

DETECTIVE SENIOR CONSTABLE GRAY

Q1 This is an electronically recorded interview between Detective Senior Constable and Mr Herbert Prendergast, it's P-R-E-N-D-E-R-G-A-S-T on Saturday, the 25th of April - - -

SENIOR CONSTABLE UPSTON

Sunday.

DETECTIVE SENIOR CONSTABLE GRAY

Q1 - - - Sunday the 25th of April, 1999, at Mr Prendergast's home address. The time by my watch is now 3 minutes past 9.00. Also present and seated to my right is, is Senior Constable David Upston from the New South Wales Water Police. For the purpose of the record, Herbert, could you just please state your full name?

A My name is Herbert Francis Prendergast.

Q2 Your date of birth?

A 25th of April, 1947.

Q3 Your current address?

A Number 11 Gabrielle, G-A-B-R-I-E-L-L-E Court, Albany Creek.

Q4 And your occupation?

A I'm the General Manager of a company called Langfield Industries.

Q5 O.K. Now so far as your sailing background's concerned could you give us an idea of that, please?

A Yeah. I commenced sailing in the mid 60's in, in Mackay in North Queensland in dinghies and occasionally

sailed on yachts in the Whitsunday area delivering, delivering crew from Mackay to Proserpine and back. In the early 70's I moved to Brisbane where I've lived since that time. Sailed with Queensland, sorry, with Sandgate Yacht Club where I won the Queensland State Championships in 8K dinghies and then was invited to crew on a yacht which competed in Bay and offshore races run by the Queensland Cruising Yacht Club. It was a, you know, it was a good club to be in so I stuck with it, gave dingy racing away and concentrated on Bay and offshore events. I, I guess went through the club ranks from being just a member to getting involved with the Sailing Committee where I became the Sailing Secretary and then moved on to the Executive of the club and when the club became incorporated became a Director of the club. In '93 I took on the role of Commodore of the club and held that position '93, '94. In 1992 I took on the role of Race Director for the Brisbane to Gladstone Yacht Race and I held that position through until the 50th event in 1998. And I was made a life member of the club in 1998 at the time of the 50th race.

Q6 Right.

A Whilst with the club some of us, members of the club formed a syndicate, we chartered a yacht in England and sailed the Fastnet Race Cowes Week Regatta, that was in 1981 which was the year for the Fastnet Race after the big blow they had in 1979. The following year 17 of us

chartered Kioloa II, a 72 footer in Hawaii for the Pan Am Clipper Club and Around the State Race there. I've done '79 Sydney Noumea Race, Tauranga to Brisbane Race, that's Tauranga New Zealand to Brisbane on a Apres 66 Dreamtime. And I've done I think it's seven Sydney Mooloolaba races, two Brisbane Coffs Harbour, one Pittwater to Coffs, sorry, Pittwater to Southport and 14 Brisbane Gladstone Yacht Races.

Q7 O.K. Now what position do you hold now at the Cruising Yacht Club of Queensland?

A I'm just a life member at the moment.

Q8 Right.

A I have no administrative capacity other than for this years 1999 Gladstone Race, I, I just was like an adviser, asked to attend meetings to ensure things were still on track, you know, for the start on, on Good Friday.

Q9 Right. O.K. Now what sort of offshore races are held by the Cruising Yacht Club of Queensland?

A The main event's, the Brisbane Gladstone Race. We have one from the Gold Coast it's called the Surf to City, starts at Southport finishes in the Bay, it's basically a day race but it is outside, you know, Stradbroke and Morton Island. Plus we also conduct the Brisbane Noumea Yacht Race on a bi-annual basis every 2 years and I think it's due again this September. That was originally done in conjunction with the Cruising Yacht Club of Australia, the Cruising Yacht Club of Australia

took on the, I guess the prime role of organising the event and there were two starts, one from Sydney and one from Brisbane on separate days and the idea was to try and time both fleets to finish in Noumea at about the same time. The fleets would merge about two thirds of the way across - - -

Q10 Mmm.

A - - - and finish at about the same time but in effect it was two separate races and in recent years the C.Y.C. dropped the race from Sydney to Noumea but we continued it from Brisbane. We did have a race from Tauranga in New Zealand to Brisbane but that was only run I think on two or three occasions - - -

Q11 Right.

A - - - and that's, you know, back in the early 90's.

Q12 Now the race Brisbane to Gladstone what category race is that?

A We, originally it was a category two, as per the Australian Yachting Federation Safety Reg, because of A.V.S. regulations that were introduced, I'm not sure when it was introduced but it was a pain in the butt for everyone. Owners were objecting to paying, you know, 5 and \$6,000.00 just to have a rubber stamp put on a set of plans which meant nothing. I mean no one supervised the construction of yachts, it was just some sort of money raising revenue. So at that point in time the club decided to go with category three,

upgraded to category two and all it excluded was the A.V.S. side of the regulations.

Q13 Right. O.K. Now the Brisbane Noumea, was that a what category was that?

A It's a good question. It would have been the same as the Hobart which is a cat one.

Q14 Cat one, yeah. So as Race Director you're well aware of the different categories and the stability requirements of categories?

A Certainly, yeah, certainly. I've also been involved with the Queensland Yachting Association Offshore Committee.

Q15 Right.

A And I was also a, on the Executive of the Q.Y.A. for some years. That's, that committee is a, a good forum for yacht owners and anyone interested I guess in yachting administration in Queensland to, to meet on a monthly basis and have input into things like, you know, upcoming safety regulations. This is where policies is forwarded to the Australian Yachting Federation so that, you know, when the next safety or the rule book comes out the ideas are incorporated from all states - - -

Q16 Mmm.

