

DETECTIVE SENIOR CONSTABLE GRAY

Q1 This is an electronically recorded interview between Detective Senior Constable Stuart Gray and Mr Peter Bush on Wednesday, the 21st of July, 1999, at Sydney Water Police in Pymont. The time on my watch is 3.30pm. Also present, seated to my left, is Senior Constable David Upston from the New South Wales Water Police. For the purpose of the record, Mr Bush, could you please state your full name?

A My name is Peter Halam Bush.

Q2 Your date of birth?

A 31/8/51.

Q3 Your current address?

A Current address is 67 Holt Avenue, Mosman.

Q4 And your occupation?

A I'm a business strategy consultant.

Q5 O.K. As I've explained to you prior to this interview, you're aware that Senior Constable Upston and myself are making inquiries in relation to the 1998 Sydney to Hobart Yacht Race?

A I do understand that, yes.

Q6 And we bring you here today to discuss a number of issues and in particular issues in relation to the report which you were the chairman of that committee - - -

A Correct.

Q6 - - - Race Review Committee. If I could just

start by, could you place on record your sailing experience?

A I started sailing as a kid aged about 10, I did a lot of sailing in dinghies, I did my first long ocean race probably about 1977 and have been ocean racing pretty much ever since then. I've done over 100,000 ocean racing miles, I've done 14 Sydney/Hobarts, I've done about 4,000 miles single handed, about 2,000 ocean miles two handed, and have competed in pretty well every major ocean race off the Australian east coast on each, on several occasions.

Q7 And you have on previous occasions owned your own boat?

A I've owned I think about 14 boats, I've owned and skippered, of the 14 Hobarts I've done I've owned and skippered I think all bar two of those boats, and they've ranged from, they're basically between 40 and, and 55 footers, and certainly all my offshore, other offshore experience has almost been exclusively in my own boats, generally as skipper and navigator.

Q8 Right, O.K. Now so far as your involvement with the Cruising Yacht Club of Australia, can you give us a - - -

A I joined the club about 15 years ago following a previous probably about 5 or 6 years at Middle Harbour Yacht Club. At about year 10 I joined the

board on the request of a, of a member. I spent 5 years on the board, one as director, one as vice commodore, one as rear and two as commodore, and I stepped down from commodore some 15 months ago.

Q9 O.K. Now as a result of what happened in the Sydney to Hobart last year a race review committee was set up, that's correct?

A That's correct, yes.

Q10 And you headed that committee?

A I did, yes.

Q11 As the chairman. Can you tell me what, on what basis were you selected for that position?

A The commodore and I had a discussion, I believe by phone from Hobart at the time, and we were talking about the need for the club to fairly quickly and pro-actively start to think about how we would respond to what went on in the water, and that there was a need, and I don't recall whether it was really his idea or my idea, that we would need to formally review everything that had gone on and that perhaps we should be thinking about forming a committee or whether that should be done through the club's own committee process, and we fairly quickly on the phone I think formed a view that it should be an independent committee and we both agreed on the phone, and I think I probably volunteered first and foremost, if it was O.K. with him and if he thought that I was amply

qualified, that I would be prepared to chair the committee, and I was also in a position from purely a work standpoint and gave him an undertaking at that stage that I would give him my full dedicated time exclusively to the committee up until the end of March at that stage.

Q12 O.K. Now I believe that, were you involved in a committee in 1993

A No, I wasn't involved in that committee in 1993, no.

Q13 Have you been involved in any committees to review races previous to this one?

A No, the only, the only kind of review process or administrative process I've had is I've been on the sailing committee at the club - - -

Q14 Right.

A - - - and then also the board regularly reviews all sailing documentation with respect to the notice of race and all the other, all the other documentation that goes, I'm very familiar both as a, as a competitor and skipper and navigator and from the administrative process of the club with all those things.

Q15 Right. Now the, the race review - - -

A I might add, sorry, if I may, I'm also a qualified A.Y.F. safety officer so I'm, I'm intimately familiar having had to go through a, a test, a formal test to, to be accredited.

Q16 Yeah.

A I'm also formally familiar with the requirements of, of the A.Y. safety program.

Q17 Right. Now with that committee there are a number of sub committees set up?

A There were, yes.

Q18 And a number of investigators assigned to that, to your committee?

A Yes.

Q19 And they were selected on the basis of what?

