

SENIOR CONSTABLE UPSTON

Q1 This is an electronically recorded interview between Senior Constable David Upston of the Sydney Water Police and Michael Marshman on Friday, the 23rd of the 4th, '99, at the Adelaide C.I.B. The time on my watch is now 8.20pm. And for the purpose of the interview, Michael, would you like to please state your full name?

A Michael Ian Marshman.

Q2 And your date of birth?

A 31/3/53.

Q3 Your address?

A 16 Maclean Avenue, Grange.

Q4 And your occupation, please?

A Sales manager.

Q5 O.K. Michael, as I spoke to you earlier, I informed you that I'm making inquiries into the 1998 Sydney to Hobart Yacht Race, where six of the competing sailors lost their lives, and I have been instructed by the Coroner to speak to people, either directly or indirectly involved in the race and ascertain what their, they did and how they came about to being in the race. And I understand that you were on the vessel, Stand Aside. Is that correct?

A That's right.

Q6 O.K. And what position were you employed as, or did you take part in the race on the Stand Aside?

A Doing the halyards or bridge, whatever you want to call it, yeah.

Q7 O.K. So you were at the base of the, at the, at the mast?

A That's right.

Q8 O.K. Could you just tell me what your sailing background is?

A Offshore sailing now for about 6 years, myself and Hayden Jones bought a 40 footer that got wrecked in the Sydney to Hobart in '93. Huge amounts of offshore racing around Adelaide. Done navigation courses and did the previous Sydney to Hobart on Doctel Rager.

Q9 O.K. What I'll, I'll do is I'll take you to the 27th of December, '98, where you were sailing down the coast after starting the race at 1 o'clock on Boxing Day, and there was an approaching storm. What could you tell me from then?

A The 27th? That's the day after - - -

Q10 From the 27th, the day after you started the race.

A Day after we started the race. Well, all the weather forecasts had told us that we were in for 50 knots. We'd had a meeting prior as to what we were going to do when those sort of conditions hit. We reefed down and put the storm jib up early, so we were very prepared for everything to happen. But it just came in a little bit stronger than 50 knots.

Q11 O.K. And then what happened?

A As in regards to what? What do you mean? What happened - - -

Q12 Well, the, the storm came, you were sailing down the coast - - -

A Yeah, we actually, well, it really did deteriorate, we actually weren't going down the coast, we actually, when we flipped we were about 35 nautical miles southwest of Gabo Island.

Q13 Right.

A It's amazing, we were in 50 knots, but in about somewhere around about 45 minutes to an hour the conditions deteriorated dramatically from that. We actually blew our storm jib out twice, just came out of the luff so that half hour, 45 minutes I was busy working really, so I wasn't really watching the conditions deteriorate. We got it up, and got back on the high side of the boat.

Q14 O.K. So you were going, what, proceeding down a wave when .....

A No, that's, if, well, as far as Stand Aside's concerned, if we were doing anything wrong - - -

Q15 Mmm.

A - - - was, we were actually in my opinion, which is only an opinion - - -

Q16 Yeah.

A - - - we were actually going the wrong way.

Q17 Oh, O.K.

A We were actually sailing side on to the waves, maybe then about 10 to, and going about 10 to 20 degrees

down. I wasn't the skipper, but in my opinion when it gets like that you should be sailing more into it.

Q18 Mmm.

A And because of that when a real big wave hit us, I mean, that was very comfortable, sailing that way - -  
-

Q19 Yes.

A - - - as long as there's no breaking waves, so as soon as we got a breaking wave - - -

Q20 Mmm.

A - - - which, you know, what was called ..... we looked up, and it was towering over the mast and about the top 5 or 10 feet of it was breaking, so as soon as we got to the top of the wave the boat heeled in the wind, even, you know, with just the storm jib up and then the, the white water hit the bottom of the boat and bang, we were over.

Q21 How many times did breaking waves hit you, do you think?

