

SENIOR CONSTABLE UPSTON

Q1 This is an electronic record of interview between Senior Constable David Upston of the New South Wales Water Police on the 16th of February, 2000 on Wednesday at the Sydney Police Centre. The time by my watch is now 3.45pm. And also present and seated opposite me to my left is also Ann Shultes, Peter Shultes' wife. Peter, for the purpose of the interview, would you please state your full name?

A Peter Shultes, 6 David Street, Mosman.

Q2 And your occupation?

A I have retired.

Q3 And Mrs Shultes, could you please state your full name, please?

MRS SHULTES

Ann Shultes.

SENIOR CONSTABLE UPSTON

Q4 O.K. Peter, as I've already told you prior to this interview, I'm conducting inquiries into the 1998 Sydney to Hobart Yacht Race, and, and as you recall, we had an interview many months ago in regards to your involvement in that race. Is that correct?

A That's correct.

Q5 O.K. And that interview took place at the Sydney Water Police?

A Correct.

Q6 O.K. Now you were involved in the 1998 Sydney to Hobart Yacht Race - - -

A Yes.

Q6 - - - with your vessel. And the name of your vessel?

A Inn Keeper.

Q7 The Inn Keeper. And again in 1999 you, you entered the race, the Sydney to - - -

A Correct.

Q8 - - - Hobart Yacht Race?

A Yes.

Q9 And how many crew did you have on board?

A On the way to Hobart, 14.

Q10 14 crew. And you competed in the race and in fact completed the race?

A Correct.

Q11 O.K. I've been informed that after the race there, you then left Hobart after the events took place - - -

A Correct.

Q12 - - - and subsequently you run into difficulties and yourself and your crew had to be rescued. Is that correct?

A That is partly correct, yes.

Q13 O.K. Could you please tell me what happened in that incident?

A Well we had a forecast, a weather forecast, which was faxed through via the Telstra Seonet of 25 to 35 knots south/south westerly winds with easing the next morning. In the evening we passed St Helens on we made a decision to keep on going because there was not much point of overnighting at St Helens where the shelter is

a bit on the poor side. So the crew decided we'll keep on so we would be the next evening at Eden. Condition during the night, it was very wet, lots of rain, heavy rain. Occasionally the wind picked up to 30, 35, 40, could have been 45, but quite pleasant. It was pleasant sailing, because with a 65 foot boat, having storm gear up during the night, it was just excellent the way things were progressing. Just before daylight the wind picked up and it just did not pick up little, it really perched along. The sea stood up. We had a storm jib. During the night, we removed the main and had the main tight on the boom, so we are travelling on a storm jib, a very small storm jib. Still doing 10, 15, 18 knots. Everything went well til in one instant there was just nowhere to go. We had huge seas on the port side, a huge wave on the starboard side which went over to the foredeck, crashed onto the foredeck. We had, because we were surfing down, the wave from behind, from the stern, picked the boat up and just catapulted over. The size of the wave, would not know. All I knew, with, with the speed it went and everything, it just went catapult over. At that time I had three people, all harnessed on the boat. One person was on the mast, just inspecting, eventually to change, to put a tri-sail up. Everybody was buckled down, we have four persons down below. I was on the helm. Once the vessel was over all we could see is green water. We could not see white water, all it was,

green and it was quite, for some time. And gradually we up, we came back and over again, and at that time there was no more mast, there was no nothing on top of the deck. Everything just was wiped out. So the way we could see, the boat went 180 degrees down, fell down the hole, catapult over, because the wave collapsed and front on the deck, and just sucked the complete boat down and catapulted it over - - -

MRS SHULTES

Pitched bowled it.

A - - - pitched bowled over. No mast, no nothing. I, at first naturally was interest in what, I could not see the person on the mast. So that was the main shock which I had at that time. For quite some time. I looked out, all I could see in the sea was just one of our tri-sails, which was only parked in the centre of the boat next to the companionway. That was floating and I just was looking if I could see that man, til gradually because when we went over the main and the boom got partly and it was filled and the man was hanging in there, which he creeped out. Went downstairs, they were all O.K. except everything, whatever was in the boat, was completely on the floor. Everything just turned upside down. So - - -

MRS SHULTES

You might mention you were on the helm.

