March. I accept I probably should not have done, one of probably many mistakes I have made in this over the years dealing with this case and then the offer came through – the first offer that came through at under £200,000. So you can understand the feeling of deception that might have taken place between Mr and Mrs Spadoni and myself by the United Kingdom authorities.

They then went through the process of rejection and counter-argument. It went to mediation in July of that year and they accepted a settlement. That settlement is confidential under law but it was a settlement that was considerably less than any of those figures that were mentioned as the formal offer that was coming through from the United Kingdom authorities given by the Chief Minister of the day.

**The Chairman:** The Chief Minister was who?

**Mr Rimington:** Mr Corkill.

**The Chairman:** Mr Corkill – and your recollection of that conversation is that he had said the MCA had offered that?

**Mr Rimington:** Yes.

**The Chairman:** Not the Isle of Man Government.

**Mr Rimington:** No, not the Isle of Man Government. It came via Mr Howell of Marine Administration but it was definitely the UK and he had gone back to them and said, ‘Am I authorised to give this information out?’ and so they went into that mediation, financially stretched because it was now four years after the time and so they were not in a strong bargaining position and they did not have that formal piece of paper which said this is the reason why your boat was a stability failure. The papers by the United Kingdom and by myself are there as part of the evidence in there submitted to the Committee, certainly in there which I am going to leave with you.

The United Kingdom would not acknowledge that there was anything wrong with the vessel prior to one negligent test in 1999, so they were denying the history and we had no confirmation of that problem of the history from our own regulatory authority.

**The Chairman:** You said earlier, I think, that on 7th February, the day after this conversation with the Chief Minister, was the day you learned of the history of the bad stability?

**Mr Rimington:** That was the day I learned of the history of the additional concrete in the boat – I knew about the general bad stability in the tests that were poor from beginning to end until it arrived in the Isle of Man.

**The Chairman:** So was your conversation on 6th connected with you finding out on 7th?

**Mr Rimington:** It certainly was because, in that conversation on 6th, Mr Corkill said the offer is one issue; the other issue is that, in the world of surveyors, they do not believe that the... well, they believed that the Spadonis were getting away with something, they believed that the Spadonis had, in fact, added additional concrete to the boat and they said – Capt. Howell said to Mr Corkill – ‘This is how it was described to me’, and drew him a chart. He said: ‘Look on this chart, here is the plimsoll line of the *Suzanna D* through all the periods of its tests and we see that it is fairly consistent in its displacement in the water, its freeboard measurements, plimsoll line’ – using that expression – ‘until it comes to the Isle of Man’.

So up to 1999, and including 1999, it was consistent and then between November 1999 and April 2000 when it was tested here and it was in the hands of Mr and Mrs Spadoni there is this dramatic drop in the displacement of the vessel. Therefore, they and the MCA still believed that Mr and Mrs Spadoni had added concrete to the vessel. But they accepted that this could not be proved, that there was a Readymix invoice – this is what Mr Corkill said – not that you believed it, but he just repeated, a Readymix invoice which showed a delivery of concrete, although the invoice had not been

paid, therefore there was no proof of the matter. I was quite shocked at that time, but I thought it was being told to me so, all of a sudden, the issue of the concrete blocks had gone out the window, but here was another body of concrete that had gone into the vessel.

Obviously, I took that back to Mr and Mrs Spadoni and the file was examined and Mrs Spadoni said she was pretty sure she had seen something about concrete going in at some point and we looked through and there it was in the 1996 test. That is when the concrete arrived in the vessel and that is the point that we can see that it arrived in the vessel, but the freeboard measurements had not changed.

At that point, in February 2004, the Marine Administration, through Captain Howell, was misinforming the Chief Minister of the day as to the true nature of that vessel’s position. They had the information in their possession, in the file, of when the concrete went in. They already admitted that they knew that and got that from the Tynwald Questions. That was part of their initial examination: they had seen that going in, so what purpose was he trying to serve by telling the Chief Minister that, actually, it was Mr and Mrs Spadoni, we still think all along that they have added something. It is the same story that had been, we are pretty sure, told to political members of the Department at that time, that it was Mr and Mrs Spadoni’s fault.

We responded on the Monday following that Friday, 6th February, with a letter saying this is when it went in, here is the evidence. We offer for you, the MCA or the Marine Administration, to come and take whatever tests you may wish from the vessel.

**The Chairman:** Can I just stop you there. The Clerk would like to ask you a question, Mr Rimington.

**The Clerk:** Thank you, Chair.

I have seen in the evidence two references to concrete, one relating to concrete blocks and the other which you mentioned in relation to the concrete floor. Are these two things the same or were there other... are there two different things?

**Mr Rimington:** The concrete blocks... when a vessel goes... when a vessel is tested, sorry, when it is given its roll test for stability purposes, it has to be in what is called a ‘depart port condition’, i.e. it has got to mimic if it was going out to sea and therefore it has to have its fuel tanks full, its water tanks full and it would have, in the case of this vessel, approximately four tons of ice in the fish room because the boat would normally go out with ice on board. When it had been tested previously, when it was tested in November 1999, a quantity of iron was used in substitution for that four tons of ice. That was in Portsmouth harbour and in Port St Mary when the Spadonis knew that it was going to be tested and they knew that the vessel was unlikely to go much further, because they had already illustrated their deep concerns about the vessel, they put in concrete blocks and I think it was a weight of 3.85 tonnes when they were actually lifted out and weighed afterwards, so they put concrete blocks in the hold of the vessel, newly cemented in – lightly cemented in and as was seen by the surveyors at the time and noted and the Committee’s report – evidence is that they were known to be there. Those concrete blocks were sitting on a concrete floor –

**The Clerk:** I just wonder if, in your allegations of what

amounts to bad faith, there is room for some genuine confusion in the minds of some of the people having conversations about what concrete they were talking about?

**Mr Rimington:** No. They were two separate matters. The concrete blocks had been proved to be a false allegation and the tests that took place in January 2004, having removed these concrete blocks and substituted a normal weight and it made no difference to the stability.

**The Chairman:** The concrete blocks were 4.2 tons, I think it says. It is mentioned in some of the documents about some garden walls being used – concrete for a garden wall being used at some stage.

**Mr Rimington:** That was the source of the blocks. I believe it was my old Department that was responsible and did not allow planning or something for that garden wall and why the blocks were put to other uses.

**The Chairman:** Why were the blocks concreted in as a permanent structure in effect? In Portsmouth they used metal fishing gears to represent the weight or you would use ice, if you are going to sea.

**Mr Rimington:** The Spadonis knew the vessel was going to go to Ramsey to be tested, from Port St. Mary, (*Interjection*) and they knew... Obviously, they did not know what condition the sea would be in: you did not want anything moving about in your hold, especially if you were concerned about the stability of your vessel.

**The Chairman:** The concrete blocks were still in there three years later when Tynwald ordered their tests –

**Mr Rimington:** Well, yes, because the boat had just frozen in the water at that point, so –

**The Chairman:** So we are talking about the same blocks at the Tynwald test, the Ramsey test and when they left Port St Mary. It is all the same. Thank you.

**Mr Rimington:** We also provided a letter to the Chief Minister at the time which should be somewhere in the evidence from a member of the crew, saying he was party to the putting in of the concrete blocks prior to the test. They were put in for that purpose, strange though it might appear to the...

**The Chairman:** The conversation you had on 6th February with the Chief Minister: is there anything in that which we could accept as new evidence from your memory of that conversation which is relevant to us before we move on?

**Mr Rimington:** No. I think the prime issues are still continuing to misinform the Chief Minister at that time of what the issues were relating to the boat.

**The Lord Bishop:** In your recent conversation you said that they believed that the Spadonis had added concrete to the boat. Since there is a relatively easy explanation of that, why did they believe that? What basis would they have had to believe something which had a relatively easy explanation?

**Mr Rimington:** My *aide memoire* would tell me that the surveyors were saying that the concrete seems rather new, that it was not there when the boat, obviously... in the boat originally, which it was not –

**The Lord Bishop:** No.

**Mr Rimington:** It went in in 1996, so in concrete terms it might have been relatively new but it was not that new.

**The Lord Bishop:** If they did not know when it had gone in, how could they make an accusation like that?

**Mr Rimington:** Indeed!

**The Lord Bishop:** It seems quite extraordinary that they should make an accusation of that nature, if they did not know even approximately. I mean, we are talking of a period of four years or so and they did not know that it had been there for four years. I mean, it does seem strange to me.

**Mr Rimington:** Well, it does. This is why the Chief Minister would obviously have no idea what they were talking about and would naturally accept what was being explained to him by one of his senior officers

**The Lord Bishop:** By that stage it is eight years.

**Mr Rimington:** Yes, by that stage it was eight years, but the fact is that they have admitted this in Tynwald Questions: when they received the file and looked at the various data within it, they saw that the concrete had been added and they accepted that would have increased its weight by  $x$  tonnes.

**The Lord Bishop:** I have got a couple of others.

The Marine Administration believed that they added the concrete. Right? Presumably because they relied on the 1996 measurement which you have told us you believe to be an inaccurate one and just a repeat of 1992 and so forth, but it would be reasonable, would it not, for the Marine Administration to assume that the reading in 1996 was accurate?

**Mr Rimington:** Well, no.

**The Lord Bishop:** Would it not?

**Mr Rimington:** No, not if the readings in 1992 and 1996 were exactly the same and there had been a huge change in between.

**The Lord Bishop:** But would they necessarily have gone back to the 1992 reading? I mean if I had been a member of the Marine Administration looking at the boat in 2000, I might simply have only gone back to one previous reading and therefore I would not necessarily have worked out that, in fact, a whole series of readings have not changed. I might just base it on the last one.

**Mr Rimington:** Yes, but they did not. They looked at all the –

**The Lord Bishop:** Did they at that stage?

**Mr Rimington:** It is in the document 437.

**The Chairman:** But in January 2000, when this was all starting up, at that stage the Marine Administration here had not access to the MCA files, had they?

**Mr Rimington:** No.

**The Chairman:** They did not know.

**The Lord Bishop:** So that would be the reason why they did not know, but then in 2004 the MCA were very willing to negotiate because by that stage they knew they had actual liability. They did not need any report from the Marine Administration to tell them that. They would not have paid the sum they did, if they had not acknowledged very clearly their liability.

