

THE CENTRE

FOR

CORPORATE ACCOUNTABILITY

**SUBMISSION TO THE THAMES SAFETY
INQUIRY**

On the question

**"SHOULD THERE BE A PUBLIC INQUIRY INTO
THE MARCHIONESS DISASTER AND IF SO WHAT
SHOULD BE ITS TERMS OF REFERENCE?"**

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Tel:
e-mail:
Address:
Web Page

(0207) 490 4494
info@corporateaccountability.org
Fourth Floor, 197/199 City Road, London EC1V 1JN
www.corporateaccountability.org

INTRODUCTION

1 This is the written submission of the Centre for Corporate Accountability¹ to the Thames Safety Inquiry on the question of whether there should be a public inquiry into the “Marchioness Disaster” and what should be the terms of any such inquiry if it is held. It is the firm view of the Centre that:

- (i) a public inquiry should be held; and
- (ii) that the terms of any such public inquiry should include an examination of the adequacy of the criminal investigation undertaken into the disaster and into the decisions made by the Crown Prosecution Service.

2. A public inquiry should be held since:

- (i) a public inquiry should have been announced immediately after the disaster;
- (ii) the inquiries that did take place – the MAIB and the Coroner’s inquest – failed (either separately or in combination) to come close to achieving the goals and purposes of a public inquiry; and
- (iii) subsequent to the disaster (as in the case of the death of Stephen Lawrence) the government failed to conduct a proper criminal investigation and ensure that the correct prosecution decisions were taken.

The focus of this submission concerns (iii) above.

3. It is our contention that failures on the part of:

- (i) the police,
- (ii) the MAIB (whose findings were taken into account in the decisions by the Crown Prosecution Service), and
- (iii) the Crown Prosecution Service

may well have led to a very serious miscarriage of justice involving the deaths of 51 people. *Prima Facie* evidence for this assertion exists, and it is necessary for a public inquiry to examine it in detail.

¹ A note on the Centre for Corporate Accountability, and the members of its management and advisory council is in Annex One. We would like to make it clear that Louise Christian, Partner in the law firm, Christian Fisher, who is a member of the Centre’s management committee, and who has represented bereaved families and survivors of the Marchioness disaster over the years in a number of legal actions, has not been involved in the writing of this submission.

4. This written submission is based on the oral arguments originally made by the on 8 November 1999. Since then the Centre has been in a position to consider further material² which has allowed it to substantiate a number of the concerns that it had originally made in the earlier submission.
5. On 8 November, at the time of the oral hearing, the Inquiry emphasised the need for “new evidence”. It is our contention that whilst “new evidence” may well be a *sufficient* reason to justify a public inquiry it is not a *necessary* one. Inadequacy of the previous inquiries as well as evidence about CPS/Police inadequacy are themselves reasons to justify an inquiry.

PUBLIC INQUIRIES INTO “DISASTERS”

6. Public Inquiries have usually been established following a single event that has resulted in multiple deaths (i.e. the sinking of the Herald of Free Enterprise, the King’s Cross fire, the Piper Alpha explosion, the Clapham, Southall, and Paddington rail-crashes). They are usually announced immediately after the “disaster” itself has taken place. Their functions are usually quite similar. They undertake a detailed examination of the causes of, and background to, the deaths including an assessment of who or what (i.e. when a Government department or private organisation is involved) was responsible. The Inquiries are also concerned with learning lessons from what went wrong and the final report always includes a series of recommendations on how to ensure that such a “disaster” does not take place again. The public nature of these Inquiries are crucial; interested parties (including those bereaved and injured) are legally represented, and the evidence and witnesses are subjected to very close scrutiny.
7. The Marchioness disaster killed 51 people in August 1989. In the two years prior to this incident, three disasters had taken place – the sinking of the Herald of Free Enterprise which killed 192 people; the fire at Kings Cross station which killed 31 people, and the explosion on the Piper Alpha disaster which killed 165 people – all of which resulted in immediate government decisions to hold public inquiries. Clearly, on the basis of these precedents, it would have been perfectly appropriate for the government, had it so wished, to establish a public inquiry after the Marchioness disaster. It is the fact that the government decided against doing so – and instead called on the Marine Accident Investigation Branch (MAIB) to hold a private inquiry - which has meant that ten years on a decision has now to be made on whether a public inquiry should be established.

THE GROUNDS FOR HOLDING A PUBLIC INQUIRY NOW

8. The failure of the Government in the past to hold a Public Inquiry is of course not sufficient reason in itself for such an Inquiry to be established (though of course any Inquiry that is set up might well want to ask why such an inquiry was not established right at the outset, and whether any inappropriate political or other factors came into play

² This includes the transcript of the Inquest into the disaster held in March 1995; the report of Eddon Liddiard and Morris; and the written submission of the Marchioness Action Group and Marchioness Contact Group.

in the making of that decision). With so many years gone by, good reason needs to exist for holding an Inquiry. In our judgement, either one of two factors must be established:

- The inquiries that did take place into the disaster were inadequate, and did not come close to achieving the purposes that would be served by a Public Inquiry.
- Serious questions have been raised – not dealt with adequately by any of the inquiries that did take place – about how the authorities “dealt” with the disaster.

It is our contention that both these criteria have been met. This submission primarily relates to the second point. Before we consider this in detail, we shall briefly consider the adequacy of the other inquiries into the disaster.

9. **The “Adequacy” of the MAIB Inquiry and the Inquest**

There have been two main inquiries (other than that carried out by the police, which is discussed further below) into the disaster. Two questions need to be asked of both:

- Were they adequate within their own terms?
- Did they come close to satisfying the requirements of a Public Inquiry?

10. Before discussing these two Inquiries, it should be made clear that in no way should or could the two prosecutions of Captain Henderson be considered as “inquiries”. We need to make this clear, since other submissions³ seem to imply that these prosecutions avoided the need for a public inquiry. No prosecution replicates in any way the purpose or process of examination that takes place at a public inquiry. Although at a general level, both are concerned at some level with issues of responsibility, prosecutions determine whether a person has committed a particular criminal offence. It is a very narrow inquiry which only allows examination of very narrow forms of evidence and questioning. Prosecutions serve an entirely different function to an inquiry and cannot in any way be considered as an alternative to a public inquiry.

11. **The MAIB:** The MAIB inquiry was conducted by Captain De Coverly. The inadequacy of the MAIB inquiry itself and the resulting report has been set out in detail by others – particularly in the report of Brian Toft for the Marchioness Action Group and in the written submission to this inquiry of the Marchioness Contact Group⁴. Though little can be gained through repetition, it is worthwhile reiterating the conclusion of the report by Brian Toft which stated:

“The inconsistencies, contradictions, confusion, conjectures, erroneous conclusion, missing or inappropriate recommendations ... clearly raises doubts as to the objectivity of the investigation, the competency of the investigators, the thoroughness of the investigation, the validity of the findings, the judgement of the Department of Transport in holding an inquiry of that type, and as a result, whether or not all the appropriate lessons were uncovered during the MAIB inquiry into the circumstances surrounding this tragedy.”

³ E.g. South Coast Shipping

⁴ “Preliminary Representation on Behalf of the Marchioness Contact Group” [MCG10048 – MCG10097], see in particular pages 21 to 31 of the report [i.e MCG10068 –MCG10078]

12. In its own terms the report was clearly inadequate. Furthermore, in no way did it come close to mirroring a public inquiry in substance or process (a key reason no doubt that Brian Toft and others have been so critical of it):
- it was held in private;
 - there was no opportunity of parties to scrutinise the evidence;
 - it failed to deal properly deal with issues of responsibility and accountability. (This is partly to do with the legislative restrictions on the scope of an MAIB inquiry. This is set out in Paragraph 4 of the Merchant Shipping (Accident Investigation) Regulations of 1989. This states that:

“The fundamental purpose of investigating an accident under these regulations is to determine the circumstances and the causes with the aim of improving the safety of life at sea and the avoidance of accidents in the future. It is not the purpose to apportion liability nor except so far as it is necessary to achieve the fundamental purpose to apportion blame.”

