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NEW SOUTH WALES CORONER'S COURT

STATE CORONER: J ABERNETHY

THURSDAY 23 MARCH 2000

5/98 - EVENT OF THE 1998 SYDNEY TO HOBART YACHT RACE

INQUEST INTO THE DEATHS OF JAMES MICHAEL LAWLER
 MICHAEL BANNISTER
 BRUCE RAYMOND GUY
 PHILLIP RAYMOND CHARLES SKEGGS
 JOHN WILLIAM DEAN
 GLYN RODERICK CHARLES

Mr A Hill assisting the Coroner
 Mr R Stanley QC for the Bureau of Meteorology
 Mr R J Weber for the Cruising Yacht Club of Australia
 Mr T Elsworth for the Australian Yachting Federation
 Miss C A Needham for Mr Winning
 Mr A Shand QC for Mr R Purcell
 Mr P Callaghan for Mr R M Kothe

CORONER: Appearances are as before I think.

NEEDHAM: Your Worship Miss Needham for Mr Winning.

CORONER: I note Mr O'Halloran is not here, otherwise the appearances are as before.

<JOHN MICHAEL STANLEY(10.05AM)
 RESWORN, EXAMINATION CONTINUED

CORONER: You had something else Mr Hill did you or not?

HILL: Yes I've still got something else. I thought Miss Needham--

NEEDHAM: I have some sort questions.

Q. Mr Stanley the evidence you gave yesterday included high praise for various crew members in the crisis, you recall giving that evidence?

A. Yes.

Q. And would you agree that at all times after leaving the Cruising Yacht Club, each of the crew members conducted himself in accordance with the best traditions of seamanship?

A. Yes ..(not transcribable).. you wouldn't have anyone else on board but that type of person. That's the sort of thing ..(not transcribable)..

Q. And to your observation during the race, each crew member performed his duty diligently and competently?

A. That's correct.

Q. Of course on this boat, there were some crew members that were more experienced than others, such as yourself and Mr Winning had a great deal of experience and there were others such as Mr Lumtin who are less experienced, is that right?

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A. That's correct.

Q. And it's fairly common is it not in ocean racing to have that exact situation with your crew?

A. That's correct. I think if you look at the Hobart race probably that year a high percentage of crews in the fleet would have been in their first, second or third race and their experiencing - and hopefully they're with a lot older bunch of people that can pass on their experience. I mean that's the name of the game in ..(not transcribable).. racing.

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Q. It's part of the training process whereby novice sailors learn the crafts of sailing?

A. Certainly. Correct. There's probably not enough of it done these days.

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Q. And on this particular boat, it was the situation that the less experienced crew members had the benefit of the far greater experience of other crew members?

A. My word.

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Q. And there was a wide degree of consultation took place at all times?

A. Yes it's always very much run like tat.

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Q. Now although Mr Lumtin was described as the navigator, it's the case is it not that the traditional position of navigator had become somewhat out of date?

A. Well it certainly has in a lot of ways with electronics these days. I mean every member and the crew with GPS and plodders with maps anyone can walk down to the area, basically look at the screen and see where the boat is positioned in regards to the coast and know exactly where they are so with - I mean the navigator of yesterday, if he's a very very experienced navigator is basically these days a tactician who basically says, you know this is where we should be rather than this is where we are because that's just the way the technology has gone these days, the old experienced navigator who would sit there for hours plotting a course and doing that and making sure where they are at all times is no longer required.

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Q. Because that information about the present location of the boat is available through such electronic means as the GPS system?

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A. Exactly, it's a TV screen, anyone looks at it and knows exactly where they are.

Q. And Mr Lumtin's duties as you understood them on the boat were threefold, they were first that each hour he would take the coordinates, would receive the coordinates from the GPS system, enter them on the chart and in the log book and

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secondly he would calibrate the wind and boat speed indicators, it's a fairly routine task?

A. Well that's right but basically you know each watch, if you've got a crew of four on watch, each hour you basically go down and you plot a position and you mark it on the chart. 5

Q. Each hour they would go down and plot the position?

A. Well that's right each crew - I mean it's not one person's job, each watch has that situation and they check that thing all the time, it's just the way you run a boat. 10

Q. And in the performance of those duties at times when Mr Lumtin was doing them, you observed him to perform those duties diligently and carefully didn't you? 15

A. Yes, yes, no Paul was a good learner and he was very thorough.

Q. And in relation to the crew generally throughout the whole of that voyage from the time of leaving the yacht club, you would make no criticism of any member would you? 20

A. From the time of leaving to the time of getting into distress from the time of saying farewell, there was - they were just a great bunch of guys. They all got on tremendously well together. 25

CORONER: Mrs Dean raised something overnight which we've got to look at briefly. You may want to ask some more questions in a moment Miss Needham. 30

NEEDHAM: Thank you your Worship, I'm aware of that your Worship but I'm not wishing to take it any further with this witness.