**Mr Rimington:** They had acknowledged responsibility far earlier, actually in, if I remember 2001, and then just went into dealing with insurers... dealing with an awkward insurance company into a protracted series of questions and proposals and whatever and they were going to mediation in April 2003. They were on that process of arranging mediation when the UK came in with this allegation about the concrete blocks and derailed that mediation process at that time.

**The Lord Bishop:** What I am concerned about is that we are talking about the burying of evidence and because of the threat to the working relationships between the MA and MCA, but all the evidence... there was enough evidence already there. There was no actual explanation of how it happened, perhaps, but there was very clearly... there is no doubt that the MCA by this stage was recognising its guilt.

**Mr Rimington:** It had recognised – except for the interlude of the concrete block allegation – its responsibility, I would not say from the word go, but from fairly early on in the proceedings, but only in relation to the 1999 test and that there had been negligence in that test, not that it was based on a whole history.

**The Chairman:** Can I draw to a close, Mr Rimington? I just want to put a point to you. From the original Petition of Mr and Mrs Spadoni, the original Petition which was discussed in detail in the Council of Ministers' Report in their Report at 349, I will just quote from that part of the Petition: you have alluded to a possible conspiracy between the Marine Administration here and the MCA to try to perhaps stop more expense from the English surveyor to keep relationships good. You said it is speculation. I am looking for evidence, really, to back that up.

In the Petition, Mr and Mrs Spadoni say,

'We are of the opinion that the conduct of the MA has undermined our claim against the UK MCA and by ignoring the overwhelming evidence contained within the MCA file and other documents'

– that we have referred to –

'has formed an alliance with UK colleagues to cover up the serious maladministration of the MCA'

– which I think you have just covered almost in your last few comments. The Committee, this Committee's response was – the Committee of the Council of Ministers –

'The Committee comments that there is no evidence to either support or refute this allegation.'

Again, I think you said earlier you have speculation on that. Is there any evidence at all that you could actually provide that might actually back up that opinion?

**Mr Rimington:** Well, no – it is difficult because I have not – I am not a fly on the wall in the Marine Administration of that time, but certainly, in letters to myself – and let us take the letter in 2002, I think it was 24th June – the particular letter where we had had a meeting with the Marine Administration and Mr Corkill to try and thrash out some of the issues, I was reporting what I viewed as had been said in that meeting in the letter, regarding recognising that there was a historical stability failure in the vessel and in their response to me on that, he denied that. He said there was no evidence; we do not have the evidence on file which tells us this, which is actually contrary to the evidence that they do have in their file which is document 437 in their investigations.

That would be one example in a whole series of correspondence on that matter when they tried to point the finger at the refit of Mr and Mrs Spadoni, which... that should have been part of their investigation. They are very well qualified marine surveyors, they could have easily determined whether it was an issue or not, or something they needed to investigate or not, and I think obviously from knowledge there was not an issue. What they did in terms of the refitting, if anything, improved the stability on a marginal basis.

Document 432 – which is actually listed there in the back of this Report, which is the meeting with Mr Kissack, the Attorney General, Colin Douglas and Mrs Della Fletcher of the Chief Minister's Office – in there they say, 'it is likely that the works' – that is, the refit works – 'adversely affected the already suspect stability.' So they are saying already 'suspect stability.' 'The works appear to have been done without plans or designs on the cheap.'

Shortly after that, I met Mr Kissack to try and discuss these things and he was saying that the concern was that it was done on the black market, it was dodgy work and if you have got dodgy work and a dodgy inspector, you are going to get these problems. At no time in that meeting did they tell the Attorney General actually what took place, what the evidence in the file pointed to, that there were serious misdoings in the UK at that time, whether or not that would have led to anything, but that would have been, to my mind, the proper thing to have done.

**The Chairman:** It is important for us to know, then, on 10th September 2001 whether the local administration people had had access by that stage to the MCA full file.

**Mr Rimington:** They had in April 2000. They had received the full file in April 2000, they examined the file and essentially held their hands up in horror and stopped Mr and Mrs Spadoni from going to sea from that point on and they said: 'Do not go out, your boat is going to be tested.'

**The Chairman:** Thank you, Mr Rimington. I need to draw... we are well over our time, I am afraid. Can I ask the Lord Bishop and...?

**The Lord Bishop:** No, thank you.

**The Clerk:** No, thank you.

**The Chairman:** Mr Rimington, as with all select

committees, we sometimes call people back to give further evidence, if necessary. I understand you may be available but it might be quite complicated for you to return within the future. Is that correct? (*Laughter*)

**Mr Rimington:** Well, if you pay my expenses... (*Laughter*) No, it is unlikely that I will be here at a convenient time. I hope to be back about Christmas time, hence I am leaving you... this evidence (*Mr Rimington holds up a bag*) is a duplication of what you have, but as I have got no use for it in New Zealand, you may retain that and I understand that you have got document 437 now. I have been told that it is coming up on its way.

I can be contacted by e-mail – I am quite happy to answer questions if you wish – it is my name at manx.net.

**The Chairman:** Thank you for your attendance, Mr Rimington, and good luck in your future life. Thank you.

### Procedural

**The Chairman:** We now call Mr and Mrs Spadoni. Are you are willing to attend to speak together?

**Mr and Mrs Spadoni:** Yes.

### Administration of the Oath

**The Chairman:** Come forward, please. If you could just take the Oath, and read aloud the words on this card.

*(Mr and Mrs Spadoni each took the Oath administered to them by the Clerk of the Committee)*

### EVIDENCE OF MRS J SPADONI AND MR D SPADONI

**The Chairman:** Thank you. Please take a seat. I believe you have given evidence previously to the Committee of the Council of Ministers?

**Mrs Spadoni:** Yes, on two occasions.

**The Chairman:** We are obviously a new Committee and we are looking for any fresh evidence that we can get which goes beyond this.

Can I start by asking you to give your full name and your address for the tape?

**Mrs Spadoni:** My name is Mrs Joan Spadoni and I live at 10 Sunnydale Avenue, Port Erin, Isle of Man.

**The Chairman:** And what is your occupation now?

**Mrs Spadoni:** Forced retirement.

**The Chairman:** Right. Mr Spadoni, please.

**Mr Spadoni:** My name is Spadoni – Dante. I live in 10 Sunnydale Avenue and I am forced in retirement as well.

**The Chairman:** Thank you.

**Mr Spadoni:** Before we go any further –

**The Chairman:** Yes.

**Mr Spadoni:** Can I say that I do not know any of you and you do not know me at all – well, just that, but there is a person that knows me very, very well – not just well – and that is Billy Martin.

**Mrs Spadoni:** The Chaplain of Tynwald.

**Mr Spadoni:** Billy Martin fished with me for –

**Mrs Spadoni:** – over ten years –

**Mr Spadoni:** – the best time of my life, so he might be able to tell you that I am like that water over there. Safety was always, always number one. Regardless of whether we were making money or not, safety had to come first. This, Billy will tell because he was an excellent skipper and seaman.

**The Chairman:** Thank you for that.

I am sure you will have some comments to make. Can I start at the very beginning of the affair and get some basic questions in to start off with. When you purchased the boat in 1999, who did you buy it from?

**Mrs Spadoni:** We bought it from a UK fishing-boat owner.

**The Chairman:** What was his name, can you tell us?

**Mrs Spadoni:** Peter Leach. It was Leach Fishing, I think it was called.

**The Chairman:** When you took possession of the boat from him, what did he tell you about the boat, its condition and its certification?

**Mrs Spadoni:** He told us that the vessel possessed a full United Kingdom Fishing Vessel Certificate which was valid until June 2001, and that the vessel had been on the UK register for almost 19 years.

**The Chairman:** Did he give any indication to you about its seaworthiness, how it handled, and how he had used it over the years?

**Mrs Spadoni:** It was a beam trawler. It was certified... because there is a difference between a beam trawler and a trawler, not only in the name ‘beam trawler’ or ‘trawler’, but a beam trawler requires 20 per cent more stability than a standard trawler. Therefore, the stability of a beam trawler is even more critical than a standard trawler because your certification allows you to go to sea and therefore you have to satisfy a much higher standard of stability than a standard trawler.

**The Chairman:** Was Mr Leach a fisherman himself? Did

he use the boat himself?

**Mrs Spadoni:** Yes.

**The Chairman:** He did.

**Mr Spadoni:** Can I say this: he was the manager. He owned the fishing company. I doubt very much that he would go to sea himself.

**Mrs Spadoni:** Well, I presumed that he did, anyway.

**The Chairman:** When you purchased the boat from him, did you sail her back to the Isle of Man first?

**Mrs Spadoni:** No.

**The Chairman:** What happened to it when you purchased it?

**Mrs Spadoni:** We bought the boat and... The boat was not a young boat, and much has been made of this in various debates in Tynwald about the age of the vessel and so on and so forth and what we paid for it, as recently as two weeks ago by Mr Downie yet again alluding to what we paid for it. Mr Downie is not aware, but possibly this will make him aware, that when we purchased the vessel we purchased the vessel without a fishing licence, because we ourselves had our own fishing licence. So the value of the vessel at that time was purely for the vessel. The owner had removed the licence from the vessel, with all his fish quotas, to use on another vessel, and in any case we did not need it. So the price reflected what we paid for the boat at the time.

**The Chairman:** So when you bought the boat, it was refitted or refurbished at Vosper Thornycroft.

**Mrs Spadoni:** Yes.

**The Chairman:** Did it go straight there after you purchased it?

**Mrs Spadoni:** The boat was not a young vessel, but the hull was sound. It was in relatively good condition but there were improvements that we wanted to make from a personal level because our standards were evidently higher than the previous owner.

That was not an issue. We have been in business since the early 1970s in the fishing industry, so we did not see that as a problem.

