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THE BOARD OF UNDERWRITERS OF NEW YORK,
56, Beaver Street,
NEW YORK.

No	Copy of letter received.
Dated	New York, December 11th, 1928.
From	Messrs. Bigham, Englar & Jones
Subject	s.s. VESTRIS.

The Board of Underwriters of New York,
New York City.

Dear Sirs,

As the hearings conducted by the United States District Attorney and the United States Steamboat Inspection Service have now been concluded, we beg to submit to you a preliminary report in relation to this disaster.

The s.s. "VESTRIS" owned by Liverpool, Brazil & River Plate Steam Navigation Company, and operated by Lamport & Holt, Ltd., sailed from New York at approximately 4 p.m. on Saturday, November 10th, bound for Barbados, Rio de Janeiro, Montevideo, and Buenos Aires. At about 2 p.m. on November 12th she foundered and became a total loss with all her cargo, and some 110 of the officers, crew and passengers lost their lives. We were retained by cargo underwriters to investigate the cause of the loss of the vessel.

Shortly after the survivors from this disaster arrived at New York, the United States District Attorney for the Southern District of New York, instituted a fact-finding investigation before



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United States Commissioner O'Neill, for the announced purpose of ascertaining the cause of disaster, and of securing any suggestions which might lead to greater safety at sea. We co-operated closely with the United States District Attorney's office from the start of the investigation and afforded him expert marine engineering advice prior to the appointment of nautical advisers to collaborate with the Commissioner.

We have attended all the hearings conducted by the District Attorney and have had representation at many of the hearings conducted by the United States Steamboat Inspection Service. We have secured a transcript of all the testimony offered before Commissioner O'Neill, and have made arrangements to secure a transcript of the testimony offered before the Steamboat Inspection Service. We were afforded the opportunity to make a survey of the s.s. "VAUBAN", a sister ship of the "VESTRIS" in company with Commissioner O'Neill, his nautical advisers, and the District Attorney's Staff.

After such an appalling disaster, we deemed it inappropriate to enter suit immediately against the owner and operator to recover for loss of cargo for underwriters' account. We were retained, however, by several individuals having claims for the loss of life of their relatives and for the loss of personal effects and for the personal injuries. We immediately filed suit against the owner and Lamport & Holt, Ltd., on behalf of Orrin S. Stevens, who lost his wife and his personal effects as a result of the sinking of the "VESTRIS". We also filed a petition in the

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and secured an order permitting the taking of testimony for the purposes of perpetuation and use in any future proceedings for limitation of liability which may be instituted by the steamship owner.

As the District Attorney's investigation proceeded, we arranged to summon by sub-poena the witnesses testifying at the investigation who seemed best able to explain the occurrences of the voyage leading to the vessel's loss. The testimony of these witnesses has been taken and by agreement with counsel for the carrier, this testimony is admissible in any suits in which we are retained as counsel.

As the press has given considerable space to the matters brought out during the course of the investigation, we assume that the underwriters are already somewhat familiar with the situation. Many of the matters elaborated in the press, however, have relation to the loss of life of passengers and crew. We shall limit this report to facts developed which have relation to claims for loss of cargo.

The s.s. "VESTRIS" was a twin screw steel steamer built by Messrs. Workman Clark & Co. of Belfast, in 1912. She had the following dimensions: Length 495'5", Breadth 60'9", Depth 28'7". She had a gross tonnage of 10,494. She was classed 100A1 at Lloyds, and we assume that she had had that classification since her construction. A few days before the voyage commenced, she was in drydock and at that time her starboard tail shaft was drawn and surveyed by Lloyd's Surveyors. The vessel



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was surveyed by the United States Local Inspectors at the same time.

Upon leaving drydock she rubbed against the s.s. "EL SALVADOR" and at one time it was thought that this might have caused serious damage to the "VESTRIS". We have subjected the matter to careful investigation, however, and we have established to our satisfaction that the only result of this rubbing was to scrape a small amount of paint from the starboard side of the "VESTRIS". The damage to the "EL SALVADOR" was also negligible. In our opinion this played no part in the subsequent disaster.

After leaving drydock the "VESTRIS" proceeded to her pier in Hoboken and there took on board a cargo made up of automobiles, machinery, and general merchandise. It appears that her total cargo was about 2942 tons. She also filled her bunkers with about 2883 and carried 1585 tons of water. At the time she sailed from Hoboken it is said that her mean draught was 26' 9 $\frac{1}{2}$ "; her permitted draught according to Lloyd's Register was 26' 8". While some statements have been made that the vessel had a list at the time she sailed from her pier, we are of opinion that this is not supported by the weight of the evidence.