A I was on the helm. The helm was pulled back about that far on the top and I finished up just in the lifeline

up the back, completely, the person, the lady was still in the centre in, next to the cockpit, and the other person on the boom. So once that happened we assessed that, we checked out so nobody was injured and so checked it out, and unfortunately then the crew's definitely, I mean, there was no second thought. In some ways we had first of all, clear everything before we could put a signal out, and so we assessed the situation, all we knew, we had no steering, we had no main, no boom and we just radioed out to see if we could get help. I think even some of the boats heard us in, in the vicinity. I'm not too sure. I think Pipe Dream was in the area, and a way across. In the meantime the crew requested that we put an Electronic .P.I.R.B out so we could get a tow or someone in the vicinity could come to rescue, not to rescue, just to help. And eventually we put the E.P.I.R.B out and set it off, but in the meantime there were still, you could not spend much time on deck, because the waves still were harsh breaking over the top. Also while I was cutting the forestay away, I had to dismantle the forestay, I myself could drown over the side, I was hanging for quite some time side on on the boat, which eventually I could get another person to hold me with another rope, gradually make meself back up on the boat. But the conditions were, I have never seen water like that. I have been sailing, I have done very rough races over to Lord Howe Island, and even last year the

Hobart, we had some rough patches in it, but this one did the lot. So once we had all that section tidied up we pumped the water which came through the hatchway while she was upside down, out. So we knew we were O.K. We were asked, eventually a, a plane came, I think at about 10 o'clock or so and we tried to contact them on radio and the V.H.F. which I'm not too sure if we got through or not. I think we did. But eventually the helicopter arrived and all we requested of both party is a tow. Now it was put to us that a tow would be at least 24 hours, even more, plus it would be very difficult to tow us in that sort of condition. The only other ways, they did ask us what was our problem, we explained, we still had engine at that time, but no steering, which can be repaired, but no mast. And that the people were in a bad shape at that time, but we just asked for a tow. And by the helicopter crew, it was said, it was given the crew the opportunity to either be lifted off and come back for the boat later on, or wait for a tow. Now the crew decided it would be better - - -

MRS SHULTES

Well there were no injuries.

A - - - to leave. There were no injuries at all. But the sea, the people, you could see, it was not an easy task when they resolve to say, no. Now that, also at the same instance, we had one life raft there, which the helicopter requested that we would put the people

in the life raft and let 'em float out so they can fulfil the rescue. But after that, without a life raft, originally I had intention to stay on the boat, 'cause that's the safest place, in my opinion. The boat is solid, it's, didn't take any water or so, and just wait til we either make a jerry rig up, or something and just drift along and get eventually picked up, or just make our way eventually up. But we, since we had to use the life raft, it was no option to me to stay on board because that would be suicide to stay on board without the life raft. So we all went in the helicopter, got rescued, came over to Flinders Island and put down there and I automatically went off and inquired where we could get help to pick that boat up. We had there the option to go out that evening in a fishing vessel, but the person said, Look, if it's as rough as you explained, you're wasting your time, we could not tow that vessel, we have to wait til that sea settles down. From there on I thought, yes, it is better to leave the vessel there. Plus it was no use, with the draft we have, to bring the vessel to Flinders. It was better to go out and charter a plane, which I did, and went out to check for the vessel, plus went across to Eden to arrange a tow from Eden. And that what's taken place. On the way over there was still rain in that area, so we did not even attempt that evening. But the next morning when the plane went back, she went over that section, but could not locate

the plane, because the weather conditions were still extremely bad.

SENIOR CONSTABLE UPSTON

Q14 Couldn't locate the vessel?

A No. Could not. But - - -

MRS SHULTES

Visibility was too poor.

A - - - the visibility was too solid, yeah. But from there on the insurance contacted me and they advised me it would be, they would be rather handling, since they have more experience than I have, to pick the boat up, we explained exactly where it is, what condition it is, we knew exactly the position where it was. We estimate roughly where she would drift in that meantime, which was all up within the 5 miles radius. One section we were 5 miles off, the other one, eight, which from a plane you can easily locate that sort of thing providing the weather is O.K. And that is the situation.

SENIOR CONSTABLE UPSTON

Q15 O.K. Now did you receive a storm warning at all from the Weather Bureau?

A (NO AUDIBLE REPLY)

Q16 Did you, were you listening out to the weather forecasts - - -

A Yes.

Q16 - - - and did you hear that there was a, an actual storm warning that was in place at the time?

A We had no storm warning. We had the conditions at 8 o'clock updated by the printer and that stated 25 to 35 knots of south/sou' east, with easing in the morning, with moderate, in the morning.

Q17 Mmm.