A - - - hopefully, you know, not just one person or New South Wales dictating what's happening in the rest of the world. And what happened in Queensland, and I guess it's not only yachting it's in other fields too,

such as, you know, road rules and what have you, that the, the A.Y.F. safety categories didn't mesh with Queensland state laws hence in Queensland we modified the A.Y.F. Safety Regulations so that boats competing mainly in inshore events such as Bay and what have you, if they were pulled up by the Water Police for example they were compliant with Queensland Transport Regulations - - -

Q17 Right.

A - - - as well as, you know, the racing rules. There was a conflict between the two sets of Regs and that conflict is still in, in place as of today.

Q18 Mmm.

A The new safety regulations that I think are due out next year - - -

Q19 Mmm.

A - - - so we're hoping that those sort of anomalies will be rectified in the new safety regulations in the A.Y.F. blue book.

Q20 Right. Now the Brisbane to Gladstone Race I, I would assume that there were a number of divisions. That would be I.M.S. and - - -

A I.M.S. is the main racing division, it was I.O.R. I.O.R's a dead duck in Australia now. I.M.S. is the main event, that's where yachts have to be, have to be measured and conform to a rule. We have P.H.S, Performance Handicap or Arbitrary Handicap Division.

We have the Channel Handicap or the Channel System - -
-

Q21 Yeah.

A - - - which is well used in Europe and England.

Q22 Yeah.

A We have, there's a Veteran's Division, which is mainly to cater for the older designed boats and they can compete in whatever division they choose, whether it is I.M.S. or Channel or Arbitrary. And we also have Cruising Division, it's where competing yachts can, it's more like a predicted log I guess, they can use their motor, they have to log that and there's points awarded for how long you use your engine or don't use it, you know, there's more points for sailing the whole course.

Q23 Mmm.

A But they're the main categories that we have in the Gladstone Race.

Q24 O.K. Now I wonder if you could take me through a typical administrative organisation side of a Brisbane to, to Gladstone Race.

A O.K. The, the whole thing starts with the Sailing Committee of the club, which is an elected committee from members of the club and they're usually yacht owners or crew. And from there a person is appointed to handle the organisation of the whole event and it's been called like, that position's been called Race Director although in recent years it was changed to the

title of Principal Race Officer for some technical reason, I'm not sure of. And the role of that person is to, to pull the whole thing together which starts from probably, you know, sponsorship through to the publicity, to putting together the Notice Of Race, to publishing the, or to putting the sailing instructions together and then running the event on the waters. And in my case I was doing the radio scheds right through to, you know, getting a fair result at the end of it. And we'll start with the Notice Of Race. My view is the Notice Of Race is, is a contract, it's, it's an offer to owners of eligible yachts to enter an event that the club's going to run. The Notice Of Race spells out the rules that the events going to be run under and that includes a whole heap of issues and I guess the main ones are, you know, the, the divisions or the classes that are going to catered for in the race, the safety regulations that the race is going to be run under and I think they're, they're the main things. Then it goes through, you know, the start time, the course, where it's going to start, finish and what have you, it's the basic ground rules for how the race is going to be conducted. Now that is sent out to entrants from previous years, it, the club has a data base and in recent years the C.Y.C. and the Queensland Cruising Yacht Club have worked well together to get a combined data base so that we can contact as many yacht owners as possible, you know, to get, get the greatest

number on the water. From there the entry form is returned and the entry form is in the way of an application to enter the race and with that entry form we ask for certain information to come back and that will be things like their rating certificate, their, you know, safety certificate, the crew list, crew experience, those type of issues. That's all put into a data base and a letter is then sent back to the people who applied to enter the race, saying that their entry is, is excepted subject to, and there's a range of things on that, such as, you know, supplying their safety certificate, if they haven't got a safety certificate proof that their boat complies with the stability regulations and anything that's, that's, hasn't been supplied that has been asked for at that point in time. Once we get all that information it's then viewed by the Sailing Committee well, considered by the Sailing Committee as to which yachts are eligible or, or there may be a problem, you know, some may have a problem for various reasons, modifications or no racing history if they don't have a certificate, we might ask for further information before they're excepted for the race. Once the, the entries are in, the sailing instructions which outline the, the course and what have you are sent to those entrants and I guess from the, the next time you, or we have a briefing just prior to the race, where we go through a whole range of issues, we have representatives from the

Met Bureau, this is on the Thursday night prior to the Good Friday. There's a, a briefing and I believe these days they used to term them compulsory briefings but I believe these days you can't make it compulsory and we request at least two representatives from each yacht attend that and hopefully that would be so the skipper and navigator or the owner and skipper depending on, you know, how they make up their crew - - -

Q25 Mmm.

A - - - two responsible people, and that's where any queries are answered that people may have in relation to the sailing instructions That's where we brief the competitors or the entrants on a whole range of issues. It could be shipping movements in Moreton Bay, the Met Bureau gives them an overview, you know, a couple of scenarios of what the weather's going to do over the next 4 or 5 days and that's pretty much it.

Q26 O.K. Now the Gladstone to, sorry, the Brisbane to Gladstone Race, what's the distance of that?

A 308 nautical miles.

Q27 O.K. And what's the sort of duration of that? How - - -

A The race record is 21 hours 59 minutes 43 seconds. That was in 1993 by Bobsled. So it's, it's under 24 hours and I think that year there was about 10 yachts completed it, these are multi hull, oh, sorry, mono hulls - - -

Q28 Yeah.

A - - - in under 24 hours. But the average time is probably round somewhere between say 37 to 45 hours.

Q29 Right.

A Somewhere round that. Although the older yachts, you know, may take until the, you know, the Monday to get in.

Q30 Mmm. Now do you have a grandfathering or that type of situation within the Cruising Yacht Club in Queensland. Do you understand that term?

A You mean for eligibility?

Q31 Yes.