HILL: Q. First of all I'll deal with something that arose. You said that there was only one race and that was in Hawaii where the forecast made you pull out, what was-- 35

A. Well it really wasn't a forecast in Hawaii, it wasn't a forecast, it was the sea conditions and in the boat that we were in. 40

Q. Sorry what was that again?

A. It wasn't the actual forecast, it was the sea conditions and the vessel that we were in. The actual vessel that we were in in that particular race was designed for what they call a trans pac(?) race which is all downhill sailing so it's not really designed to handle sea conditions and going to windward and what we had in this particular race we had to go up the windward side of the big island of Hawaii which was 90 miles and we were in a 40 knot breeze with sea conditions so basically what we were doing is going backwards and forwards and going nowhere so in that particular race and Richard Hammond was with me and I said to Dick, we're going to have to pull out of this race and Dick said, well I've never pulled out of a race in my life and I said, well this will be the first and consequently we pulled out and we went home. 45 50 55

Q. So in reality it wasn't a forecast, it was in fact an observation of the sea conditions?

A. It was the sea conditions and the boat itself.

Q. The other thing that's come to my attention is that the radio sked that took place at 2pm on Sunday 27th, that's the one where you listen to the weather forecast? 5

A. Yes I don't recall the weather forecast. I mean it gets - I can't exactly say that I listened to it and I remember exactly what it was. I can't remember that at all unfortunately. I mean I would have listened to it and would have taken it on board but I - unless you repeated it here today I don't remember exactly what was actually said and I haven't done my homework, to do this, I just sort of come in here with the knowledge of what I remember from those days rather than read anything to say this is what you should remember. I don't remember exactly what the forecast was to tell you the truth. 10 15

Q. The point that I want to make is this that Mr Lumtin says that I think Mr Dean took over the sked, the reporting in aspect? 20

A. So he says yes.

Q. He reported in?

A. Yes. 25

Q. Do you know anything at all about that?

A. No not - I can't exactly say if it was Paul or John, I really don't remember to tell you the truth. I can't exactly - I can't say offhand. 30

Q. It's just that the transcript of the radio at that particular point in time shows that the Winston Churchill didn't in fact radio in its position, that its position was later radioed in via a vessel called Adrenalin? 35

A. Adrenalin?

Q. Yes because they had seen you, seen the Winston Churchill about an hour earlier. Do you know anything at all about that? 40

A. No I don't, no.

Q. Well if you hadn't have been able to make contact with Telstra Control, would that have been brought to your attention or to anyone's attention? 45

A. Well not unless - I mean all I could say there is is that basically if we hadn't have radioed in, no-one's put the time on and then basically gone and done the job, if we haven't radioed in, that's all I could - the only conclusion I could come to. I mean if you're saying that we didn't come onto that sked at 2 o'clock, what I'm saying is that no-one basically did the job and if someone had asked someone else to do it, obviously it hasn't happened, if you're saying that we didn't coming onto that sked, I don't - I haven't asked anyone did we come into that position, I don't know. 50 55

Q. What appears is that when the call goes out from Telstra Control for Winston Churchill, there is no audible reply. Now I'm not sure what that in fact means, whether in fact they couldn't understand - there was a reply but they couldn't understand?

A. Whether we couldn't get out, I mean they were doing the skeds and we could listen, now whether we got out, I'm not - that's the thing, I'm not sure whether we got out. We listened, I mean Paul saying that he got tired and left John to do ..(not transcribable).. well I mean the radio was on and the only time they would change it would be change it over to another frequency for the weather facts which is what they do after the sked from my recollection.

Q. Now I'm just trying to find out whether there was a procedure where you weren't acknowledged by Telstra Control for sending through other vessels or anything like that, that's a procedure on your vessel, do you know of any such procedure?

A. If someone doesn't answer quite often they'll ask, has anyone else seen this vessel, it happens quite a bit with bad weather like that quite often a lot of boats can't get through and so someone else will pick up a message, they can hear it but the radio relay vessel can't hear it so they pick it up and then they send it on for them.

CORONER: Q. Is there any obligation on your vessel to try to relay to Telstra Control?

A. Is there?

Q. Yes in those circumstances?

A. We have to try our best to give a position.

Q. To make contact if necessary by relay?

A. Yes.

HILL: Q. I'm trying to find out if there was an actual procedure on your vessel that if you could not get through directly to Telstra Control then you, that is your vessel, would try and radio other vessels in the area to relay messages on. Was there any such, if you like, system?

A. There is, yes you do use a system. If radio relay vessel basically says that they haven't got a - or can't take your position or can't hear you, you do try and speak to other vessels, yes, but whether that procedure - I mean I can't recall that sked to tell you the truth. I just - I was resting myself that afternoon and I just can't recall what actually happened to tell you the truth but the evidence that Paul and - Paul has given, I assume that that's exactly what happened because I know John and Richard were on deck around that time and Paul was there at that time before that sked started so quite honestly I can't tell you exactly the procedure of what happened.

Q. See what worries Mrs Dean is that who was down in the chart room?

A. Actually I was there but I was trying to doze but to be quite honest I can't relate exactly what went on apart from

- to tell you the truth, I just don't know exactly. I can't say to be certain what happened.

Q. Is it a position that sometimes occurs that you can hear Telstra Control but Telstra Control can't hear you, is that a common occurrence or--

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A. Not common but it can happen.

Q. It can happen?

A. Yeah.

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Q. Did it happen at all to your recollection on this particular voyage?

A. Not that I can - no I think our radio received without any problems.

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Q. You don't recall seeing the vessel Adrenalin at any stage?

A. Adrenalin, no, it's a very - it's quite a small boat from memory, not a - about a 35-foot boat, I'm not 100 per cent sure what size it is but no I didn't see--

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CORONER: Q. What about Canon Maris?

A. No I think it would have been a long way behind us.

Q. Well according to them, they indicated after that sked, sometime after the sked that they - or during the latter part that they had you at a lat and long but no they're saying it through Foxtel Adrenalin, that's right.

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A. No they wouldn't have been anywhere near us and I didn't think Adrenalin would have been near us either.