A That was 8 o'clock forecast. And that is either at 8.00 or 9 o'clock in the evening, and that is the last forecast we had through Telstra - - -

Q18 Right.

A - - - Seonet.

Q19 O.K. Now, can you explain to me what your operations were when you, and your obligations to the C.Y.C.A. when you left Hobart?

A When we left Hobart our, it was not mandatory to have reported or have to report to the club at all. In the past we always report into the departing, the - - -

Q20 The port authority?

A Yeah, the port authority, how many persons we have on board, and what our voyage is going to be. Now in these circumstances, since we updated our safety equipments and everything and since in Hobart you get taken out by the authority there, which move you, which you have contacted. In my opinion with today's upgrade of technology, that if you want to make sure you're safe, number one is you register your whole crew, not just by telling the Harbour Master how many on board, but to fax in papers, to fax a crew list through like you would do a race, so the authority would know if

that boat is missing, who is on board. Also with the Telstra Seonet, when you are tracked on the Internet, yes it could be a secondary that you reported, but now if you have the Internet tracking you and you have constant reply on weather forecast with the Seonet, I think I did everything which anybody would do. And that is faxing a crew list, a complete crew list, plus being on the Internet instructing my home base what movements I'm going to do. And that's a 24 hour service. That's not just a 9.00 til 5.00 service, which I assume C.Y.C. after the race is finished, has. So that is the procedure which I took.

Q21 O.K. So just re-hashing that, you took on a fresh crew?

A Correct.

Q22 You notified your wife - - -

A Correct.

Q22 - - - of all the crew's names - - -

A Yeah.

Q22 - - - addresses - - -

A Yes - - -

Q22 - - - phone numbers - - -

A - - - next of, phone numbers.

Q23 Next of kin.

A Next of kin.

Q24 And she had that full list at your home base?

A Before I left Hobart.

Q25 Right. Then - - -

MRS SHULTES

I can provide that list.

SENIOR CONSTABLE UPSTON

Q26 Thank you.

A With the fax.

MRS SHULTES

The fax.

SENIOR CONSTABLE UPSTON

Q27 Right. And then you notified the ports authority, who actually tow you - - -

A They towed us out of the port - - -

Q28 Yes.

A - - - out of the harbour.

Q29 Yeah.

A And I instructed the person there, who is a voluntary person of the port - - -

Q30 Yeah.

A - - - that Inn Keeper is on its way to via Eden, Sydney.

Q31 Right.

A But I did not give him a crew list, which never was in the past. So - - -

Q32 It was just your intention to inform him of, of that's - - -

A Exactly.

Q32 - - - your case?

A Yeah.

Q33 And in fact you mentioned to me earlier, prior to the, conducting the interview, that in the back of the race instructions and the race rules for the 1999 Sydney to Hobart Race - - -

A Yeah.

Q33 - - - there is in fact instructions in there for when you leave port, is, is that the case?

A Yes, but they're not instructions. They're just - - -

MRS SHULTES

Recommendation, I think - - -

A Recommendation.

MRS SHULTES

- - - is the term.

A They're not, they're only recommendations - - -

SENIOR CONSTABLE UPSTON

Q34 O.K. So - - -

A - - - not instructions.

Q34 - - - they're, but they're recommended instructions?

A Yeah.

Q35 It's not mandatory for you - - -

A No.

Q35 - - - to carry out those instructions?

A But under those recommendation there was no such thing as having a complete crew list.

Q36 Mmm. But you, you, which you did?

A Which I - - -

Q37 O.K.

A Which I did.

Q38 All right. Well that's good - - -

MRS SHULTES

The recommendations really only, I think, refer to the old types of system, like the radioing in etc - - -

SENIOR CONSTABLE UPSTON

Q39 Mmm.

MRS SHULTES

- - - rather than the new initiatives that they put in place.

SENIOR CONSTABLE UPSTON

Q40 O.K. But you were in constant radio contact with, with other craft?

A We had one contact, yes.

Q41 Yeah. O.K.

A Yeah. But not that morning could not contact a craft in the morning.

Q42 O.K. And is it the case then, when you notified your wife, you notified, you in fact got all the crew, is this the case, that you got all the crew to ring their next of kin and tell them where they were going as well?

A Correct, I - - -

Q43 And when they were starting from and leaving?

A Correct.

Q44 O.K. And is it the case that you also had a tracking system which was not supposed to be discontinued until the 14th of February?

A Correct.

Q45 And what date did you leave Hobart?

A When did it happen?