A That was the first breaking wave to hit us that I, we'd actually seen a couple, but actually, that wave must have been somewhere in the vicinity of 60 feet plus that got us. Prior to that I wouldn't have thought there was anything above 30 to 40, but after that you could see there were, you know, bigger waves, yeah.

Q22 How did you gauge the, the wave heights?

A I wasn't really all that concerned, because it wasn't, you know, I knew it was terrible conditions but

basically your mind set was, was that you were going to hit terrible conditions. It was hard to gauge wind readings on our boat because when it basically went like 50 plus we weren't getting accurate readings on speed, of wind or, even on speed of the boat, but we knew we were doing about 7 knots, it was quite comfortable sailing the way we were, so without breaking waves, if we had have missed the breaking waves it wouldn't have been too bad, but, you know, we were just unlucky, the first, I s'pose, the first breaking wave got us. If we had have been going the other way - - -

Q23 Mmm.

A - - - like, more or less at about, you know, like, 30 to 40 degrees off the wind, then you just turn into it and put your nose straight through the, the white water, what would have happened then, I don't know - - -

Q24 Yeah.

A - - - but, you know, in everything I've been taught and everything I've ever learnt since, that's the way to go in those sort of conditions.

Q25 Right. Did you have any discussions with any of the crew, with, with, with what you felt?

A The only, the first disagreement, well, not really disagreement, on the boat was actually in Sydney Harbour, when we were actually told that we were going to hit, we were going to hit 50 knots, so we went out

-  
into the Harbour and did a few safety exercises, and, well, Simon and Rod and basically myself, but I didn't get involved in the argument, wanted to go through the exercise of disconnecting the boom, which, that was Jim's decision, his boat, so the answer was no, so we just went through the exercise of basically roping it at the back, but it was the boom, or maybe it was, I don't know, but it appeared when the mast went that the boom went straight down and smashed open all the cabin top, and that's why Stand Aside was such a mess, but that's one answer, but the other answer could have been, 'cause I'm not that sure that we actually rolled, or that we were actually just picked up and actually dropped down the face of a wave. Now it could have also been that force that smashed open the top of the boat, but I don't remember having a long fall through the air at all, so that, like, you know, when we actually flipped or got dumped, it happened so quickly.

Q26 And where were you at the time that the, you were either rolled or dumped?

A Jim was on the helm, Laurie his brother was on main sheet, and I'm not sure if someone was sitting directly on my left hand side, but then I was up on the high side of the boat there, I actually think that John was, may have been there, and then we had Simon and Charles further up, further up the boat.

Q27 Mmm. You mentioned earlier about the, just to take you back a bit, about the wind instruments, and you

-  
believed that you weren't getting a, an accurate reading of those. What made you think of that?

A Well, we'd actually had problems prior getting an accurate reading of wind and, and speed conditions on the boat, and this was actually preparing the boat before we, the boat even went to Sydney, the boat was having trouble, but Jim had spent a lot of money on getting it fixed, but they didn't seem to work under pressure, you, you know what I'm saying, like - - -

Q28 Yes, I do, I - - -

A Yeah.

Q28 - - - yeah, yeah.

A Under pressure I don't think we were getting accurate readings.

Q29 Mmm. You, and by under pressure you're meaning great winds, strong winds?

A Yeah. Yeah.

Q30 O.K.

A Well, it just didn't seem to be reading correctly, it just, the fluctuations and things like that in the instruments didn't seem to be correct, so I really just stopped looking at it.

Q31 Mmm. Is that, you gauging what the wind strengths are from your experiences and then looking at the wind instruments?

A Oh, yes, and in, well, and talking to Simon Clark who's also had a, you know, huge amount of blue water sailing. He's been down almost to Antarctica.

Q32 O.K.

A Blue water sailing.

Q33 All right. And you, you mentioned earlier that you, there was a few arguments and there was - - -

A No real - - -

Q33 - - - a few - - -

A - - - no, no, no arguments.

Q34 O.K. No arguments, there was some discussions over other issues as well?

A Mmm.

Q35 What were they over?