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HILL: Q. Well according to the transcript, they say that they'd seen the Winston Churchill about an hour previously and they were at such and such a position at that stage?

A. Well that's quite possible, I wouldn't have thought they would have been near us but anyway that's quite possible.

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Q. But you don't recall seeing--

A. No I don't, not sort of in those conditions, if it was a 15 knot breeze and you know a reasonably calm sea well okay you would see them but when you've got round probably 40 knots breeze and a 4 or 5 metre sea or whatever, you don't really see a lot of boats. You'd have to be reasonably close, you'd have to be within half a mile minimum to be able to see boats in those conditions. You don't - where on the other hand if it's 10 knots of breeze and a 1 metre swell, you can see boats for up to 5 or 6 miles away especially with spinnakers up.

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HILL: I've got nothing further from this witness.

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CORONER: You've got nothing Miss Needham?

NEEDHAM: No.

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<WITNESS RETIRED

<IAN JAMES PERDRIAU(10.20AM)
SWORN AND EXAMINED

- HILL: Q. Sir would you give this inquest your full name please? 5
A. Ian James Perdriau.
- Q. And your address sir?
A. 19 Eastview Road Church Point. 10
- Q. And your occupation?
A. Boat builder. 15
- Q. And perhaps if you could tell us how much experience you've had as a boat builder?
A. I started an apprenticeship when I was 14 years of age and I've been - I'm not 52, I've been building and working boats ever since. 15
- Q. Now have you built any wooden vessels?
A. I maybe would have built 100-odd I suppose. 20
- Q. About a hundred, okay. And vessels similar in design to the Winston Churchill?
A. Two. 25
- Q. You in fact surveyed the Winston Churchill I think about 3 years before the 1998 Sydney to Hobart race, is that correct?
A. That's correct. 30
- Q. And you did that for Mr Winning?
A. That's right.
- Q. Can you tell us what condition she was in?
A. I first looked at the boat between Christmas and New Year in 1996 and we hauled the boat out early in 1997 to have a look at it. The boat was cosmetically run down, purely paint work, varnish work, the sails, had been cruising for quite some time with its present owner. I looked at it first in the water, decided it was worthwhile to pursue the matter a bit more to pull it out of the water and check it out structurally. I pulled out about - we hauled it out of the water, I pulled out approximately twelve fastenings. 40
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- Q. When you say fastenings, what exactly where they?
A. Copper nails with roves and/or screws.
- Q. And what condition were they in?
A. I couldn't find any defects in those particular samples I pulled out at all. The structure of the boat in itself was very heavily built out of hardwood and Huon Pine planking. There was a small amount of hogging which is reverse sheering around the chain plate area due to I think the rigging being exceptionally tight over a long time. 50
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- Q. Now the chain plates are on the side of the vessel were

they?

A. They're the structural members that attach the stays to the mast.

Q. So they're for the stand-in rig?

A. Yeah.

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Q. And what else?

A. I made a list of comments to Mr Winning about what I thought could be done to the boat to improve it but structurally I couldn't find anything wrong with it.

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Q. So was it seaworthy at that stage as far as you were concerned?

A. Yes, yes we went for a sail in it in quite a little bit of breeze and we were happy that it was fine.

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Q. And did you carry out any work on it?

A. Any structural work?

Q. Yes?

A. No.

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Q. What about the cosmetic work or anything like that?

A. I coordinated a list with John Stanley of things to do and I went away on a 6 months holiday. Then I came back and I gave him a hand to put a little bit of the remaining bits and pieces on it just prior to the race of 1997.

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Q. Did you make any recommendations about replacing any of the copper fastings or anything like that?

A. I left that to the foreman shipwright at the Woolwich Marina to assess as they went through the boat but we - I generally agree or generally accepted and told Mr Winning that I couldn't see a problem with any fastings in the boat at that stage.

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Q. You know that part of the stem at the bow is the rabbet(?) line?

A. Rabbet.

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Q. That's where the planking meets the stem and we are told, this inquest has been told that above the water line for about a foot, there appeared to be a black line where either caulking or putty had come out about a foot and that back from that over three planks where they join each other, where they abut was - the paint was cracking. If you accept that, what would that say to you?

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OBJECTION(NEEDHAM). NOT THE EVIDENCE GIVEN. LEGAL ARGUMENT.

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HILL: I withdraw the word, caulking.

Q. If there was putty missing, what would that indicate to you?

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A. Precisely that putty missing wouldn't indicate any sort of damage, impact or movement in the planking. It has a

tendency to fall out--

Q. What of its own accord?

A. --putty, putty tends to fall out above the water line, has a tendency to.

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Q. Of its own accord?

A. Well the putty is very similar to a glazing putty, linseed oil based where you mix paints with it and what have you to help it stick but it tends to dry out in the heat, shrink and it's known to fall out in that particular type of construction.

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Q. What about the cracking of the paint work?

A. Same sort of thing, expansion and contraction of the timber. I presume you're only talking of hairline cracks, you know, when the Winston Churchill had its refit, by the time you finish painting it may all look pretty, you put them in the water and they start cracking, can start cracking immediately just from the change of shape and change of moisture content of the timber.

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Q. In that one specific place you think that--

A. No, all over.

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Q. All over?

A. All over the timber above the water line. I'm not saying it happened on the Winston Churchill but I'm saying it can happen to that particular type of construction.

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Q. Would it indicate to you any movements in the plank, the first plank next to the keel?