13. **The Inquest:** In March 1995, a one month long coroner’s inquest took place into the Marchioness disaster. It is not our contention that the inquest was inadequate “in its own terms” – as we have argued in relation to the MAIB inquiry and its report⁵. The point that needs to be made about this inquest is that – as with all inquests - it was a limited inquiry into the causes of the deaths. As a result a number of crucial witnesses that would have been called at a public inquiry did not give evidence at the inquest. This included:
- No representative, managers, members of the board of either South Coast Shipping (owners of the Bowbelle) or Tidal Cruisers (owners of the Marchioness) gave evidence
 - No independent expert witnesses gave evidence. Captain de Coverly, was the only technical expert used. Neither Brian Toft, the author of a critique of the MAIB report, nor Captain Beetham, another maritime expert involved in making enquiries into the disaster on behalf of the families, nor indeed any other expert was called.

In addition, the lawyers acting for the bereaved families were often told by the coroner that they should not ask a particular line of questions. This meant, for example, that the history of incidents that took place on the Thames could not properly be discussed.

14. **Post Disaster: The Criminal Investigation and the CPS**
The second set of arguments (the core of this submission) about why a public inquiry should take place relates to the criminal investigation into the disaster, and the prosecution decisions made as a result of that investigation. These arguments are distinct from those above, which relate to the need for a public inquiry to consider the circumstances which *led to* the disaster in both broad and narrow terms.
15. In our opinion, one of the strongest reasons justifying a public inquiry relate to the questions concerning the adequacy of the criminal investigation into the disaster and the decisions made by the Crown Prosecution Service. It is our contention that there is evidence that the initial criminal investigation into the Marchioness disaster - in particular

⁵ It should be noted that the lawyers for the families were very concerned at how the coroner implied on a number of occasions that the witnesses were part of some “conspiracy”.

the investigation into the possible culpability of any company, company director or senior company officer - was inadequate and flawed. There are strong grounds to believe that had a proper investigation taken place in the first place, manslaughter proceedings could well have been pursued against South Coast Shipping and one or more of its senior company officers⁶. In our opinion, such investigative failures into a major disaster which killed 51 people – and which fed into flawed decisions by the CPS – are in themselves reasons for a public inquiry.

16. **The Stephen Lawrence Parallel:**As public inquiries into disasters are usually announced immediately after they have taken place, there is no reason why any of the previous inquiries into the disasters mentioned in paragraph 6 above should have considered the question of the adequacy of the criminal investigation and CPS⁷ decisions. This is not to say that serious criticisms have not been made in relation to these issues⁸; it is just that the public inquiries into these disasters took place either during or before the police and CPS were still considering the evidence - and therefore before any criticisms could be made. The Zeebrugge disaster is a case in point. A serious criticism held by the Herald Families Association was that no criminal investigation into the disaster took place until October 1987, that is seven months after the disaster.⁹ This lapse in itself could have been reason to hold a public inquiry; but of course by the time this police inaction came to light, the Sheen Inquiry had already completed its public inquiry.

17. There is clear precedent that concern about the adequacy of a police investigation into a death – rather than simply the circumstances that *led* to a death - is sufficient reason to justify the establishment of a public Inquiry. In April 1993 Stephen Lawrence was killed in Greenwich in London. As a result of allegations primarily relating to the inadequacy of the investigation by the Metropolitan Police, the Home Secretary announced the establishment of a public inquiry in July 1997, with the following terms of reference:

"To inquire into the matters arising from the death of Stephen Lawrence on 22 April 1993 to date, in order particularly to identify the lessons to be learned for the investigation and prosecution of racially motivated crimes."

This inquiry was not really about the circumstances of the death itself – though these were examined – but the actions of the police subsequent to the death. This inquiry not only looked at the adequacy of the police investigation, but whether or not it was tainted by “racism” and it considered what changes needed to be made to policing of racist crime..

18. We would argue that the rationale for the holding of an Inquiry into the circumstances following Stephen Lawrence’s death is directly applicable in the case of the Marchioness disaster. Not only is it the case that there was an inadequate police investigation relating to an incident involving fatal injury, but that one of the reasons for the investigative inadequacy was institutional discrimination. For it is our contention that whilst racist bias

⁶ Clearly, without seeing all the evidence – which is not available to us - it is not possible to make any clear assessment on whether a corporate manslaughter prosecution would have succeeded.

⁷ Or Procurator Fiscal in relation to the Piper Alpha disaster

⁸ See “Disasters: Where the Law Fails”, Herald Families Association (1992)

⁹ The HFA brought together those bereaved, injured or otherwise affected by the Zeebrugge disaster

tainted the Stephen Lawrence investigation, there are clear indications that another form of bias tainted the Marchioness investigation; that is to say “corporate” bias, and that an inquiry to determine whether this is the case is required.

- 19 Through using the term “corporate” bias, we do not mean that there is evidence that the police or CPS lawyers, consciously or deliberately acted in this particular case in the interests of the companies involved in the Marchioness disaster. Our point is that the serious failures on the part of the police in the investigation of the disaster – outlined below - and the CPS’s failure to prosecute any company or officer for any offence, appears to have its roots in a clear unwillingness of both the police and the CPS to recognise that deaths resulting from corporate activities could be the result of serious corporate crime. The failure of the police to even investigate the Zeebrugge disaster for seven months and to only do so when a coroner’s jury returned a verdict of unlawful killing is emblematic of this attitude. The criticisms which have been made against the police/CPS in relation to both the Kings Cross and Piper Alpha disasters, also reflects this. This bias is however perhaps best indicated by the failure of the police and the CPS at the time to consider the application of manslaughter in relation to workplace deaths; in the ten years prior to the Marchioness disaster, there were over 3000 workplace deaths, yet only one of them is known to have resulted in a corporate manslaughter investigation¹⁰, yet alone prosecution.
20. A failure to investigate properly any incident involving death or serious injury which is or could be the result of a serious crime is in itself of great public concern. It was allegations of an improper investigation into the death of Stephen Lawrence that resulted in the Home Office establishing a public inquiry. It should be of even greater concern when there are similar concerns about an investigation into an incident that resulted in the deaths of 51 people. This is particularly the case when the potential offenders are companies and their executives; just as the criminal justice system cannot be seen to treat Black victims differently from White; so the system can not be seen as treating corporate criminals differently from ordinary criminals. This, however, is the allegation in this case.
- 21 **Relevance of the Southall Inquiry:** The current Inquiry into the Southall train crash provides an added reason why the question of the adequacy of criminal investigation must be included in the terms of any inquiry established. The inquiry was established immediately after the disaster with the following terms of reference:

“The purpose of the Inquiry is to determine why the accident happened and in particular to ascertain the cause or causes, to identify any lessons which have relevance for those with responsibility for securing railway safety and to make recommendations”
22. The inquiry was delayed as a result of the criminal prosecution into Great Western Railways, first for manslaughter (which failed) and then for an offence under health and safety law. In effect, because of the delay, the Inquiry was theoretically in a position to consider issues relating to the criminal investigation of the disaster as well as the prosecution issues. The Inquiry however decided not “to examine the role of BTP [British

¹⁰ See “Accidents or Corporate Crime” (1990, Workers Education Association), and The Perfect Crime? How Companies Escape Prosecution for Manslaughter” (West Midlands Health and Safety Advice Centre]

Transport Police] in criminal investigation generally”¹¹ and only “consider conclusions and recommendations concerning the effectiveness of the on site technical investigation.”¹² [See appendix B].

23. To consider questions about the “on site technical investigation”, Detective Superintendent Satchwell, the senior investigating officer into the disaster, was called to give evidence to the Inquiry. It emerged in the very limited amount of cross examination that was allowed, that two expert consultants companies, WS Atkins, and AEA Technology, who were contracted to Railtrack (the company which was subject to the investigation), were in fact used by the police as their own experts in their investigation¹³. [See Appendix C] This situation, in which the police take over consultants who are upto that point in a contractual relationship with the company they are investigating, presents a potentially serious conflict of interest. Due to the restricted nature of the terms of the Southall inquiry such issues like this could not be subject to proper scrutiny. This experience indicates the importance of ensuring that the terms of an inquiry established into the Marchioness disaster includes consideration of investigation and prosecution decisions.

