

INQUIRY UNDER THE FATAL ACCIDENTS AND SUDDEN DEATHS (SCOTLAND) ACT 1976 INTO THE DEATH OF DAVID GRAHAM WILSON

SHERIFFDOM OF LOTHIAN & BORDERS AT SELKIRK

SHERIFF'S DETERMINATION

Under the Fatal Accidents & Sudden Deaths Enquiry (Scotland) Act, 1976

Into the death of

DAVID GRAHAM WILSON

Held at Selkirk Sheriff Court on the 23rd, 24th and 25th November, 2005

Before Sheriff K.R.W. Hogg

At the enquiry, the Crown was represented by Mr. Bonnar, procurator fiscal depute; the family were represented by Mr. Sudjie, Solicitor Advocate; Colin Robertson Timber were represented by Mr. Stewart; and James Moffat & Sons (Cardenden) Limited were represented by Ms Logan. I found the following facts established.

1. David Graham Wilson whose date of birth was 21st December, 1940, was employed by James Moffat & Sons (Cardenden) Limited as a heavy goods vehicle driver. As such, he drove an articulated lorry being a tractor unit and trailer. The trailer unit was a standard unit some 2.5 metres in width with a triple rear axle.
2. On the 25th of August, the load to be conveyed to St. Boswells was a load of packs of wood. The packs of wood had been transported by ship from Latvia and had then been removed from the ship and stacked at Rosyth. The stacks of wood were then loaded on to the trailer. The method of stacking adopted by James Moffat & Sons (Cardenden) Limited was described as pyramid stacking. The trailer was loaded with one pack of wood on each side, the pack being as close to the side of the trailer as possible. The second level of packs were stacked further in so that they touched each other leaving a gap beneath the central stack. Above the second stack, a third stack was stacked on top of the second row of stacks. The packs of wood in question had bearers underneath them which enabled forklift trucks to insert their forks underneath to lift these on to the vehicle. They also had either plastic or nylon bands round the packs which should have been integral. The packs should therefore have been symmetrical.
3. The packs forming part of the same shipment from Latvia were later inspected after the accident by the Health & Safety Executive. They also inspected photographs of some of the packs which remained on the trailer at St. Boswells after the accident. In each case, the packs were found with loose and broken banding, missing bearers and, generally, distorted packs allowing wood to move out to the side of the pack. Photographs being numbered 6.11, 6.12 and 6.13 showed packs in

such a condition still on the trailer at St. Boswells. That also showed packs collapsing sideways into the bandings.

4. The trailer was loaded by employees of Forth Ports Authority. The supervisions of the loading was done by Robert Robertson, an employee of James Morton & Sons (Cardenden) Limited. Mr. Robertson had previously been a driver of HGV vehicles and had, for the past five years before the accident, been responsible for the loading of timber from Rosyth dockyard. He learnt the job of loading supervision from a former employee. He was given no extra training when he took over the job of loading. As far as he was aware, no risk assessment had been conducted by James Moffat & Sons (Cardenden) Limited for loading timber on the trailers at Rosyth and no policy existed being able to reject either packs of wood or whole loads of wood at the loading stage. When the load had been put on the trailer, Mr. Robertson had seen nothing wrong with the state of the load.

5. The trailer was moved by Mr. Robertson a distance of something between 500 and 800 metres from the docks to compound. At that stage, the load was not secured by any straps. David Graham Wilson then attended to pick up the load and drive it to St. Boswells. He, as the driver, was responsible for strapping of the load to the vehicle. To do so, he used straps and ratchets. It was his responsibility to secure the load for transit. He duly did so and drove a distance of some fifty miles to St. Boswells. On arrival at the timber yard of Colin Robertson Timber, the articulated unit stopped short of the unloading area and, whilst so stopped, the straps and ratchets were removed from the load. The unit was then moved forward a distance of 100 yards or thereby to the unloading area with the load unstrapped. The unit was not parked in the normal way on the unloading area but was parked at 90 degrees to where it would normally have been unloaded. David Graham Wilson then left the driver's seat of the tractor unit and rolled up straps round the front of the vehicle.

6. James Moffat & Sons (Cardenden) Limited had no written procedure advising employees as to procedures for loading trailers which would have detailed the method of safe stacking of timber or the criteria which could be applied by employees for rejecting defective packs of timber. No risk assessment had been undertaken by James Moffat & Sons (Cardenden) Limited at the Rosyth dockyards which would have reviewed the requirements for the personal protection of the drivers, the security of the loads nor the contents of the loads of wood. No risk assessment had been conducted regarding the unloading procedure for the driver of the articulated units. No additional training had been given to any driver and, in particular, David Graham Wilson, when instructed to move the loads of timber.

7. Two forklift trucks driven by employees of Colin Robertson Timber were used to unload the packs of timber upon arrival. Each forklift truck worked from one side of the trailer and each commenced removing a stack of two packs high being the top two packs and depositing them a little distance away from the trailer. After some time, the forklift on the nearside of the trailer closest to the passenger door was lifting one stack from the second row and moving it on top of a stack immediately behind the driver's cab. The two stacks immediately behind the driver's cab had only been two stacks high. One stack was moved across and, before the forklifts were detached from that stack, the driver of the forklift truck moved from the caged cabin of the truck and stood on the mud flap and was attempting to put a new bearer

underneath the pack. In the course of the unloading, there has been various loose bearers which were on the flat bed of the trailer. The driver of the forklift truck had identified a possible problem with one of the packs on the driver's side of the trailer. He had identified it as being unstable and the manoeuvre he was carrying out was in case that stack of timber two high fell. Had it fallen, it would have fallen in against the stacks held on the forks of the forklift truck.