A Well, what we did is we, we made people aware that a, in fact a press conference, Hugo announced that there was going to be a committee formed and I had submissions from people within and outside the club, we were looking specifically for people with ocean racing experience but with allied or other marine or maritime safety experience or other safety experience. Greg Hall's a good example, a guy who's been an ex-director of the race, he's worked all the time in, in marine surveying, one form or another, he's, he's done work on oil rigs, done a lot of underwater surveying, so all that was, was pertinent and relevant. He holds specific certificates because he flies over water regularly, he works over water regularly so he's been used to doing, he's done formal training in life rafts, formal training in search and rescue from helicopters. We originally had a, a senior

New South Wales police officer on it, he was there largely because of, he's conducted investigations and, and knew a lot about the formal process of, of investigating activities, so we looked for a portfolio of skills that, that could, you know, form a holistic group that could, could pull it all together.

Q20 Right. Now in relation to the selection of boats which you interviewed, what was the criteria on that?

A O.K. Well, first and foremost we sent a questionnaire to all boats - - -

Q21 Yeah.

A - - - and then we tried, I think we, we then selected about 28 or 30 boats, 28 I think was the number, we selected, we selected boats, not at random but we tried to select boats that were different sizes, that were of different construction and weights, that were flat out racers, there were others that had a variety of crew experience. In, in the specific instance when we were looking at stability we specifically chose some boats that were higher in the stability index versus low in the stability index so that we could try to come to terms with, you know, a very wide cross section. We also deliberately chose to talk to all the boats that got into considerable difficulty so we could have first hand knowledge,

particularly of the search and rescue application, and particular knowledge of the performance of various safety equipment that they have onboard.

Q22 O.K. Now were you aware of a boat called Renegade which rolled to 180 degrees and stayed inverted for some time?

A No, not particularly, I'm not aware particularly of that incident, no.

Q23 O.K. I can tell you that, that a boat called Renegade did in fact roll to 180 degrees. The crew were unaware of how long they were inverted for and upon recovery a crewman was in a near drowned situation and was, and was resuscitated on board the boat. Are you aware of that?

A No, I'm not.

Q24 O.K. So far as the surveys are concerned, who constructed the survey?

A I personally wrote the survey. My experience in that is I was chief executive of Australia's largest market research company, A.G.B. McNair, in the late 80's, and have considerable professional background in, in market research.

Q25 Right. How did the survey from, or are you aware if the survey from Renegade was ever returned, off, offhand?

A Off, offhand, no, I'm not.

Q26 O.K. If that survey had been returned, and in fact that was mentioned on that survey, would you

have followed that up?

A I believe I would have picked it up and followed it up.

Q27 Right.

A I'd have to go back and, and see whether it was.

Q28 Certainly. Now so far as the stability of the Business Post Naiad, who brought that to your attention?

A I actually discovered it myself.

Q29 Right.

A One of the very first things I did in, in, and even prior in fact to the, the committee finally being selected, one of the first things I attempted to do was to determine whether any of the yachts on which there were fatalities were ineligible, whether or not there were any issues, had they done anything or had the club done anything that would put us into a position, so one of the very first places I looked, the safety certificates, to make sure the safety certificates were by and large in order and to, checked that all their paperwork was in order. One of the very first things I found was that there was an ineligible rating certificate with respect to stability for Business Post Naiad.

Q30 And what your feelings in relation to that at the time?

A Well, what I did immediately is I made a diary

note of it, I withdrew that safety certificate from the Hobart paperwork and held it in a secure place in the office and I asked David Lyons, who is a naval architect, to give me an opinion on what that actually, that failure in stability, meeting stability requirement actually meant in real terms, 'cause quite often these forms and certificates from my, my, my lay knowledge of them, you know, some of these things on these certificates are academic, and David prepared for me a, you know, a sort of four or five page document after I, I, I know contacting the Australian Yachting Federation chief administrator, a guy there, a guy named Tony Mooney, and speaking to the, to the, sorry, to Launceston to the measure of the boat, and that paper is a matter of record. When I received that I passed that information within a matter of days, I think the, the elapsed time might have been 4 or 5 days, through to you guys.

Q31 Yeah. And if you recall that you and I had a number of conversations on the phone in relation to the stability

A Absolutely, yes, to Naiad.

Q32 Now in relation to the 1998 Sydney to Hobart Yacht Race, what was your role exactly last year?

A My, my role, I guess for a couple of reasons, one is being, you know, a race veteran being a past

commodore, I mean, more importantly having a lot of experience in dealing with media, my only formal role, I was asked to be media spokesperson until such times as the commodore stepped off his boat in Hobart.

Q33 Right. O.K. Now so far as the, an interview which was conducted by, and I'll go back, I'll go back, you became aware some days after the Hobart that there was an incident involving the Margaret Rintoul and the Sword of Orion?

A Correct.

Q34 What was your knowledge of that incident?

A My knowledge of that incident was reported to me from a number of different sailors - - -

Q35 Yes.