A Oh, as I said, the boom - - -

Q36 Yeah.

A - - - disconnecting the boom. When, at that stage basically we were in conditions, you know, I sort of looked around the boat and I was looking to see, well, you know, how many have we got, there was a couple, like, Laurie hadn't actually even been downstairs, because he was crook, there was a couple starting to show the effects of, you know, sea sickness and greenness, so, you know, I just sort of looked around the boat to make sure we still had half a dozen or so, which we did, so that didn't really concern me.

Q37 Mmm.

A But the watches had broken down, because of that, because of people not going down, you know, people being, you know, a bit sick - - -

Q38 Mmm.



A - - - but we still had enough to sail the boat.

Q39 Right.

A Which, so that, that didn't really concern me. I, I think if anything concerned me it was the fact that, you know, I, I thought we were going the wrong way.

Q40 Yeah.

A That was the, that was the major concern, but it also was very comfortable.

Q41 Mmm. Yes, you said that.

A Mmm.

Q42 Did you voice your opinion to the, to the skipper?

A Oh, no. No.

Q43 Right. You just kept all that to yourself?

A Yeah, I know that a couple felt the same way, but, I mean, that, that was the way it was, I mean you don't -  
- -

Q44 Yeah.

A - - - go against the skipper at sea, do you?

Q45 No. But you spoke about it with other people?

A Yeah.

Q46 O.K. And did anyone mention to, to James about that, that you felt that you were possibly handling the sea -  
- -

A I'm not sure - - -

Q46 - - - differently to what - - -

A I, I know Simon spoke to him about it, but I'm not sure. You know, Jim's not a bad bloke, but he's very

direct, his way is the only way, and so you know you're going to lose an argument because of things like that.

Q47 O.K. All right then. After you rolled or were dumped, the boat came back up rather quickly or slowly or ....

A Yeah, I think fairly quickly actually - - -

Q48 Yeah.

A - - - 'cause I mean I hit the water and that was just like diving off a, a diving board, and then you, your brain is just starting to get around where you are, like, Christ, I'm in the middle of Bass Strait and I've just hit the drink, and then when the boat righted it was like being shot out of a cannon, the force - - -

Q49 Mmm.

A - - - on your, on your life line pulled you and, well, I thought, well, I, I sensed what was happening, and then it stopped, but I still wasn't up, 'cause I was actually underneath the rigging.

Q50 Oh, O.K.

A So at that stage I thought I was, I thought I was dead. I went to release my life line from my body and this little voice inside my head said, you know, the last thing you ever want to do is let go of the boat, so I kept trying to free myself, and I did free myself, and I was probably only, you know, 12 inches, 18 inches under water. I came up, and Simon was alongside me. He said, I've, think I've broken my leg, Simon said, and at that stage I was just happy to be getting a breath of air so I, you know, wasn't real concerned,

and then it was get back on board the boat, that's when I realised my, you know, I'd torn the top off my finger. No pain or anything like that, so it didn't really worry me, and Andy and Rod were bailing. Rod handed me a life raft. That one, the one he handed me, the one that came from upstairs went off, the other one didn't go off, and so we were, they were trying everything so they could winch it back to the boat, but the weight of it, it finished up snapping the Spectre, the weight of that, so that was a, a pretty uncomfortable feeling, that was a brand new life raft. That was probably the only anxious moment I really felt 'cause prior to that I was working, you were in the water so I, I s'pose your adrenalin and everything takes over there, and then between putting out the Maydays, bailing the boat down, then talking about basically what we could do now before we actually got an answer, that was the anxious moment on the boat.

Q51 Mmm. Were you pulled back on deck?

A Yeah. Actually, Hayden pulled me back on deck.

Q52 And was that after the life rafts were deployed?

A No.

Q53 O.K. Before that? So you weren't in the water that long?

A No. No. I - - -

Q54 O.K.

A = = = might have been all up in the water for 10 minutes.

Q55 Right.

A That's all.

Q56 Have you ever deployed a life raft before?

