The case for the Prosecution was then opened.

The Prosecutor, Lieut. Commander (Acting Commander)) was sworn and gave
Leonard Cooper Windsor, R.N. -H.M.S."SKIRMISHER") evidence as follows:-

~~Examined by the Accused's Friend.~~
By the Court (President)

1. Q. Are you Lt. Com. (Acting Commander) Leonard Cooper Windsor, R.N., of H.M.S. "Skirmisher" ?

A. I am.

2. Q. Will you give your evidence to the Court.

A. I have examined the books of H.M.S. "SKIRMISHER" and I find that on the 25th December 1940 the Accused, Temporary Lieutenant (Acting Temporary Lieutenant Commander)Bertrand Aubrey Palmer, R.N.V.R., was borne on these books and is now so borne. I am personally acquainted with the Accused. On the 25th December 1940 I was the Senior Officer of the 11th Mine Sweeping Flotilla and was in charge of the mine-sweeping operations near the Coning Bay Light Vessel, off the South of Ireland. The minefield was a British one and contained mines of the type 14 and type 20. They were reputed to be laid at 10 feet below datum. For the operations on these particular dates, the 24th and 25th December, I was embarked in H.M.S. "HELVELLYN". Mark 2. style oropesa outfit is carried in the flotilla. The adjustments that I ordered on the 25th December were 300 fathoms of sweep wire between the kite and the otter,, 50 fathoms kite wire, 15 fathoms of float wire. The fleet was armed in accordance with Table 5. of my Flotilla Order No. 13 (Exhibit "A") and the port orepesa sweep was used. Laps had been carried out in "G" formation to port on a course of 256° in "G" formation. My Flotilla Orders were supplied to the ship. H.M.S. "MERCURY" was the third ship in the line when the third lap was commenced at about 1515 on that day. Towards the end of the lap "MERCURY" had an obstruction in her sweep which caused her float

hibit "A")-
ended,
back)

to dip. Subsequently a mine was cut. Whilst the ships were turning on the completion of this third lap I saw and read the signal made by "MERCURY", "My sweep is foul. Request permission to clear it.", To which I made the answer "Yes".

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(Deputy Judge Advocate here asked if copies of signals were being inserted, and Certified copies of all signals mentioned in the case are attached.
The Accused's Friend stated that it was not proposed to contest any of the signals mentioned in the Circumstantial Letter.)

"MERCURY" proceeded to the North West to endeavour to clear it, whilst the remaining ships turned to starboard and proceeded through swept water to the eastern side of the minefield for the commencement of the fourth lap and about 1615 the fourth lap was commenced; ships taking part were "HELVELLYN" and "GOATFELL". At about 1632 the "HELVELLYN" was approximately half-way between the dan buoys marking the beginning and commencement of the lap and at that time I saw and heard an explosion close to the stern of the H.M.S."MERCURY", who, by that time, had turned a wide circle to starboard and had come close to the ships who were employed dan laying, and disposing mines, and the "SCAWFELL" who was at that time recovering a parted sweep . "MERCURY'S" position at that time was approximately 184° 6.5 miles from the southern point of South Saltee Island. The depth of the water was about 30 fathoms. The column of water was clean and did not appear to bring up any soil.

3. Q. Was this from your own observation?

A. Yes.

4. Q. Will you continue.

A. The ship emitted steam and the steam could be seen as soon as the spray subsided. At the end of this lap I made the signal to "MERCURY", "What happened?"; to which he replied, "Mine exploded under stern. Do not know the extent of the damage. Slight leakage aft. Shall be able to use engines in about ten minutes. No casualties." On receipt of this signal I made "Did mine go off in sweep"; to which at 1650 he replied "Mine went off in sweep. Two depth charges went over board but primers out." By a signal at 1657 I ordered the "SCAWFELL" to stand by to take the "MERCURY" in tow and proceed to Waterford and at the same time I informed "MERCURY" that I had done this. The "SCAWFELL" then made the signal to me "Request permission to recover float." To which I repeated my signal "Take "MERCURY" in tow. "MANGROVE" will recover your float". "MANGROVE" also stated that he had no davit suitable for recovering the sweep, so I told the "ALMOND" to do it. The "MERCURY" then made the signal to me at about 1714 "May I suggest Milford Haven"; to which I replied "Do you think you can make it" and I received the answer "I think I can." As by about 1720 the "MERCURY" was not in tow and considering the towing power of "MANGROVE", an Admiralty T.G. Class Trawler, as compared with a paddle steamer, I told "MANGROVE" to take "MERCURY" in tow. This was accomplished by approximately 1800 and by this time ships were formed up, the "ALMOND" on "MERCURY's" port beam, the "HELVELLYN" on "MERCURY's" starboard quarter, with remaining ships astern of her, and course was set for the Smalls. At 1845 I made the signal to "MERCURY" "How are you getting on", and received a reply "Everything satisfactory". The next signal I received from "MERCURY" was at 2025, it read "Water is up to Wardroom level" and I replied "Keep at it". A few minutes later the "HELVELLYN" gained distance on "MERCURY" and I discovered that the tow had parted. I closed "MERCURY" and as the ship settled down by the stern I ordered "ALMOND" to go alongside and take off all hands to starboard. She went alongside the "MERCURY's" starboard sponson and kept her stern up to the sponson and embarked the hands. From the "HELVELLYN" I was using the searchlight to assist operations. Whilst "ALMOND" was alongside I noticed that the stem was rising or had risen and so I ordered everybody to be taken off the ship as it was obvious that she wouldn't last much longer. That signal was passed at 2051. All hands were embarked in the "ALMOND" and the ship cast off at about 2107. At 2115 in the approximate position of 51° 58.3' N. and 6° 24.2' W. "MERCURY" sank vertically stern first. I should like to produce a report dated the 27th December, 1940, signed by the Accused, whose signature I recognise, giving details of the circumstances which culminated in the loss of the "MERCURY".

