

January. 18th.

Recd 23/1



HOTEL WINDSOR

SPRING STREET

MELBOURNE

W.D.

Dear Mr Roberts,

"W.D. ATLAS" INQUIRY.

This Enquiry has now reached the stage when all evidence has been concluded and counsel have commenced their final addresses to the Court.

I was in the witness box for two half days and I was somewhat severely cross-examined by Owner's counsel. Our solicitor has told me that his approaches to the Owner's solicitor, on the ground that we had an interest in common in this case, have evoked no response and it is his opinion that the Owners intend to try to crucify us to save themselves.

I went to considerable length to emphasize to the Court the limitation of our classification requirements, and particularly that we did not include stability nor the steering qualities of ships among these requirements. The Court informed me, however, that we



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gave advice to the Owners on these matters and, if it can be proved that this advice was followed and it turned out to be bad advice, then we are accountable in Australian Law, even if the advice were given freely, i.e. without charge to the Owner. There is apparently precedent for this.

I have asked our Solicitor and Counsel to give me their opinions, at this time, on the probable situation we may find ourselves in as a result of this Inquiry. We have now heard part of the final address to the Court from Counsel for the Department of Shipping and Transport: his function is somewhat akin to that of prosecuting counsel in criminal proceedings. He has given all the known facts of this ship's sinking to the Court, his reasons why the ship sank, and his opinion on who was to blame. The primary responsibility he has placed on the Owners but he avers that we should not have issued our interim certificate



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of class because the ship had such poor steering qualities, and that we should not have issued our short term load line certificate because the ship was unseaworthy when she commenced her last voyage. He says that the shell plating was known to be leaking and that the voyage preparations (which we in London required to be done) were in fact improperly done.

If the Court accepts this Counsel's views, and our legal advisors think there is a very good chance that the Court will, then the Owners will be sued by the dependants of those who lost their lives, 13 men in all, and that we may well be joined as party to such proceeding. I am told that the "Shipowner's Limitation of Liability" Act, passed into U.K. law several years ago, has been embodied in Australian law but there is some considerable doubt we will be protected by that Act. Our solicitor will give me his views in writing and I will forward them to London. Of course, the Owners Counsel



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may very well be holding a trump card. He is the last to speak. There is some considerable doubt as to whether or not this present Court of Inquiry has proper jurisdiction in the particular case of this ship. It is an involved legal question, but I think I have the gist of it and I will explain it on my return.

I do not want to be unfair to our Counsel but I feel obliged to say I am not very happy about him, i.e. Mr Francis. Our Sydney solicitor, Mr Osborne, strikes me as a most capable and shrewd man, and since he selected Francis, my first assessment may be wrong. Gerard and I have been having many conferences with Francis to help him with technical matters and we are now assisting him in the preparation of his final address to the Court and which he will give next week, either on Thursday or Friday. I feel I must be present when this happens.

I am not going to remain in Melbourne all



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that time but will be spending these few "lay days" with the Australian shipbuilders. Gerard tells me it would help him if I spoke to them on the problems of the new Load Line Convention.

I have been working almost 20 hours a day on this Inquiry and I must have a few days break soon. Do not expect me back in London until early February. It is a great pity that I did not come here much earlier, as I suggested.

If there are any new developments I will let you know.

Kindest regards.

Yours sincerely,

W. Macmillan

W. J. Roberts, Esq. B. Eng.
Chief Ship Surveyor.
London



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