A. Would what indicate that?

Q. What I've just described around the rabbet area, the line and the cracked paint, the putty--

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A. You mean the putty coming out?

Q. Yes?

A. Most unlikely, most unlikely.

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Q. Most unlikely?

A. Yeah.

Q. Well what would indicate movement around the plank next to the keel?

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A. Movement in the structure itself, the boat is - boats built to those - that type of construction are extremely strong down that area, massive amounts of wood going fore and aft ..(not transcribable)..

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Q. Have you seen the evidence of Mr Quilkey?

A. No.

Q. Mr Quilkey thinks that it indicates a sign that there is movement in the plank next to the keel.

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OBJECTION(NEEDHAM). UNFAIR QUESTION. LEGAL ARGUMENT.

QUESTION ALLOWED.

Q. Have you seen the evidence of Mr Quilkey?
A. No.

Q. He has read Mr Bascombe's statement. He also made this sketch, this is Mr Bascombe's sketch?
A. I've sen Mr Bascombe's sketch.

Q. Have you?
A. Mm.

Q. Would you like to look at it again?
A. No.

Q. Mr Quilkey says that that indicates that there was movement in the plank next to the keel, what do you say about that?

A. Mr Bascombe's sketch doesn't show the keel itself on the water line.

Q. No?

A. You asked me about the garboard plank which is the plank down by the keel?

Q. Yes?

A. So which question do you want me to answer, the one about the caulking where the area you're talking about or the garboard?

Q. The garboard?

A. The garboard okay. And you're asking?

Q. I'm asking you have you read the evidence of Mr Quilkey?
A. I said no.

Q. And I'm saying to you that Mr Quilkey says that where the planks and the sketch that's shown by Mr Bascombe, that indicates to him movement in the plank next to the keel and I'm asking you what do you say to that?

A. I can say that I don't think it's related at all.

Q. And what do you say that represents, simply the putty fallen out, is that it?

A. It may have been a sliding pack by a piece of driftwood, a dinghy down at the - where it was moored or the putty just falling out, it's not the caulking falling out, it's the putty falling out.

Q. So you think that's consistent with a slight impact?

A. Very slight.

Q. Very slight?

A. Possibly or it could just fall out.

Q. Or it could just fall out?

A. Mm.

O'HALLORAN: Q. Mr Perdriau you've told the inquest that you checked at random approximately a dozen of the fastenings when the boat was being looked at by yourself in I think it was January 1997?

A. Yes.

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Q. And do you have any specific recollection of checking any of the fastenings in the garboard plank or not?

A. I would have checked both sides at random the garboard plank. Normally what I do is check two or three fastenings per side, garboard, stem, stern and midships which gives four - I would have checked a few more of that.

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Q. So that would be your standard investigation, is that so?

A. ..(not transcribable).. if there's any sign of movement or anything out of the ordinary, or there's an area that's weeping water I could check more fastenings around that area.

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Q. So having done those investigations, you were satisfied that the garboard planks were in good condition?

A. Yes.

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Q. Mr Perdriau as an expert boat builder if I can use that expression, I'd just like you to assume for the moment, even though there is obviously some argument about this point but just assume for the moment that the area on that sketch as indicated by Mr Bascombe was in fact caulking missing, just assume that there was caulking missing and assume that this vessel had sailed in fairly strong sea conditions for something like 27 hours on a predominantly starboard tack for a considerable period of that time with the port side bow well under water for long periods of time, would that be likely in your opinion to lead to any significant leaking of the boat?

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OBJECTION(NEEDHAM). QUESTION ALLOWED. OBJECTION RENEWED. LEGAL ARGUMENT. QUESTION ALLOWED.

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Q. Mr Perdriau do you need me to rephrase the question?

A. No. If the caulking as such was out there would be a leaking problem but I'm pretty convinced by the evidence it's only caulking putty come out of the seam. Now there's a huge difference in that.

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Q. When you say a leaking problem, would that in your opinion amount to a significant leaking problem which would be evident to people on board the vessel?

A. No. Knowing the structure of the boat and where this particular point of note is I would say it would be very hard to detect it. It would have been detected, if it was leaking very early in the piece by the amount of bilge water in the boat.

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Q. I'm not quite sure if I follow that point Mr Perdriau. Given the circumstances I've described of the 27 hours of sailing approximately, if there were leaking, do you say

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that it would not have been apparent unless a specific inspection of the bilge had been made?

A. Well what I'm saying is if the boat was leaking from that point, let's assume that it is because it can't be determined yet whether the caulking is missing or the caulking--

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Q. No, it's the hypothetical situation.

A. So we're assuming the boat is leaking from that point?

Q. Yes.

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A. The way the boat is constructed and fitted out there you wouldn't be able to pinpoint the leak from inside.

Q. You wouldn't?

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A. Wouldn't be able to. I'd find it very difficult because there's a lot of gear up there and very heavy timbers right on the snip. The only way to know that the boat was leaking would be by the amount of bilge water coming into the boat and as the evidence has said, that the boat was not taking or was taking hardly any water apart from the natural water that was coming in through the sails and wet weather gear and all that, so I would say it would be very difficult to tell if the boat was leaking at that time.

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Q. But if any inspection of the bilge had been carried out it would have been evident that there was an abnormal amount of water in the bilge, would that be so?

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A. It's difficult to say where any water would be coming from.

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Q. I'm not specifically asking where it was coming from but assume for the moment that the bilge was checked periodically. Would it be obvious if, again assuming that it was caulking missing, that there would be in the bilge an excessive amount of water beyond which you would ordinarily expect?