(The report (attached) was read to the Court by the Deputy Judge Advocate.)
(Exhibit "C".)

Enclosure No. 1 In Plymouth Letter No. ~~ML/11.595~~ of 4th Jan. 1941.

M.591/33

18

27th. December 1940.

The Senior Officer,
11th.M/S.Flotilla.

Sir,

I have the honour to submit my report on the loss of H.M.S. Mercury on the 25th. December 1940.

Towards the end of the sweep on the third lap, my orepesa float dipped and I surmised a mine was in the sweep - it was some time before the mine was cut and appeared on the surface. The orepesa float, however, did not break surface and as it continued to run submarged after the lap was completed, I made a signal to the Senior Officer requesting permission to pull out of line and investigate.

On permission being granted I proceeded to steam at full speed and by zigzaging and altering speed endeavoured to clear the obstruction if such existed.

The orepesa ran on the surface for short periods but again dipped.

Orders were given to remove the primers from the depth-charges, and this was carried out.

Speed was then reduced to slow ahead; the kite slowly hove in, seen to be clear and then brought inboard. The sweep was then slowly hove in until a black object was observed in the otter.

I then received a request from the sweeping deck to stop engines. The orepesa was then brought inboard, and the float wire unshackled. I then proceeded aft and observed a dark object in the otter, gave orders to clear the sweeping deck and returned to the bridge.

The signalman was then instructed to report the position to the Senior Officer.

My intention was then to proceed slow ahead, veer sweep and if the obstruction was a mine, to explode it on the bottom, and in any case cut the sweep when sufficient wire had been veered for safety.

It was at this moment, 1632, a very heavy explosion occurred, and I immediately proceeded aft to investigate and found there were no casualties. From the first investigation no actual damage could be observed in the hull, the rudder was badly bent and out of action. A report was sent to the Senior Officer by V/S.

At 1800 the ship was taken in tow by 'Mangrove'. At 2020 the water had reached to wardroom level, and the Senior Officer was informed.

At 2040 the tow parted. At 2051 'Almond' came alongside with instructions to take off everybody. This operation was completed by 2110. At 2115 'Mercury' sank.

Particulars of sweep :-

350 fathoms Port sweep.
15 do. float wire.
50 do. kite wire.
6 cutters in accordance with M.S.11 instructions.

From the time of the explosion until the ship was abandoned, everything possible was done by all the officers and men for the saving of the ship.

I have the honour to be,
Sir,
Your obedient servant

B. A. Palmer

Lieut-Commander, R.N.V.R.
in Command.

Evidence of the Prosecutor, Lieut. Commander (Actong Commander) Leonard Cooper Windsor, R.N. - H.M.S. "SKIRMISHER" (Cont'd)

The books and documents required by Article 461 of King's Regulations and Admiralty Instructions are not regarded as entirely appropriate in this case. Moreover all the relevant books and documents, Ship's Log, Engine Room Register, the chart by which the ship was navigated and presumably the Sweeping Officer's notebook, were lost when the ship sank. I will, however, produce the original plan that I was using for these operations. The plan is drawn to scale and shows on a large scale the minefield near the Coning Bay light vessel.

(The chart (attached) was then shown to the Court by the Deputy Judge Advocate.) (Exhibit "D")

This plan is a large scale diagram of the relevant portion of Chart No. 2049 KINSALE to Wexford, which I here produce. - (Exhibit "E")

(The chart was handed to the Court by the Deputy Judge Advocate and examined.- Owing to the fact that this chart is still in use and the operation connected with it has not yet been completed and has to be continued, it is not possible to include it in the minutes. As the positions marked upon it are not in dispute, its inclusion would not appear to be necessary.)