A Deployed one, no.

Q57 Yeah. You have, O.K.

A No.

Q58 Have you ever seen one being deployed?

A Yes, I have. Yeah.

Q59 O.K. Obviously you were concerned about your injury at that stage - - -

A Yeah, but I had no pain so - - -

Q60 Yeah.

A - - - it didn't really bother me, I could see it, it was bleeding, I just said to Andy, 'cause he was actually in the companionway, I said, When you, when you've got a minute just chuck up a Band-Aid or something like that, if you can see one, and, you know, once basically we'd thrown all the gear out from downstairs and bailed it down to an acceptable level, Andy just wrapped - - -

Q61 Mmm.

A - - - a Band-Aid round my finger and, and I forgot about it.

Q62 Mmm. Mmm. So you were on deck when they were deploying the life rafts?

A Yeah.

Q63 And you were watching the way they were being deployed?

A Yeah.

Q64           When the first life raft in the, in the, in the  
              fibreglass case, was that put over the side?

A             (NO AUDIBLE REPLY)

Q65           Did somebody actually put it over the side?

A             Yeah.

Q66           Yeah. And the rope was pulled?

A             Yeah.

Q67           Right through?

A             Mmm.

Q68           How much line do you think came out of the, out of the  
              life raft?

A             Oh, that, no, I wouldn't be really good at - - -

Q69           Mmm.

A             - - - giving an assessment on that.

Q70           Was there a bunch of it? Was there, like, just a  
              couple of feet of it? You can't recall?

A             Yeah, I, I'd probably, saying, you know, like a couple  
              of metres, that sort of thing.

Q71           Yeah. Yeah.

A             Mmm.

Q72           O.K. So when that wasn't deployed the other one was  
              put out? When that one failed to, to - - -

A             Well, basically - - -

Q72           - - - to inflate - - -

A             - - - ..... pretty, pretty close to each other.

Q73           To each other?

A             Yeah. They were putting that one off - - -

Q74           Yeah.

A - - - as the other one was coming up.

Q75 Coming up?

A Yeah.

Q76 O.K. And that one went off successfully?

A No problems.

Q77 Yeah. Pulled the line out - - -

A Yeah.

Q77 - - - it inflated? And then you said the, one of the, the other one, the cord broke?

A No, no, no, we actually tied it to a halyard - - -

Q78 Yes.

A - - - and we were trying to winch, you know, like, the flat life raft back on deck ..... I know there's actually a manual pump that you can actually pump them up - - -

Q79 Yeah.

A - - - with, so, but we physically could not, now actually - - -

Q80 Mmm.

A - - - I was, and there was about three in that corner of the boat, so I wasn't there - - -

Q81 Yes.

A - - - but they were, they physically tried to pull it on board - - -

Q82 Mmm.

A - - - and then actually tried to winch it on board, and eventually the, the Spectre that we were using snapped.

Q83 Oh, so the rope broke - - -

A Yeah.

Q83 - - - not the, not the attachment to - - -

A No.

Q83 - - - the, you saw the rope break?

A Yeah.

Q84 O.K. O.K. And then the helicopter came over?

A Yeah, then we, oh, then we just heard, oh, we heard, 'cause we were using handheld V.H.F. 'cause our radio was actually smashed, we heard from the A.B.C. helicopter, and he quickly told us that there was a plane coming from Traralgon - - -

Q85 And then - - -

A Helicopter coming from Traralgon.

Q86 And then a short time later the helicopter came?

A Oh, no, he told us it'd be here in about 30 minutes, and then about, then after about 30 minutes he said it's, it's been, it's refuelling at the beach, so it'll be another few minutes and, you know, he did well, I mean - - -

Q87 Mmm.

A - - - 'cause he, whatever he said, whether he was, he believed it or he didn't believe it, he, he led us all to believe it was very, very close.

Q88 Mmm.

A I think if he had have said it was going to be an hour and a half or whatever it was, straight away, you might have had some sick feelings on the boat - - -

Q89 Mmm.