**The Chairman:** So where did you pick the boat up from?

**Mrs Spadoni:** We picked the boat up from the south-east of England.

**The Chairman:** Whereabouts?

**Mr Spadoni:** From Shoreham.

**Mrs Spadoni:** Shoreham, yes.

**The Chairman:** Sussex, yes?

**Mr Spadoni:** We did not pick it up. The people who were supposed to be carrying out the refurbishment on the boat –

**Mrs Spadoni:** They were overseeing it.

**Mr Spadoni:** – which was the skipper himself of the boat, and he took it.

**Mrs Spadoni:** It was the manager who was actually overseeing the refurbishment on our behalf at Vosper Thornycroft, because we –

**The Chairman:** So he sailed it from Shoreham to Vosper Thornycroft.

**Mr Spadoni:** He sailed it.

**Mrs Spadoni:** Yes, and he took it to Vosper Thornycroft.

**The Chairman:** The changes you had made, which I think were a different engine, a different wheelhouse etc –

**Mrs Spadoni:** We took the –

**The Chairman:** Who designed those? Who actually produced the design for all that?

**Mrs Spadoni:** There was not any design. What we did to the vessel is normal standard maintenance on the vessel that happens every single day of the week on vessels of any age.

**The Chairman:** But you changed the engine, you changed the wheelhouse and some other things.

**Mrs Spadoni:** Yes, we changed... The engine was not a planned part of the initial refurbishment. However, when the engine was stripped down – it was a Stork engine, it was stripped down by them – the work was very extensive. The cost of it was very high and the warranty on that work, on refurbishing the engine, would only cover six months. So, for financial reasons, we did not think that the £30,000 that it was going to cost to refurbish the engine for a six-month warranty was, quite frankly, worth it. We had the vessel in the shipyard, so we took the decision to re-engine the vessel.

The re-engineing of the vessel was done strictly with the guidance of the MCA surveyor surveying it, on behalf of the Isle of Man authorities, with his guidance. When we took the old engine out, it was weighed. The weight of the new engine that went back into the boat was a far lighter engine than the original one. However, the difference in the weight between the old engine and the new engine was made up with ingots, and this was placed on a proper sheeting – approved sheeting – by the MCA, and the ingots were placed and they were placed lower down. So in actual fact, according to Marine Data, that arrangement actually had a *positive* impact on the stability because, rather than having, for example, one tonne of weight up here, we had half a tonne here and the other half was as far down in the vessel as we could get.

**The Chairman:** Can I ask a question about... You were going to change some things on the boat – the wheelhouse

and the engine or whatever –

**Mrs Spadoni:** Yes.

**The Chairman:** A refurbish... There were some changes to the boat.... If I was building an extension on my house, or changing the house, I would get a builder in with plans. In vessels at sea, which I know not much about but some things are very crucial, in terms of weights and positioning.

**Mrs Spadoni:** Of course, yes.

**The Chairman:** Did you have anybody there, working for you on the refurbishment, who was, in effect, a naval architect, saying ‘This can happen’ and ‘This can’t happen’? Did you have plans to work from?

**Mrs Spadoni:** No, we did not –

**Mr Spadoni:** No, we didn’t.

**Mrs Spadoni:** – and I would say that this aspect of the evidence in this boat is treading on very, very choppy seas, given the content of document 437.

**Mr Spadoni:** Yes.

**The Chairman:** No, I am asking you did you have an architect –

**Mr Spadoni:** No, we did not.

**Mrs Spadoni:** No, we did not.

**The Chairman:** And did you have plans?

**Mrs Spadoni:** We did not, but the fact of the matter is that we re-engined the boat. We took an engine out and we put a new engine in.

**The Chairman:** Were you down at the yard yourselves?

**Mr Spadoni:** Yes, all the time we were there.

**Mrs Spadoni:** Yes, from May that year we were down in Portsmouth.

You have to understand that, yes, we went ahead and we did the refurbishment without consulting a naval architect and without having a marine surveyor there; however, the MCA surveyor, it is his job, his responsibility to see to it that, whatever you are doing to your vessel during the course of his survey – which was a re-certification survey – everything that came out of the boat and everything that went into the boat satisfied the 1975 safety regulations, from the type of pipe work... We took out rotten pipe work and we replaced it with new. We took worn, and what we considered to be dangerous, wiring out of the vessel, and we replaced it with new. The wheelhouse top was wooden and it was rotten, and it was evident that the water, the sea, was ingressing into the wheelhouse, which was causing havoc with the electrics that were displayed in the wheelhouse, so we changed the top. It was aluminium; it was the lightest material that we could use. It was all done.

The safety glass in the windows was MCA approved. All of this has to be approved by the MCA; these are their regulations. They tell you: ‘This is the kind of wiring you can use.’ You cannot use the one that you use in your house; you have got to use that. The one you use in your house is 30p a metre; this is £30 a metre, but you have to use it because it is fire retardant, or whatever else. So all of the work done on the boat... and that is all... the wheelhouse top with new windows. The wheelhouse itself was still the same.

**The Chairman:** And the surveyor this time was Mr Lucas, is that correct?

**Mrs Spadoni:** Mr Lucas was there.

**Mr Spadoni:** Can I say something?

**The Clerk:** Sorry, just to get one thing clear, you were in the Vosper Yard –

**Mrs Spadoni:** Yes.

**The Clerk:** Was it the Vosper people doing the job, or were you doing part of it?

**Mrs Spadoni:** The Vosper Thornycroft yard did all the wheelhouse top, did all the –

**Mr Spadoni:** The replacing of the engine –

**Mrs Spadoni:** They are removing the engine, they are putting in the shaft.

**Mr Spadoni:** The propeller shaft.

**Mrs Spadoni:** All of that work, they did it.

**Mr Spadoni:** And the propeller.

**The Clerk:** But you decided what you needed to have done, was that right?

**Mrs Spadoni:** Well, yes. If you have got... If this window is –

**Mr Spadoni:** Yes, if you have got a broken engine, you –

**The Clerk:** Sure. I am not criticising; I am just asking. And when you bought the boat, you relied on your own skill and experience –

**Mr Spadoni:** Absolutely, yes.

**The Clerk:** – as a seaman to make the call...?

**Mrs Spadoni:** Yes –

**The Clerk:** Did you take –

**Mrs Spadoni:** – and the fact that the vessel was still at that time on the UK register, in possession of a valid certificate.

**The Clerk:** Absolutely, yes. And did you take it out to

sea before you purchased it?

**Mr Spadoni:** Not before, no.

**The Clerk:** Is that not usual? I do not know much about fishing, or anything about fishing, but when you buy a car, you often... Well, one would expect, with a secondhand car, you would take it on the road, wouldn't you?

**Mrs Spadoni:** Yes, I understand what you are saying, but –

**The Clerk:** Is it not usual to take a boat out onto the water?

**Mrs Spadoni:** To use your car example, to test a boat for stability, and I am sure this is what you are driving at... To take the boat to sea for my husband to establish what sort of handling the boat had –

**Mr Spadoni:** What are you driving at? Are you saying I should have been on the boat?

**The Clerk:** I am not saying; I am asking is it normal practice –

**Mrs Spadoni:** No.

**The Clerk:** – when you are buying a ship...?

**Mr Spadoni:** No, it is not, because my experience, all the time... I have always had 24-metre boats with... It was the same size. Then I went up to 30-odd metres. So I know how a boat handles, from my experience.

**The Clerk:** But you are saying that the normal practice when people purchase a vessel such as this is that they would not expect to take it out for a test run.

**Mrs Spadoni:** For a test run, no.

**The Clerk:** It is not the practice?

**Mr and Mrs Spadoni:** No.

**The Clerk:** It is just that once you took it to the Isle of Man and it was in the open sea, you suddenly noticed there was something wrong.

**Mr Spadoni:** When was that?

**Mrs Spadoni:** Yes, but not with the boat. No, not with the boat. Just hang on, we are getting a bit ahead of ourselves.

When the refurbishment... The biggest changes we made, if you want to call them changes, were we changed an old clapped-out engine for a new one and we replaced the rotten wheelhouse top which, in our opinion, had we brought the vessel to the Isle of Man in that condition, the Department here would have stopped us having the windows in that condition, because the wheelhouse was not in a seaworthy condition, because they were rotten.

**The Clerk:** Were you surprised that it had a seaworthy certificate, notwithstanding the fact it needed these repairs?

**Mrs Spadoni:** At the end of the day, the boat had a certificate and... We lived in the Isle of Man, we were registering it in the Isle of Man. This only actually came to light because we re-registered this boat here. If we had not re-registered this boat here, we probably still would not know – or rather, he would be at the bottom of the sea.

**The Clerk:** But were you surprised to see the boat in its condition with a seaworthy certificate?

**Mrs Spadoni:** Well, yes, I suppose we... No, not that it was a surprise, because –

**Mr Spadoni:** No, because –

**The Chairman:** Can I just ask you... We are taping this. It is important that you speak one at a time, if you can, please.

**Mr Spadoni:** Sorry.

**Mrs Spadoni:** Sorry.

Regardless of this, it was evident that the owner had designs on expanding his business in another way and he wanted to get rid of this boat. It is possible that he had a schedule of work that he was going to carry out on this vessel but, meanwhile, other opportunities came along and that is why he was getting rid of it.

**The Clerk:** Were you not surprised that it had a seaworthy certificate, even though you thought it would not have got one in the Isle of Man?

**Mrs Spadoni:** Well, at that stage, the only thing it needed was the windows fixing.

**The Clerk:** But you have just said you thought that would actually cause it to lose its certificate.

**Mrs Spadoni:** There are lots of things that surprise me, and I do not have to go from the Isle of Man to be surprised about that because there are vessels on our own Register which, quite frankly, surprise me that they have got certificates, as well.

So the fact of the matter is that at that point it was not really relevant to us because we intended to change the windows. The engine became necessary... Well, it did not become necessary but we took a financial decision that it was more sensible to have a brand new engine in, which would have had a warranty for so many hours running... because it is a big job. It is a big job to take an engine out and put a new one in, and it is expensive.

**The Lord Bishop:** Can I ask either of you, when you saw the boat, did it look as though it was lying lower in the water than it ought to have lain?

**Mr Spadoni:** No.

**The Lord Bishop:** So you would have been surprised –

**Mr Spadoni:** We are going into areas here that... We will go back in a minute.

No, I did not think that the boat was any lower in the

water than maybe the 24-metre boat was, but then again it is not... For me, it was just a normal boat. To me it was a normal boat.