THE EVIDENCE

24. **THE MARCHIONESS DISASTER: THE INTERCONNECTED TRIANGLE OF THE POLICE, THE MAIB AND THE CPS**
The issue of concern is the lack of proper corporate criminal accountability. This relates to two points: the authorities’ alleged failure to ensure that there is a proper criminal investigation into the disaster (including into the conduct of South Coast Shipping and Tidal Cruises) and the absence of clear and rational decisions by the CPS in relation to the evidence.
25. It has become clear from the submissions of the CPS and the Metropolitan Police to this enquiry that these two parts of the “accountability” puzzle cannot be separated easily into two categories of (i) investigation and (ii) prosecution decisions. This is because *the CPS was closely involved in the police investigation* .
26. Right from the start, the Director of Public Prosecutions (DPP), the head of the CPS, appears to have been involved in a co-ordinating role in the police investigation. According to the Metropolitan Police’s submission to this Inquiry, at the first meeting of the Gold Steering Co-ordinating group, a Detective Chief Superintendent was appointed as senior investigating officer AND HIS/HER priorities included (i) collecting evidence of criminal manslaughter, and (ii) “submit[ting] an early report to the Director of Public Prosecution *for guidance* on further investigations”. [emphasis added]
27. The Metropolitan Police’s submission indicates that the DPP received a report on 25th August – five days after the disaster¹⁴. So, it must be assumed that the DPP was involved in

¹¹ See transcript of Day 11, page 9, line 19.

¹² Transcript of day 11, page 14, line 20

¹³ See page 49-50 of Day 11, transcript

¹⁴ Para 25. The police gave two further reports to the CPS in October 1989 and February 1990 (para. 76)

providing guidance at least from that date – though we do not know what or how. This close role of the CPS has serious implications in relation to judging the adequacy of the police investigation. Since the CPS did have this clear guiding role, certain failures on the part of the police may well also be due to failures of CPS guidance. A failure to do proper forensic tests or to take adequate statements, whilst primarily a responsibility of the police, may in addition, in this case, be due to poor guidance by the CPS. The quality and rigour of the police investigation cannot therefore be separated from decisions made by the Crown Prosecution Service.

28. Not only are the police and CPS connected, the MAIB is also connected to the CPS and Police. This may not be quite so obvious. The police were obviously the main criminal investigative body. However, though the MAIB inquiry did not amount to a criminal investigation (indeed it relied in part on the police investigation) it is clear that the MAIB report was used by the CPS to assist it in determining questions relating to prosecution.

29. This is made clear in the CPS submission to this inquiry which states in paragraph one that:

“Following a through investigation by the Metropolitan police of the incident and consideration of all the evidence obtained *and a report by the Marine Accident Investigation Branch of the Department of Transport*, criminal proceeding were brought against Captain Douglas Henderson” [emphasis added]

Clearly therefore the MAIB report – which was completed in June 1990¹⁵ and one assumed any original statements that it took, was relied upon by the CPS.

30. In addition, it seems clear that the police must have relied upon the MAIB for expert maritime advice, in the same way as the British Transport Police relies on the Health and Safety Executive in relation to expertise on rail crashes. Any inadequacies of the MAIB investigation will have fed into the police investigation.

THE POLICE INVESTIGATION

31 Below we lay out a number of area of serious concerns relating to the adequacy of police investigation. Where possible we have substantiated our concerns with extracts from police or inquest statements.

32 Failure of the Police to board the Bowbelle immediately after the Collision.

Evidence emerged at the inquest (never examined in any detail at the inquest itself) that no police officers arrived on the Bowbelle for two and three-quarter hours after the collision. The collision took place at about 1.45 a.m. and the first police officer did not arrive there until 4.30 a.m.. This is despite the fact that Wapping/Lime Street police station were only a short way from where the Bowbelle had moored. This delay allowed Mr Butcher, the Operations Manager of South Coast Shipping, which owned the Bowbelle, to drive up from Southampton¹⁶, board the boat and be in a position to speak to the Bowbelle’s Master, Mr Henderson, and the seamen, Mr Blaney and Mr Quantrill, whose evidence would become crucial.

¹⁵ (paragraph 2.1.7 of the South Coast Shipping Submission)

¹⁶ Evidence that he came from “Southampton” comes from the evidence of Ian Philpott at Inquest.

33. It is not known what conversations took place between these men before the police arrived. What is clear is that the long police absence provided an opportunity – which should never have been allowed to exist – of a senior member of the company to be in conversation with three key witnesses, who were also the company’s employees. In a situation where the company and the three employees should have been under immediate suspicion of having committed a criminal offence, including the offence of manslaughter, a company official should never have been allowed to be in a position where he could talk to these men.

34. This is clear from evidence of Sergeant Gospage, taken on 17 March 1995

Gospage¹⁷ “Initially I remained at the [Wapping] station and then I was instructed by Supt Allen who was in charge at that time of Thames Division to go to the Bowbelle ...

Gospage: Initially I went on board and introduced myself on the bridge to the man I know now to be Captain Henderson. There was another man on board as well, a Mr Bottomly, no sorry

Coroner It was either Butcher or something like that

Gospage Butcher, Mr Butcher, the operations manager for the company ...

Gospage¹⁸ [Reading out notebook] I went on the bridge of the ship where I saw a man I now know to be Capt Henderson together with the second mate, Keith Noble and the company operations manager , Mr Butcher , I said to Captain Henderson, “I am sergeant Gospage from Wapping police station. I have been sent to board your vessel to wait the arrival of CID officers who are investigating the incident that occurred at Cannon Street Rail Bridge” ...

Barrister¹⁹ Can I just clarify then one or two things. Do we understand that you were the first police officer to board the Bowbelle, is that right.

Gospage Yes sir.

Barrister And the boarding was about 3 am or was it later

Witness It was later. It was 4.30

This extraordinary situation, where it took over two hours for a police officer to come to the scene, should be contrasted with the policy of at least fifteen police forces around the country that an officer will come to the scene of a road traffic injury within 20 minutes of it being reported. Indeed they are successful in this in 80% of cases.²⁰

35. Another criticism is that, Gospage did not note down the people who were actually on the boat at the time of their boarding.

¹⁷ P.2

¹⁸ P.4

¹⁹ P.6

²⁰ See Audit commission, 97/98 Performance Indicators, Police and fire services p.38-40, and P9-10

Barrister²¹ I mean did you make a record of who was on board for example when you first arrive
 Gospage No sir
 Barrister Or where they were on the boat when you first arrived.
 Gospage No sir.

In effect there appears to have been a failure to consider the implication of allowing Mr Butcher on to the boat prior to the arrival of the police. When Detective Constable Simon Bottomley subsequently arrived on the boat he was not informed that a company official has been on the boat.²²

36. **Failure by the police to take alcohol samples from Captain Henderson and the crew.**
 Not only did the police arrive at the Bowbelle almost three hours after the incident – though the police station was only a few minutes from the mooring – but the police did not take blood samples from the crew to test for alcohol for a number of hours. It appears that Captain Henderson and Mr Noble, the first mate, had their tests done at 9.am. It appears that Blaney – who did admit in his statement to the police that he had drunk about thirteen or fourteen units of alcohol the previous evening – appears not to have had his blood test done until 1.45 p.m.²³ - that is twelve hours after the incident and after any possibility that the alcohol would remain in the blood.

37. The failure to take tests immediately is clearly significant²⁴. Not only could it affect issues of criminal culpability of the men themselves, but it could seriously impinge upon the credibility of their police statements. This is particularly the case in relation to Blaney, since he admitted to having drunk alcohol before crewing the boat.

38. **Inadequate Forensic Testing**

(i) No Forensic tests on Southwark Bridge

It is clear from the evidence given by Detective Superintendent Leonard Crouch that no paint samples or other tests were undertaken on Southwark Bridge.

Crouch²⁵ “I have samples taken from the Marchioness ... and samples from Cannon St Bridge. They were all taken on 21 August ranging from between 12.50 and 17.10
 Coroner²⁶ Did anyone ever suggest that you look at Southwark bridge for damage
 Crouch No sir
 Barrister²⁷ Just on the question of bridges, do we understand that is only the one bridge you looked at, that was Cannon St.

²¹ P.8

²² 31 March 1995, p.1052

²³ See evidence of Detective Constable Simon Bottomley, on 31 March, on p.1054 - 6

²⁴ All the crew consented to the tests, so the fact that the police don't have the same rights in relation to those operating boats to test for alcohol is not relevant.