A Yes. I, I wouldn't say it's, it's a formal thing in the, with the club, it's not written anywhere, I, but I, I think it'd be fair to say that if a yacht has a proven track record, for example we have one yacht has done the race for something like 47 years, Laurabarda, and she's cruised the Pacific quite extensively, doesn't have a rating certificate but given the, the, I guess the track record of the vessel and it's virtually been the same crew or the nucleus of the crew have been the same people, it's been accepted as a, as an eligible entry - - -

Q32 Mmm.

A - - - you know, on that, on that basis.

Q33 O.K.

A But it's mainly to do with, with the older long keel heavy displacement type vessel as opposed to the, you know, the more later versions, the green pre type -

- -

Q34 Mmm.

A - - - boats.

Q35 Mmm. Well, what - - -

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Q36 Like what category would you put that boat into though?
What category - - -

A He, he would - - -

Q36 - - - of what race?

A He would enter the Arbitrary or Performance Handicap
Division and the Cruising Division. The reason he
would do that or the reason he does do it is if for
example he busts some gear or they're too far behind
the fleet, you know, might be like they can hit the
motor and still get into Gladstone - - -

Q37 Mmm.

A - - - with the bulk of the fleet. They just drop from
one division, you know, to the Cruising Division.

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Q38 Mmm. O.K. Now so far as the Sailing Committee, now
who selects that committee?

A The club members - - -

Q39 Right.

A - - - nominations are called for.

Q40 Right.

A And the, the Queensland Cruising Yacht Club is not a
big club it's got about 300 or 350 members and there's

usually four or five people nominate to, to sit on that committee - - -

Q41 Right.

A - - - and they are generally people who have a fair bit of experience, they're either yacht owners themselves - - -

Q42 Mmm.

A - - - or people who have crewed on yachts. Occasionally we'll get new people in and we think that's good because it gets them involved in, in the administration of the club.

Q43 Mmm.

A And it's another interest as opposed to, you know, competing on the water and it also helps those people understand for example the rules and regulations that the things are run under.

Q44 Mmm.

A It, I see it as an education process basically.

Q45 Yeah. Now is that committee governed by any rules or a constitution or it's own constitution?

A Well, in the case of the Q.C.Y.C. it's an incorporated body, it's a company limited by shares so in effect the director's of the club are the club, you know, the other members are just share holders of that company. Now in our case the Vice Commodore of the club acts as Chairman of the Sailing Committee.

Q46 Right.

A I guess the split up of responsibilities is the Commodore looks after the administration of the club in total, such as the Chief Executive of a company and then the Vice Commodore looks after the, the on water activities or the, you know, the, the yachting activities. The Rear Commodore looks after the, the house activities, such as social, social functions, you know, the club grounds and what have you. That's, that's how we split up the, the administration of the club - - -

Q47 Mmm.

A - - - and, and those three guys are called the Flag Officers of the club and of course under that people might be nominated such as Club House Captain, we'll have, might have someone nominated as the Club Safety Officer or a couple of people nominated as the Club Safety Officer.

Q48 Mmm.

A The role of that is to attend the, you know, the Sailing Committee meetings, they would be a member of that committee. But they would see that yachts competing in the club events comply with the Safety Regulations that are in place at the time.

Q49 Mmm.

A We find it's, it's getting more difficult to take, get people to take on that particular responsibility and my view is that it's fear of litigation. The general view of the Offshore Committee is that a safety inspector

for the want of a better word is, is going to
merely see that safety equipment is on board a vessel
at a particular point in time.

Q50 Yeah.

A We don't believe that person should put his name to a
document that says that vessel is, is sea worthy or,
you know - - -

Q51 Mmm.

A - - - capable of going to sea in all conditions.

Q52 Right.

A That responsibility rests with the owner of the vessel
to ensure that the boats in a, in a sound condition and
can handle anything that's thrown at it. So I guess
from a Safety Officer's point of view that, we're
looking at them just to inspect the vessel and, and see
that it does comply with the regulations that are in
place at the time.

Q53 Right. All right.

A But that committee is elected by the, the general
members of the club.

Q54 O.K. Now is - - -

A And he reports to the, you know, Directors of the club,
Executive Committee.

Q55 All right. Now is it the case that prior to the race
or when applications, closing dates for the
applications are known, is it the case that the
committee gets together with the application forms and
discusses them or goes through them?

A There's usually two or three people - - -

Q56 Yeah.

A - - - nominated from the Sailing Committee because if you get five or six people - - -

Q57 Yeah.

A - - - then it goes on and people get off track.

Q58 Right.

A So it's, it's narrowed down to probably a total of three people in our case - - -

Q59 Yeah.

A - - - get together and vet the entries.

Q60 Right.

A And there's a decision made on whether we want something further to happen, it might be a pull down test, you know, to, to satisfy stability requirements or could be something, anything to do with the safety regs, you know, that's when - - -

Q61 Yes.

A - - - that's where the decision's made on whether the yacht is, is accepted subject to, you know, further - - -

Q62 Yeah.

A - - - works being done on the boat to comply - - -

Q63 Yeah.

A - - - or, We're sorry mate, we can't accept your entry, you know - - -

Q64 Yeah.

A - - - because of whatever.

Q65 Right. So the three of you sit down and discuss that and then you work through it?

A That's correct.

Q66 O.K. Now how does, how does your committee inform a applicant who doesn't meet the requirements?

A Should be done in writing.

Q67 And as it that in fact the case?

A That, that's the way I handle it.

Q68 Right.

A It's done in writing.

Q69 And on some occasions you hear something back from the owner in relation to that?

A Usually get a phone call - - -

Q70 Right.

A - - - wanting to know why the hell won't you accept my entry.

Q71 Yeah.