After sailing at 4 p.m. on Saturday afternoon, the vessel dropped her pilot at Ambrose Lighthouse at about 6.00 p.m. and proceeded on her course. The weather from that time until approximately 10 o'clock Sunday morning was about that which might be expected at this time of the year. The radio weather report



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sent by the VESTRIS on Sunday shows that the wind had a force of 7 on the Beaufort scale or approximately 35 miles an hour, at 7.30 a.m. From the evidence taken it seems clear that up to that time no weather of a severity which should have caused any damage whatsoever had been encountered.

There is a considerable difference of opinion between the witnesses as to when it was first noted that the vessel had a list. A number of witnesses have testified definitely that they noted a list Saturday evening. Nearly all seem to be agreed that a definite list to starboard was noted early Sunday morning. Apparently this list was not considered to be of serious moment and the ship's officers have testified that they at first considered it to be due to the wind and weather on the vessel's port beam. The evidence establishes beyond any doubt that from the time the starboard list commenced it steadily increased in amount until it had reached an inclination of $36\frac{1}{2}$ degrees a few minutes before the vessel turned over and sank.

When the surviving ship's officers were examined by the United States District Attorney, they all testified that they could advance no definite cause for the vessel's list to starboard. They admitted that there was considerable leakage around the half door situated at the end of the thwartship alleyway in the shelter deck, approximately amidships, but they stated that the leakage there was insufficient to have caused any serious difficulty until the door became submerged. The officers suggested speculatively that the stress of weather may have opened up some seam in the tween deck bunker or fractured some sea connection. While the vessel



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eventually did undoubtedly encounter weather of considerable severity, we think it clearly established that the vessel was in serious difficulties before weather of any severity at all was encountered.

Our survey of the s.s. "VAUBAN" developed that in the forward well deck there are situated two booby hatches with companionways leading to the shelter deck. The booby hatches on the "VAUBAN" were fitted with wooden doors of light construction, without any means provided of making them secure. The starboard companionway leads directly to the forward end of a working alleyway. The port companionway leads to a forward thwartship alleyway which leads to the forward end of the starboard(working) alleyway. The starboard alleyway is crossed about amidships by a thwartship alleyway which terminates at two sets of half doors at port and starboard. Leading from the working alleyway on the starboard side are openings ^{through} to the alleyway bulkheads leading inboard to the fireroom and engineroom; at outboard a particularly large tonnage opening leads into the shelter deck wing bunker. About four feet inboard from the starboard half door in the thwartship alleyway is another opening into the shelter deck wing bunker. None of these openings are fitted with watertight doors.

From our examination of the "VAUBAN" it appears that there are three hatches leading from the starboard shelter deck bunker to the "tween deck bunker, having coamings of between eight and ten inches, and similar hatches (but without coamings) leading from the "tween deck bunkers to the lower bunkers at the bottom of the ship.



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We are advised that it was the custom on the VESTRIS, and is now the custom on the "VAUBAN" to omit any hatch covers from these hatchways so that as coal is consumed from the bunkers in the lower hold, the coal in the 'tween deck and then from the shelter deck finds its way to the fireroom working doors. It should be understood therefore that as soon as water finds its way into the shelter deck bunker to a depth of more than ten inches, it inevitably finds its way to the 'tween deck bunker and thence to the fireroom.

At the time the "VESTRIS" sailed from New York the starboard shelter deck bunker was filled with coal. The tonnage opening in the working alleyway was covered by a piece of sheet iron bolted to the bulkhead plating. The opening into this bunker from the thwartship alleyway was secured merely by planks provided for the purpose of keeping the coal in the bunker.

As soon as the "VESTRIS" encountered weather of even moderate severity the forward well deck was doubtless awash. In the way in which this vessel was constructed any water washing over the well deck would find its way to the bottom of the ship if the lightly constructed wooden doors in the booby hatches should be carried away.

There is evidence that on Saturday night or Sunday morning the door in the starboard booby hatch was carried away and from that time on it seems reasonably clear that water in large volume found its way down the starboard companionway into the shelter deck starboard working alleyway. The tonnage opening leading into the starboard shelter deck bunker had no coaming, and the other openings into this bunker and the fiddleys, had coamings varying

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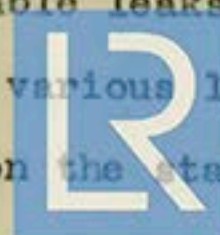
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between 7 and 11 inches. It is clear, therefore, that as soon as water in the alleyway reached any material depth, it was bound to find its way below by way of the shelter deck bunkers and the fireroom and engine room openings in the alleyway bulkheads. The evidence establishes that a great volume of water did pass down the starboard working alleyway, and that volume was increased by water flowing from a port alleyway ^{through} ~~to~~ the thwartship alleyway. Several of the negro firemen who we have examined have testified that a deluge of water found its way into the fireroom down through the fidley. The officers have also testified to leakage into the fireroom from the coal chute.