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A. Possibly. I couldn't say yes or no definitely.

CORONER: Q. What would you expect to see with the naked eye if you were looking at the boat as Mr Bascombe said he did and noticed this eight to ten inches I think Mr Needham said of putty missing? What would you see in that spot with the naked eye looking straight at it?

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A. You would see caulking cotton or oakum, which is another form of caulking cotton, just a different colour. You would see at the end of the planking, the hull planking, and the edge of the stem itself.

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Q. You'd expect to see planking wood as well and the stem itself?

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A. Yes.

Q. He spoke of a black silastic type substance.

A. I heard that.

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Q. Does that make any sense to you?

A. Well, it's very bad practice to put any sort of silastic

in a seam like that because it doesn't stick.

Q. He didn't say it was silastic.

A. No, no, I know that but the blackness could have come from several things, the stem of the boat which is hardwood when it is immersed in water and a long time becomes very black itself. It's just the nature of the timber. Oakum itself is very - really dark brown colour or nearly black.

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The staining from the hardwood of the stem could transfer to the caulking cotton, which is white and the fastings around the Huon pine generally go - you put a black stain into the Huon pine itself. It's just one of those timbers that's got a natural oil in it that sends it black around when there's water penetration.

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Q. Does it cause you any concern, if you accept his evidence that he saw that, the black as he describes it?

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A. No.

Q. And I'm asking you professionally--

A. No, no.

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Q. --and your knowledge of this particular boat?

A. Not at all.

Q. Why is that?

A. Because it doesn't affect the structure of the boat at all or the water integrity.

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Q. So what do you think he's looking at, at what he says the black--

A. The - the black?

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Q. Yes?

A. I would say most probably hardwood stain and possibly oakum in the stanchion.

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NEEDHAM: Q. Effectively, Mr Perdriau, you say that such a line, if it existed at all, would indicate simply a cosmetic matter?

A. Yes.

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Q. Not affecting either the structure or integrity of the boat or its water-tightness?

A. That's right.

Q. As I understand it, just for his Worship's assistance, if need be, the putty itself is a substance which is placed over the cotton or oakum caulking?

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A. That's right.

Q. The putty is indeed permeable?

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A. Yes.

Q. And it is designed that way, or it's used for that purpose, so that water penetrates through the putty and allows the cotton or the oakum caulking to expand and make the seams watertight and so there's--

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A. Yes.

Q. --intended that a small amount of moisture can get through the putty in any event?

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A. Not necessarily. The water generally penetrates through the timber itself to the--

Q. So that the moisture penetrates to allow the caulking to expand--

A. That's right.

Q. --and create the watertight seal? 5

A. Yes.

Q. It is the caulking itself which keeps the vessel watertight?

A. That's right. 10

Q. And it's form of construction, not the putty?

A. That's right.

CORONER: Q. Do you know what the caulking was at that-- 15

A. Well, I wasn't there when the boat was re-caulked but the common practice is to put oakum around the ends of the planks where it meets the hardwood, which is around the profile of the boat--

Q. So you'd expect it there? 20

A. There and then you'd have caulking cotton on basically all the ..(not transcribable)..

Q. So you'd expect caulking-- 25

A. That's the common practice.

Q. --you'd expect oakum, wouldn't you?

A. Yes. 30

<WITNESS RETIRED 30

<CECIL GEORGE QUILKEY(11.48AM)

SWORN AND EXAMINED 35

HILL: Q. Mr Quilkey, would you give the inquest your full name please?

A. Cecil George Quilkey.

Q. And your address, sir? 40

A. 10 Gannon Avenue, Dolls Point.

Q. And your occupation?

A. Boat builder. 45

Q. And how long have you been a boat builder?

A. Fifty years, just on.

Q. And you've built wooden vessels?

A. Yeah, all my life. 50

Q. Approximately how many?

A. I've never kept records but it would certainly be in excess of 100. 55

Q. You gave a statement in this matter?

A. Yes, I did.

Q. And I think you've read the evidence of Mr Bascombe. Is that correct?

A. That's right.

Q. The statement that he made and the evidence that he's given that - and what he said was that there was a line about a foot, maybe 10 inches, in length that you could put a pencil in, about that width, and he stated that wooden boats are normally caulked between the planks and along the rabbit line, they're normally caulked. He says, "Usually in the old days it was done with different types of cloth material like cotton material or oakum or sisal" and then putty would go over the top and he thought that there was a groove in this area and it was black and that's what drew his attention to it and then he was asked what was in there, and he said, "It was the back of the hole", that's what he could see, "The gap was probably only, once again, the thickness of the pencil and deep and the planks would have been thicker than that", and he said that inside that line you're looking at the back of the hole and he thought there was like a black elastic in there. Right? That's what he said and he's also given his statement. So you've also seen the sketch that he drew?

A. Yes, I have.

Q. What's your opinion on what that shows?

A. On the sketch and the evidence that was told to me, when I first went to the police station, I said to me it looks like the boat was working in that position which could mean either, because it was the bow of the boat, it could have been a fastening that had snapped or just excessive load on the - from the stem down to the keel, which is usually joined by a large knee. Maybe a fastening had let go or was loose and I believe the planks were working for that amount of putty to fall out.