A And can be fairly irate - - -

Q72 Yes.

A - - - I mean it can get heat, you can get a heated discussion going fairly quickly. In fact I had a, a Writ, both myself and the club had a Writ put on us in one instance because it was over the, the engine in a boat.

Q73 Mmm.

A It never got anywhere it was dropped, you know, prior to the event but it was, would you like me to explain the circumstances?

Q74 Yeah.

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Q75 Yes.

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Q76 Please.

A This particular vessel had an outboard motor fitted into the boat, not on the transeunt of the boat but, you know, fitted into the boat in a well and by the rules it can, he, he complied as an, as an inboard engine. The A.Y.F. and I'm not sure how long ago this was but it's several years ago, made a ruling that an outboard motor no matter how it's, how it's installed will, can never comply with the term, you know, inboard engine and I had to explain that to the, the gentleman concerned and he wasn't too happy about it. A couple of years ago when it was first raised a gentleman by the name of John Hawley who was, I think he was the Chief Safety Officer with the C.Y.C. at the time, no, Hawley or Hornby, Hornby I think his name was, he, he'd come up to Queensland and conducted some seminars so that we could get people accredited as, as Safety Officers and the purpose of that was so that people in Queensland for example had the same interpretations of the rules as, as they did in New South Wales.

A Mmm.

Q77 And I guess the real reason for that was any boats from Queensland going down to say do the Hobart race if, if one of these certified persons had, had his name on the

certificate that the, the safety chaps at the C.Y.C. could be assured that that yacht was compliant the same as if they'd, one of their guys looked at it.

Q78 Right.

A Now when you get, you know, a couple of hundred entries in a race it's a fairly big task to go around every yacht - - -

Q79 Mmm.

A - - - and make sure all those yachts are compliant with, with the safety regulations. So I guess it was sharing the burden of checking vessels.

Q80 O.K. Now I take you to O.K. the committee has looked at all the applications and everybody's eligible. What happens with that documentation then?

A It's put into a file - - -

Q81 Yeah.

A - - - and that file stays with the club, in our case, until such time as they decide to dispose of it and then in the case of the, the Q.C.Y.C. I think it'd probably have, well, I know in '93, '94, it had the records and entrants from, of every yacht that had entered the event.

Q82 O.K.

A And I, I put in files even things such as, you know, the radio scheds and what have you, anything to do with the race - - -

Q83 Race - - -

A - - - was put into a file for that particular year.

Q84 Right. And is it the case that if there was a request for any documents pertaining to that, that race you would be in a position or someone from your committee would be in a position to grab that document or development document?

A That's correct. You need that information during the race.

Q85 Yes.

A Because, you know, in parts of it you have next of kin information, in my experience we've had injuries happen on yachts and people have medical conditions - - -

Q86 Yeah.

A - - - so you can only give certain amount of advice over the radio, particularly if you're not a, a certified, you know, a qualified medical practitioner.

Q87 Yeah.

A So you've got to be very, very careful and we found that, I think on about two or three occasions in, in my term as Race Director we had to contact next of kin and get assistance from the family on, of a medical nature - - -

Q88 Yeah.

A - - - before the, even the local medical people in Gladstone, you know, were, were prepared to give any advice.

Q89 Yeah. O.K. Now has anybody ever failed, since you've been or when you were Race Director, failed entry due to stability index?

A Stability. There was one for the 50th - - -
Q90 Right.
A - - - which didn't comply with, he was entering the
Channel Division - - -
Q91 Yeah.
A - - - and he, he couldn't get up to the, the magic
numeral number whatever it was for that particular
category and he wasn't allowed to enter. It was an
Adams 10 I think from memory.
Q92 And that was a stability situation?
A Well - - -
Q93
A If you read the Channel rules it does have stability in
it. I mean it, the yacht comes up to say numeral 30,
it's eligible to do a cat two race.
Q94 Yes.
A In our case we struck the numeral figure of 25.
Q95 Yeah.
A Mainly because a lot of yachts that were, that had
entered the Channel Division had sailed quite a few
Gladstone races.
Q96 Yes.
A So in our opinion, you know, being close to the shore
and what have you - - -
Q97 Mmm.
A - - - 25 was a reasonable figure. But the
recommendation from the Channel people in the U.K. is

that for category two races, you know, triple, triple
S numeral 30, I think is the - - -

Q98 Right.

A - - - is, is the number and in this case the yacht
couldn't get up to that - - -

Q99 Yeah.

A - - - and he, he wasn't allowed to start the race. But
I can't recall, well, we've had it with, in the I.M.S.
Division in the Gladstone race, we will accept any
yacht that has an I.M.S. certificate because it does
show on it a stability index.

Q100 Yes.

A Now I think in the Hobart race that's about 115 - - -

Q101 That's correct.

A - - - or something like that.

Q102 Cat one.

A Cat one. I think Cat two's 110.

Q103 Yes.

A And I don't think there's anything under that, you just
need an I.M.S. certificate I think. To have an I.M.S.
certificate you've got to have a stability index, I
think it's about 103 or 105.

Q104 Yes, that's correct.

A Yeah.

Q105 It's the case in fact that the, the international
measuring system formula for the computer will not
issue a valid certificate - - -

A That's correct.

Q105 - - - if it's under 103.

A That's correct. And, and in the Gladstone race in the I.M.S. Division for the last 3 years including this year we've accepted yachts that have an I.M.S. certificate.

Q106 Right. Valid.

A A valid I.M.S. certificate, yes.

Q107 Right. Now with the situation that we don't have one with us here at the present point of time, you may have an old way one, but on the I.M.S. certificate there's two figures which are obviously interesting so far as the racing committee's concerned, eligibility, and that is the stability index - - -

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Yeah.

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Q107 - - - and the calculated limited positive stability.