²⁵ 17 March, p.1 of statement transcript

²⁶ P.3

²⁷ p.4

Crouch yes sir
 Barrister Is that on instruction or on your own assessment
 Crouch I was guided at the time by a lab sergeant that was with me at all time
 that I was taking these samples sir. ..
 Crouch At no time did I make an examination of Southwark bridge
 Barrister Are you aware of any investigation at Southwark bridge, the taking of
 samples, matching or non-matching
 Crouch No sir

In order to understand why it was important for the police to undertake these tests, it is necessary to consider some of the evidence that the police were beginning to obtain about the nature of the collision.

- 39 Two members of the Bowbelle crew, Blaney and Quantrill, both stated in their witness statements that the collision took place between Southwark and Cannon Street bridges, and, crucially, that the Marchioness veered into the path of the Bowbelle:

Blaney “It looked to me as if the Marchioness actually altered course to port
 as if to go through the same arch as were were heading for”²⁸
 Quantrill “At that point the riverboat veered to port in front of us as if to drive
 across us.”²⁹

Blaney’s and Quantrill’s version of the location was supported by the evidence of two members of the public who were sitting at a nearby pub.³⁰

40. The police soon began to receive evidence from a number of other witnesses (Kenney, Nicholas Stephanou, Peter Stephanou³¹, Richard Hall³²), that the collision took place at another location, just before, within or just after passing through Southwark Street Bridge. There was also evidence that the Bowbelle hit Southwark Bridge just after it collided with the Marchioness. It was important for the police to corroborate, in whatever way possible, the accuracy of these conflicting statements since if the collision took place in the vicinity of Southwark Bridge, it may well not have been physically possible for the Marchioness to have veered into the course of the Bowbelle. It should, of course, have been clear to the police that the question of whether or not the Marchioness “veered” was crucial to the question of criminal culpability; whatever lookout defects there may have been on the Bowbelle, the Marchioness should not have veered into its path, and would, if this was the case, have to shoulder some of the blame.

- 41 The police also received evidence that at the time of collision, wherever that may have been, the Marchioness had not veered into the Bowbelle’s path (Marie Klein³³, Vincent

²⁸ Statement to police. P.71 of inquest transcript version

²⁹ Statement to Police. P,84 of inquest transcript version

³⁰ Evidence of Mr Strachen-Cowie, and Fawkes-Underwood at Inquest on 23 March

³¹ Though his statement has been lost by the police, see p.375 of transcript, 23 March, so it is possible that the statement did not accurately reflect what he had told the police. See Para below.

³² In st

³³ Assuming that statement at inquest is same as a police statement as not challenged about inconsistencies by coroner or lawyer, March 27

Murphy³⁴, Richard Hall³⁵, Dean Andrews³⁶). This was evidence that went directly against the statements of Blaney and Quantrill, and it was therefore even more crucial for their statements to be tested in some way.

42. If the police had undertaken forensic tests on Southwark bridge, it would have assisted the police in determining the accuracy of the statements of those witnesses who said that the Bowbelle had hit Southwark Bridge after colliding with the Marchioness. If forensically, it could have been shown that Southwark bridge was hit, then Blaney's and Quantrill's assertion that the Marchioness veered in front of it in open water would have lost credibility.

43. It should have been obvious to any competent police investigation that:

- (i) determining the exact location of the collision could well be crucial to the ultimate question of criminal culpability (which was what their investigation concerned), and that any forensic examination that could assist the police in this task should have been done.
- (ii) the evidence of Blaney and Quantrill should in any case have required particular scrutiny, since:
 - they had a strong personal interest in their version being believed;
 - the police must have realised that their own delay at arriving at the Bowbelle had provided the company's operation manager with an opportunity to speak to the two men about the incident and perhaps what evidence they were going to give to the police.
 - the police will have known as soon as they took Blaney's statement that he had been drinking alcohol prior to this trip³⁷, and as a result his evidence should have been suspect. Any forensic examination that could be done to corroborate or question the versions of Blaney and Quantrill had to be done.

³⁴ As in footnote above

³⁵ 24 March 1995. See p.444 "As the Marchioness got to approach another bridge, it looked as if the Marchioness tried to avoid it, but the Bowbelle has a collision with it. As it hit it on the back, it rocked it, swung it round and it went over the top of it and it sunk in front of the bridge", and the coroner's statement on 446, "That fairly well corresponds with what you said [in your statement]"

³⁶ 24 March, p.487. Barrister: "Just one final point if I may, going back to your statement, you said in that statement that at the time, the Bowbelle first hit the Marchioness on the rear to the left side and it was swung around in the river, you believed that the front end of the Marchioness was very near to one of the pillars of the bridge. Do you still stand by that, that it was very near to one of the pillars of the bridge?", Andrews, "As I say, about 10 metres from the bridge". Barrister, "And your view was that the Marchioness appeared to be going on course through that arch?"

A That's correct yes.

³⁷ Statement of Terrence Blaney (witnessed by ADC Stevens) "I must have arrived home at about 1500. I had a couple of cans of Abbot Ale ..I then had another two cans of beer making four altogether and I left home at 1930 to return to the boat. I then went over to the Pavilion public house which is just over the road from where the boat is moored, near Nine Elms. I must have arrived there at about 21.00-21.30. I had about 4 pints of Fosters lager. ... left the pub about 23.00"

- (iii) The need for forensic examination had increased importance since they were receiving evidence that was in direct conflict with a key part of the evidence of Blaney and Quantrill

Despite all of this the Police took no samples from Southwark Bridge.

44. **(ii) No Forensic Matching**

Furthermore, although the police did take paint and other samples from the Bowbelle (a job undertaken by Detective Chief Inspector Cooper on the 20 August itself) and did take samples from the Marchioness and Cannon Street Bridge (a job undertaken by Detective Superintendent Leonard Crouch on 21 August), these samples were not sent for testing:

Barrister So far as you are aware, these samples that are being obtained by you and Mr cooper from a bridge and from vessels and so on, paint, are you aware whether they were sent to matching and if they were whether matches were obtained and so on.

Crouch I am not aware of that sir

...

Coroner But were they actually sent to the laboratory for comparison

Cooper³⁸ There was never any need for it

45. It should be clear from the points above in paragraphs 37 to 41, why the paint samples taken from the Bowbelle and Cannon Street Bridges should have been compared. If, for example, the paint samples on Cannon Street bridge and from the Bowbelle did not match at all, then the evidence given by Blaney and Quantrill would lose credibility. It is therefore remarkable that these samples were not sent for testing.

46. In addition, however, it may well have been important to test the samples like glass etc. taken from the Bowbelle with parts of the Marchioness, since this might have been helped to work out the exact sequence of the collision, and in particular which part of the Marchioness was hit by the Bowbelle.

47. The Blaney and Quantrill evidence suggests that the Marchioness was hit at an angle somewhere in its middle, as it “veered” across the Bowbelle’s path. The police had also received evidence (Philpott, Dean Andrews³⁹.) that the Marchioness was first hit on the stern and was pushed around by the Bowbelle, which then ran over it. Forensic testing may well have assisted the police in determining the veracity of these conflicting stories.

48. At the inquest, Michael Mansfield Q.C. for the families made the following point in relation to this failure:

Mansfield Certainly in so far as I am concerned it is the first time it has been indicated that there has been no actual submission to the laboratory of the samples that have been carefully and obviously obtained by these last two witnesses.... There should have been a submission of glass, so it could be matched, of paint, so it could be matched. In

³⁸ Not clear from inquest transcript whether it is Cooper or Crouch answering this final question

³⁹ 24 March, 487

order to indicate the order of events. ... Had the material, the samples, been submitted at the time for matching. I am not suggesting they would have matched – we don't know what the answer is plainly. [it could have] provided a basis for examining the course of events on the river and what originally the proper charges should have been. Which part of the boat came into contact because plainly on one question of the bow hitting midships and its basically a Marchioness induced incident. That one view being put forward. The other one is that didn't happen at all,. And in order to make an assessment by the jury as to how this occurred here we have officers, quite properly deputed to do the usual forensic job as they would have done isn't even submitted. If that is right. And one would find that somewhat astonishing.

