

Marine Insurance Forum 2011

THE “MIEKE”

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ATTORNEYS

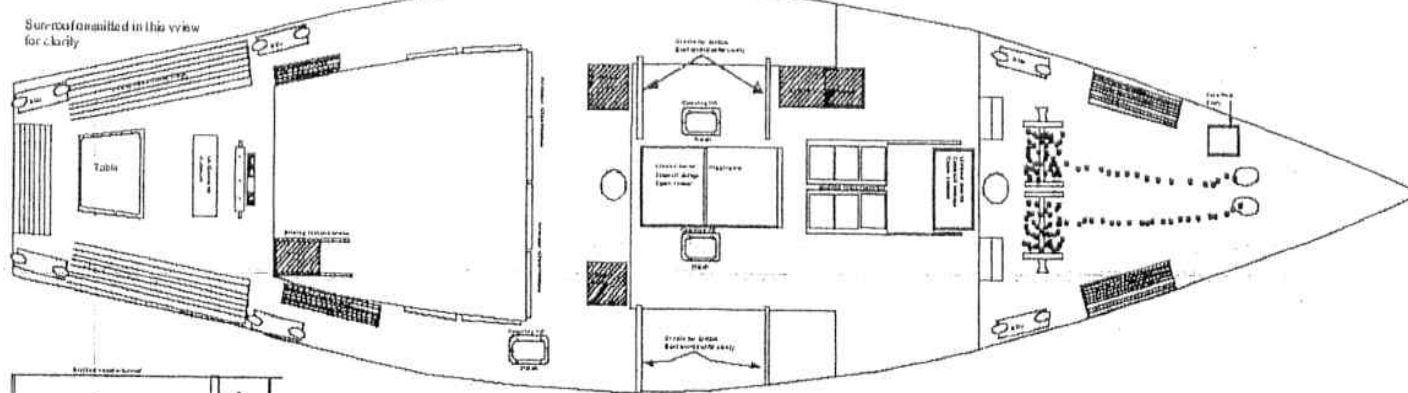
SV “Mieke” in her glory days



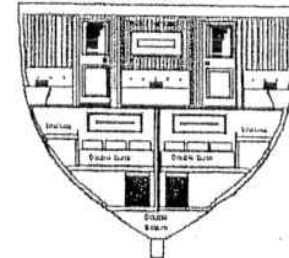


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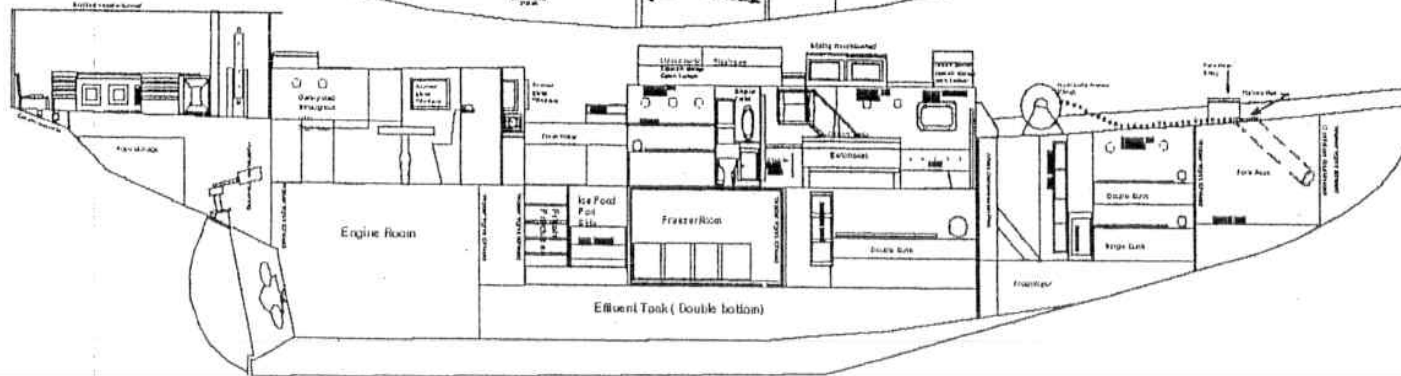
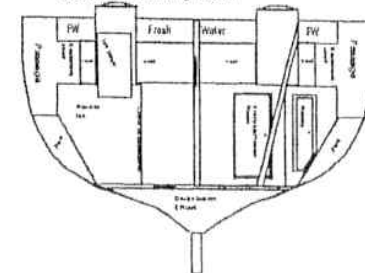
Sur-roof omitted in this view for clarity