A - - - 'cause we knew if we took another wave at that stage we were I some, you know, nasty trouble - - -

Q90 All right.

A - - - 'cause the, the port side of the hull had three fractures and the bulkhead, you know, the hull had come loose in the bulkhead, and the boat, you know, was not in good shape.

Q91 O.K. Eventually the helicopter came?

A Yes.

Q92 And you were all winched off?

A Yes.

Q93 And, and you were then taken to Mallacoota?

A That's right.

Q94 Where you were hospitalised?

A I, we went to Mallacoota, and basically there was an ambulance for three of us, myself, Simon and Trevor Conyas, we went by Flying Doctor to Traralgon.

Q95 O.K. All right. Michael, is there anything you'd like to, to add that would assist me in - - -

A The only, only thing about this whole thing that, you know, I, you know, I have, you get invaded by press over and over and over again, and every time I've ever said anything to the press or anything like that, I said, Yeah, I'll talk to you, no problems, whatsoever, if you ask me if there's any fault on anyone's side, then, I said, I won't talk to you. I'm not interested in, 'cause I said, I don't really believe I'm qualified to pass on fault. But there is one question that I'd



even like answered out of this, for my own thing, was, I'm thinking, we're 41 feet, there are, you know, like maxis going through here and then actually talking to Gary Shanks, the skipper of Doctel Rager, they had actually radioed back saying that they'd hit 70 knot breezes, they weren't the only big boat to radio back to Telstra Control that there was, you know, like, they were hitting not the, way in excess of what was forecast, yet after that Telstra Control still put out the same forecast. Now as I can see, that's probably their instruction from Sydney, This is the forecast, that's what you read out, but you'd think that after they had been told that there was, you know, like, 70, 70 knot plus winds, like, someone said in our boat they saw 87 knots, whether they did or whether they didn't, but I did see on T.V. that night that Wilson's Promontory got 92 knots, so, you know, we probably were in 80 knot winds. If we had have known that, the question of whether we would have continued, no, we wouldn't have.

Q96 Mmm.

A Now we were prepared for 50 knots and the occasional gust maybe at 60, but not those sort of winds and those sort of seas.

Q97 Mmm.

A And that's the only question that, you know, like, I, I've sort of been waiting for this whole inquest and

everything to run through and then read the reports and

- - -

Q98 Mmm.

A - - - then basically form my opinion as to what went right and what went wrong, and that was, that's my only question - - -

Q99 Mmm.

A - - - nothing else to me was wrong.

Q100 Well, I can't answer that for you - - -

A Mmm.

Q100 - - - at this, at this stage.

A I know that, but I mean that's why I've been, you know  
- - -

Q101 Yeah.

A - - - I know these things, these inquests and all that all take about 6 months so - - -

Q102 Yeah. Well, are you aware that when the weather bureau issue forecasts that those forecasts are what you'd call mean winds, not mean as in angry, but mean as in a wind blowing for a constant velocity, for a, for a period greater than 10 minutes?

A Mmm. Yes, I am.

Q103 O.K. And - - -

A As I said - - -

Q103 - - - what would you expect if you heard those mean winds, what would you expect winds or wind gusts to, to possibly peak out at?

A O.K. Our forecast was 45 to 50 knots, so I would have expected to have seen gusts of 60. If I saw them a few knots over I wouldn't have been surprised.

Q104 Mmm.

A We were forecast four, still talking 4 to 7 metre seas.

Q105 Mmm.

A You know, I could just look over my shoulder and knew that was bullshit.

Q106 Mmm.

A And that was even when we were in 50 knots - - -

Q107 Mmm.

A - - - you know, they were, they were over the 7 metres then.

Q108 Yes.

A But they weren't breaking, so they weren't standing up, so they're not a problem.

Q109 Yes. All right. Is there anything further you'd like to add?

A No, I haven't got anything more.

Q110 O.K. All right. The, the time on my watch is now 8.42pm. This interview is now concluded.

INTERVIEW CONCLUDED