A - - - who were on the dock in Hobart, as it were, that on the dock that in various Hobart waterfront pubs, these two crews had basically stood face to face and made various accusations about, you know, one boat firing flares, the other boat sailing close enough to see them and not stopping, and that it had virtually come to blows if not actually to blows. In a discussion on that matter with the commodore, he advised me that he'd been approached by the skipper of Margaret Rintoul in Hobart saying that if, that none of this had actually happened and that if he as commodore didn't take some official action as, as head of

the club to stop the people from Sword of Orion saying these sort of things that he would in fact sue the club.

Q36 Right.

A Subsequently being aware of, of that, I made sure that I looked at the evidence that was available as we went through, I think there was copies of radio log and interviews with the, and discussions with the individual crews and the crews, and it appeared to me that there were, you know, there, there was a series of things that, that had happened that didn't appear to line up, one of which, which I think probably came out of discussion with the three of us - - -

Q37 Mmm.

A - - - or a couple of us, was that they subsequently admitted in an interview with you guys they had in fact passed a boat with no mast, had seen flares and clearly in the radio log had reported seeing flares, so there was some grave inconsistencies I felt in the report from the crew of Margaret Rintoul.

Q38 O.K. Was it your intention or, what I'll ask you first, your intention as the race review chairman, to hold an investigation in relation to that incident?

A No, it wasn't. I looked at, let me rephrase that, I would have liked to - - -

Q39

Right.

A

- - - because I felt that there were a series of inconsistencies there which, as I said, to me didn't align and I certainly didn't have a good feeling from the evidence about what had gone on and what had been reported as going on, those things didn't, didn't sit well with me. I was all ready to sort of start going down the, the mine on that and digging for, for evidence and thinking about interviewing the crews and I stopped myself for a moment, I said, Well, gee, is this really part and parcel of my responsibility and my, my committee's responsibility, and on, on referencing the terms of reference that I'd written prior to starting to make sure that we did start on the straight and narrow, I felt that no, this wasn't.

I felt so uncomfortable about the evidence that I'd been able to uncover that I felt that it should be referred formally to, through the club's process, and, and I did that by writing to the commodore as chairman and him as commodore formally saying that there was some evidence out there that didn't sit well with me, he should do with it what he felt he should.

Q40

Ordinarily, putting aside what happened in the Hobart, the deaths associated to the Hobart, if it had been fatal free and, and there'd been the incident with the Margaret Rintoul and the Sword,

would it have ordinarily been the, the case that the club would conduct their own investigation anyway prior to it being passed on to a jury?

A The, I mean, the answer to that is yes.

Q41 Right.

A If, if these sorts of things occur then it's up to either the race, the race committee or the sailing committee, or indeed anyone of, of, anyone of those racing has the right to lodge a protest - -

Q42 Yes.

A - - - you know, around those sorts of incidents. What struck me as unusual in this case is that the, the so called aggrieved party, Sword of Orion, had not chosen to lodge any kind of formal protest in spite of the reported going on in, in Hobart - - -

Q43 Yeah.

A - - - and certainly in spite of the continued expressions of, of grievance by a number of the Sword of Orion crew back in, in Sydney even months later.

Q44 Yeah.

A And so under normal circumstances, you know, I think the club would have, you know, would have pursued it. I have no, no view as to why it wasn't pursued earlier than my formally reporting it to, to the commodore.

Q45 Could it be the case that there was hopes that it could, could possible be sorted out amongst themselves?

A Oh - - -

Q46 Was it an option available?

A Well, it certainly was and I certainly had a number of conversations with both skippers asking them to try and bang heads and get to some point of agreement, yeah, I think even right up til June when we, we held our press conference. Others in the club, I believe the vice commodore or even the commodore were still having conversations with both parties, asking them whether or not they, they couldn't see their way clear to acknowledge that they were both happy with, with the nature and scope of the incident.

Q47 Now so far as interviewing boats, obviously your committee were assigned to interview different boats?

A That's correct, yes.

Q48 They were chosen, well, was it a random sort of thing, like - - -

A It was availability. What it is - - -

Q49 No

A - - - we, we, we had a secretary, a full time secretary, she checked on the availability of committee members, checked on the availability of boats and set up appropriate times, had venues

where everybody could get together.

Q50 Now I've got record of interview here between the Margaret Rintoul - - -

A Yeah.

Q50 - - - on the 24th February, '99, conducted by Howard Elliott.

A Correct.

Q51 Now he has actually interviewed the Margaret Rintoul.

A Yes.

Q52 Now I notice in the interview there was no mention of the incident?

A That was, that was on my instructions in fact - - -

Q53 O.K.

A - - - at that time. If you recall, the three of us at that - - -

Q54 Yeah.