Coroner The trouble is if one version is right they have taken the right samples anyway

Barrister Well we don't know until they are examined whether they are the right ones

49. **Lack of Guidance to Police Officers**

The failure of the police to provide proper guidance to its investigating officers is clear from the evidence to the inquest of Detective Chief Inspector Cooper who was given the responsibility of collecting forensic exhibits in relation to the scene:

Coroner⁴⁰ Did anyone tell you what exhibits to look for
Cooper I had by that time some rough idea of what had taken place. ...
Coroner Were you told to seize any specific things or look at marks of danger or the sort of things that somebody would do in a road crash.
Cooper Well I wasn't instructed. It was virtually what I found for myself. I found some damage
Barrister⁴¹ So do we understand that you are the first Detective officer, senior detective officer, with the responsibility for examining one of the vessels.
Cooper Yes sir
Barrister Now the learned coroner asked you this question you know as to whether you knew what to look for. Did you have any maritime advice?
Coroner None at all at that stage
Barrister Had you ever conducted an investigation yourself like this before
Coroner I suppose the sort of similarities are in fairly serious offences where cars are involved .. the only advice I received from Mr Purchase [in overall charge of the investigation] was the fact just adopt normal forensic rules ...

⁴⁰ P.15 of inquest evidence, 17 March 1995

⁴¹ P.27

Barrister⁴² .. did you have check list of things that you should be looking for and you were ticking them off.
Cooper No sir, I didn't. I really based my side on the investigation on reading witness statement and the like

50. The lack of guidance on what samples to take is serious. It should have been obvious at an early stage that the nature of the collision was critical to questions of criminal culpability. It was therefore important to ensure that the correct samples were taken from the Bowbelle. As the MCG submission to this Inquiry states:

“Should decisions be left to ... police officers operating without adequate directional guidance in areas unfamiliar to them or to whom the wider picture appears never to have been apparent.”⁴³

51 A failure on the part of police to take proper and objective statements from eye-witnesses

Evidence emerged at the inquest that the police took inadequate witness statements so that they contained crucial inaccuracies. This has taken a number of different forms:

52. (i) Imposing the Police Point of View

It is alleged by a number of people who gave evidence to the police⁴⁴, that when the police took statements from them, the police officer concerned had a pre-conceived version about the location of the collision, (which in fact reflected the evidence given by Blaney and Quantrill that it was between Southwark and Cannon Street bridges) and that the officer imposed this view upon them. In addition, one witness, Nicholas Stephanou, states that the police officer that interviewed him imposed his view that the two men whom Stephanou had seen on the stern of the Bowbelle were in fact on the front of the boat. .

53 Nicholas Stephanou

Barrister⁴⁵ The person on the Bowbelle was more to the rear of the boat. It does say in my statement that I said I saw two men at the front of the boat and I just don't recall saying that at all. I mean, it's the first time I've read this statement in five and half years since the accident happened, it the first time anybody's ever asked me to look at the statement or asked any information from me. It's the first time I've read it and I remember distinctly telling the CID gentleman who came round my house when I made a statement, that the first time I saw two men was at the rear of the boat after the collision. ...

Barrister⁴⁶ Can you give any reasonable explanation why that may have been put in your statement if its wasn't correct

⁴² p.28

⁴³ P.3

⁴⁴ All of them were on the pleasure-boat, the Hurlingham, which was over-taken by the Bowbelle, shortly before it collided with the Marchioness

⁴⁵ p.366, 23 March 1995

⁴⁶ p.367, 23 March 1995

Stephanou To be honest with you, when the CID gentleman came round to my house to take a statement he was a very pushy fellow, you know. He kept on trying to tell me what to say and I didn't really like it to be honest with you. I took like an offish stand against him because he wasn't really prepared to listen to what I was saying. He was saying that the facts that he knew which were correct and what I was telling him was wrong ,which is why I gave up half way though the statement to be honest with you. I didn't like his attitude at all.

Barrister You're suggesting this officer may well have known and wanted you to say in the statement that you noticed two men towards the front of the Bowbelle?

Stephanou I'm not suggesting that but what the gentlemen was saying to me didn't agree with my facts that I was trying to say to him and if that the way it was written down because a lot of things I was saying he was putting in a different type of text. At the end when you read it on paper it just didn't sound the same, it didn't match up to my story anyway, to what I saw. It was very difficult and think that the fellow's attitude toward me as well, trying to tell me that the boat was not sunk at Southwark bridge, it was sunk at Cannon street or past Southwark Bridge he was telling me, and there were two people at the front of the boat. The reason I'm disputing this now is I quite clearly remember telling the fellow that the first time that I saw two men together was at the back of the boat after the crash, after the incident had happened. It was at the back of the boat, because that was when we were saying to them "you've sunk the boat, you've hit the boat" As I recall it now that is wrong.

54. *Evidence of Peter Stephanou (pp. 373-379).*

His statement, in fact, appears to have been lost by the police.

Barrister⁴⁷ A statement was taken from you by the police.

Stephanou That's right

Barrister Have you got any complaint of the way that statement was taken from you?

Stephanou Any complaints?

Barrister About the way the statement was taken from you

Stephanou Only one incident where the woman from Scotland Yard told me they knew for a fact the Marchioness sunk at Cannon Street. I said "well if you know for a fact, why are you asking me when I saw everything?" - simple as that. I knew for a fact that it happened at Southwark Bridge. For some reason she kept mentioning Cannon Street.

55. *Evidence of Digenus Stephanou (pp. 380-385)*

Coroner⁴⁸ You made a statement to the police.

Stephanou Yes I did.

Coroner When did you make your statement?

⁴⁷ p.378, 23 March 1995

⁴⁸ p.383, 23 March 1995

Stephanou I made the statement about two weeks after it happened. May I say I was under a lot of stress for quite a few months after it happened so I wasn't in any condition to take the attitude that the police had, lets put it that way

Coroner Sorry?

Stephanou I wasn't in any condition to handle the attitude of the police at the time, I did sign the statement, yes. I have got a copy and there are a few things that totally wrong as to whereabouts the collision occurred.

Coroner Like the young lady unfortunately, but in a different part of the letter not the same one⁴⁹, "Notwithstanding their statements now, .. Mr Digenus Stephanou appears to place the disaster between the bridges in a police statement ... spoken to Mr Stephanou subsequently .. says the statements were confused and the police inserted into the statements, the police's view of the location" is that right?

Stephanou That's right. They didn't even have a map or anything to point out exactly where it happened so to be honest with you a name of a bridge at the time I didn't think that it was that relevant, so I just basically signed the statement

56. *Evidence of Anthony Smith (pp. 388-394)*

Smith⁵⁰ ... I know its confusing and we were all confused on the night but make no mistake, there is no doubt where the accident happened, and I'm sure, as the majority of people know really, the confusion has been caused by the people who took the statements thinking they knew where it happened and they didn't need to be told. When I had my statement taken they weren't really too interested in the name of the bridge, they had already gone over it. Today as I look at my statement, it says it happened between Southwark Bridge and Cannon Street rail bridge. Up until today I was under the impression that my statement said it happened in front of Southwark Bridge which was where it did happen.

Coroner Well did you sign a statement?

Smith Yes I Signed a statement

Coroner Did you read it before you signed it?

Smith It was read to me. It wasn't an intimidating statement as some of the others may give that impression. She was nice, the person who took my statement ... It was small talk rather than anything else and I said "If you had a map there I'll show you where it happened". I didn't really think that they could confuse two bridges. ...

Coroner I'm going back to the statement. She was nice to you, yes. She then read you the statement and you signed it.

Smith I said right at the time "I won't argue with you" I did have someone with me when I made my statement and I must have had a five minute conversation with her as to what the name of the bridge was and she

⁴⁹ This is a reference to two letters sent by Louise Christian to the DPP, once concerning Mr Digenus Stephanou, the other referring to the evidence of Dina Pereira

⁵⁰ p.390, 23 March 1995

was convinced that it was Cannon Street rail bridge. I said “I don’t know what order the bridges come in but it was in front of the bridge” which is what it was. You can call that bridge whatever you like, it still happened in front of the bridge, it didn’t happen under the bridge, it didn’t pass through the bridge, it was in front of the bridge.

57. *Evidence of Stewart Taylor*

Taylor⁵¹ I made a statement subsequently which was taped. When I said which bridges, there was a photograph and I pointed to before Southwark Bridge and was told it did not happen there. She said “Everyone told us it was another two bridges” I thought I must be confused so I started again. I was not pleased. I was so unhappy with the statement. There was no way it could have been between Southwark Bridge and Cannon Street Bridge ... I retracted my statement by phone.

