

"'Watchman on the ship, George Braithwaite, said he saw the captain last from the lifeboat. He saw him come down the steps from the wheelhouse and go into his room. 'When he got down to the bottom step, he took a bad fall, but he got right up. He was hanging on there. I saw him wave one hand. Then he went into his room.'" There apparently was a lot of ice on the forward end of the ship, and on the steps down from the pilothouse to the texas. The crew also told of steel bars and rails having been bent by the force of the seas hitting the ARLINGTON.

"Henry W. Morris, surveyor for the American Bureau of Shipping, who surveyed the ARLINGTON April 16 in Midland, said the ship was 'in very good condition'. The hull was in good condition with only minor indentations. Rivets, three watertight bulkheads, holds and hatch covers were all in 'good condition'. There were lifebuoys on the starboard side of the pilothouse which Captain Burke could have reached, W. L. Mackenzie, Midland steamship inspector testified. On April 20, 1940, he (Mackenzie) found the ARLINGTON 'in good condition in all parts'.

And again from the same paper: "Midland, May 11 - ... from the evidence, Captain Burke never gave the order to abandon ship...

" George Braithwaite said, when giving evidence, that at 3:30 a.m., he had noticed the hatch cover on No. 3 hatch had been rolled back about two feet and that the tarpaulin cover on No. 5 hatch had been ripped half was across. He said he had reported this to the mate, Junis Macksey, who, in turn, had reported it to Captain Burke. When the mate returned to the wheelhouse, he had told Braithwaite to wake the crew. 'We met at No. 1 hatch and the mate came down to us. We saw that nobody could get back to the hatches because the water was washing over too high,' Braithwaite said, explaining that the list was becoming more pronounced every minute.

"At 4:30, he said, he had heard the mate blow the whistle for the COLLINGWOOD. 'The two mates, one wheelsman, one deckhand and the wireless operator started back aft to the lifeboat. I followed about two minutes later as I had to get my lifebelt... I was second last of the forward crew to get back.'"

Counsel for the various parties gave their summations in F. H. Barlow's office at Toronto on May 17th. G. P. Campbell, K.C. acting for the Department of Transport, argued that it had been incumbent upon the master to stay on the bridge from the time he first was called at 12:15 a.m., but that he didn't appear 'until perhaps at 4:17 a.m., when the engineer recorded a signal to slow speed.

"'The first mate seemed to falter a bit and didn't handle his vessel as the second mate did, and failed to get a proper inspection of the hatches. He was perhaps not as efficient as he might have been, but probably not to be blamed as the master should have been on the bridge... The men started along the deck (to inspect the damaged hatch covers) but they felt they couldn't make it. They - the mates - failed to return and report and left the captain and the wheelsman forward in the pilothouse.'"

Critical of the chief engineer, who found water coming in but gave no orders and left the engineroom, Campbell said that Gilbert "warned the men but did not communicate with the captain. At no time did the captain know of the water in the hold." Mr. Wilkinson ventured comment on wet grain in the holds swelling and exerting sufficient pressure to burst the after watertight bulkhead, thus allowing water into the boiler and engine rooms.

A final press report, unfortunately undated, recorded the findings of the court. F. H. Barlow, investigating commissioner, with the concurrence of the assessors, found that the ship foundered by reason of water coming in through No. 3 and 5 hatches, and the giving way of the bulkhead between the freeboard (spar) deck and the poop deck. He also expressed the opinion that when the master held up his hand to those in the lifeboat when he was going