A - - - stage were aware that, and I was aware particularly that you felt that it may be an area for discussion for the coroner - - -

Q55 Yeah.

A - - - and as yet you guys were undecided as to what that might mean - - -

Q56 Yeah.

A - - - and I deliberately instructed Howard at that stage to ask no questions about that for that precise reason.

Q57 That's fine, O.K. Why was it necessary to mention the Rintoul's situation at the press conference? Was it because it was out in the media already?

A Well, it was out in the media already.

Q58 Yeah.

A There was, you know, I think there were a number of issues which were in the report - - -

Q59 Yeah.

A - - - that we knew would, would attract significant media interest.

Q60 Yeah.

A For example, Business Post Naiad issue, which I felt would be the, the one, given there was a fatality on the boat - - -

Q61 Yeah.

A - - - the boat had been inverted and it was to do with the stability of the boat.

Q62 Yeah.

A You know, common sense would say that the media were going to be vitally interested in that - - -

Q63 Yeah.

A - - - and, and we, we took a strategy that said what we needed to do is make sure that we mention each of the things that we believe would be very newsworthy and, you know, make every effort - - -

Q64 Yeah.

A - - - to, to make sure that those things were put to bed. When I was asked two specific questions

after announcing the Rintoul incident, I made it clear on both those answers that there would be no further discussion on that until after the coronial inquiry, and journalists very rapidly backed away from asking any further questions on that.

Q65 Now there was an interview, we've just become aware of a, of an incident which occurred with the Sword of Orion and the vessel, Nokia, on race day, and that is that they had a collision with the Sword of Orion and this caused some damage to the Sword of Orion, and in fact a e-mail was forwarded from the Sword of Orion to the racing control room about the damage on that day. Are you aware of that e-mail?

A I wasn't, I was actually made aware of that e-mail by an A.B.C. journalist - - -

Q66 Right.

A - - - fairly late in the piece, asking me whether I was aware of, aware of that e-mail and at the time I said, no, I wasn't. That e-mail would almost certainly have gone, well, not almost certainly, would have gone to the race meeting centre which was controlled by Peter Campbell. Peter is an employee for the Sydney Hobart race, of Telstra, and a number of yachts that were equipped with e-mail facilities were asked prior to the commencement of the race, and has been

practice on this and other long ocean races, to forward to the media centre stories of interest and newsworthiness - - -

Q67 Yeah.

A - - - and presumably the reason that this was sent through by the Sword was so that it could be of media interest.

Q68 Would it also have a protest interest as well?

A Certainly from their standpoint it would, yes.

Q69 Right, O.K. Now are you aware of the contents of that mail?

A From, from, from memory they stated that they had some minor rig damage and that some stanchions or the had been damaged at, during the collision. My understanding from the interview of Sword of Orion, which I did, was that by the time they had reached Bondi, so if my memory serves me correctly, which is a very short distance in the race, that damage had been adequately repaired.

Q70 Right. There was also a mention of a crease in the mast. Is that correct?

A I believe so, yes.

Q71 Are you aware of the significance of that?

A Without knowing what they mean by a crease in the mast - - -

Q72 Yeah.

A - - - I don't, I can't really respond.

Q73 Yeah.

A Were it one of my own boats and I had a compression in the mast, if that's what they mean, and a crease, I would have been reluctant to continue in the race - -

-

Q74 Yes.

A - - - on the basis of the forecast that was already at hand. I'm not talking about the severe forecast - - -

Q75 Yeah.

A - - - just the fact that there was going to be a strong southerly on the fleet, everybody knew that.

Q76 Yeah.

A Had, had I been in a situation like that in one of my boats I would have been reluctant to continue in the race.

Q77 Are you aware if in that e-mail there was any, anything written in relation to advice, seeking advice should they continue?

A I'm almost certain there was not.

Q78 Now in relation to the interview with the Sword of Orion, which was conducted by yourself on the 23rd of March - - -

A Yes.

Q78 - - - I'll just show you that document there, do you recognise that document?

A Yeah.

Q79 In the front page of the document there is mention of the damage to the Sword - - -

A Yes.

Q79 - - - of Orion in the collision. Now in the report, in the C.Y.C.A. report on the Sword of Orion, there was no mention of the damage in the interview, but yet that one there, which I first showed you, appeared in the appendices and in fact on the Internet.

A Yes.

Q80 Can you explain the - - -

A Yeah, the, the interviews that, the write ups that are in appendices - - -

Q81 Yeah.