**The Lord Bishop:** Clearly, there was a measurable difference between... The argument of Mr Rimington was that there should have been a clear difference between the 1992 lie of the boat and the 1996 lie of the boat after it had gone... In other words, it should have been obvious to the testers. Should it not have been obvious to an experienced seaman, like yourself?

**Mr Spadoni:** No.

**Mrs Spadoni:** No, because... I will tell you why: because the vessel –

**Mr Spadoni:** I am not a tester; I am a skipper. I am not a tester.

Absolutely you could not make any –

**Mrs Spadoni:** But when we went to see the vessel, she was without her gear. She had almost no fuel in her tanks and no water, because the vessel was tied up. It had just been tied up. So if the vessel is free of gear, which is heavy gear, and it is taken off, then the boat is going to be out of the water much more than she would be with the gear on. She did not have the gear.

The fact is that we carried out a refurbishment. It was all done. Paul Lucas was there every single step of the way; when we took the sea cocks out, he went down and inspected them; when they drew the shaft, he inspected it; when they refurbished the shaft, he inspected it; when they put the propeller in, he inspected it. He was there. He was the one who told us that the old engine had to be weighed. It was weighed on the quayside. The new engine that went in, which was lighter, had to be made up with additional weight so that we were not changing the weight that had previously been in the engine.

**The Chairman:** Can I ask a question about the type of boat. You said there are two... Well, there are more than two types of trawlers, but –

**Mrs Spadoni:** Of course, yes.

**The Chairman:** The Scottish trawlers, like the *Solway Harvester*, are a certain scallop dredger with a certain style and they operate in the Irish Sea, which is different sea conditions than, I suspect, the south coast of England. Were you happy that the boat you were buying, the *Suzanna D*, was suitable to be a scallop dredger in the Irish Sea?

**Mrs Spadoni:** It was scalloping. It had a fishing licence. It was –

**The Chairman:** I am saying are the conditions different in the Irish Sea?

**Mr Spadoni:** No, absolutely not.

**Mrs Spadoni:** No, a boat is either fit to go to sea, or it is not.

**Mr Spadoni:** A 24-metre boat should be able to withstand

almost anything, absolutely.

**The Chairman:** I think you said, though, something about with a lower freeboard, because they are lower than, say, the *Solway Harvester*, aren't they? There is more risk, if you do have a capsize, of it going over more quickly, I think.

**Mr Spadoni:** I know, but we are talking about things that... I am not the tester here. I went to buy a boat and I did not sail on it because... I knew the type of boat.

To me, it did not matter because we were going to... The boat, we bought it as it was, with the licence. It was not completely –

**Mrs Spadoni:** *Without* the licence. We did not buy the licence.

**Mr Spadoni:** – rotten, but we bought it because we said, 'We are going to invest some money into this and we are going to make a good platform.'

**The Chairman:** I am just trying to find out what actually happened at the very beginning. Can I move on a bit to –

**Mr Spadoni:** Do you understand?

**The Chairman:** Yes, I do.

Can I move on a bit to January 2000, when it came here and you went for a re-certification in the Isle of Man, and the Marine Authority here, with their test – well, having had the result of the test – said, I think, that it was marginal and they were not happy to give a certificate, were they?

**Mrs Spadoni:** No. The issue actually was not initially over the test results at all. The issue was over the type of test that Paul Lucas had conducted.

**The Chairman:** Yes, but the Administration here would only give you a certificate for a month, I believe, initially. Is that correct?

**Mrs Spadoni:** But that is because there was a dispute between the Marine Administration and the MCA over the type of test that the Marine Administration claimed they asked Paul Lucas for and the test that Paul Lucas had substituted it for. There were no expressions to us of concern that the vessel was unsafe.

**The Chairman:** Can I follow that up then, please, because I think Mr Spadoni at some stage said that when you were using it you found it handled very badly in bad weather.

**Mrs Spadoni:** That was coming from Portsmouth.

**Mr Spadoni:** If you want to speak about that particular incident, that was after we finished all the refit – after we spent £½ million on the refit – so the boat now was new. All the engine was new, all the generators, all the top part of the wheelhouse was all in aluminium – it was fantastic. Everything had been repainted and all the wiring, all the pipework, because we needed something that we could rely on to work.

**The Chairman:** Did you find on the journey up to the Isle of Man, though, that it did not handle well?

**Mr Spadoni:** Yes. By the time we got to the Lizard, off Newland, we were into a force 8 south-westerly and we experienced loss of power on the gearbox, so that meant that every time that the boat was taking a roll, I was losing the drive on a propeller. I could not do much about it, except... I had to tack the weather and whatever, but at the time it was... We could have run aground. It was terrific, because all of a sudden... You are driving, and next thing nothing would happen, the propeller would stop, and then – boom! – she would come into drive again.

**The Chairman:** Did that give you some concerns that maybe it was not as good as it should be?

**Mr Spadoni:** Absolutely, yes. I was very worried about it. I said, ‘What’s going on?’

**The Chairman:** So you came home then –

**Mr Spadoni:** No, we did not. We stayed in Newland until the –

**The Chairman:** No, but when you came back to the Isle of Man with the boat to get it re-registered –

**Mr Spadoni:** No –

**The Chairman:** Can I just... You came back to the Isle of Man in January 2000 and the MA over here said, ‘We have doubts about the roll test in England.’ They would only give you a certificate for a month while they made further enquiries with the MCA. You had experienced bad weather where it did not handle well. Did that not make you think –

**Mr Spadoni:** No. That it did not handle well is one thing... I was losing power on the gearbox. Not handling well means I was not getting the drive. In other words, it was not doing what it was supposed to be doing.

**The Clerk:** Was it unsafe?

**Mr Spadoni:** Absolutely.

**The Clerk:** So you had experienced it in a force 8 being unsafe?

**Mr Spadoni:** Exactly. We could have lost the boat, and ourselves probably, at the Lizard, but eventually we managed to get into Newland and, as soon as we could, made contact with the German... because the engine was new, the gearbox was new. We got in touch with them and they said... I explained to him what was happening with the gearbox and he said, ‘Well, put more oil into it.’ In other words, the suction pump –

**Mrs Spadoni:** It was the gearbox. The gearbox was the problem.

**Mr Spadoni:** The suction pipe... There was not enough oil to suck the oil when she was low, so put an extra... I do not know what he said... another three or four gallons of oil,

and that cured it.

**The Chairman:** So, can we just get this correct, then: it was unsafe because of the gearbox problem, not because of stability?

**Mr Spadoni:** Of course. No! At the time, stability never even came into our mind because we had just had the blooming –

**Mrs Spadoni:** She had just been tested.

**Mr Spadoni:** We had just been tested.

**The Clerk:** But just one moment: you said it was because of the roll of the boat that, because there was not sufficient oil in the gearbox –

**Mrs Spadoni:** Yes, but we blamed the gearbox.

**Mr Spadoni:** No.

**The Clerk:** In other words, the people who filled the gearbox with oil assumed you would have the right amount of oil for a normal amount of roll.

**Mr Spadoni:** That is right.

**The Clerk:** Did that not put you on notice that there was something wrong with this particular vessel, that it was rolling rather more than people had expected?

**Mr Spadoni:** Ah, you are saying something now. This is what happened: they said, ‘Put more oil into it and this will overcome,’ and that is it.

**Mrs Spadoni:** That is it.

**Mr Spadoni:** That is a new engine. For me, that was a new engine and a new gearbox; that is all I knew.

**The Clerk:** But didn’t that make you think?

**Mr Spadoni:** *After*, it made me think. *Now* I can tell you about it. That was the telltale evidence that the boat was unstable. Now, after all the investigation, and now that we know what we know now, and I did not know then...

**The Chairman:** So can I ask you a question now, then? I am not being critical – we need to get to the bottom of this.

**Mr Spadoni:** Of course.

**The Chairman:** In January 2000, when you came back here and applied for the re-certification, you had had that experience with the boat, the MA over here said they were not happy with the stability and they were not going to give a full certificate, yet – I will say despite this, and I am not being critical – you and your advocates, and even the MCA in England, pressed the Marine Administration here to issue a certificate. In your case, you wanted one for four years for insurance purposes.

What I am saying is you must have had some doubts because the MA over here said, ‘We are not happy with the

stability, with the test,' and you had had your experience at sea, but you still pushed, persisted, because there is evidence of letters etc on the file saying, 'Give us the certificate, we need it now.' That was given to you, probably wrongly as it turns out from the Report. That would have put you and your crew at risk. Did you have any doubts at the time, in January, when first of all the MA here said, 'We don't trust the stability test,' and you had had your experience at sea? The question is, why did you pursue to say 'We need this licence now'?

**Mrs Spadoni:** It is normal, when a vessel goes through a re-certification survey, to be issued with a four-year certificate at the end of it. I did what any vessel owner did, which was... Also, there is a bit of a discrepancy here from the Marine Administration's point of view.

**The Chairman:** They were not –

**Mrs Spadoni:** We did not leave Portsmouth until we had a letter of satisfaction from the MCA, which was given to our insurance company, and we had permission to go fishing from the Isle of Man authorities. We were never at sea without permission.

**The Chairman:** Correct, yes.

**Mrs Spadoni:** We were always at sea with the permission of the Isle of Man authorities. The incident between Portsmouth and the Isle of Man we put down to the gearbox, because obviously when something is new and you are running it in, it is the first thing you look for. You think, 'Oh, it's new; perhaps it's not tuned in right,' or what have you.

**Mr Spadoni:** Can I interrupt? Can you remember now?

**Mrs Spadoni:** Yes.

**Mr Spadoni:** Talking about the gearbox again, eventually when they told me, 'Add more oil into the gearbox so that she'll be sucking properly', I said, 'We are in passage, going back to the Isle of Man.' He said, 'Alright, as soon as we possibly can, we will send you a kit' and they did send it eventually to –

**Mrs Spadoni:** To overcome this.

**Mr Spadoni:** – to Ramsey Shipyard. This is a kit that you put on a gearbox so that she will suck oil on a lower place than what –

**Mrs Spadoni:** You suck from deeper down.

**Mr Spadoni:** Deeper down.

**Mrs Spadoni:** Essentially, what they were –

**Mr Spadoni:** But that was nothing to do with stability. It was the problem with the gearbox. Yes, we were afraid for our lives. Yes, we were. We nearly lost the boat then, because it had never happened to me before that a gearbox would do that. I had had a boat but it had never happened before, so I did not know what was happening.