MRS SHULTES

The 5th, I think it was.

A The 4th or the 5th I left Hobart.

SENIOR CONSTABLE UPSTON

Q46 Right. So the 4th or 5th at Hobart - - -

A Yeah, I was out from the - - -

MRS SHULTES

No, no, no. 3rd, you left Monday, the 3rd.

A Monday, the 3rd.

SENIOR CONSTABLE UPSTON

Q47 Yeah.

A And I was - - -

MRS SHULTES

And this occurred early, I think, Wednesday, the 5th.

A That's Wednesday morning, the 5th - - -

SENIOR CONSTABLE UPSTON

Q48 O.K. So - - -

A - - - we

Q48 - - - from what you're aware, and from what you say Mrs Shultes, that even while the vessel, the Inn Keeper, was alongside the wharf - - -

MRS SHULTES

Yes.

SENIOR CONSTABLE UPSTON

Q48 - - - you were monitoring the - - -

MRS SHULTES

Yes.

SENIOR CONSTABLE UPSTON

Q48 - - - the situation - - -

MRS SHULTES

Yes.

SENIOR CONSTABLE UPSTON

Q48 - - - where it was at all times alongside the wharf?

MRS SHULTES

Yes.

SENIOR CONSTABLE UPSTON

Q49 And in fact, did you monitor the vessel leaving the
Constitution Dock?

MRS SHULTES

I didn't monitor it leaving, but I noticed when I
logged on later on again, that the vessel had left
port.

SENIOR CONSTABLE UPSTON

Q50 All right. So there was never a problem where, that
anybody, be it a civilian, or an organisation, that was
aware of the, of the monitoring situation, of all the
yachts, could have still watched the Inn Keeper's
position - - -

MRS SHULTES

Yes.

A Correct.

SENIOR CONSTABLE UPSTON

Q50 - - - until such time as that, that's the electronic device, was removed from the vessel?

A Correct.

Q51 And what were your instructions to have that, that electronic monitoring device, removed from the vessel by the C.Y.C. or by Telstra or by any sponsor?

A There were no - - -

Q52 When you - - -

A There were no instructions in this regard.

Q53 Mmm.

A You're meaning after the race, or - - -

Q54 Yes, yes. When, when they put the device on your vessel - - -

A Yeah.

Q54 - - - so that it could be monitored - - -

A Yeah.

Q54 - - - and then you competed in the race - - -

A Yeah.

Q54 - - - what were your instructions to do with that instrument after you completed the race and returned to Sydney?

A We had the option to purchase this units and go on a paid plan, which anybody could have brought up on the Internet. I went onto the Internet and just check out and checked out how much it would be to keep the unit on the boat, plus use the service.

Q55 All right.

A So it was up to me after the race to decide if I would like to continue with that service - - -

Q56 Mmm.

A - - - and pay Telstra for their - - -

Q57 All right.

A - - - equipment.

Q58 But the instructions were to you, that you had a free service up until the 14th - - -

A Up to the - - -

Q58 - - - of, the 14th of - - -

A - - - 14th - - -

Q58 - - - February.

A Of January.

Q59 Oh, sorry, to the 14th of January.

A January, yes.

Q60 O.K.

MRS SHULTES

The entry in my diary on the Monday, the 3rd says, Peter plans to leave Monday the 3rd. Received fax on the 3rd a 14.21. That was the crew list.

SENIOR CONSTABLE UPSTON

Q61 Right.

A That's on Monday.

Q62 That's on the Monday.

A On, yeah.

Q63 O.K. And when were you instructed, Mrs Shultes, to forward the fax to the C.Y.C?

MRS SHULTES

I wasn't instructed. I offered to provide that information to him on, after AUSAR had phoned at about 7.00 or 7.30 in the morning and I think it was about 9 o'clock I, first of all I faxed the crew list to AUSAR so they had information to carry out the search and rescue. And Phil, what did you say his name was?

A Thomson.

MRS SHULTES

Phil Thomson had phoned and I told him I would fax them the crew list as well, which I did.

SENIOR CONSTABLE UPSTON

Q64 All right. The E.P.I.R.B that you set off, Peter, was that a 4-0-6 E.P.I.R.B? 4-0-6 megahertz?

A Yes, it was a 4-0-6, we had two on board, but we choose the 4-0-6, which is the new equipment, so people would know where we are and what boat they're looking for.

Q65 O.K.

MRS SHULTES

Our parking's up.

A O.K.