A - - - are really just the full details of the race and they cover things and, and the process that we went through and the series of questions that each of the interviewers was asked to ask were, you know, to get, to get some indication of boat preparedness, what the crew went through and, and how ready the boat was, what conditions were like prior to the storm, during the storm, precautions they took during the storm, whether they'd had adequate meals and preparation and all those, and all those sorts of things. The specific write ups conducted that are reported in the body of the report - - -

Q82 Yeah.

A - - - focussed, and were meant to focus most specifically on the series of events that led up to the boats getting in the extreme difficulty that they went into - - -

Q83 Right.

A - - - and so it really is a, a detailed account at that stage - - -

Q84 Yeah.

A - - - of what happened to the boats in, in that particular time.

Q85 Now so far as the weather's concerned, there was a storm warning issued at 1400 hours on the 26th in relation to the Hobart. What are your views in relation to the way in which the weather was reported by the bureau?

A O.K.

Q86 From your point of view.

A From my point of view. First of all, first of all I'll go on record as saying that as a veteran Hobart racer and someone that's done a lot of ocean racing and has had the responsibility of navigating in probably at least eight Hobarts, my expectation, and I in fact said to a group of, of people upstairs in the club prior to the race, that my view on the way the weather pattern was building was it had the potential to be the toughest race on record, and I said, Probably even tougher than the toughest race that I'd done, and

I'd done both '93 and '84 and of those two, '84 for me was much tougher, and there was a formation that year of what was called an east coast low and my prediction was that an east coast low would form.

Q87 Yes.

A That in fact was not quite what happened but something similar.

Q88 During a de-brief with the weather bureau, I think late January just after they finished their interim report, I was staggered to learn of the protocol that I have reported and it's has been subsequently widely reported, about wind strengths being up to 40 per cent more and wave heights being up to 86 per cent more, and in fact consistently across the questionnaire that we sent out, the yachting fraternity or the yachting community has been ignorant of that protocol despite the fact that the weather bureau can show evidence that they have by a number of means made, attempted to have made people aware of that, but I certainly was blissfully ignorant of that. Sailors tend to be quite cynical I think, or ocean racers tend to be quite cynical of, of the weather forecast in, in that I have done races where they've said it's going to be blowing 20 knots and it's been blowing 45, and in fact the, the '84 Hobart is a very good example. I was navigating a

37 footer called In the Navy that year, I was consistently getting weather forecasts at 25 knots and we were never in true wind of less than 45, so we were getting basically twice what was forecast.

They were forecasting it to abate and it never did. Equally I've been in conditions where they've told us there's going to be 25 knots of wind and we've been becalmed, so sailors are really quite cynical of, I think of the weather forecast per se. In respect to the particular Sydney/Hobart forecast, I looked at that and said, This is going to be a fairly typical but very tough race and has the potential to have a very, you know, a very 1984 feeling about it and therefore may be the toughest race on record.

Q89 Mmm. Did, did you share that with any of the racing committee or the racing director?

A No, not, not deliberately or specifically, I mean that was just an opinion as a, you know, as a veteran, and, look, that was also the sort of talk that, that was going around, you know, the, the crews getting ready, you know, saying, Bugger it, we've got to go and, you know, we're gunna have a great first day but boy it's gunna be tough after that, and that's not atypical. Look, I remember, I remember in '84, I remember in '84 it was already blowing about 35 knots as I walked down the dock to get on this damn 37 footer and I

thought to myself, bugger it, this is gunna be a bloody dismal race, and in '93 we got to Wollongong. I had a, I had a 17 metre very strong boat that year and, and not a good windward boat, and we were, and I had a very experienced and capable crew and we were not looking forward to that southerly change when it came through either 'cause we knew it was gunna be a tough race, and it turned out to be very tough.

Q90 What are your views on abandonment or, or suspending, taking shelter, seeking shore?

A Yeah, look, I, I will, I, I, I, given that I've raced all my life my understanding and expectation and my responsibility as a skipper always has been to take the decision to, to race or not to, or to continue, sorry, to race or discontinue racing. And in fact as the navigator in the 1984 Hobart I took, I forced a very unpopular decision on the two owners of that boat to retire, I think we were the second last retirement of the 108 or 109, 103, whatever it was, retirements, and the consequence of that was those two owners didn't actually speak to me for 2 years 'cause they were very pissed of 'cause I was navigator, I said, I just refuse to navigate any further guys, we'll go to Eden and that's it. And I, I've retired from a number of races, sometimes because of weather, or lack of in some cases, for a whole series of reasons. In '93

with, with Rager we were in a position where we were at that stage the line honours boat, and I was, I was some 50 miles ahead of the boat that subsequently took line honours. We sustained some minor structural damage that had the potential to become much worse. Whether it would have or not I don't know, I'd owned the boat for a very short period of time, literally a matter of 3 or 4 weeks, and I wasn't prepared physically to risk the boat ergo particularly the crew, we were in 50, 65 knots of breeze at that stage, we were the top end of the Tasmanian coast, there was no respite in the forecast so we had, we had another 150 miles to, to slog in these pretty big seas, and so I took a decision then to retire and we actually sailed all the way back to Sydney because of the way the conditions of the, of the seas were.