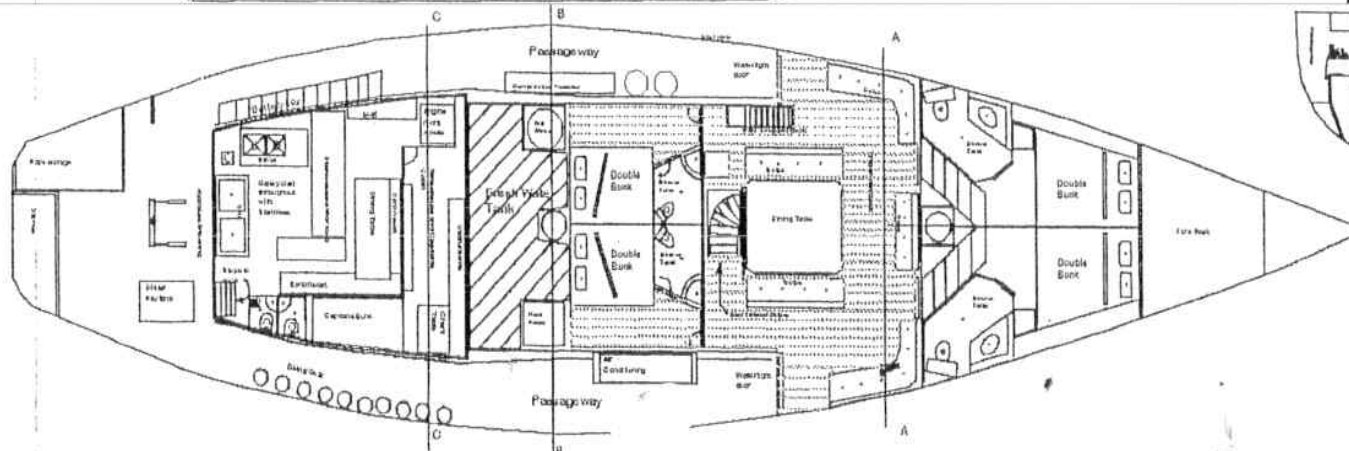
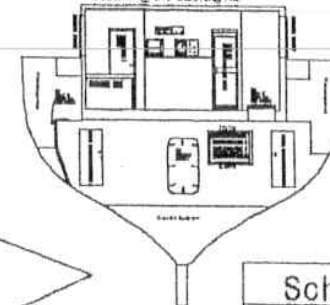
Section @ A-A Looking Forward



Section @ B-B Looking Inward



Section @ C-C Looking Aft



Schooner "MIEKE"

General Arrangement

LOA 29.7m Beam 7.7m
Draft 3.2m Disp 210tonne

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Broker's Letter

“We submit these documents as we seek confirmation that Insurers are happy with his qualifications.”