**The Clerk:** So this was, in your experience, unique.

**Mr Spadoni:** Yes.

**The Clerk:** But you did not have a new gearbox, you just put in more oil and you –

**Mrs Spadoni:** No, the gearbox was brand new.

**Mr Spadoni:** The gearbox was brand new.

**The Clerk:** Exactly, yes, so there was nothing wrong with the –

**Mr Spadoni:** They said to us, 'Put an extra three gallons,' or whatever it was, 'on top of it.' In other words, bring the level of the oil on the dipstick up higher.

**The Clerk:** Higher than the dip stick would normally be?

**Mr Spadoni:** In other words, he said measure up –

**The Clerk:** So higher than the manufacturer had designed it to be?

**Mr Spadoni:** Yes, but remember that was during the... I was obeying orders from the manufacturer. It was the manufacturer that was telling me this.

**The Clerk:** But the manufacturers had a mark, like a dipstick in a car engine –

**Mr Spadoni:** Yes, that's right.

**The Clerk:** – and they said, 'Well, go past the maximum

–

**Mr Spadoni:** That's right.

**The Clerk:** – because obviously you need that for your boat,' but you didn't think –

**Mr Spadoni:** He said, 'until we can do the alteration when you get back.'

**The Chairman:** Conversion to –

**Mrs Spadoni:** Yes.

**Mr Spadoni:** To the conversion. But, funnily enough, later on in time – and this is what I am saying – *now* I can tell you that that was the evidence that there was something very wrong in this, because we had same... Ranger Gearbox – a German firm, a very big firm – they said to us, 'This has never happened to us... Well, yes, it only happened once before and it was on the Barents Sea,' or wherever it was, 'to another vessel, because' – and this is the wording – he said, 'our gearboxes are tested,' if the wording is right, 'on Lloyds specification, in which the roll goes from' –

**Mrs Spadoni:** From here to there.

**Mr Spadoni:** I do not know, from 30 to thirty... or

something like that, so many degrees. 'So our gearboxes are okay within that.' That did not seem as much to me, because at that time we were not thinking about stability.

**The Clerk:** They said that to you when you were in the Lizard?

**Mr Spadoni:** No, they told us when we were back in the Isle of Man, eventually when we got the new kit.

**Mrs Spadoni:** Yes, we were back in the Isle of Man. It was not until the kit came. By the time the kit came the boat was already tied up, anyway.

**Mr Spadoni:** So they actually said that if your boat rolls more than this parameter –

**Mrs Spadoni:** The pieces of the jigsaw fell into place at that point, but the boat was already tied up, anyway.

**Mr Spadoni:** Yes, and all of a sudden we said, 'Bloody hell, this is insane!'

**The Chairman:** So can I just ask then, going back to this, in January 2000, when you had had that experience... I will ask the question again. The Marine Administration here had said they were not happy with the roll test and were not going to give you a long certificate. What doubts did that give you, then, about your boat?

**Mrs Spadoni:** The first thing is that a lot has been made of this – far too much, from our side of the table, and I will tell you why. There has been a lot of talk from the Marine Administration that they asked for something called a full inclining test, full stability.

In 2009, nine years on, they have failed to produce any documentary evidence whatsoever to support that they ever asked for that. I am not questioning that they did. If it took place at all, it possibly took place in a telephone call. To carry out a full inclining, the owners of the vessel need to be informed, because the owners need to pay for it, because you need to employ a private firm of consultants and the surveying agency, the regulator – in this case it would be the MCA on behalf of the Marine Administration – would witness the test. Then, after that, the Marine Administration or the MCA surveyor's test results would go, together with the consultant's test results, and they will go to Cardiff. They become verified, along with the drawings and the stability booklet of the boat, and a new stability booklet is produced. That is how it works.

**The Chairman:** So, on the evidence of the Council of Ministers' Report, as you say, there is no proper documentary evidence –

**Mrs Spadoni:** No, there is not. There is not any.

**The Chairman:** But there was probably a telephone call, saying, 'Will you do it?'

**Mrs Spadoni:** Possibly, but there is not any record of it.

**The Chairman:** It did not happen, by the –

**Mrs Spadoni:** It did not happen, so –

**The Chairman:** But you would have known that. If it had happened, you would have known because you would have been contacted.

**Mrs Spadoni:** We should have been contacted. The Marine Administration – had they been, let's say, running a tighter ship – should have written to us and said, 'Dear Mr and Mrs Spadoni,' and it should have been copied to the MCA surveyor, or vice versa.

**The Chairman:** But if there had been a full stability test in the shipyard, Mr Lucas would have been in touch with you, anyway, wouldn't he, because you were there?

**Mrs Spadoni:** Yes, absolutely.

**The Chairman:** So you knew there had not been a full stability test.

**Mrs Spadoni:** It was the first we had ever heard there was ever a request for it.  
However –

**The Chairman:** So your view at the time, in January, was that there had not been one.

**Mrs Spadoni:** To me, this claim, and all the associated discussions around it, are completely irrelevant because Paul Lucas carried out a roll test on behalf of the Isle of Man authorities. In the vast array of documentary evidence that you, as the Committee, and the former Committee, had on this, they will see, from the tests conducted in the Isle of Man – a roll test in April 2000, an inclining test in May 2000, a roll test in January 2004 and inclining test in 2004 – they all come out with the same result.

A roll test, when conducted *strictly* – and I use the word, I put the emphasis on *strictly* – in accordance with the 1975 statutory requirements for stability, are a very accurate indicator of a vessel's stability. Had Mr Lucas's roll test that he conducted on behalf of the Isle of Man authorities been conducted strictly in accordance with the regulations, the vessel would have failed, and then he would have had no choice but to put that vessel through full inclining. What the Committee needs to ask itself is why did Mr Lucas's test not show the correct result?

**The Chairman:** Lord Bishop.

**The Lord Bishop:** I think the Committee is going to ask that question, no doubt, but –

**Mrs Spadoni:** Yes, but do you understand what I am saying?

**The Lord Bishop:** Oh, yes, easily. You sailed the vessel back from Portsmouth. You, by this stage, must have begun to ask yourself the question: how could the roll test that was performed in Portsmouth match our experience of this boat?

**Mr Spadoni:** No, you are not listening. I said that the experience that we had with that boat was the gearbox and

was nothing to do with stability. Nothing to do with –

**Mrs Spadoni:** The weather was very bad.

**The Lord Bishop:** But you have made one or two comments about the fact that you... as far as I have heard it, not to do with the gearbox. I think there may be a reference to the gearbox, but I understood and heard what you said about the gearbox.

What I am hearing is that by this stage you are taking on trust what you have seen in the test, or what you have heard from the test, but your actual experience of the boat is you are beginning to ask questions.

**Mr Spadoni:** Maybe, yes.

**Mrs Spadoni:** Can I interrupt, and can I ask you something here? We did not get the test results of the roll test conducted by Paul Lucas until the end of January 2000.

**The Lord Bishop:** No, but you did know that the test had been performed.

**Mrs Spadoni:** No. We knew it had been performed but we were not given any information about it at all.

**The Lord Bishop:** You would not have been allowed to take it out unless that test had been, at least according to his lights, satisfactory. You would not have been allowed to take it away.

**Mrs Spadoni:** Exactly, but we did not actually, at the time my husband was bringing the boat back from Portsmouth... it was in November. That was in November 1999.

**The Lord Bishop:** You believed that, on paper, this boat was satisfactory.

**Mrs Spadoni:** Absolutely. She had just gone through her test.

**The Lord Bishop:** As you took the boat back... I am only saying what anybody could experience. This is not an accusation; this is just simply your own experience on the way back. You began to think, 'Is there something wrong with this boat.' Is that accurate?

**Mrs Spadoni:** No, it was the gearbox! We thought it was something wrong with the gearbox.

**The Lord Bishop:** Is it accurate to say –

**Mr Spadoni:** It was the gearbox. If there is any other feeling in the back of your mind, maybe, then you could say, 'I've got to get used to the new boat. It's only a boat, I've got to get used to her. Time will tell, because they have just done the stability testing. I've got permission to sail – that means that the boat is okay, and I've got to get used to her.'

**The Lord Bishop:** It is like any piece of machinery: you get a piece of paper that says 'This is okay', and if you –

**Mr Spadoni:** Yes. You do believe it. You have got to believe it.

**The Lord Bishop:** You believe it, I agree. Of course you believe it, but then sometimes you are inclined also to say, 'Despite that piece of paper...' I had my car serviced and I asked them to check something on it, and after it was checked, about two weeks later, I said to my wife, 'I don't think they did that check properly,' and so I investigated a bit further and eventually asked a friend of mine who was an engineer just to look at it, and he said, 'I don't think they checked this, after all'.

You know, sometimes you get a piece of paper and then you suspect something afterwards.

**Mr Spadoni:** Absolutely.

**The Lord Bishop:** You did not actually seriously suspect that that was not accurate?

**Mr Spadoni:** Not seriously, because if I had any doubt that indeed there was something wrong on the stability of the boat... since me and my son are sailing, I would think 'Hang on a minute...'

**The Lord Bishop:** Fine, I am satisfied. That is the question I am asking.

**Mr Spadoni:** Yes, because –

**The Chairman:** My follow-up, then, Mr Spadoni, is in January 2000 you, in fact, had two pieces of paper, as the Bishop refers to them. You had the MCA saying, 'Yes, fine to sail,' and you were allowed to sail and did so, but then you had the local administration saying, 'We don't accept the roll test as being suitable in the Isle of Man. We don't think it is right and we are considering giving you a short licence while we sort this out.' So you had two views, then. You had one saying that it is not right and one saying it is right.

**Mr Spadoni:** Absolutely.

**The Chairman:** When you got that other information, did that then make you think 'Maybe the Manx people are right here and the stability is not all it should be and that is why we had this problem'?

**Mrs Spadoni:** Let me speak, please, because we are digressing into an area, really, which I feel is avoiding the fundamental proof of our –

**Mr Spadoni:** It is a smokescreen, this, that we are throwing up in the air.

**Mrs Spadoni:** Yes, which has been –

**The Chairman:** Can I just interrupt? We are starting at the very beginning here. We are trying to find out the full story.