Q. When you say the planks were working, what exactly do you mean by that?

A. Well, in a conventional built boat, as the Winston was built, or in the early days where we used to build them, especially yachts, the loads going to the places of the stem or the stern and to the centre where the chain plates were, the stresses - the boat actually is sort of squeezing. So there's movement and those planks actually - like you can't see them moving but they are moving very slightly and working. Consequently, it forms - in the old days, you could have a plank boat, you could do it all up before a race, go for a sail and when you come back and you can see every plank in the boat. It's just that the boat has worked, the twist and - so obviously if that - there must have been something working very bad for - in my opinion for that much putty to fall out of a seam in that area.

Q. Have you any opinion as to where that working would have been coming from?

A. Well, I was first told it was just above the garboard.

Q. Well, it's above the waterline--

A. Well, above the waterline. I - as I said, I'm not too sure of the Winston but I believe she probably would've had a deep 4 foot anyway, the stem of the boat but it could be an area where the large knee is formed and bolted together. It could be in that area. Now if that's working, it will cause this sort of problem. 5

Q. It will only work if it basically has a, what a fixing that's not holding properly? Is that what you're saying?
A. Well, it's possible because that boat's that old - is an old boat, that some of the through bolting could have been getting very weary and it's - unless you pull them bolts out, you wouldn't know and it's only a slight movement but that's enough to cause the planks to do that-- 10

Q. I think that you have actually brought in some various bolts and things to show the Coroner what they look like when they're new and what happens to them when vessels are in the water for a long time. Perhaps if you start off with what the new ones are? 15

A. This is a copper nail and this is a copper rove(?). Both these have not been used but I think this nail would probably still be about 20 odd years old. It's out of my store and so is that rove but they're still brand new and never been used. Now, as might have been pointed out before, and I believe the Winston was nailed and roved, the nails driven from the outside and these roves are put on with a rove punch, the surplus is cut off and then, with a ballpein hammer, you actually pein the nail with a dolly held on the outside and it actually tightens the plank to the rib. This is a - same nail, and the same gauge actually, that I've taken out of a boat that's about 35 year old. The rove and the nail looks very good, still looks fine, but the rest of the nail is missing. That is where it - the hardwood section joined the planking. 20
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I will tender these things all in one bundle but perhaps if we have those apart first, so that people can look at them.

CORONER: I'll mark them 'A' and 'B', the new ones 'A', the older ones 'B'. 40

HILL: Q. I think you've also got some other items there, a bolt, is that right?

A. Yeah. This was a keel boat, which I withdrew out of a boat. The boat was, I think, between 30 and 40 years old. The inside bronze bolt and that looked quite firm. We went to - I was tightening it to check it out and she come up, the rest of the bolts, bronze bolt, was missing and this is the sort of action that can take place inside hardwood, through bolting. The oxidisation of the timber just eats away at the bolt and eventually they do go and there's no way of possibly telling, unless you withdraw the bolt, how good it is inside and, of course, the longer and - that it's been in there, obviously looking quite good from the outside where you can actually see it, but underneath, unless you withdraw those bolts, you would never know. 45
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CORONER: I'll call that 'C'.

HILL: Q. But certainly the way you find out whether or not your fastenings or bolts are loose, et cetera, is that by places that begin to work on the vessel. Is that how you tell? 5

A. Yeah, well, it depends if - what the boat's in for and what - you got to repair it or what you've got to do and if you see some sort of problems, I always advise that let's withdraw a few bolts and just see what condition the boat's in, because no-one can tell. You know, you could survey the boat and think, oh that looks fine. It feels strong and - but no-one knows. 10

Q. Is there any other items in that bag that you want to draw our attention to? 15

A. And I might add, it doesn't matter whether it's stainless or bronze or in a lot of places in the old days where we used galvanised bolts were driven through. There's a galvanised bolt with a bronze nut on taken out of an old boat. Inside the hardwood the steel had just been eaten away. The bronze - the first part that we could see on the floor inside looked perfect and as soon as you turned it, that's all you got. But this is just in relation to how fixings go in boats, of course. 20 25

Q. Yes, I understand and I want to make it perfectly clear, this is not to do with anything that's come from Winston Churchill, this is simply to show the inquest what happens to vessels. 30

CORONER: On that basis, there's no objection to tender.

NEEDHAM: No. 35

HILL: Q. And they are?

A. Four bronze screws taken out of an area of a boat, no more than 3 inches square actually, 75 mil. 40

Q. Three inches square will do for me, but--

A. That one was totally gone and the other three, one was just about gone and the other two they looked reasonable. 45

CORONER: All right, I'm mark those 'E'.

WITNESS: And that boat was 35 year old. 50

EXHIBIT #22 NAILS FROM BOATS TENDERED, ADMITTED WITHOUT OBJECTION

HILL: Q. If you had the Winston Churchill and you saw the area that's been described by Mr Bascombe, what would be your opinion of the seaworthiness of the vessel? 55

A. That probably wouldn't, in just general conditions, cause a boat to sink or anything but if it was me, I would check out the fastings in that area. I would.

Q. If it was the case, as described by Mr Bascombe, and

this vessel, the Winston Churchill, proceeds to Hobart in the race that we're talking about and she's mainly on a starboard tack, so that the port bow would have been the one taking the weight of water, what, in your opinion, would be the effect of the seas on that area?

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A. Well, if the boat had been working as I think it must have been in that area, you would probably be getting a slow leak through there all the time. I don't mean you'd be able to visually see water squirting through the boat and, being right up the bow of the boat, and been to Hobart a few times and done a lot of ocean racing, you - there's that many sail bags up there you don't see anything much anyway, except sail bags, and that water would just find its way down alongside the keel into the deepest part of the bilge and the pumps that pump it out and it would be a thing that you couldn't control, no way. It would just be automatic, the - during races like that, the water that comes into a boat through hatches and sails changes and that, your pumps are going all the time. When I say all the time, but frequently cut in and out. That's just normal racing.