Intermediary's Letter

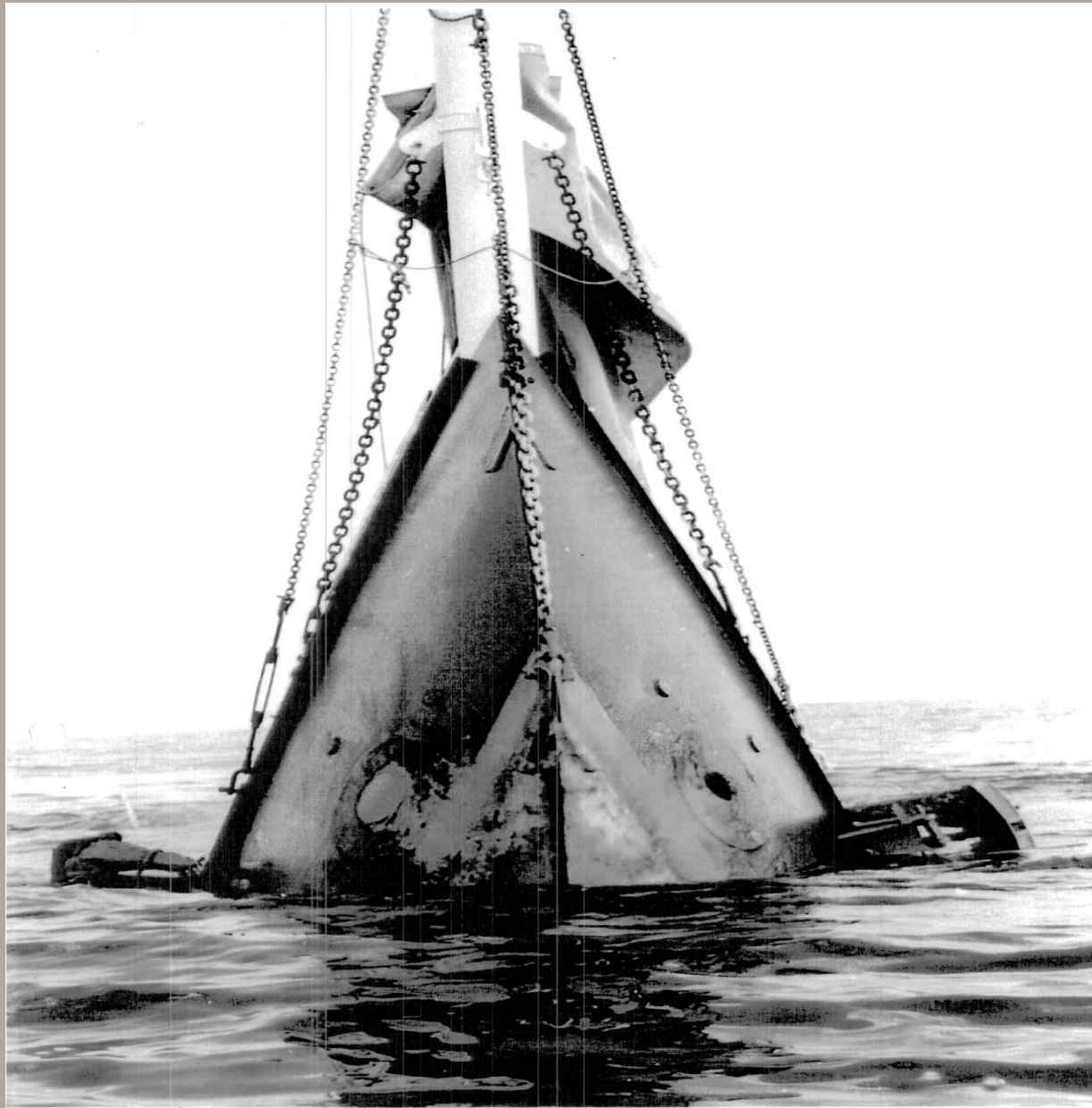
“(W)e have been asked to request that you view Hennop’s qualifications not to try to override SAMSA but rather to ascertain whether they satisfy underwriters.”

Underwriter's Scratch

“Seen”