**Mrs Spadoni:** I appreciate that, yes, and I apologise.

The fact of the matter is that we have been in fishing a very long time and there are issues which we intend actually now to be actively pursuing, which is some of the content of the memorandum, particularly in respect of our previous vessel. I wrote to the former Committee in January last year, because we went through all this with the previous Committee. I told

Mrs Christian and I wrote and I said the fact of the matter is that we have lived in the Isle of Man and all our boats have been registered here. The Marine Administration come down to do the survey. They come down singlehanded, one surveyor. He comes down, he conducts the roll test, he goes away and he does not tell you anything. He does not say to you... He has nobody to witness the test, so he has got nobody to witness his measurements, the timing or any aspect of the test. He goes away and the next thing you know, you get your certificate through the post. So you assume that the boat fulfils the criteria under the regulations.

**Mr Spadoni:** Because if it did not, you will be expecting them to say you are not going to get the certificate because

**Mrs Spadoni:** Because there is a problem.

**Mr Spadoni:** There is a problem.

**Mrs Spadoni:** There is a problem. So our former vessel, which is mentioned in document 437, the *Catherine A*, was always, always, always surveyed in this way. There are other vessels mentioned in that memorandum. They similarly have all been surveyed in the same way. Some of them have been engined, re-engined many times, re-winch; they have had conveyors put on; they have had queenie machines put on. They have never had full inclining, never. They have continued to be measured by the roll test. So we had possibly a very naïve trust in the authorities.

Paul Lucas was a fine young man. He was very polite, he seemed very diligent. He was a fully qualified naval architect, which many of these departments do not have. They are people who have worked previously on vessels. So stability was his bag. That was his area of expertise. He carried out the test. As you have mentioned, the correspondence, the pressure from the MCA... I said to myself, when this dispute that was going on... because we found ourselves the ball in the tennis match between the MCA and the Marine Administration. This came out of the blue.

My husband has been a fisherman for years and my son, and I can promise you the content of document 437 has made us feel physically sick because our previous vessel, according to that memorandum, was almost certainly a stability failure, yet it was kept on the register in the Isle of Man for all of those years. We were never notified that full stability would be highly desirable. Peter Chreseson says in the memorandum that if we had to insist on full stability on these vessels it is likely they would all experience problems, yet it still did not prompt the Department to see to it that the vessels were tested.

So the first time I ever saw a stability test result on the *Catherine A*, even though I personally was the owner of that vessel for in excess of 20 years, was in that memorandum in October/November last year. That is the first stability test result I have ever clapped eyes on, and I was the owner of the vessel with responsibility for my family sailing in it. So we had a naïve, possibly, trust in the Marine Administration.

We always had a good working relationship with them. When they came down, they said 'Jump', we said 'How high?' and that is how it was. So when the issue over... Because the issue was not over stability initially with the Department, the issue was over the type of test... So I said, 'Well, we haven't been told,' and, of course, the insurance

company wanted to know where the certificate was, so John Wade told me. He said, 'I'm sorry, we have not been supplied with the information by the MCA.' They had apparently been asking for months for the file and it had not arrived, and so I had... Yes, I rang them two or three times, but we had a very agreeable conversation – 'Oh, I haven't got the paperwork, Joan,' and so on – and we waited.

The issue leading to us taking legal advice over this matter was not anything to do with the difference between the two tests... one which they have insisted all along, they asked for a full inclining. The issue was over the claim by the Department that they said they do not permit the use of the 10 mm margin of error in the Isle of Man.

**The Chairman:** Can I just hold on that. Mr Alford, are you okay? Clive, are you okay?

**The Hansard Editor:** Sorry, the tape machine did stop, but it is going again now.

**The Chairman:** Okay, thanks.

**Mrs Spadoni:** So –

**The Clerk:** Could I just ask you –

**Mrs Spadoni:** Yes, tell me.

**The Clerk:** When did you first go to your advocates to take legal advice?

**Mrs Spadoni:** It was after... because, first of all, they flagged up that the dispute was between the type of test they had asked for.

**The Clerk:** Was that in January?

**Mrs Spadoni:** Yes, that was at the very end of January.

**The Clerk:** 31st January.

**Mrs Spadoni:** Yes, it was at the very end of January, and I think John Wade faxed me a copy of the test result.

**The Clerk:** Right. So when did you go to your advocate?

**Mrs Spadoni:** It was after... The first thing I did was then consult the MCA because, of course, although they were not our regulator, they were actually the people who the surveyor had been working on behalf of this authority, and they said to us... I had a number of conversations, and there are also letters from Mr Alan Fairney of the – he was one of the chiefs down there in Southampton... He said, 'We have pulled the vessel file from the archives. Our surveyors have examined it. There is nothing wrong with this boat. We would get a –'

**The Clerk:** But when did you go to your lawyer?

**Mrs Spadoni:** We went to the lawyer... So he said to me, about... I said, 'Well, the issue now is not the test; the issue now is the 10 mm margin.' Because, first of all, they said it was the stability test, then they said that, basically, without

the 10 mm the boat was a failure.

**The Clerk:** But when did you go to the lawyer?

**Mrs Spadoni:** I went after... I requested John Wade of the Marine Administration twice for a copy of the regulations pertaining to the 10 mm margin.

**The Clerk:** But when did you go to your lawyers?

**Mrs Spadoni:** I think it was February, some time in February.

**The Clerk:** So a fortnight afterwards, more or less.

**Mrs Spadoni:** Well, no, it was a bit longer than that. I think it was probably the end of February.

**The Clerk:** Did they write, then, on your behalf to the Marine Administration?

**Mrs Spadoni:** We went just for advice, because we were stuck between a rock and a hard place.

**The Clerk:** Absolutely. I am not criticising.

**Mrs Spadoni:** Sorry. It is nine years, you know.

**The Clerk:** It is alright, I know, yes. And then they wrote on your behalf to the Marine Administration.

**Mrs Spadoni:** Yes. Basically, what we offered to do is... I actually offered to do it. On the phone to John Wade, I said, 'Look, the problem we have is the insurance company. The insurance company want to see sight of the full certificate.' Given that we had already had a certificate and by this time we had actually already been given a certificate until 2001, I said, 'What about giving us a four-year certificate with the provision in it, the condition, that we will put the boat, not through another roll test, but we will put it through full inclining at the next docking,' which is the halfway point between the surveys. 'Oh, yes, we could do that.'

But then they started flagging up the 10 mm again, so I said to him, 'Well, fair enough, John. If you don't allow the 10 mm margin, then essentially the boat was a failure, according to the roll test in Portsmouth. Then why did you give the boat a certificate?' Because, in actual fact, if you read the Marine Administration's letter to us, when they issued the certificate in 2001, they actually refer to the fact they had now had time to review all the information on this vessel and are now prepared to issue a certificate. So I took that to mean that the Department had looked at all the paperwork they had, they were satisfied sufficiently enough to give us a certificate, because had they been as dissatisfied as they have since tried to lead everybody to believe, then they would not have given us the certificate. They say, 'We have now had a chance to review the information.'

**Mr Spadoni:** It is in the papers.

**Mrs Spadoni:** It is in one of their letters. So because he was going on about the 10 mm, I rang the MCA. The MCA said that the 10 mm is part of the regulations. Because I have this question to ask: if the 10 mm is not part of the regulations,

then why did Paul Lucas add it to the roll test on a Manx vessel where this does not apply?

**The Chairman:** Can I intervene a bit?

I think in the Report... One of the recommendations of this last Report was that the English MCA and the Manx MA should liaise over these things to make sure they are working to the correct regulations. That is one of the positive outcomes of the Report.

**Mrs Spadoni:** Absolutely.

**Mr Spadoni:** Absolutely.

**Mrs Spadoni:** Yes.

**The Chairman:** Can I ask you two questions, really: one about the Report itself and what you think of it; but secondly, you are here for the Committee today –

**Mrs Spadoni:** Of course, yes.

**The Chairman:** – the Select Committee set up. What are you hoping to achieve? What would you like the outcomes to be, and which issues do you still see that need to be sorted out?

**Mrs Spadoni:** I believe you were in the Court when we put forward this motion for the Select Committee.

**The Chairman:** Yes.

**Mrs Spadoni:** We heard Mr Downie stand up... we heard Mr Downie turn round and say, 'I don't know what Mr and Mrs Spadoni did or didn't do with their boat. They did a refit. I don't know what effect that did or didn't have on the stability.' What more proof do you want? You, presumably – both you gentlemen – have read the Report prior to today, so, as somebody who is once-removed from the intimacy of this particular matter, can I ask you what is your understanding of why this vessel failed to fulfil the stability requirements under the statute?

**The Chairman:** You can ask me, but I cannot answer that at the moment because we are at the very beginning of the inquiry.

**Mrs Spadoni:** No, I am asking you from the Report.

**The Chairman:** Yes.

**Mrs Spadoni:** I am not asking you for...

**The Chairman:** No, I –

**Mrs Spadoni:** I am asking you from the Report!

**The Clerk:** With all due respect, actually you are the witness, not us.

**The Chairman:** Yes.

**Mrs Spadoni:** No, I am asking because Mr Butt has asked us what we want to see the outcome of this particular Committee.

**The Chairman:** Can I go back to the second part of the question, please?

**Mrs Spadoni:** So my question was actually to prove the point why we went back to Tynwald for this motion.

**The Clerk:** Which is?

**Mrs Spadoni:** Which is if Mr Butt does not know, from having read the last Committee's Report, why the vessel failed to fulfil the statutory requirements under the 1975 rules, that is why we are here, because it has not come out.

**The Lord Bishop:** Can I ask you a question? Do you agree with every word of this Report?

**Mrs Spadoni:** I think –

**The Lord Bishop:** Yes or no?

**Mrs Spadoni:** Not with every word, no.

**The Lord Bishop:** So in other words, if we based our judgement, as you are asking us to make a judgement, based on this Report, and you do not agree with every word of it, it would be a wrong judgement, in your view.