58. *Evidence of Richard Hall (p.444-472)*

Coroner⁵² The collision was before Southwark bridge?
Hall Yes dead in front of Southwark Bridge, just as the boat was about to enter it right at one of the piers
Coroner Of Southwark Bridge
Hall Yes Southwark. On my statement, my statement does actually say Cannon Street, and Blackfriars, but at the time, that was actually the next day I made that statement. I made a statement that night and the next day I had the CID round to my house and I made a statement, I was told what the bridges were because they gave me a picture, they had a photocopy of the river and she said no, she said well the bridges were here, Cannon St and Blackfriars and the collision happened in between ...
Coroner⁵³ To be fair about these statements about the police, your police statement doesn’t mention the name of any bridge at all. Nobody put in different names or anything like that
Hall Which statement?
Coroner The one I’ve got here certainly doesn’t
Hall Dated?
Coroner The one on the 20th, the day it happened
Hall The day it happened, no it doesn’t mention a bridge. My second police statement does because the policewoman showed me on a drawing and she said these are the bridges which I now say I know to be because that’s what I was told. ...
Barrister⁵⁴ When you were asked to make a second statement two days later, were you asked again to draw a sketch to accompany that?

⁵¹ p.387, 23 March 1995

⁵² P.446, 24 March 1995

⁵³ P. 450

⁵⁴ P.464

Hall No I just made a statement and I was shown a photocopy, a blow-up of the A-Z map of the bridges and she said, you know, I was told what bridge was where it happened

Barrister So at the time of the second statement, all you were working from was a woman police officer's A-Z plan?

Hall Yes I was giving my account of what happened and said the incident happened here and she said "we now know the bridge you passed would have been that bridge" So I was told what the bridge was I had no reason to differ.

Barrister She said "we now know"?

Hall Yes she said if you passed that bridge and she pointed to a bridge and I could on it Cannon St Bridge

Barrister So you worked on the names of bridges ...

Hall Worked on the names of the bridges that were on this piece of paper.

Barrister So you worked on the names that she gave you.

Hall Yes

Barrister Again, on the A -Z it doesn't describe the bridge in any way, does it?

Hall No it doesn't its just a plan shot where you can see the river and marks going across it.

59. *Evidence of Dean Andrews*

Coroner⁵⁵ Has anyone suggested that the police had told you which bridge to put in your statement?

Andrews On the day I wasn't too sure which bridge it hit, but that's what I was told which bridge it was

Barrister⁵⁶ At the time of giving the statement from what you've told us in evidence, you didn't know the names of the bridges

Andrews I wasn't sure

Barrister So you were simply describing were you what happened, and was the police officer filling in the names of the bridges for you?

Andrews I said to him about the bridge and he said yes, Cannon street Bridge it hit.

60. *Evidence of Robert McGuire*

McGuire⁵⁷ I always assumed it was Cannon Street we were going into

Coroner You mean you always thought it was?

McGuire Yes.

Coroner It wasn't the police who told you to say that?

McGuire When the police came round my house after the accident I am sure they showed me a diagram and they said that this is Cannon Street, this is you coming through here and this is them going through there and where was it hit. I had always assumed it was Cannon Street

⁵⁵ p.477

⁵⁶ p.485

⁵⁷ p.3, 27 March 1995

61. These are serious allegations which if true – and they were stated on oath – bring into question the competency and independence of the police investigation. What is particularly alarming is that although the police should have been aware of the importance of the location of the collision (see paras. 37-41), they failed to take any of the witnesses back to the scene to clarify exactly where the location of the collision took place.

62. Lack of Rigorous Questioning

There was also evidence at the Inquest that the police, when taking statements from witnesses failed to be sufficiently comprehensive in their questioning, so that important details failed to appear in witness statements. This assertion is based upon comments made by witnesses at the inquest that they were absolutely sure about a certain set of important facts – but when the coroner looked at the original police statement, these facts were absent. We acknowledge that these criticisms of police interviewing may turn out to be unfounded – since the inquest transcript certainly does not provide the full story. It is possible, for example, that the witnesses did remember facts some time after the police took statements and therefore whatever the rigour of the questioning at the time, the information would not have been elicited by the police. That being said, there does appear to be a very unfortunate pattern.

63. *Evidence of Glen Tobin*

Were there two men (i.e. Blaney and Quantrill) on the front of the Bowbelle? In Mr Glen Tobin’s police statement, it states:

“the Bowbelle struck the Marchioness once and the small boat tilted away from the larger one. ... I saw two men come out of the Bridge obviously to see what had happened”⁵⁸

The statement appears to indicate that two men – i.e. Blaney and Quantril – were not on the front of the Bowbelle at the point of collision. However it was only when Mr Tobins gave evidence at the inquest that this issue was properly clarified:

Barrister ⁵⁹	As you watched the Bowbelle come along and then go past and then go past you and catch up with the position of the Marchioness did you see anybody on the front of the Bowbelle
Tobin	No, no lookouts on it at all as far as I could see.
Barrister	Was the Bowbelle level with you or slightly behind you when your attention was first drawn to it?
Tobin	Behind
Barrister	So you did have a view of the front of the Bowbelle as it came past you ..?
Tobin	Yes
Barrister	and proceeded on downstream, Are you quite sure you saw no one on the front of that ship
Tobin	Oh yes positive

⁵⁸ March 24, p411

⁵⁹ P.429

If correct, this evidence raises questions about the evidence of Blaney and Quantril - yet it seems that, in their criminal investigation, the police did not ask the questions to clarify this point.

64. *Evidence of Dean Andrews*

At what point did he see two men on the front of the Bowbelle? In his police statement he stated:

“On the front deck of the Hurlingham we commented on the size of the Bowbelle and we were laughing and joking about the possibility of it hitting the Marchioness because we really didn’t think this would happen. I could see two people near the front of the Bowbelle and as it approached the Marchioness, I heard a shout from one of them.”⁶⁰

However when questioned at the inquest he gave the following evidence.:

Barrister ⁶¹	As you were looking at the Bowbelle the first time and it went past you , you could see the front of it then couldn’t you
Andrews	Yes.
Barrister	And you didn’t notice anyone at the front of it at that stage?
Andrews	No
Barrister	It’s only where you realise its seconds away from crashing into the Marchioness that you notice two people on it
Andrews	Yes

Again, this indicates that the police may well not have questioned Mr Andrews rigorously enough.

65. *Evidence of Gerorge Williams.*

Did the collision take place under Southwark Bridge? Mr Williams was Captain of the Hurlingham. His police statement says that the collision took place, “As we approached Cannon Railway bridge ...”⁶² At the inquest itself he was adamant that it was Southwark Bridge. When asked by a member of the jury at inquest why his evidence appear to have changed, he gave this explanation:

Williams ⁶³	Right, what really happened is he pushed the boat through Southwark bridge. Southwark Bridge and Cannon Street are so close together so by the time he’s gone through the bridge, its Cannon St. If he’s pushed him there, he’s through Cannon Street, so I’ve given an estimation of Cannon Street.
Juror	So you think that by the time the boat was pushed through Southwark Bridge, it had reached ...

⁶⁰ March 24, p,479

⁶¹ p.482

⁶² p.530, 24 March

⁶³ p.546

Williams It's on top of Cannon Street by the time it's got pushed through Southwark Bridge

It appears therefore, that the police may not have questioned Mr Williams properly. This explanation is given some support by the fact that in 1991, when George Williams gave evidence at the Old Bailey in relation to the trial of Captain Henderson, he stated then that the collision took place under Southwark Bridge⁶⁴:

Williams “The Bowbelle was lining to take number 2 arch but changed at the last minute to take number 3, the Centre arch of Southwark Bridge. She kept going. I stayed behind at my own volition. I slowed right down and stopped as the collision happened. I was aiming to go through number 4 arch. I was approaching that arch. The Bowbelle had taken the Centre arch. She hit the Marchioness before she got through. The Marchioness was near enough through Southwark Bridge, I didn't see anyone on the focsle..... At the point of impact of the Marchioness and the Bowbelle, the Bowbelle was going through the Centre arch. The Marchioness was near enough through the bridge, near enough under the bridge when the collision occurred.”