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Q. If the fastening, if it was working, as you've described and you think it was because of that, would that be a weakness in the hull of the Winston Churchill?

A. I wouldn't say a weakness, no.

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Q. Well, what would you class it as?

A. It'd be just a spot that's causing water to come into the boat but that - just generally sailing would not cause a great concern.

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Q. If the vessel was then caught by a rogue wave, taken up and it falls on its port side, and I think you've read the statements of the survivors of the Winston Churchill--

A. Yes, I have.

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Q. --as to what happened, would the area, as described by Mr Bascombe, be a weakness that would cause the vessel to founder?

A. Reading the evidence that I have read, and being in a similar circumstances once myself, and knowing that it ripped the bulwarks off the Winston as she slid down that wave and then I think, when I was here yesterday, day before, someone was saying that the aft alower(?) had been torn out completely, I'd say something else made that boat go down, not that point.

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Q. So that, although we have, if you accept Mr Bascombe's evidence, a patch where planking could be working, the reality is, in your opinion, that vessel sunk because it was hit by a rogue wave that basically took the bulwarks away and damaged the hull?

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A. It - if - you listen to some evidence which I hadn't heard before - I don't know whether it was John Stanley or Richard that said it, but they seen the aft alower chain plate swinging, or just swinging, so for - and they had been extended and I believe they'd been extended well below waterline. Now to rip those out, I'd say that the bolts,

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whoever done it and it's done properly, would have large washers welded onto them as they come from the outside. Now if that tore them out, the holes and the planking damage underneath there would have been enormous.

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Q. If those bolts had come out of the chain plates, and people see the bilge filling up and then above the deck and slowly, is it more likely that that's where the water was coming into this vessel, rather than up at the bow area where this putty was missing?

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A. I'd say yes, somewhere in that area. If it tore them out, there would be massive damage.

Q. You don't really see a connection between the working area, the area that had been working, that is the putty area, and the eventual foundering of this vessel?

15

A. Just hearing the evidence of what I heard in the last couple of days, that boat going down that wave, and as I said I've had the same experience, the tearing and the noise is enormous and that boat would have just - as I said, if it tore that out, the holes underneath there would have been quite large.

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CORONER: Q. You heard the evidence about the starboard windows and the coach-house?

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A. Yeah, yeah.

Q. That gives me some idea of the force?

A. Well, see the pressure as it blew the windows - imagine once it tore that plate out, those holes would probably be about that big, be like standing there with ten fire hoses as you're going down just injecting water into the boat.

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HILL: Q. Of course, if she is still proceeding along and she has holes in her, she is herself pushing into the water and bringing it on board. Is that correct?

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A. Yes. And you could never save her, there'd be no - the water would be so deep, you'd never find where even to shove bags over it and try and stop(?) it, you couldn't do it. It would beat you.

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Q. You have had racing experience of yachts yourself?

A. Yes.

Q. For how long?

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A. I did my first Hobart in the seventies.

Q. How many have you done?

A. I've done five. I also was in the '83 and also the '93 and the anniversary, the fiftieth. Well, I was in the two bad ones, yeah, before--

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Q. And you have sailed most of your life?

A. Since I was about 15 onwards I built small boats for Moths, Flying Dutchman, that class when I was younger.

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O'HALLORAN: Q. Mr Quilkey, you've heard and read evidence, I gather, of the Winston Churchill undergoing a major refit

approximately 18 months before the 1998 Sydney to Hobart and, I think, you've heard and read evidence of work done in relation to the stem and the stern--

A. Mm mm.

5

Q. --and the re-fastening of fittings?

A. Yes.

Q. In your experience as a professional boat builder, would it be likely that you would get plank movement or plank working within 18 months?

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A. Yeah.

Q. That can still happen, can it?

A. Yes.

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HARRIS: Q. I'm not concentrating here on the Winston Churchill, Mr Quilkey, I'm looking to the future. The club has to deal with generalities. Do you believe there's any recommendation you could put to the Court about old vessels? And I'll expand on that slightly. Should we, and I realise it is a generality and it's an imperfect world, should we be considering wooden boats more than 20 years old should not be permitted to start in the race?

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A. No, I wouldn't go - I wouldn't say that, no. I - you know, we could go another hundred years and never get the same rogue wave again and, you know, there's - like the Winston Churchill to me whenever I've ever seen her, she always looked fine, she was a great old lady and me, being a traditional wooden man, I sort of look at old boats and, you know, I still love them. You know, it's a shame in the modern technique. I'm getting too old to worry about that anyway but I mean I believe there is still plenty of good timber boats around that will sail to Hobart a thousand times and never have a worry. I think this is - as I said I've been a sailor, it's been the most unfortunate thing that has happened and Winston just happened to be at the wrong spot, the wrong time and got you. That's what the sea does to you.

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Q. Well, I accept that. I just wanted to--

A. I believe - no, I believe there's boats - there's still plenty of old boats around. I've got boats now that are approaching 30 year old which I would back to go to Hobart any day you like and come back.

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<WITNESS RETIRED

HILL: Mr Coroner, at this stage that finishes the evidence in regards to the Winston Churchill, as far as--

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CORONER: As far as we can go. Mr Gould, we've got to come along a bit later, I think.

HILL: I propose to start on the vessel, Sword of Orion which is next but I will ask the family, of the people who died on the Winston Churchill, whether they have anything further they want me to pursue.