Q91 Right.

A But I knew, I'm a firm believer that the, the skipper is the only one that can, can make the decision to, to race or not continue racing.

Q92 Yeah. Would it be fair to say that certainly to assist a skipper to make a decision on that would certainly be a great assistance from external agencies to help you make that decision?

A I think any, any assistance that either a navigator or a skipper can get, you know, to make

that decision, to be appraised of the best facts, is, is the best possible advice that can be given, yes.

Q93 O.K. Now in relation to the actual report, one of the areas in the, in the report is race management structure, and there's a couple of pages I just draw your attention to the bottom of page 57.

A Yes.

Q94 Now there's a comment made here, I don't know, and I'll read it for the record, the chairman of the committee was unsure of the precise, precise responsibilities of the committee as a result. Now can you expand on that for us?

A Yeah. One, one of the things that's, that's quite fascinating in, in this whole analysis is that we race under a set of international guidelines and a very comprehensive, in fact rules book for racing, and when I sat down and interrogated that book, which is the I.S.A.F. manual, it became very very clear that that manual has been written primarily and almost exclusively in fact for the conduct of regattas, and regattas are normally run either in shore or close offshore around triangular or courses, they're usually races that, pardon me, between 12 and maybe 30 miles, and have very very clear responsibilities for every man and his dog and what they're to do with, with those regattas. Those same rules and that same set of

rules applies equally of an organisation structure, it applies equally to long offshore races. The, there are however no specific instructions, as there are for the short races, about a series of the details that one might want to have at hand when such a situation as the, the '98 Sydney/Hobart result and the weather turned bad and incidents started occurring, there are no such things in that manual to enable you to, to actually do that. One of things that I think the C.Y.C. has done over the 53 or 4 years of running the race, has built up a series of formal and informal structures, processes, protocols, that has enabled it to manage that race as, as best it can, in a way they have not been, as I stated in the report, have not been well, well documented in a formal sense, although seem to be well practiced in an informal sense.

Q95 O.K. So again is it fair to say then that this comment in relation to the chairman of the committee, which is in fact Hans Summer - - -

A Yes.

Q95 - - - and in relation to his responsibilities, is more related to the after event of the Sydney to Hobart, what happened last year, and also in relation to manuals?

A Correct, yes.

Q96 Does this have any reflection on his ability to be

a race chairman so far as protocols, managing entry forms, application forms

A Oh, no, no, and it's not meant to do that, and in fact Hans was present with the race management team for, you know, most of the time in Hobart. Once it became, appeared that we had multiple incidents on our hand, I mean, he was with Phil Thompson, Howard Elliott, Safety Sam from AMSA in the situation room in, in Hobart, and was involved in, in the various reviews and, and things and was acutely aware of what was going on - - -

Q97 Right.

A - - - and was in very regular contact with me, who by default ended up running the situation room in Sydney.

Q98 So far as, if I could take that back a bit, so far as the Business Post Naiad's concerned, we were aware of the, the ineligibility of that vessel based on the I.M.S. certificate, is it the case that Mr Summer, being the chairman of the race committee, is capable of vetting and, and ensuring documents comply for a particular boat?

A Yeah, look, the, the structure probably says within the organisation of the club that the responsibility ultimately fell, sorry, the responsibility on a day basis, day to day basis fell very much to the sailing office and probably the person responsible was ultimately as boss of

sailing office is Phil Thompson, the sailing manager, and any one of several people in that sailing office, who are all employees of the club, probably were responsible for not picking that, that aspect up. There is no doubt however that the, the, the race chairman or in fact the commodore ultimately have responsibility for the accuracy or not of that paperwork.

Q99 Right. Was it always the, the intention of the, of your committee to reveal the Business Post Naiad situation?

A Oh, absolutely, I became aware of it, one of the things that I made quite clear to the commodore when I took this role on, and we had quite an interesting discussion on this, was that if I was to be chairman of the committee that it would have to be transparent, that whatever was found would have to be reported, and that if that was not the way that he intended for the committee to operate then I would not be part of it, and certainly wouldn't be prepared to chair it.

Q100 Now back to the surveys, do you or does the club still hold the original analysis report?

A Yes, we do.

Q101 The findings?