66. *Evidence of Paul Williams*

What was the location of the collision? Paul Williams, the Mate on the Hurlingham, did not see the actual moment of collision – but saw the scene moments after. He gave a police statement on the 20th August. It appears from the evidence at the inquest that the police never actually asked Mr Williams where he estimated the collision had taken place. However, at the inquest, when asked more precise questions he gave the following evidence:

Barrister ... At the moment when George said that the Bow boats hit him, you were about to go through Southwark Bridge

Williams I believe we were actually in the arch or just about to pass through the arch

Barrister So that the point of collision, and I'm going to put it generally as far as you're concerned was around or about the Centre arch of Southwark Bridge

Williams Yes

67. In a number of cases, no police statement was actually read out at the Inquest, so it is not easy to judge whether or not the police asked a witness about a particular set of facts. Our task is made all the harder since this Inquiry has not yet made police statements available. However, a reading of the transcript does suggest in relation to the witnesses below that the police failed to ask adequate questions.

68. *Evidence of Mr Strachen-Cowie*

⁶⁴ See p.536

He gave evidence at the inquest which clearly indicated that the Marchioness was (a) hit in the back and (b) did not veer in the path of the Bowbelle. It appears from the inquest transcript that the police did not clarify these crucial questions in his statement to them.

Strachen Cowie⁶⁵ .. I believe what happened was the twist around was as a result of being struck from the back. I don't think that it was sudden course change. The course of the Marchioness up to that point suggested they weren't doing anything sudden and I don't know if they'd have been able to do anything sudden given the speed of the incoming tide. They were practically standing still. was that they were doing anything sudden ... They were practically standing still

69. *Evidence of Mr Fawkes-Underwood*

The same issue, as above, appears to exist in relation to the statement of Mr Fawkes Underwood. At the inquest he suggests that the Marchioness did not veer into the path of the Bowbelle prior to collision:

Barrister ⁶⁶	The front of the Bowbelle emerged from Southwark Bridge
Underwood	Yes
Barrister	At the time is the Marchioness appearing to be stationery in the river?
Underwood	Moving infinitesimally
Barrister	So its virtually at a standstill as far as one could say?
Underwood	Yes virtually.

Again, the inquest transcript suggests that this question about whether the Marchioness veered into the path of the Bowbelle was never clarified by the police when his statement was taken.

70.. *Evidence of Anthony Smith*

It appears that Mr Anthony Smith was not clearly questioned by the police on the issue of whether the Marchioness veered into the path of the Bowbelle. At the inquest, however, when questioned, he made his position clear:

Barrister ⁶⁷	I want to be clear that so far as the Marchioness and the course of the Marchioness is concerned is there any question in your mind that the Marchioness swerved or veered or changed direction suddenly?
Smith	No ...

71. **Other Police Statement Mix-ups**

In addition to this evidence, a number of other witnesses also had other criticisms of the way the police took statements and which in some cases, they allege, resulted in their statements being inaccurate.

⁶⁵ 23 March, p.332

⁶⁶ p.341, 23 March

⁶⁷ p.393, 23 March

72. Evidence given by Anthony Kenny, who was standing on Southwark bridge at the time of the collision (pp.296-320)

Barrister [Reading out statement he gave to the police] Now I'll just read the next sentence. "The boat which I now know was the Marchioness, was near to the north bank of the river slowly proceeding directly towards where I was standing a quarter of the way across Southwark bridge"

Kenny Well in that direction, yes

Barrister ... "I saw then another disco boat emerge near to the south bank through Blackfriars bridge"

Kenny No the Hurlingham was actually following the Marchioness up the river which wouldn't have been the south bank. It would have been the North bank I think

Barrister To that extent, that's an error in the first statement to the police is it? You meant to say North, but you said South.

Kenny No no, its probably that there was a misunderstanding between the person writing it down and myself. I'm certainly sure of the events.

73. Evidence of Glen Tobin who was on the Hurlingham (pp.401-436):

Coroner⁶⁸ After this all happened, were you interviewed by the police?

Tobin At a later date they came around to my flat

Coroner When you gave a statement to the police, did they write it down?

Tobin No, not to my knowledge. They made a few notes in notepads as I explained the story to them, sitting in the front room over a cup of tea. They took a few notes, went away, sent a statement which I read and signed them and sent back to them.

Coroner They sent a statement for you to sign?

Tobin They sent a statement, yes

Coroner Look we've heard witnesses yesterday saying when the police came, the police insisted on changing the names of the bridges to fit what the police thought had happened. Is that right?

Tobin Judging by the statement I've read this morning, yes. They seem to have swapped all the bridges round

Coroner It there anything in the statement that you actually said?

Tobin Yes most of it is pretty well accurate except for when it comes to the bridges. For some reason or another the bridges seem to have been swapped over. I don't know if its my mistake or their mistake but if I look at the top of their statement which was sent to me, for some reason or another they didn't get my address right or even my telephone number, so there's got to be a mistake somewhere. I don't live in Siddenham, I live in Forest Hill and my telephone number bears no resemblance to the one they've actually put down and I've had the same telephone number for twelve years. So there's been a mix up somewhere.

74 It also appears that the police lost a diagram which Tobin provided to them:

⁶⁸ p.404, 24 March

Tobin⁶⁹ And may I ask you a question? Have the police furnished you with the drawing that I actually did at the time as well?

Barrister I'm not sure that I have the drawing, but if you have one I'd be grateful to see it

Tobin No, I gave it to the police at the time and the design of the bridge is showing five arches and not five legs.

75. Tracey Bridle was on the Hurlingham, and gave evidence on 24 March:

Coroner⁷⁰ I just got a message handed to me that the statement that I've been given which says Tracey Natalie Bridle, you say that isn't your statement at all

Bridle No I rang up the coroner and told him it wasn't my statement

Coroner Lets start from the beginning, You asked for a copy of your statement

Bridle Yes, I asked for a copy of my statement and it came through, and that's what came though that one. I assume thy must have mixed it up on the computer or something

Coroner Whose name did it have on the top

Bridle Whose name did it have on the top?

Bridle Mine, it's got all my details on it and everything

Coroner But its not your statement at all

Bridle No it could be bits of it but they've missed out about four or five pages maybe or more. I was on the front of the boat so I gave a lot of information

76. **Failure to Survey the Boats?**

The Marchioness Contact Group makes the following observation in its submission to the Inquiry.

"There is no evidence in the MAIB report that physical inspection of the hulls of the *Marchioness* and the *Bowbelle* was carried out after the collision with a view to establishing the speed and angle of blow at which the two vessels came into contact as is usual in any collision case."⁷¹

77. The submission then notes that such a survey was carried out by Messrs Edon Liddiard Vince and Company Ltd. It then goes on to state that:

"It is extraordinary that it appears that no similar survey was ever carried out by the MAIB. Such a survey may be considered routine in commercial collision cases. It is even more surprising in circumstances where no evidence could be taken from the captain of the Marchioness who died."⁷²

78. We would add a further question: why did the police not undertake such a survey? Although, we cannot be absolutely certain that the police did not do so, it is highly unlikely that they did, if the MAIB failed to do so. Yet clearly such a survey could have been crucial to the question of criminal culpability.

⁶⁹ p.416

⁷⁰ p.437

⁷¹ P.23 (c)

⁷² P.24 (d)

79. **Failure of the police to take appropriate photographs of the *Marchioness*?**

The Marchioness Contact Group submission states:

“The only photograph of the Marchioness after the accident (which is annexed to the MAIB report) is not helpful in establishing how the collision occurred.. For example, the attached photographs taken by Captain Beetham makes it clear, we are advised, that the collision cannot have taken place in the manner described in the MAIB report because the impact damage was only on the lower hull. If the collision had taken place as a result of an alteration of course to port by the Marchioness across the bow of the Bowbelle, it could be expected that the impact damage to the Marchioness would have been consistent with the angle of the stem of the Bowbelle (about 20 degrees to the vertical) instead of its actual angle to the vertical (about 40 degrees as described on page 7 of Edon Liddiard Speed and Angle of Blow Report dates 22 September, 1989).”

Again the question is: did the police take any photographs which showed the damage on the lower hull? Again there is no conclusive evidence on this point, but if the MAIB does not have it, one would imagine that the police may not as well.

80. The Police and the History of Incidents in the river Thames

Did the police investigate the history of collisions by the Bow Ships? The Toft report states that the Bow ships prior to the disaster were involved in collisions on at least twenty one other occasions⁷³. This number was discovered through research at Lloyds List. Several of the collisions were with bridges. The Toft report states that the ships collided with at least ten other vessels, three of which sank.

81. The MAIB report however refers to only three of these incidents – all of which took place on the Thames. The subsequent Hayes report refers to a further five incidents on the Thames, making a total of eight. All of these collisions related to boats that were owned by South Coast Shipping.