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Defences

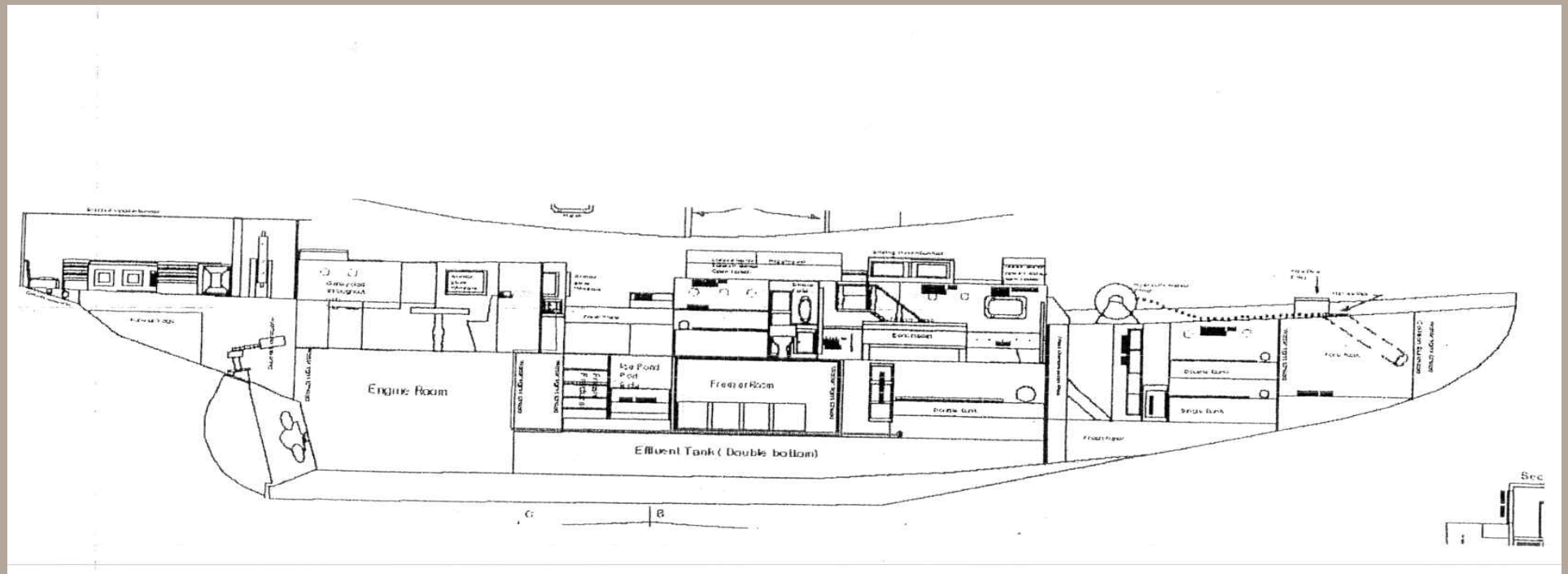
Non-disclosure

Misrepresentation

Breach of Implied Warranty of Legality

Loss by Insured Peril not Proved

Mode of Hull Failure



Issues on Appeal

Misrepresentation

Breach of Implied Warranty of Legality

Loss by Insured Peril not Proved

Choice of Law and Jurisdiction

Choice does not negate the applicability of domestic legislation where the statutory principles are concerned with matters of public policy or deal with issues that are in the public interest

Short Term Insurance Act

Section 53

A policy is not invalidated and liability cannot be limited in the event of a representation that is not true or there has been a failure to disclose information, unless these are likely to have materially affected the assessment of the risk

Short Term Insurance Act

Section 54

A policy will not be void merely through the insured's contravention of or non-compliance with any provision of any law

Appeal Court Findings

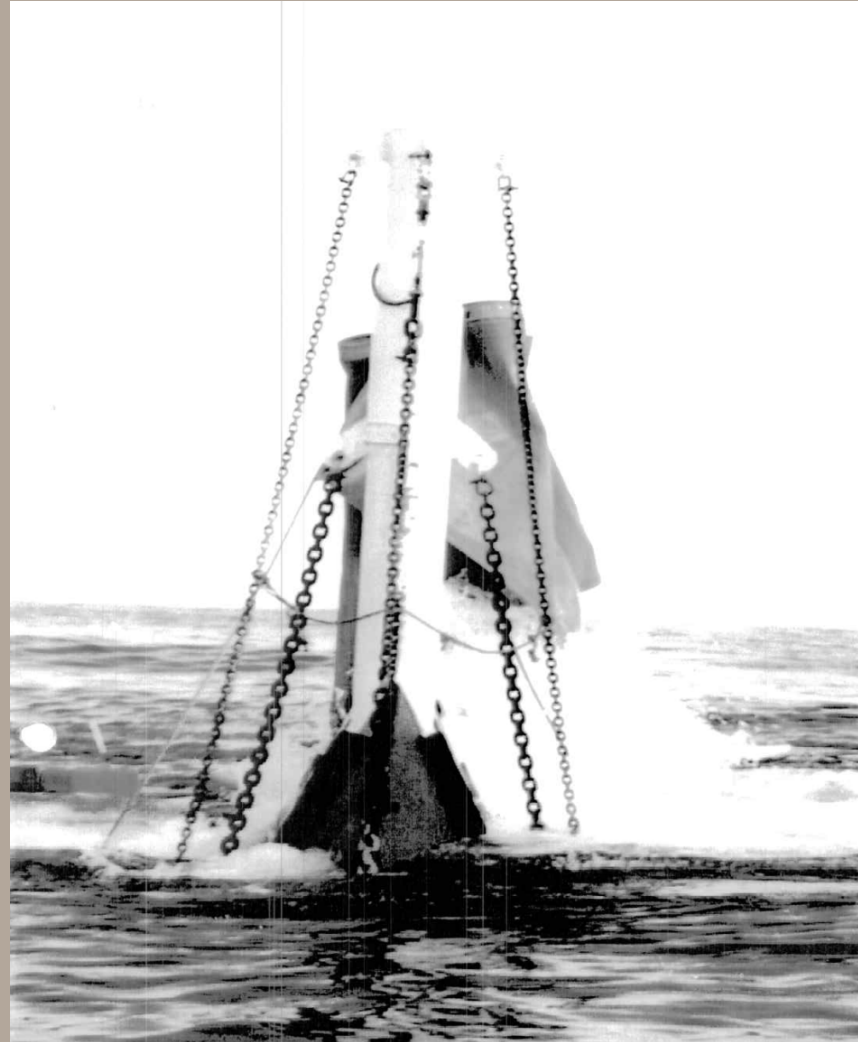
Parties cannot waive, through a choice of law clause, any statutory provision that involves matters of public policy or are in the public interest

Section 53 and 54 are not displaced by non-consonant provisions of the English Marine Insurance Act

Appeal Court Findings (cont)

Section 6 of the Admiralty Jurisdiction Regulation Act

Where dealing with latent defect, it is not sufficient for an insurer simply to require an insured to prove loss by an insured peril, and not put up a reasonably probable alternative cause that is not a risk insured against.



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