A Yeah, the, the, all the, the, to, to crunch that report and get it into a manageable form I called upon a, a very well known Australian, very large

Australian research company, Yann Campbell Hoare Wheeler, with whom I've had dealings probably since about the mid 70's in a, in a business sense, and I prevailed upon them for no other reason than the cost of, of crunching that report was probably in the order of \$40,000.00, and Warwick Hoare, who is one of the three, four principals in that business, Warwick is an ex-sailor, I think he stopped ocean racing probably, I'm guessing early '80's but still has fond links, and I went to Warwick and said, Need a favour, the club doesn't have money to pay for this, would you be prepared to, to crunch the questionnaires for us, and he said yes, he would, and they delivered us a summary of the data which enabled us to actually look at the data and understand, you know, how many X's and how many Y's occurred in each instance, rather than having to go through manually and, and add them up.

Q102 So you removed the, the information you required from his summary and placed that into the report?

A In the report. We also had a piece of software with which we were able to load and manipulate the report so we could ask what if questions to just interrogate the data further, and that was a, that was a software program that enabled us to do that.

Q103 Mmm. Peter, when you were analysing the, a lot of the information, initial to get your report under

way, you mentioned a short time ago about safety equipment. Did you go through all the, all the safety certificates, not the I.M.S. stability certificates but the safety certificates?

A Only in as much to check that all the paperwork had been lodged. We didn't attempt at any stage as a committee to re-evaluate each safety certificate against, against what was on the certificate and what might or might not be on any given boat.

Q104 All right. What would you say if I brought to your attention some information in regards to a particular boat that the, that the safety equipment didn't comply with the mandatory crew list?

A Oh, well, I, I'd have two separate responses to that. First and foremost all the responsibility with, to comply with safety equipment sits with the, the owner or the skipper of the boat and is beholden on that person that - (Tape Beeping) - whatever compliance is required for safety, for example if they changed the number of crew, which meant they needed, you know, well, let's, let's say they went from having, you know, six crew to having eight crew, they would have to make sure they demonstrated they had life raft capacity, harnesses, life jackets, and all the other things that would hang off the back of that. If there

was a significant change, you know, say from 10 to 15 it would probably go even further into, into some of the safety equipment, so it's beholden on the individual to do that. Clearly, in my investigations and, and reported in, in the review, is the club's systems are manual and not particularly robust in having cross references and I could certainly see an instance where somebody could submit or have a safety certificate done and, for example, use the same example, increase their crew number, and that not be reflected in their safety certificate.

Q105 O.K. The time is 10 past 4.00, this interview is suspended for a tape change.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q106 Interview between Detective Gray and Mr Bush is recommenced at 4.12pm. Peter, just rehashing, we were discussing safety issues and safety certificates in relation to a particular boat, pardon me, and the direct relationship between the crew, and my next question, I think you answered that quite sufficiently. The, the next question I have to you is that, did you come across any other anomalies while you were going through club records as far as safety's concerned?

A No, look, not that I recall. The only, the only

other anomalies that I really recall coming across with paperwork related very much to the absence of current, current rating certificate or stability data, because, not so much rating, stability data.

It's been club practice where a boat that has not been racing I.M.S, rather than ask them to submit new certificates, if the club's had previously on record, the club have said, Yeah, O.K. and what, what I found was the club administration had not taken those files from either previous Hobart races or others and put them into the current '98 file and in fact those anomalies were drawn to my attention when in fact you guys requested for your investigations copies of all the paperwork that had to be submitted, and, and I think there were, you know, 15 or 20 odd gaps in, in that data but it all related to stability data which all subsequently were, were found and on file and I think ultimately provided to you.

Q107 What are your thoughts on a vessel entering into the Sydney to Hobart Yacht Race and, and supplying a, an I.M.S. certificate for a vessel which is similar, and in fact the, the original vessel that's entering doesn't have an I.M.S. certificate, or current I.M.S. certificate issued?

A If it's a boat that was racing in I.M.S. then that is outside of the rules and the skipper has breached the I.M.S. racing rules, he's breached,

and he's also breached the racing rules of sailing which are, which are really quite separate, and if that was, if that was picked up by my committee or was picked up by the club action would be taken through protest against that, that owner or skipper. If in fact that certificate was being presented to demonstrate stability for P.H.S. I would have to know more about the detail of that, but there are provisions under P.H.S. for boats that are of the same mold or similar, I can't remember the precise description but they are actually in the report, there is a prescription that similar boats or boats that have the same mold a, a sister ship certificate will suffice on the basis that there are no changes being made that would affect stability.

SENIOR CONSTABLE UPTON

Q108 But the notice of race does actually in fact allow for that to happen as far as that's concerned
.....

A As far as that's concerned, but if it was to do with - - -

Q109 Under P.H.S?