SENIOR CONSTABLE UPSTON

Q66 O.K. Well I think that just about covers anything that I need to answer. Has the club had any contact with you since the, this event?

A No, none whatsoever.

Q67 O.K. All right. Is there anything now that you feel that you would like to add as a result of this, the

conversation we've had here that you might find helpful?

A (NO AUDIBLE REPLY)

Q68 Or do you wish to have anything to say as a result of the incident?

A Well at the time we were definitely, the main worry is in that sort of instance which can happen, is that you look after the crew and bring them safe, whatever it, the cost may be. And that's what we achieved, and I think with the extra equipment which we had, I think it made it much more easier for the search and for the whole sort of rescue stuff to know exactly what, what goes on. And we didn't feel in the boat lost. I mean O.K. we, we did, after that sort of incident, you have six person on board, you feel responsible, and you have to do something. It's not like the old days, you just, if you can't get through the radio, you sit down below and just wait til what, til the wind cools, til everything cools down and everything is right, and then gradually make your way with the jerry rig and move along. That's, the time has past by because the people do expect you to do your duty as a skipper to ask for help, to have a tow, and if that's not possible, the option is that there is a rescue for the helicopter and there is the option to come back for the boat after in that sort of conditions, because they were wild. That's what the crew will take.

Q69 Mmm.

A That's my view.

Q70 Mmm. And the vessel's never been found?

A Oh, no, we picked the vessel up, naturally, the vessel is - - -

Q71 O.K. So that you've located the vessel - - -

A Oh, yeah, the, the vessel was located by AUSAC even - -
-

MRS SHULTES

AUSAR - - -

A - - - AUSAR - - -

MRS SHULTES

- - - had a, a shipping, an alert out.

A Yes, had alert out and they're, plus we knew where the vessel was. It wasn't that, the vessel was brought in
- - -

SENIOR CONSTABLE UPSTON

Q72 Mmm.

A - - - on Saturday to, on Sunday, to Eden, and we were in Eden - - -

Q73 Mmm.

A - - - and we cleaned it all up and it's still parked in Eden.

Q74 O.K. Was it the case that the, the transmitting device was still operable after the roll over, for the, for the tracking system?

A Yes, except we should have been made more aware of, that the tracking system hasn't got a backup system.

Q75 Right.

MRS SHULTES

O.K.

A Or - - -

SENIOR CONSTABLE UPSTON

Q76 Were you also made aware that it had an emergency transmitting device on it as well? A, a panic button, so to speak?

A Well there is one, but to what, to what I read on it, I, I, I would have thought that's what it is, and that's what it could be used as, but Telstra never came, it's quite possible they recorded it, but they never came and assisted us. All it meant is, if you push that panic button, like that button which was red and was covered over, that they would say then, Hey, what is the matter? What, or fax you, they quite easy can give you a fax over and inquire, what is your thing and you could maybe relay, if you can't use your radio, with different sort of measures that you, that, what is your position - - -

Q77 Mmm.

A - - - and what is the problem?

Q78 You didn't think to press that panic button?

A We did.

Q79 You did press the panic button?

A Oh, yes, oh, yes.

Q80 On the, on the tracking device?

A On the tracking device, yeah.

Q81 And you haven't heard anything from Telstra - - -

A No, we have not.

Q81 - - - or anyone else in regards to that matter?

A Nobody. I mean - - -

Q82 So as far - - -

A - - - I think - - -

Q82 - - - as far you're aware, the, the rescue authorities
picked up the 4-0-6 - - -

A The 4-0-6 - - -

Q82 - - - beacon - - -

A - - - beacon, yeah.

Q83 Right. And that all?

A That's all. That's all what I was aware of. Plus the
helicopter informed us, or the planes, they were
keeping an eye on another vessel which was in that sort
of area.

Q84 So another vessel was in difficulties as well?

A Not in difficulties. They had no, the, the way it was,
it was - - -

MRS SHULTES

I think it was Pipe Dream.

A I think it was Pipe, I'm not sure, but - - -

SENIOR CONSTABLE UPSTON

Q85 O.K.

A - - - a vessel was in the vicinity where we were - -
-

Q86 O.K.

A - - - or not too far away, with no sails, no nothing
up, so - - -

Q87 O.K. All right.

A - - - that sort of thing.

Q88 O.K. Well that's very good. Thanks very much for your time, both of you.

A O.K.

Q89 And the time by my watch is now 4.11pm. This interview is now concluded.

INTERVIEW CONCLUDED