A Yeah.

Q108 And in some cases, more cases than not, the number varies - - -

A Mmm.

Q108 - - - the two numbers vary.

A You'll find it varies with re-validation.

Q109 Yes.

A Because scantlings are changed or something like that.

Q110 Yeah. Which figure is it that you accept as a committee for entry? The stability index is actually the left one, isn't it?

A The stability index - - -

Q111 Right.

A - - - which is the 110 or 103 or, you know - - -

Q112 O.K.

A - - - 115 or whatever it might be for that particular boat. 2yachts out

Q113 If the, if the stability index was one degree lower than say 110 for a cat two but the limited, calculated limited positive stability was 111 would you take the highest number of the two?

A I've never even considered it to be honest with you, so - - -

Q114 It's a valid comment.

A - - - I'd, I'd probably just stick with the, with the stability index.

Q115 Fine. O.K.

A And we, we have not allowed yachts to race in the I.M.S. Division because at that point in time they didn't have a stability index of 110, you know, it was 108 for example the boat I have in mind - - -

Q116 Yeah.

A - - - but he, we allowed him to do the Gladstone race because, I mean, he just wasn't eligible for that division.

Q117 Yes.

A But because we considered 108, well, consider 103 is sufficient to do that particular race - - -

Q118 Yeah.

A - - - you know, he was eligible to do the, the Performance Handicap Division - - -

Q119 Yeah.

A - - - for example.

Q120 Now we'll just take you to your, back to your, your Brisbane Gladstone and all your, all your applications have been returned to you and there is say for example an application which is missing, a current I.M.S. certificate - - -

A Mmm.

Q120 - - - and for argument sake a note is put on the entry form by the, by the owner I.M.S. certificate to follow.

A Yes.

Q121 Do you have someone responsible for following that, that up prior to the race?

A In our case it was the Race Director.

Q122 O.K. And that's a responsibility for him to do that, to ensure?

A Or to see that it's done - - -

Q123 To see that it's done.

A - - - but that's where the buck stops - - -

Q124 Right.

A - - - in our view. That, the Race Director is responsible for ensuring that full documentation is in place at the time the race starts.

Q125 Yeah.

A And that's something that's asked for at the briefing -
- -

Q126 Right.

A - - - there will be a list made out of all yachts that have certain information still to be supplied - - -

Q127 Right.

A - - - and my experience is it's crew list is generally the, the biggest bug bear.

Q128 Yeah, yeah.

A And we read out a list of names of yachts at the briefing that, that we require information from - - -

Q129 Oh, O.K.

A - - - prior to the start of the race.

Q130 Certainly you have a very safety conscious sort of program, don't youse? So far as - - -

A We like to think so, yeah.

Q131 Mmm. Now tell me this. Why is it you as a Race Director or a former Race Director insist on such a stringent safety vetting program?

A Well, I believe anyone running any event, you know, should be responsible for the, the safety of all that are competing in the event.

Q132 Mmm.

A I believe there's a, what is it? Duty of care responsibility there, and that responsibility stays with the, with the organisers or, you know, the Race Director I guess - - -

Q133 Mmm.

A - - - might, maybe where the buck stops right through until that race that that or the yacht can cross at the finish line - - -

Q134 Mmm.

A - - - and then, you know, that yacht's out of his jurisdiction - - -

Q135 Mmm.

A - - - at that point in time. But I believe as the Race Director you're responsible for the safety of those persons on the water competing in the event.

Q136 Mmm.

A I mean if there's a problem you've got to do everything within your power to ensure that it's resolved in the, you know, the safest way possible.

Q137 Mmm. Dave?

SENIOR CONSTABLE UPSTON

Q138 With the, the safety checks and the safety equipment, on the safety equipment, you said that can be done at any period of time prior to the race?

A That's right. The safety certificates are usually issued for a 12 month period and I've, I think I was asking for them to be eligible well to, to be no older than the previous August or September. Because that is usually when our sailing season starts in Queensland.

Q139 Mmm.

A So, you know, if it was issued prior to the September say we would ask for a, a new one to be issued.

Q140 Do you feel that there could be a problem associated with that being issued perhaps 6 months prior to a race and for example flares expiring prior to the race?

A Yes. I mean all it is is a piece of paper that's saying that certain equipment was on board a boat at a particular point in time.

Q141 Mmm.

A You know, I've heard of instances, not so much in southern states but in, in northern parts of Australia where safety equipment, you know, gets handed from one boat to the next as the Safety Inspector's going around to look at it.

Q142 Mmm.

A You know - - -

Q143 Yeah. Do you feel - - -

A - - - it, in a sense it's a joke.

Q144 Exactly they're your thoughts but do you feel that there's a duty of care extended, you mentioned duty of care, extended to the Race Director or the club officials on that point alone?

A No, I, I don't believe that because they've got no direct control over it. I mean we can do everything in our power to ensure that everything is in place but it's physically impossible to go around, you know, all the yachts while they're in the start area and say, Well, look boys we're going to have a spot check here and make sure that everything that you say is on your certificate is on that boat. The responsibility for

that in my view is, is the owner or skipper of the vessel.

Q145 Mmm. Do you insist on spot checks prior to the race?

A Yes, we do and we also insist on spot checks at the end of the race.

Q146 And has it ever been the case where a vessel's been checked and equipment's been deficient or non compliant?

A We've had yachts disqualified at the end of a race for not complying.

Q147 O.K.

A And the one that really sticks in my mind was because he had, had insufficient hack saw blades on board.

Q148 So it's that strict?

A It, yeah, that's correct.

Q149 O.K. With safety harnesses and lanyards, they must comply with a standard, is that your case here?

A There's an Australian standard - - -

Q150 And that's - - -

A - - - you have to comply. That's nominated in the safety regulations I, from memory.