The Accused's Friend also by permission of the President examined the chart on behalf of the Accused. Accused's Friend stated on behalf of the Accused. - "We have already examined the chart produced and are satisfied on behalf of the Accused that the position of the mines and dan buoys are substantially correct.")

Cross-examined by the Accused's Friend, by permission of the President on behalf of the Accused.

5. Q. Is it an easy matter in paddle mine sweeping to sight the otter when engines are still going ahead?

A. Not if the engines are going 5 or 6 knots or above.

6. Q. Why not?

A. Because of the foam created near the stern of the ship or the wake.

7. Q. The turbulence of the water created by the paddles?

A. A foamy wake is caused near the stern of the ship.

8. Q. What is your own procedure as regards sighting the otter when an obstruction is suspected through your float running erratically?

A. My method would be to heave in the sweeps slowly, provided the kite has come up successfully, off cutters evened, until the otter is between 50 and 100 fathoms from the ship and if the float is still running erratically I should advise going full ahead altering course veering and heaving in the winch and trying to shake the obstruction down.

9. Q. And if that failed to shake or remove this obstruction what would be your next move?

A. Depends where I had been sweeping.

10. Q. What would have been your next action in these circumstances on this particular afternoon?

A. As Sweeping Officer or as Commanding Officer?

11. Q. As Commanding Officer.

A. To have taken myself clear of the other ships and then if the obstruction was still there I probably should have cut the sweep.

Evidence of the Prosecutor, Lieut. Commander (Acting Commander) Leonard Cooper Windsor, R.N. - H.M.S. "SKERMISHER" (Cont'd.)

12. Q. During previous sweeping operations in this field were any mines cut from their moorings sunk by rifle fire?

A. Yes.

13. Q. If a mine cut from its moorings which had failed to sink but floated from its moorings fouled the otter slings would their have been any mooring to cut?

A. There would have been approximately 50 fathoms of wire between the bottom of the wire and the point where the mine mooring gear was cut if sweeps were set to 15 fathoms.

14. Q. In other words the mine would not still be attached to its sinker?

A. No. That would be impossible if it had been fired at.

15. Q. If an unmoored mine was fouled in the sweep or otter would the ordinary methods of clearing be of any use?

A. It depends which part of the mine was fouled of which part of the sweep.

16. Q. If it was fouled of the otter?

A. If the mine mooring rope were fouled of the otter I think that the methods that I have suggested would prove effective if tried for long enough. If, however, another part of the mine and its attachments were fouled of the otter or the slings or perhaps cutter then I very much doubt whether that method would be effective.

17. Q. Are you aware that in paragraph 141 of 6350 Manual of Minesweeping which I will ask the Deputy Judge Advocate to read to the Court that it states that the engine should be stopped when 40 fathoms of wire still remains on board?

(The Deputy Judge Advocate then read to the Court paragraph 141 of 6350 Manual of Minesweeping as follows:-

"The sweep wire or wires, are then hove in, the speed of the ship being regulated to keep headway on the float, but the engine should be stopped when forty fathoms of wire still remain outboard, so that it can be ascertained if the sweeps are clear."

A. Yes.

18. Q. Do you agree that "MERCURY" could have been lying across the tied and the sweep wire going out at an angle of 45°?

A. At what stage does this refer to?

19. Q. When the Commanding Officer came aft to investigate the reported obstruction.

Evidence of the Prosecutor, Lieut. Commander (Acting Commander) Leonard Cooper Windsor, R.N. - H.M.S."SKIRMISHER" (Cont'd)

19. A. When I saw the "MERCURY" between the commencement and the middle of the fourth lap at that time she was approximately 6 cables 278° from the eastern edge of that lap and at the time of the explosion she was approximately 3 cables to the north of me. She appeared to be stopped and her ship's head I should say was approximately 090° or 100°. At 1632 the tidal stream was setting approximately 070° at an estimated speed according to the data given in the chart of about 1 knot. Therefore if her ship's head was between 090° and 100° I see no reason why the otter and the float should not have been very nearly astern. One could expect it to be astern unless the ship were going ahead fairly fast.

20. Q. Can you tell the Court how many sweeps have been lost in the flotilla since commencing sweeping operations south of Coning Bay light vessel?

A. Approximately 4.

21. Q. Have in addition sweeps been parted whilst operated in this field?

A. yes.

22. Q. Given ideal sweeping conditions and no hitch in operations how many sweeping hours would it take approximately to carry out 100% clearance of this particular minefield.

A. With the ideal conditions suggested and continuous sweeping the operation would take between 25 and 40 hours, depending of course on the number of sweeps.