A Under P.H.S, if it was strictly within I.M.S. - -
-

Q110 Yeah.

A - - - then the owner has clearly breached both the I.M.S. rules and the, and the racing rules of

sailing.

Q111 Right. Now one more thing, Peter, were you present at the time the coroner gave instructions to either the club officials and racing, and, and sailing committee officials and also investigation committee officials?

A I'm only aware of one official meeting that took place between anybody at the club and the coroner, that, that was at my initiative where I met with the coroner at his office early in January, I guess about January 8 or 9, where the coroner and I met for probably 40 or 50 minutes. I explained to him the process the club was about to go through. I was looking for him from some, for some understanding of whether he felt that it was first and foremost appropriate for the club to conduct it's own investigation, and he was very strong on that point that it was and that industries and so forth were his, his work to investigate themselves because they are the most expert to do so. I was also looking for some understanding of the coronial process and what my committee should investigate and should not, and we certainly agreed at that stage that I, my committee should have a free hand to investigate everything other than matters relating to the, to the fatalities, specific matters relating to fatalities, which we subsequently steered very

clear of, and we gave each other an undertaking at that stage that there would be a free exchange of information from us to the coroner or his investigators and vice versa, and if that was not the case that I had an open door to go back to him to say, Hey, there is some information that I've asked for that has not been forthcoming, and so that was, that was fairly, fairly much the, the discussion. I'm not aware of any other meeting or briefing from the coroner, either formally or informally other than discussions that the three of us perhaps may have had. I also made both, I think in writing and at that meeting with the coroner, an offer to have either him or liaison from his office join the committee meetings as they saw fit.

Q112 O.K. And in fact that was the case where there was a free flow of information between parties without written consent up to a point where a summons was issued and then instructions came back from the club whereas investigators then required, were required to request information in writing?

A That's correct, yes.

Q113 O.K. And in particular the Sword of Orion and the, and the Margaret Rintoul II, there was a considerable amount of information passed over?

A Yeah. The, the, I requested from you, I think, David, transcripts from any interviews that you

conducted with both those crews, particularly to further my own knowledge of the incident as, and particularly to determine personally whether or not I really believed from the information I'd already gathered, which at that stage was the, the hearsay discussions of a number of, of sailors who were on the dock and back at the club, the dock in Hobart and back at the club, and my review of the radio log in particular, where there was quite a strong inconsistency between the time flares were sighted and the time they were reported some 35 minutes later, and so I, I was looking for further clarification from those crews as to that incident.

Q114 All right. As it was the case that the information was to pass on directly between each other, the club and the, and the investigators, can you just explain to me why that information was passed on to a third party?

A O.K. What was passed on to the commodore and subsequently to the chairman, I believe, of the race jury or protest committee, I'm sorry, I'm confused over that, I shouldn't be, was that I wrote initially and attached to the letter a summary of the course of events as they occurred.

I was most concerned that my summary tended to look like it was biased, and I mean biased against Margaret Rintoul, so the evidence that I chose to

pass through to the commodore was evidence in both cases that I would suggest was third party, one was the excerpts, I think two pages from the radio log, which demonstrated the lapse in time of the sighting of the red flare and the reporting of the red flare, and secondly was the interview that you had conducted with Richard Purcell where Purcell admitted seeing the red flares and the boat, so my intention there was to demonstrate that, one, the skipper or that Margaret Rintoul had in fact seen the boat and taken considerable time to report it, and to give independent information or evidence if you like on which the committee could determine whether or not there would be a case to answer and go further forward.

Q115 Within that information did you pass on documents from Rob Kathey?

A No, I did not. My, what I passed on to the commodore was the interview from that, that you had supplied with Purcell and the, the radio log and a very brief two or three line memo from me to the commodore saying, Attached is evidence of this incident that I believe must be investigated further. I, I made, was at pains to try and remain objective and not, not suggest that I saw the incident one way or the other, and I, I, I do that, I was at pains to do that because I felt strongly about the evidence that I had seen, the

broader evidence that I had seen and felt uncomfortable that, it should be investigated further.

Q116 But the evidence you passed on really wasn't whole, was it? It didn't contain an accurate account of, of both sides or other information that we have, that we have taken as a result of, of a coronial summons in lieu, in, in regards to tapes.

A At, at the time I passed that on I had no other information apart from the hearsay discussions that I could pass on.

Q117 O.K. All right. I've no further questions.

DETECTIVE SENIOR CONSTABLE GRAY

Q118 Anything else you'd like to say, Peter?

A No, I'm fine.

Q119 O.K. The time on my watch says 4.24pm. This interview is concluded.

INTERVIEW CONCLUDED