Q151 Yeah. Under the A.Y.F. rules and regulations?

A Yes.

Q152 Do you, are you aware of what that standard is?

A Not off the top of my head.

Q153 All right. Would it be fair to say that, I can inform you that that standard is Standard Australian 2-2-2-7,

and to what degree would the Safety Officer check to see that these - - -

A He would - - -

Q153 - - - harnesses comply?

A He would check that the tag on the harness, to, to, to see that it did say, This, you know, complies with the safety standard whatever it should be, you know, stamped or, or printed on a tag on the harness.

Q154 Could, do you see a problem where if a yacht decided to have 15 crew at the time of, of a recent race, however when a safety check was taken some 6 months earlier that he only needed to have seven and there was only seven harnesses seen and complied - - -

A Yeah.

Q154 - - - and the other seven or eight - - -

A Weren't there.

Q154 - - - weren't there?

A That yacht has to bring on board whether the crew bring them themselves or the owner goes out and, and buys 'em but there has, has to be a safety harness on board for every crew person on that boat competing in that event.

Q155 Do you see the problem where a person can bring his own harness on board that doesn't comply?

A I can see there could be a problem there. But I believe that should be up to the skipper of the boat or the owner of the boat. Sometimes in one and the same person to ensure that whatever safety gear's brought onto the boat is compliant.

Q156 Mmm. Right. With the crew lists - - -

A Mmm.

Q156 - - - you mentioned earlier - - -

A Yeah.

Q156 - - - have you ever had a problem where, where vessels have ended races and crews have changed prior, and maybe immediately prior to the race and you haven't been notified?

A That has happened. It's an, it is an administrative nightmare - (Tape Beeping) -, you know, people can't make it at the last minute, you know, for family reasons or whatever. We've had people jump on boats off the Sandgate Pier, you know, just prior to the, I mean get on a boat. They stand there with their kit bag, you know, at the last minute someone's short of a crew and he says, Hey - (DEMONSTRATES AUDIBLY) - if anything happens like that we request that we're notified by radio either at, at the time it happens, we have a, prior to the race in the Gladstone we have a like a roll-call, all yachts have to call up on the, the nominated channel, we use VHF radio by the way, and give their intention to start plus it's also a check of their radio system, you know, that it is working and at that point in time they're, they're to notify us of any changes to any document that's been supplied. If it's not done at that time they then have an opportunity, the first radio sched in the race, to notify Race Control of anything that's, you know, changed on board

that's going to effect the performance of that yacht well, a check would effect the ability of that yacht to claim a prize at the end of it.

DETECTIVE SENIOR CONSTABLE GRAY

Q157 All right. Yeah. The time on my watch is now 9.44am, this interview is suspended for a tape change.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q158 The time on my watch is 9.47am. This interview between Prendergast and Gray is continued. Got a hard one to pronounce there.

A Yeah.

Q159 Now if I can take you to your Notice of Race which is titled Brisbane to Gladstone 1997 Yacht Race. I'll take you to page 5 of that document and I see that there's some things and clauses in your race here and, and in particular number 15, there is a title of or a heading of Gale Warning. Can you take that, do you want to take us through that?

A Yeah. Mark, that, that's an interesting one. Queensland Cruising Yacht Club has a policy that it will not start a race if a gale warning or stronger is in place at the time the event is scheduled to start. I believe that was introduced by the club after the 1972 Brisbane Gladstone where in fact Cyclone Emily went through the fleet at the northern end of Fraser Island.

Q160 Mmm.

A Now the policy stands now that if, if there's a gale warning current at the start or there's a gale predicted for anywhere along the track of the race the club will either postpone or abandon the event. Fortunately in, in Cyclone Emily 1972 there were no lives lost in the race but there was a hell of a lot of blokes come out of it very frightened.

Q161 Yeah.

A And a lot of those people are experienced people such as Peter Kurts and Peter Risedeck, who's no longer with us, you know, were competing in that event.

Q162 What was the attitude of the yachting fraternity up at this end of the country so far as that cause?

A You mean for accepting it?

Q163 Yes. For accepting it, yeah.

A We, we've, have not had any problems.

Q164 Right.

A That's the way it is, you know - - -

Q165 Yeah.

A - - - people just accept it.

Q166 Yeah.

A I mean that's been in the club as long as I've been in the club - - -

Q167 Yeah.

A - - - so I don't question it.

Q168 Yeah.

A And from my point of view there's, it was introduced by persons at the time who had a lot more experience than I did - - -

Q169 Yeah.

A - - - at the time so, you know, you just accept it, that that, that's the way is.

Q170 Yeah.

A And we do live in a climate up here where - - -

Q171 Yes.

A - - - at that time of the year you, you can get cyclones - - -

Q172 Mmm.

A - - - and they can pop up out of nowhere very quickly.

Q173 Mmm.

A And it appears they get 'em even further south now.

Q174 And so far as, you mentioned the prediction of a, of a gale warning, how far advanced would that prediction, if the race is going to be 24 hours would it, if they predicted a gale in, you know, 27 hours would the race still go ahead or 30 hours?

A Not, well, we take it up until the Thursday night. At the briefing - - -

Q175 Yeah.

A - - - that's where the Met Bureau give everyone an overview of what's predicted for the next 4 or 5 days.

Q176 Yeah.

A They come up with, you know, three or four different scenarios, give us sea temperatures and all that sort

of stuff and if, if at that point in time that Met representative said, you know, There's a gale warning expected for, you know, the afternoon or the morning of Saturday or something like that it would, we would have to convene a meeting of the Race Committee - - -

Q177 Yeah.