**Mrs Spadoni:** I think that –

**The Lord Bishop:** Yes or no?

**Mrs Spadoni:** Yes, it would be –

**The Lord Bishop:** Okay, so then you –

**Mrs Spadoni:** It would be... I feel where the Committee has let us down – because after all, this is about us, this is about our investigation –

**The Lord Bishop:** Can you let me just finish?

**Mrs Spadoni:** Yes, sure.

**The Lord Bishop:** The reason that we cannot answer your question as to what you are hoping to get out of it simply by reading this Report, is that this is somebody else's Report, not our Report –

**Mrs Spadoni:** Of course.

**The Lord Bishop:** – so we must... The whole point of having a Select Committee is that we should make our own mind up. You cannot simply just take somebody else's Report and say, 'We will make our mind up.' It is in your interests that we should make our own minds up, and not just simply read this and come to a conclusion. That is why we are asking you now.

**Mrs Spadoni:** The point I was making is that the former Committee members, including the Chief Minister and several Members of Tynwald, were very much against the motion for a Select Committee in this matter, because they felt that they had done a good enough job with this particular investigation and Report, and my question to you was quite

a frank question.

This Report has been published since October. This Report... the idea of this investigation was, in actual fact, to put the truth out there. It should have been to establish the reasons why the vessel failed the stability, and it does not do that, and therefore all the allegations that have been made to us in your Hon. Court of Tynwald still stand on the *Hansard*, they are still circulating in the public arena in the Isle of Man and nobody has actually said why this vessel failed to fulfil the statutory stability requirements under the 1975 rules.

**The Chairman:** So the outcome you require, then, is similar to what Mr Rimington said in his evidence, that there had not been an inquiry by the Manx Administration as to why the vessel failed the stability test.

**Mrs Spadoni:** Yes, and I would like to say that Mrs Christian made reference in Tynwald two weeks ago about various Members – some of them are dead, some of them are not around now, it has been a long time and there are various documents missing – well, I think it is quite beyond the pale to actually discover that our vessel, from January 2000... that the Department started to have, let us say, concerns about the type of test, and so on and so forth. We went for legal advice. We were seeking clarity, because the Department refused to give us any documentation on the 10mm. Nobody knew. One said, 'Yes, you do it'; the other, 'Don't,' and so on and so forth.

So from the off, and also because it involved a third-party agency, the MCA, I would have thought that the filing at least in the office would have been, certainly in regard to this particular vessel, very diligently monitored, and to our horror, when we went to visit the file of documental evidence... which, by the way, we had to fight tooth and nail to even see at all, even though there is a thing in there that says you can go and see it –

**Mr Spadoni:** You can go and see it.

**Mrs Spadoni:** - it took us two weeks and permission from the Chief Minister and intervention from our MHK, Mr Gawne, to be able to get up there to see it at all.

What is missing from the file? A copy of the vessel's original Dutch stability booklet, which we gave the Department, which we did not have. It did not come with the vessel. A copy of the vessel's technical drawings, which we obtained from Holland. You have to understand that the Department had to have these documents in all eventuality, particularly when there were various proposals being put forward to try and remedy this issue of the vessel in order to be able to get her back to sea, and they needed to liaise with Marine Data, Chris Baker of Ramsey, in order for any proposals that he put forward, so that their own naval architects could go over them and say, 'Well, this will work; no, this doesn't work. We can't accept this because this doesn't fit in with the regulations.' These technical drawings and this information was absolutely critical to that. They are not on the Marine Administration's file.

The two other documents make it absolutely clear as this water in this glass, that the vessel's stability issue dates back to the time of its construction. When it was built in Holland, whatever regulations it needed to satisfy at that time are not of any concern to either us, yourselves or anyone else, because it was registered in Holland. In 1980 it came onto

the UK register and therefore it had to satisfy the rules, the same rules that apply today, the 1975 rules. The original stability booklet shows that this vessel failed to achieve this minimum criteria by a massive margin. We are talking 35-40 per cent. It is like me trying to put two glasses of this water into that glass.

**The Chairman:** Just for clarity, where is the evidence of these statements? Which file is that in? Which documents?

**Mrs Spadoni:** I have got them here. I will leave them with you. This is the documentation here. This is the report on the MCA file. This is it. It says here –

**The Clerk:** Are they numbered documents, Mrs Spadoni?

**Mrs Spadoni:** Yes, I have numbered them for you.

**The Clerk:** Are they the same numbers that are on the

–

**Mrs Spadoni:** No, they are not; they are different. I am sorry.

**The Chairman:** Are they in this file?

**Mr Spadoni:** No, they are not there.

**The Chairman:** I thought not, no.

**Mr Spadoni:** They have been removed.

**Mrs Spadoni:** The original stability book is not there.

**Mr Spadoni:** It is a cover-up.

**Mrs Spadoni:** It is. It says here:

*'I have had a chance to analyse the attached stability sheets concerning the Suzanna D.'*

This was written on 6th July 2000.

**The Chairman:** By whom?

**Mrs Spadoni:** By Chris Baker of Marine Data.

*'Presumably, in her original condition, we have computer modelled the hull, and using the weights indicated on the sheets, we have reproduced the original conditions on our computer system. The values obtained when running the stability calculation show that conditions 1 and 3 both meet the standard...'*

not beam-trawling – standard –

*'... fishing-vessel criteria. Conditions 2 and 4 fail to meet the standard criteria between the area of 30° and 40°. Also note that in all of the conditions there appears to be no allowance for catch on deck, no increase in kilogramme due to free-service effect, slack tanks, when the twin-boom vessel criteria is used. None of the attached conditions meet the required criteria.'*

**The Lord Bishop:** This is to help us in order to clarify where we take the next bit of the work.

**Mrs Spadoni:** Yes.

**The Lord Bishop:** It seems to me that the fundamental question, to repeat it, is why did the vessel fail the stability test. That is your real question at the very heart of it: why did it fail the stability test? And there can really only be two answers: one is the vessel was unstable; the second was that the test was faulty. So one or other. If it is the first one, then your contention is the boat was constructed in a way that would never have made it stable; it was never stable.

**Mrs Spadoni:** It was –

**The Lord Bishop:** Or the contention that others might have is that it was adapted in such a way that it became unstable. I am not saying... that is just... All I am putting is a possibility.

**Mrs Spadoni:** Yes.

**The Lord Bishop:** So we are left, really, with three options, aren't we? The boat was unstable or the test was faulty. If the boat was unstable, then it is either constructed so or adapted so.

**Mrs Spadoni:** Right.

**The Lord Bishop:** Okay. So that makes the situation in my mind a great deal clearer, and I must say I thank you very much, particularly in the last few months, as you have clarified a lot.

**Mrs Spadoni:** What you need to look at is this: to encapsulate the stability of this vessel, you need to look at the times that the vessel went through full stability. When she was built, at the end of it, the vessel went through full stability.

**The Clerk:** Was she built as a beam trawler?

**Mrs Spadoni:** Yes.

**The Lord Bishop:** In 1975, wasn't it?

**Mrs Spadoni:** In 1966. So that produced a stability booklet. The stability booklet is something that actually gives you a starting point. You say at this particular time this was the condition of the vessel. This identifies the vessel in a certain condition.

The fact that this vessel was built in Holland, of Dutch design, for the Dutch register, undoubtedly for a Dutch fisherman, is by the by. It is what happened after that. The vessel came to the United Kingdom in 1980. The vessel, in her original design, on examination of that stability booklet... clearly shows that the vessel fails to achieve the minimum criteria – we are talking starting at zero here – for a beam trawler when she was built.

By the way, the computer model that Chris Baker did on the boat, based on the original paperwork, the boat is unchanged. The boat is 99 per cent the same boat. There have been no structural changes to the hull or the shape of it or anything else. So at that point, if you apply the UK statutory stability criteria to this vessel's original stability booklet, it fails to satisfy the regulations as a beam trawler.

**The Chairman:** As Mr Baker says.

**Mrs Spadoni:** As Mr Baker says. In addition to that, the vessel fails as a standard trawler, so the deficiency is massive. If you then fastforward to 2000, Mr Baker carried out the roll test in Port St Mary... I am getting to the point of the difference between the two tests – one saying that full stability... Yes, full stability is very accurate, in terms of assessing the actual stability of the vessel. The problem with the roll test - it is not the test – it is the person conducting the test, because it can be manipulated according to whoever wants it to be manipulated, in whatever way.

Chris Baker demonstrated, by conducting a proper roll test, strictly in accordance with the rules, in Port St Mary in 2000, followed up by an inclining in Ramsey, that the difference between those two tests was so negligible that it was insignificant. That is how accurate a roll test can be.

**The Chairman:** Can I interrupt? I am sorry, we have got only a few minutes left.

**Mrs Spadoni:** Yes, of course.

**The Chairman:** Can I ask a couple of questions before we finish? Have you any legal, ongoing issues with MCA at the moment, or is that all finished?

**Mrs Spadoni:** No.

**The Chairman:** Is MCA and you finished now?

**Mrs Spadoni:** We are here –

**The Chairman:** No –

**Mrs Spadoni:** Yes, it is finished.

**The Chairman:** That is finished. Have you any other legal actions taking place against anybody, as well?

**Mrs Spadoni:** No. We are here because of the conduct of the Marine Administration, whose persistent lies, allegations and cover-up of the truth of this boat developed the dispute. When this happened... All of this... We should not be here today, we should not have needed the last Committee, we should not have needed any of this. We never... My own sons shook the hands of the officers of the Marine Administration and thanked them for stopping the boat, and this was long after... This was when already the situation had become acrimonious between us.

We never have, despite all the terrible things that they have done to us... Despite the fact they have totally ruined our lives by their actions and their conduct and their lies, we never did, and we still do not, blame the Marine Administration for the historical testing of this vessel. We are here because at the time the Marine Administration discovered... which they did, and document 437 makes it absolutely clear... when Peter Chreseson says the vessel at no time satisfied the 1975 rules, this is based on the information that the Department had.

All the documents that are missing... Are all the documents... I complained to the Chief Secretary's Office. I said, 'Where are they?' I asked the Committee where they are, and she wanted to know the relevance of them. I said the relevance is that, of all the vast amount of documentation you have, *these* are the very documents that tell the truth about the boat.