8. David Graham Wilson had previously been at the front of the cab of the lorry but, unknown to anyone, had moved to the nearside of the trailer immediately to the right of the forklift which had stopped to insert the bearer. David Graham Wilson may have been collecting loose bearers from the flatbed of the truck. For a reason which was unable to be satisfactorily explained, the top two packs of wood of a stack three high on the offside (driver's) side of the vehicle fell inwards landing on David Graham Wilson who was standing immediately to the right of the forklift truck which was stopped. David Graham Wilson sustained the injuries from which he ultimately died at that time. The driver of the forklift truck and a customer in the yard came to David Graham Wilson's assistance. The forks of the forklift truck were used to lift some wood clear. The customer (Kenneth Rodgers) was a retired transport manager who had some experience regarding forklift trucks and loading and unloading. In giving his assistance to David Graham Wilson, Mr. Wilson told him that he was trying to get wood out. Mr. Rodgers said to him that that was a bit naughty. David Graham Wilson agreed with that. David Graham Wilson had earlier been seen with some pieces of wood which were bearers in his hand.

9. There were no written procedures in place for Colin Robertson Timber for the loading and unloading operations of trailers by the forklift truck drivers. There were no formal procedures in place to make certain that the drivers reported to the employees when they came in to the yard and there was no formal procedure in place to make certain that, if a driver of an articulated unit was in a place which was unsafe, the forklift drivers would have that either drawn to their attention or would be instructed to have the driver move to a more safe place either within the cab of his lorry or within the premises of Colin Robertson Timber.

10. The Health & Safety Executive employee, William Arnold, carried out investigations at Rosyth dockyard and found that, in similar packages of wood, there were packs of loose and broken banding, unstable stacks, missing bearers and distorted packs. He also criticised the system of pyramid stacking and was of the opinion that the vehicle had been stacked two high but three wide. His opinion was that the pyramid stacking increased the instability of the load in its journey. He was also critical of the load being moved at all minus the transit strap and ratchet.

Thus, on the basis of the findings in fact, determined as follows:-

1. David Graham Wilson was born on the 21st of December, 1940 and died at 5.50 a.m. on the 5th of September, 2004, at Edinburgh Royal Infirmary.
2. The cause of death was (a) adult respiratory distress syndrome; (b) multiple injuries due to an industrial accident.

3. Reasonable precautions whereby the accident might have been prevented would have been (a) The state of the timber packs at Rosyth made them unsuitable for stacking and they should have been rejected for stacking on the vehicle; (b) The stacking method adopted at Rosyth should have made the packs three wide across the vehicle and two high leaving no gap; (c) The loaded vehicle should not have been moved on two separate occasions without the straps being in place; (d) David Graham Wilson should have been in a secure safe place either within the cab of his vehicle or in a secure area away from the unloading process; and (e) The forklift truck drivers employed by Robertson Timber should have been instructed that, whilst unloading, to stop unloading as soon as the driver of any vehicle and, in particular, David Graham Wilson was seen in an area which was dangerous to himself.

I would comment that there was no single cause that I could determine for the timber falling. It was, in my determination, foreseeable that the timber might fall. The poor state of the packs, the movement while unsecured and the unsupported stacks left on the vehicle all contributed and it was impossible to determine what finally made the timber fall. It was without doubt that the driver, David Graham Wilson, was in a most unfortunate position when the timber fell and had he been in a safe place it is clear he would not have been struck. I could not determine why he was in the position he was.

4. There were carious defects in the working system both of James Moffat & Sons (Cardenden) Limited and Colin Robertson Timber which contributed to the death and the accident resulting in death.

There are as follows:-

1. James Moffat & Sons (Cardenden) Limited

(i) No written procedures existed for the loading of vehicles at Rosyth nor for the basis of rejection of loads if the timber packing was unsuitable.

(ii) The pyramid stacking system of loading on the trailer was unsuitable for a load of this nature.

(iii) There was no written procedure for the safe unloading of vehicles at the point of delivery and for the safe accommodation of the driver at the point of delivery.

(iv) There was no system in place to enable the driver of the vehicle to know the loading or unloading system at any yard to which deliveries were made.

(v) There was no familiarity with any safety policy and an over-reliance on experience on the job.

2. Colin Robertson Timber (i) No written procedures for the safe unloading of vehicles at St. Boswells were in place.

(ii) There was no system in place to enable Colin Robertson Timber to know whether those driving delivery vehicles were aware of the unloading system.

(iii) There was no familiarity with any safety policy and no system in place to make certain that the vehicle drivers were in a safe place before the commencement of unloading of vehicles.

3. The only other matters which are relevant relate to the future prevention. I understood that the Health & Safety Executive were actively involved with both of James Moffat & Sons (Cardenden) Limited and Colin Robertson Timber and they were actively involved in procedural aspects with regard to safety policies. Both companies in my determination required to review the procedures as directed!

K.R.W. Hogg,

Sheriff of Lothian & Borders at Selkirk