A - - - or the Sailing Committee, make a decision on what was to happen. Whether it was, well, the Gladstone Race had a delayed start for 24 hours in one year and that's the only time it was delayed and that was because of a low depression up off Fraser Island and they had to wait for it to move away further and in '72 the, the storm of that year come out of nowhere and the yachts that got, that, that got caught, for the want of a better term, were at the point of no return, it was safer for them to keep going north with the wind, you know - - -

Q178 Mmm.

A - - - as opposed to try and belt back to Mooloolaba - - -

Q179 Yeah.

A - - - into a, you know, a 50, 60 knot south east I think - - -

Q180 Yeah.

A - - - the winds got up to about 120 or something on Buster Head. So a lot of them went for, went for sea room.

Q181 Yeah. O.K. Now do you have any, any views or ideas about future Sydney to Hobart Races so far as safety or anything that you've heard or you know about?

A I, I think that we've got to have a look at the history of the, of the race. My personal view is that it has a very good safety track record. I mean it's recognised world wide as, as a tough race and it's recognised world wide as, as having safety regulations that, that are probably leading the rest of the world. I know after the '79 Fastnet disaster they introduced a lot of safety regulations that, you know, the C.Y.C. were instrumental in, in putting into effect. And I guess from a Gladstone Race point of view we're fairly fortunate that if something happens in the Hobart we have an opportunity to look at the issue and say, well, do we need to make any changes, you know, for the forthcoming Easter race.

Q182 Mmm.

A I think the biggest change's with the type of vessel involved. I mean, you know, we've gone from heavy displacement vessels that took many days to get there to light displacement, very high tech boats. I mean there a leading edge of technology with the way they're constructed, the materials have been constructed of. You need very experienced crew to, to control that, I mean you almost need a, a, you know, an engineer on board. In the older days crew on, on the older boats were could do, do anything. I mean they, you could

helm the boat, you could do the full deck work, you could cook. They days with the high tech boats you almost need specialist people in each area of the boat, such as on the bow, the mast, you might only have two people that can steer a boat across a broad range of sea conditions. I mean they handle differently in the, in the sea and I think that's where a lot of boats get into strife. People on board probably don't have enough experience in those conditions. I mean you don't get those conditions like they had in '98 Hobart every year. You, you wouldn't to. And, and I, there, the, the boats are very easily driven these days. Meaning that they're, you know, they're fairly light weight, you know, weight to power ratio is, is, is quite different to, to the older boats and I think there's a, there's a problem with crews depowering the boats, meaning they don't keep enough power on the boat to keep the boat moving safely. , you know, they did power 'em too much and they get thrown around a fair bit. The other thing I see is communication between boats, as far as outside assistance is concerned, I think that needs addressing. I don't have any problem with, with a yacht that's say 60 mile or 100 mile in front of the bulk of the fleet and he's encountering sea and winds that are abnormal for what's been forecast. I, I believe it would be very right for that, that boat or the crew of that boat or the

whoever's the radio operator is to, to get on the radio and notify - - -

Q183 Yeah.

A - - - even if it's a general call, you know, to the Race Control that this is what he's experiencing or even talk to individual boats and give the rest of the fleet, the skippers of those boats, as much time to make a decision - - -

Q184 Right.

A - - - as to whether they continue or, or, or, you know, pull out of the race.

Q185 Right.

A And, and the soon, you know, the earlier that's done the safer the whole event will be.

Q186 Right.

A But we, we have this rule that, you know, from an outside assistance point of view which, I mean these days, you know, we're using G.P.S's, you can use radar - - -

Q187 Right.

A - - - all sorts of things, you know, and technically that's outside assistance, you know - - -

Q188 Mmm.

A - - - so I can't see why - - -

Q189 That's right.

A - - - simple radio communication to the rest of the fleet can't be used - - -

Q190 Yeah.

A - - - you know, to me it's common sense.

Q191 Yeah.

A You know, boats are getting faster if we compare the Hobart Race to a Gladstone Race, the, sorry, the Hobart is a marathon, you can consider the Gladstone a sprint
- - -

Q192 Mmm.

A - - - it's a bit like the Melbourne Cup to the Doomben 10,000 or something like that, you know, it's a - - -

Q193 Mmm.

A - - - a sprint and a marathon race. So they do have to be looked at in a different light, mainly because of the time frame that, you know, the yachts are sailing over.

Q194 Mmm.

A Plus the Hobart does go through more open water than the Gladstone Race. Our only open water's from the north of Fraser Island probably across to Buster Head where it can get very, very rough. But I mean the, the sea conditions are quite different for the, for the two events. But the basic, the basic safety issue should be the same for, for both races. I think things like probably personal E.P.I.R.B's - - -

Q195 Mmm.

A - - - might be a way to go. One, one thing everyone is conscious of is cost but in reality what's cost when it comes to a life. I mean, you know, we've got to do everything within our power to ensure that if a

disaster does happen that the recovery from that disaster is, you know, the best result for everyone.

Q196 Yeah.

A You know, we have the situation today where we have crews that, that spend the whole entire race sitting on the, you know, the, the side deck of the yacht. I mean that's the way design has gone, you know, they're weight sensitive. I.M.S. rule says that a yacht can only carry crew weight up to a certain weight, you know, that's on, on the rule. In the Gladstone Race we actually weigh the crew of each yacht, you know, to be ensure that they comply with their I.M.S. certificate.

Q197 Yeah.

A I'm not sure whether they do that in the Hobart Race but I guess that's irrelevant. Safety harnesses, they're one of those things I guess a bit like a parachute you hope you've never got to use them. I personally had the experience in the '79 Sydney Noumea Race where I was on the fore deck of a U.F.O. 34 which dived into a big sea whilst I was changing a headsail and I was bodily picked up and thrown down the deck and went out between the, the centre lifeline and the tow rail. Now I had that safety harness on so that it was pulling from, attached to the, you know, the middle of my back - - -

Q198 Yeah.