While the vessel may have been given a part of her initial list as a result of the wind and weather on her port beam, it seems reasonably probable that the greater portion of the list existing during the course of Saturday night and Sunday morning was caused by the increasing saturation of the coal in the starboard shelter deck, tween deck and lower hold bunkers.

We have ascertained by computation that a list of 11 degrees would bring the bottom of the half door on the starboard side awash in still water. Apparently there was considerable leakage around this door from the wash of the waves, before it became submerged. When it did become submerged, it is clear from the testimony that very heavy leakage developed. There is also testimony that as the vessel listed more and more to starboard, considerable leaks developed around the port holes in the glory hole and in the various lavatories and state rooms both of the crew and the passengers, on the starboard side.



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The testimony discloses that on Sunday morning, some water found its way into the fireroom through a leaky ash hopper and while this leakage of course added to the difficulties, in our opinion of itself, it was not particularly important.

So far as concerns the leaky starboard half door we have taken testimony tending to establish that this half door had leaked on prior voyages and had been the subject of considerable adverse criticism by members of the crew. It has also been testified that there had been considerable leakage around the port holes on prior voyages. We assume that the booby hatches with the wooden doors, the companionways leading to the shelter deck, and the non-watertight openings from the starboard working alley into the fidleys and the shelter deck bunkers, have existed for a number of years, probably from the time of the ship's construction. Apparently this type of construction has passed Lloyd's survey. In fact the "VAUBAN" which had the same construction sailed Saturday last with Lloyd's classification of 100 A.1.

In our opinion, and in the opinion of our consulting marine expert, this construction is exceedingly dangerous and it is difficult to understand how water in considerable quantities can be kept from the bunkers of a ship so constructed whenever the forward well deck is awash.

We are advised that the s.s. "VESTRIS" was known to be a "tender" ship. Captain Jessop, the United States Commissioner's Nautical Adviser, appointed by the United States District Attorney,



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has secured from the Owners the ship's metacentric height at the time she was built. Based upon calculations made by qualified experts at the United States Navy Yard he has expressed the opinion that the vessel's stability was at the lowest possible margin of safety. We have not ourselves as yet been afforded an opportunity to examine the ship's plans, and we are not, therefore, in a position to express an opinion on this point. Although the tenderness of the ship may be cured somewhat by the stowage of cargo, it is obvious that to do so it is important to know the ship's metacentric height. It is said that the owners were ignorant of the exact metacentric height of the "VESTRIS" subsequent to the installation of certain refrigerating machinery. Whatever may have been the metacentric height at the time the "VESTRIS" sailed, the inflow of free water into the starboard shelter deck and 'tween deck bunkers of this tender ship, of necessity gave rise to a most dangerous situation.

While many facts in relation to this disaster remain to be investigated, and it is possible that all the facts may never be fully known, on the evidence now before us we are of the opinion that when the s.s. "VESTRIS" sailed from New York she was unseaworthy for the voyage contemplated. We are not in a position to express an opinion as to whether or not the owner may ~~xxxxxx~~^{be} held to have been in privity with that unseaworthiness. Under the circumstances, in our opinion the facts fully justify underwriters in filing suit against the owner and operator of the "VESTRIS" for the recovery of all losses of cargo. We have not yet fully determined, however, whether such



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suits should be in this country or in England. Underwriters are, of course, aware of the difference in the limitation of liability statutes of the two countries. We recommend that Underwriters put us in possession of documents in support of losses paid as early as convenient.

At the conclusion of the hearings before the United States Commissioner O'Neill, Captain McConkey, the nautical adviser appointed by the British Consul-General at New York, and Captain Jessop, appointed by the United States District Attorney, each rendered his report concerning the disaster. We enclose twenty copies of the two reports which underwriters will doubtless be interested to read. It will be noted that Captain McConkey expresses the opinion that the vessel was in all respects seaworthy when she sailed, and that the subsequent disaster resulted from occurrences during the course of the voyage. It seems reasonably clear that in Captain Jessop's opinion the "VESTRIS" was quite unseaworthy at the time she sailed. In our opinion Captain Jessop's opinion is the more persuasive of the two.

Faithfully yours,

Sgd. BIGHAM ENGLAR & JONES.



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