



## **MAIB'S ROLE IN AN ACCIDENT INVESTIGATION**

IT SHOULD BE WELL KNOWN by now that the fundamental purpose of our investigations is to determine the circumstances and the causes of accidents 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 is necessary to achieve the fundamental purpose, to apportion blame. Even so, there is still a fear in the minds of some people, not least those who have been involved in an accident which is under investigation by the Branch, that the investigation will lead to prosecution and that the declaration they have given to the Inspectors will be used in evidence against them. This Introduction is a good medium to make the position clear on this very important and sensitive matter.

Firstly, the Branch has no powers to take disciplinary action or proceed with a prosecution. We can only make recommendations to that affect and it is up to the regulatory body to take action if they consider it appropriate. We would only recommend prosecution under the Merchant Shipping Acts if our investigation determined there had been a flagrant or conscious contravention of the regulations.

Turning now to the question of declarations. Declarations are not released to a third party without the consent of the witness himself, however as in most things, there are a number of exceptions to this rule. Declarations may be produced at a Formal Investigation or a Section 52 Inquiry; they may in principle (though it is not normal practice) be used in a prosecution except when the declarant is being prosecuted; they may on request be given in confidence as background information to other authorities, for example Police or Coroners, to assist their separate inquiries; and they will have to be produced in any legal proceedings relating to the accident if the Court so requires but no answers given in declarations shall be admissible in evidence against the person giving the answers or his spouse, except in the case of a prosecution for a false declaration. It is hoped this clarifies the matter and we can only stress that the purpose of the declaration is to assist the investigation in determining the circumstances and the causes of the accident.

While every care is taken in the preparation of this page, it is published solely for the purpose of providing information and should not, in any way, be construed as a substitute for legal advice, which should always be sought in respect of any specific legal problems experienced.

Source: British Marine 12/94