These are the documents, and the consistency in the documents is that the roll test in Port St Mary and the inclining test in Ramsey in 2000, the roll test in Douglas in 2004 and the inclining test in Douglas in 2004... When you take those three proper testings of the vessel... On those three occasions when the vessel was inclined, the vessel, on each and every one of those occasions, failed as a beam trawler and a trawler. This is the consistency of the situation.

The fact of the matter is that we are here because what we expected the Marine Administration to do was to investigate the matter. They had all the evidence before them to write a report, to have passed that report to the Attorney General so that he could have contacted... There is a wider public issue here. This is about people's lives. The Marine Administration sent this boat to sea for 19 years when it should never even have been on the United Kingdom register, because the vessel failed to satisfy the rules. That they did so knowingly, that they gave the vessel certificates, that men were sailing in it, is a *crime!* It is not a misdemeanour; it is a crime!

**Mr Spadoni:** It is a crime, and that is why –

**Mrs Spadoni:** So what we wanted them to do was to state... We did not want to go to... Well, we could not go to court, for a variety of reasons: one, financially speaking; the other one was because of the *Reeman* case. There is an Ombudsman's ruling, and the MCA were obliged to enter into discussions with us by way of trying to resolve whatever the dispute was deemed to be. We waited...

Do you know something? We spent half-a-million pounds on that boat, half-a-million pounds of our money. There was no Government money in it. We had a mortgage from the bank, we had a mortgage on the house, and at a stroke of a pen we were put out of business. We had absolutely no income and no source of an income. We had a substantial mortgage with Barclays on our house, one on the boat. We never heard officially from the MCA for 10 long months. Ten months we waited. We waited 10 months.

We went to Mr Gelling because... Why? The minute that the boat failed, we did not say, 'Right, that's it. Let's jump in the car and let's go and take an issue with the Marine Administration. Let's threaten all sorts of things.' We did not. What did we do? We spent several months and many, many thousands of pounds, which we had to borrow, to have the vessel assessed by Chris Baker.

First of all, we looked at the stability; secondly, we looked at what could be done to try and rectify it. It was trying to go up Mount Everest in your stocking-feet, covered in Vaseline, or something like that. It was a mammoth task, and we did all of that before we actually went. We did not go to see Mr Gelling until July 2000, and we went because I had written to the MCA and we had had no response, except for a release of the file, which I asked for. We had no contact with them at all, and here we were...

If it was not for Brian Walton at Barclays Bank, we would have been dead in the water. If this had happened to us today, we would be out of our house before the end of the week, and that is a fact. We have funded all of the... Have you any idea what nearly a five-year battle against the MCA cost us financially? The cost of it –

**The Chairman:** Can I draw it to a close now. We do need to close. We may need to call you back again at some time in the future. We are a new Committee, separate to this

previous Committee. We are looking for new evidence, if we can find it extra.

Document 437 is obviously an important factor. If I can draw it to a conclusion in a moment... If you can at any stage submit to us anything else in writing or anything new, any new evidence, we would be grateful for it. Before I close, I will just ask the Clerk, have you anything further?

**The Clerk:** No, thank you.

**The Chairman:** Bishop?

**The Lord Bishop:** Just one question to both of you, and that is that, quite crucially, to quote our brief, in looking at the conduct of the Marine Administration in investigating the causes for major stability failure, one of the things that we need for evidence, very clearly, is some backing to the notion that the boat, right from the outset, was one which was always going to be unstable.

**Mrs Spadoni:** The Committee have it.

**Mr Spadoni:** The Committee has it.

**Mrs Spadoni:** The Committee have got it.

**The Lord Bishop:** Quite clearly, there are contradictory views on that. Very clearly –

**Mr Spadoni:** Donald Gelling has read it, as well.

**The Lord Bishop:** – any additional evidence you may have to that end is going to be crucial.

**Mrs Spadoni:** The only documents that tell the truth on this boat are a copy of the original Dutch stability booklet –

**The Lord Bishop:** Yes.

**Mrs Spadoni:** - a copy of the technical drawings –

**The Lord Bishop:** Yes.

**Mrs Spadoni:** Marine Data's letter to Marine... It is here. It is here. The previous Committee have got all of this. They have got all of this. This is the memorandum. He goes on here –

**The Clerk:** Which memorandum? Mr Baker's?

**The Lord Bishop:** What document?

**Mrs Spadoni:** This is 437:

'We should not forget the historical data. The MFV *Suzanna D* has consistently failed roll tests and should have been assessed fully by the MCA.'

**The Lord Bishop:** We shall look at 437.

**Mrs Spadoni:** This was written by Peter Chreseson, a fully qualified naval architect. He was one of the surveying officers on the vessel when she was in the Isle of Man. The fact of the matter is the allegations made against us in

Tynwald were made deliberately and they were deliberately made to discredit us – to discredit us as people, to discredit us as fishing-boat owners. The allegations about the concrete blocks, which Mr Downie made in Tynwald –

**Mr Spadoni:** Ready-mix concrete blocks. You could build a village with it!

**Mrs Spadoni:** And he says here that:

'The Marine Administration was well aware of the two small amounts of concrete blocks in the fish room. They were clearly there when the boat was tested in the Isle of Man and were estimated to be sufficient to be a substitute for ice. Accordingly, no other weights were added as an ice substitute for the test. The concrete blocks, therefore, simply recreated the Portsmouth test.'

**The Lord Bishop:** Yes, we have been through that.

**Mr Spadoni:** He's a liar! He's a very dangerous man.

**Mrs Spadoni:** Pardon me for saying so, but Mr Downie wrote that on 11th February 2004. Why, then, did Mr Downie go to Tynwald and tell Tynwald that it was the concrete blocks that had caused the problem, when there was absolutely no truth in it whatsoever? And, by the way, all the allegations that the Department has made against us throughout this entire period of time –

**Mr Spadoni:** Absolutely.

**Mrs Spadoni:** – have never ever been supported by one scrap of... There is one issue before we go, Mr Butt. If you would not mind, please, I would like to mention this.

**The Chairman:** Just one more thing, then.

**Mrs Spadoni:** Yes.

**Mr Spadoni:** I know, but we have been nine years.

**The Chairman:** Yes. We can always call you back again, so...

**Mr Spadoni:** The sooner the better.

**Mrs Spadoni:** Mr Downie... One of the things I was entirely dissatisfied with was the apologies in Tynwald, because in my opinion they make a mockery of your Hon. Court, because Mr Cretney said:

'I assume that the evidence was given in good faith.'

Well, Mr Cretney did not need to assume anything. He did not need to assume anything. He obviously did not read the Committee's Report, because the Committee said that the allegations made in Tynwald are not supported by the documentary evidence.

But the one issue of the allegations in Tynwald that has never been mentioned in that Report is this... This is the quote from the *Hansard*:

'When Mr and Mrs Spadoni -'

– this was Mr Downie speaking –

'bought the vessel, she had a current certificate issued in the UK in

February 1997 and valid until 2001. The roll test for the issue of the certificate was completed in September 1996. The vessel passed the test. The test was not well conducted and the calculation showed errors, but the test was a pass. The vessel, therefore, met the UK standards for stability in 1996.

In 1998, the then owner of *Suzanna D* installed a new winch. He engaged the same consultant who had completed the 1996 roll test to check and make sure that the new winch was not causing any stability problems. The consultant miscalculated the test; in fact, the new winch did cause a problem and the vessel should have failed the test.

The test was undertaken at the owner's request, as part of his duty at law to advise the authorities of any changes and maintain his boat in a safe condition.'

**The Chairman:** Which document is this?

**Mrs Spadoni:** This is a quote from the *Hansard* of the Tynwald sitting of 19th November 2003, when Mr Downie made the allegations of the concrete blocks, but this is an allegation that the former Committee have not addressed.

'The test was undertaken at the owner's request as part of his duty at law to advise the authorities of any changes and maintain his boat in a safe condition. He sent the results to the MCA – that is the Maritime and Coastguard Agency in the UK – who noted the change and the successful roll test. The MCA did not supervise the test. They did not conduct the test. If they erred, it was in accepting the result from the consultant without reworking the calculations. The owner subsequently removed the winch and restored the vessel to the condition she was in 1996, so the effects of the 1998 error by the consultants were cancelled out. Hon. Members, I apologise for taking the time to look at this history in detail, but I feel that it is important to fully understanding points that the Hon. Member, Mr Rimington, makes. When Mr and Mrs Spadoni bought the *Suzanna D*, she had a valid safety certificate issued by the Maritime and Coastguard Agency, which was the agency of the UK Government responsible for issuing such certificates.'

My comments, if you would not mind... The above statement made by Mr Downie in the Hon. Court of Tynwald is a complete fabrication of lies. There is not a shred of documentary evidence in the MCA file that the winch he speaks of was ever removed from the vessel. The vessel never, at any time from the vessel's registry in the UK register in 1980 to April 2000, held a valid certificate. Please refer to document 6, where it states, which is document 437:

'The vessel at no time satisfied the 1975 rules.'

It is evident that the objective of the Minister's claim that the vessel was stable and in possession of a valid certificate at the time of our purchase was to mislead the Hon. Members and the listening public that the vessel's stability issue occurred only from the time of our ownership.

**The Chairman:** Thank you.

Can I ask one final question, and then we must go. In the Committee's Report, they make a recommendation 'that the Department of Trade and Industry gives consideration to issuing a formal apology to Mr and Mrs Spadoni.' Have you had that apology?

**Mrs Spadoni:** No.

**Mr Spadoni:** No.

**Mrs Spadoni:** And Mr Rimington went to see Mr Cretney and asked where was it, and Mr Cretney turned round and told him that the Department had been legally advised not to send us a copy of his apology because this would invite a claim against the Department.

**Mr Spadoni:** Disgrace!

**The Chairman:** Thank you very much. Can I thank you for attending. We may need to call you back in the future. We will continue our inquiries and we promise we will be diligent in the work we do. We are looking for new evidence which adds to the previous Report. Thank you.

**Mrs Spadoni:** The evidence is there. What is lacking is the acknowledgement of the evidence. I will leave these documents with you. These are all the ones I have referred to.

**The Chairman:** Thank you very much.

**Mr Spadoni:** Please, the sooner the better, because I am running out of days, honestly.  
Thank you very much.

*The Committee sat in private at 5.26 p.m.*