82. There is no evidence available to us to be able to answer whether:

- the police knew about the eighteen incidents involving Bow Boats – beyond the three mentioned in the MAIB report;
- whether they knew about the other five incidents on the Thames (i.e. the ones not named in the MAIB inquiry, but named in the Hayes report) involving Bow Boats that were owned by South Coast Shipping; and
- whether the police investigated them to determine how this affected the level of culpability of the company or any of its officers.

83. The approach taken by the police – discussed above – does indicate that it is likely that they failed to undertake this level of investigation. It would be a serious criticism of the police investigation if:

- it did not know about these incidents and did not investigate them and determine their significance in relation to the failure of the Bowbelle on the morning of 20 August to have a lookout.

⁷³ P.5

- it did not determine the extent to which South Coast Shipping knew about these incidents and their implications for safety and the need to ensure that a proper look out system existed..
84. This is because the crime of manslaughter depends on the extent of awareness of risk, and the extent to which a person ought to have known about a risk. A failure to investigate the history of these boats and the extent of knowledge of these collisions would seriously jeopardise the investigation.
85. **A general point about the Police investigation.**
The Submission by the Marchioness Contact group lays down some of the criteria one would expect from a proper investigation.
- “Any enquiry will only be as good as the data with which it is provided, or which it obtains itself by a process of investigation. [It] should hold [itself] detached from any potentially sceptical of every piece of information until it has been confirmed and corroborated; should be prepared to question why information pointing in a different and contradictory direction is being given; should question whether those giving the information have a vested interest in so doing; should question the efficiency and reliability of the way in which information has been recorded or retrieved, should search for further evidence than has been put before it and should question how and why such information has not been produced to it. No investigation should inhibit itself in a concern not to lay blame.”
86. It is our submission that the police failed to live up to these minimum criteria and as a result should be subject to a proper inquiry. Again we support one of the key conclusions of the MCG submission.

“The police investigations, as evidenced by the prosecution of Captain Henderson, appears to have focused upon the individuals failings of the captain in keeping a proper look-out, rather than upon the even greater responsibilities of the owners of the Bowbelle in launching daily in onto the Thames a potentially lethal vessel, lethal in its design, into its instruction and tasks and in its available basic equipment.”

THE MAIB REPORT

87. The MAIB report has already been referred to above and we do not intend to go through it in any more detail here⁷⁴. However the critical point about the MAIB report is that it – and presumably any statements collected - were relied upon by the CPS in its prosecution decisions.⁷⁵ The integrity of any prosecution decisions – which relied upon MAIB report - must be in very serious doubt.

THE CROWN PROSECUTION SERVICE

⁷⁴ See MCG report p.21-21

⁷⁵ See above)

88. As noted above, the CPS “guided” the police investigation, and received in total three reports from the police. It is likely therefore that any inquiry into the CPS’s handling of this case will show that the CPS shares the blame for many of the defects in the police’s criminal investigation. In our view, if it would be enough for this Inquiry to consider there was sufficient evidence relating to an inadequate investigation to justify a Public Inquiry with terms of reference that included scrutiny of the police and CPS decisions. However, separate and distinct criticisms may be laid at the door of the CPS.

89. Background

The Crown Prosecution service announced in early 1990 that it would prosecute Captain Henderson for an offence contrary to section 27(4) (b) of the Merchant Shipping Act 1988. The offence concerned a failure to have a proper look-out and it did not relate to the deaths that took place. In response to letters from Christian Fisher solicitors asking why they had decided not to prosecute South Coast Shipping or any of its company officers with an offence under section 31 (1) of Merchant Shipping Act or for Manslaughter,⁷⁶ the CPS wrote back stating

“all the offences and all the potential defendants mentioned in your letter were considered before the Director made his decisions to institute proceedings against Captain Henderson for the offence with which he is charged. All the available admissible evidence, and all the constituent elements of each potential charge were considered by the Director together with all other relevant material in his possession. The Director came to his decision after receiving the advice of senior and junior treasury counsel and admiralty counsel and his decision was approved by the Solicitor-General

You will appreciate that it would be wholly inappropriate for the Director to give reasons for his decision not to prosecute either corporate entities or individuals.”⁷⁷

An application was filed for leave to judicially review this decision. It failed however, since the court argued that it was not possible to question the CPS’s reasoning for not prosecuting the company for either offence.

⁷⁶ Letter of 29 May 1990. Also concerned failure to prosecute Mr Henderson for manslaughter

⁷⁷ Taken from judgment relating to an attempt to judicially review the decision not the CPS decision not to prosecute.

90. **Evidence in the Hands of the CPS**

Two trials then took place against Captain Henderson, both of which ended in a hung jury. The Marchioness Contact Group submission to this Inquiry summarises the “factual basis” upon which the Crown Prosecution Services argued its case:

“a seaman, Blaney, and a second seaman, Quantrill (not on duty but apparently on deck with Blaney) were at the time of the collision with the *Marchioness* on the forward deck of the *Bowbelle*. No formal look-out was deployed Blaney’s evidence **WAS** that (as the *Marchioness* veered across the bows of the *Bowbelle*) he shouted at the *Marchioness* “get our of the way” whistled, and waved his arms. Each consideration of this tragedy ... rested upon this central thesis, implying that the *Bowbelle* proceeded on a route that was normal and safe, with due caution and care, and that it was the failings of the *Marchioness* that created an unexpected hazard, save for the suggestion that there was a lapse in maintaining an adequate look out at the vital moment.”

91. The limitations of the police investigation have been discussed above, and clearly this would have seriously effected the evidence upon which the CPS had to make decisions. Yet, despite this, it appears that the CPS had overwhelming evidence that the *Marchioness* did not veer into the path of the *Bowbelle* – the question critical to the question of culpability.

92. In fact a reading of the witness evidence provided to the coroner inquest, indicates that almost the **only** evidence in the hands of the Crown Prosecution Service indicating that the *Marchioness* did veer into the path came from Blaney and Quantrill – both of whom had a very strong interest to asserting this. Almost all the other evidence – and we can provide references to this if required,⁷⁸ but any reading of the inquest transcript indicates this - from both witnesses on the *Hurlingham*, on the *Marchioness*, and from the shore indicate that:

- the *Marchioness* was hit on the stern by the *Bowbelle*, rather than on its side.
- the *Marchioness* was on a straight path when the collision took place, rather than veering towards the *Bowbelle*.

In addition, Blaney’s evidence also had to be treated with some suspicion since he admitted to heavily drinking the evening before the collision. There was also evidence bringing into question whether Blaney and Quantrill were located on the front of the boat until just moments before the collision.

93. **The CPS Failure to obtain Documents**

The organisation Disaster Action obtained evidence in 1991, that the police failed to obtain documents owned by South Coast Shipping swiftly enough. A Detective Superintendent involved in police inquiries admitted to the said organisation, that the police did not use its powers of ‘search and seizure’¹ against the company and therefore no papers were impounded. He said that the DPP simply ‘requested’ that South Coast Shipping provide his office with the ‘ship's standing orders’ and ‘records of meetings where safety was

⁷⁸ Time limitations prevent us from proving detailed references

discussed'. Even though the company failed to provide the information after three months, the DPP did not take any action against the company. When Disaster Action asked this Detective Superintendent why the police powers were not used, he replied that he thought that the: 'Director [of Public Prosecutions] decided to do it in a more gentlemanly way ... He felt they were dealing with honourable people.'

94. This Detective Superintendent said that in his view the delay was 'an absolute waste of time'. This information was first published in a DA submission to the Royal Commission Criminal Justice [Annex 4]. If this is the way in which the DPP and the police dealt with the company, it seriously brings into the question the integrity of the "process of accountability".

CONCLUSION

95. In the light of the investigative and prosecution failings outlined above the judgements of both the police and the CPS need to be placed under public scrutiny.
96. Just to make it clear. We are arguing that the terms of the inquiry go beyond the proposal of the Disaster Research group, which states, *inter alia*, that the terms should include "an examination of the adequacy and appropriateness of the investigative and inquisitorial procedures as applied to the disaster." The terms should specifically include an examination of the adequacy of the actual criminal investigation into the disaster and into specific decisions made by the CPS in relation to this disaster

ⁱ Under the Police and Criminal Evidence Act 1984.