A - - - I don't recall anyone ever telling me which way to put it on. My reasoning was that if I went

overboard I was going to skid along the water, you know, face up, but what I found was I, to turn around and try and grab the, the rope that was holding me to the boat, with the force of water, was almost impossible - - -

Q199 Right.

A - - - they had to put, put the boat head to wind, you know, for me to scramble back up on the, through, through the through the, the lifeline.

Q200 Yeah.

A But I, I'm not sure, you know, whether there's any changes needed there. From what I read there's obviously been, safety harnesses have snapped or maybe the attachment point's, you know, they're attached to have come away, I would have thought that if the thing, you know, a safety harness snapped it'd do a fair bit of personal, you know, injury to, to the person who was in the harness.

Q201 Right.

A Such as cracked ribs or, you know - - -

Q202 Mmm.

A - - - punctured lungs or something like that. As far as changes, you know, what I'd like to see, like I think it's probably in the personal safety gear issue. I believe we're, we're probably going to have to put more onus on the individual crew - - -

Q203 Mmm.

A - - - to supply their own safety gear. Of course that, that would introduce problems from the administration point of view of making sure all the gear's on the boat at a particular point in time because, you know, with that scenario, the gear won't be there until the crew turn up. But I know from my point of view I've owned safety harness and in light of what's happened I'd be seriously considering my own personal E.P.I.R.B., you know, if I was going on a - - -

Q204 Yeah.

A - - - on a, on a major trip, even a, a cruise in my own boat to Noumea or - - -

Q205 Yeah.

A - - - up the coast I think it'd be a, a bonus.

Q206 Mmm.

A As far as life rafts go, I've never had to use one personally. But, you know, as far as knocking the bottom out of one, I, I, I realise you'd have to be in a certain stance as to be in that position to, you know, to know the reasoning behind it but it'd be the absolute last resort to, you know, punch a hole in the bottom of a perfectly good raft before you, you know, I think the first step would be to try and ride it and get in it properly. , you know, I'm not, I'm not sure that anything can be done in that area, you know, I think the R.F.D. boys would be the people to talk to there.

Q207 Mmm.

A But an issue I think is experience on board high tech boats. , you know, some people only, only go to, go to sea in one event here. I know in the Gladstone Race a lot of boats virtually do that every year and that, that's all they do, they might, a few do a bit of fishing around the Bay and it's like everything, you know, a crew get rusty on a man overboard drill and that's another issue I think that should be put back on clubs to make sure those sort of issues are addressed as a basic training issue within the clubs. And, and, and probably even down to rigging and sailing boats in, in heavy going. , you know, I think that's another issue that needs to be addressed maybe with training classes or whatever, you know, within clubs.

Q208 Mmm. Mmm.

A We, I've been on yachts where you get the storm gear out and, you know, you, you try to fit it. Every yacht should demonstrate that their, their storm sails and what have you fit the boat prior to the race, that, that should be something a safety person does look at, you know - - -

Q209 Yeah.

A - - - that the storm gear does fit it. I've been on yachts where the storm gear's been dragged out and it doesn't fit the boat. I mean it's, again it's a bit like the parachute, you hope you never have to use that sort of sail or that gear - - -

Q210 Yeah.

A - - - but by Christ when you do have to use it you want to make sure it's right and you, and you get it right the first time.

Q211 Yeah. Mmm.

A The other thing I think from the Gladstone Race point of view from a, and communications point of view is, for the last 21 years we've used the R.A.A.F. They have two teams, Amber One and Amber Two they call them, because they're from Amberley, and they use it as a training exercise for their communications people. They sight one at Double Island Point - - -

Q212 Yeah.

A - - - and they sight another one at Waddy Point on Fraser Island and then we have our own control room at Gladstone and they actually open the sea phone channels, I'm not sure how much longer we'll be able to use that because I believe sea phone's are going to be closed due to lack of use. But they open the channels for us so that we can talk to the yacht, you know, by the sea phone channel for that area.

Q213 Oh, yeah.

A The only other alternative to that is one of the yachts in the area open a sea phone channel. Now my rationale was if, if the nominated yacht that's going to do it withdraws from the race, loses it's rig or whatever we're out of action from a communication point of view.

Q214 Mmm.

A So the R.A.A.F. play a very important role in that - -
-

Q215 Mmm.

A - - - in that communication side of things. They also keep a listening watch on HF, 4-4-8-3 up until I think about 10.00 at night or something like that, and that's mainly because of curfews on generator sets running on Fraser Island. So it, it, you know, that's a good backup from a safety point of view, you know. Relay vessels have been used in the past. A relay vessel, you know, can only do so much - - -

Q216 Yeah.

A - - - I mean if you've got half a dozen boats in strife you can only attend to one, one set of circumstances at, at the time.

Q217 Exactly.

A Although for the 50th Gladstone Race we did have two motor launches under the care of very experienced people. Clem Masters was one and Bob Bolton another from the Gold Coast, I guess shadowed the fleet all the way to Gladstone. They didn't have the title Mother Ship or anything like that - - -

Q218 Mmm.

A - - - they didn't play any part in, in radio procedures or whatever but I heard after the event that, from the, the crew's point of view they found it comforting that, you know, there was a decent size motor launch in the vicinity - - -

Q219 Mmm.

A - - - should it be needed.

Q220 Mmm.

A I'm not sure that I can add much more.

Q221 That's fine. Dave, have you got any further questions on that?

SENIOR CONSTABLE UPSTON

No, no, I've no further questions.

DETECTIVE SENIOR CONSTABLE GRAY

Q222 O.K. The time on my watch is now 6 minutes past 10.00.
This interview is now concluded.

INTERVIEW CONCLUDED