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CORONER: We've tried to do it as thoroughly as we can. I hope that they can see the problems.

SHORT ADJOURNMENT

NEEDHAM: Your Worship, now that these witnesses have completed their evidence, I seek permission to--

BENCH: Leave is granted.

O'HALLORAN: Your Worship, I seek leave to withdraw. This is an outstanding witness, I believe it was regarding Mr Gould. I can indicate that my instructions are not to seek to re-appear.

BENCH: Very well. Thanks very much Mr O'Halloran.

CALLAGHAN: If your Worship pleases, my name is Callaghan and with your Worship's leave I appear for Mr Tobin, the skipper of Sword of Orion. I appear with my learned friend, Ms Adamson.

<DARREN PAUL SENOGLES(11.35AM)
SWORN AND EXAMINED

HILL: Q. Sir, would you give your full name to this inquest?

A. Darren Paul Senogles.

Q. Your address, sir?

A. 20 Morgan Avenue, Tumbi Umbi.

Q. And your occupation?

A. Professional yachtsman, boat management and maintenance.

Q. How long have you been a professional yachtsman?

A. Eighteen months.

Q. Prior to that, what did you do?

A. Builder, in the building industry.

Q. Land, are we talking about?

A. Yes.

Q. How long have you been sailing?

A. Twenty years plus.

Q. Since what age?

A. Six or seven.

Q. Offshore sailing?

A. Since I was twelve.

Q. And how many Sydney to Hobarts have you taken part in?

A. Before the '98 Hobart?

Q. Yes, before the '98--

A. Nine.

Q. Any other deep sea experience?

A. Yes, I participated in six Pittwater to Lord Howe Island yacht races and most major yacht races up and down the east coast of Australia.

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Q. What position did you have on board vessels?

A. I was the bowman, the for'ard hand.

Q. So you are on deck are you?

A. Yes.

10

Q. I want to take you now to the Sydney to Hobart 1998. You were part of the crew of the vessel Sword of Orion?

A. That's correct.

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Q. What position did you have in that crew?

A. Again I was the bowman and in charge of looking after maintenance on the boat.

Q. Did you have a sailing master or a tactician on board, what was the situation?

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A. Rob Kothe being the owner of the boat--

Q. Yes--

A. --he was not the helmsman, the helmsman was Steve Kulmar and he was basically - I guess you could call it the skipper.

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Q. Who was?

A. Well so to speak Steve Kulmar.

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Q. Kulmar was, when you say he was basically the skipper, Mr Kothe was on board?

A. That's right.

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Q. Who made the decisions?

A. It was never one person it was a team decision it was - boat was styled as a team and it worked like a team and decisions were made in a team.

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Q. Well did anyone have the final say?

A. No the final say was always - someone actually spoke the decision but it was never actually given by one person it was a team decision and it was usually agree by all members.

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Q. But generally a vessel has a captain, a skipper?

A. Right.

Q. The one who takes the ultimate decision as it were?

A. Okay well you could say that was the owner of the boat the owner of the boat's the one who pays the bills and if he feels that the team decision is wrong and it's going to put his boat in danger or whatever he still takes that ultimate decision I guess he has the power to over-ride us - it's his--

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Q. He'll listen to advice?

A. Yes.

Q. But ultimately the decision was with Mr Kothe is that how you saw it?

A. I'd have to say yes.

Q. But as far as the experience went, he relied upon Mr Kulmar and other--

A. Other key members of the crew.

Q. --members of the crew. You were the bowman?

A. That's correct.

Q. I think the race got off at one o'clock, that right?

A. Correct.

Q. Now there was the collision?

A. That's right.

Q. With your vessel and another vessel?

A. Correct.

Q. Which other vessel was it do you recall?

A. The name of the boat was Nokia.

Q. Nokia as in the telephone is it?

A. That's correct.

Q. Now was there damage sustained to your vessel?

A. There was.

Q. Where was that damage?

A. It was on the starboard side of the boat the aft section stanchion damage and there was a mark on the side of the boat which in my opinion wasn't structural and there was a punch in the deck where a stanchion had actually pierced the deck and there was a hole in the deck on the very aft end of the boat.

Q. Wasn't there also a bump on the mast?

A. There was a bump on the mast and I would not be able to guarantee you that that happened in that incident.

Q. Well I'll deal first with the mast but before I go to that was anyone injured?

A. There was no one injured on our boat.

Q. The mast had a bump in it. Did you examine that bump?

A. I did.

Q. How did you do that?

A. I went up the rig after we'd got out round the sea mark and headed south and the boat was settled down and tidied up. I assessed all the damage and it was brought to my attention that our mast may have come into contact with the Nokia at mast. One of the first things I did was examined that and went climbed the mast and checked everything out thoroughly and the starboard side of the mast showed no evidence of marking as a result of hitting another rig and then when I was almost back at the deck, two metres off the

deck which was where the bump was on the port side, I came across the bump.

Q. Now what sort of bump was it?

A. Ever so slight a little dent outwards just below the first spreader. Ever so slight you couldn't actually see it you could only just feel it. 5

Q. You could feel it?

A. I guess I was pedantic about it. 10

Q. What do you mean you were--

A. I mean it was probably nothing to worry about but I bought it to Rob's attention anyway. 15

Q. Now it was a bump outwards?

A. That's right. As big as a twenty cent piece. It was quite small.

Q. That's generally caused by a compression? 20

A. You'd think so.

Q. Well do you know of any other methods by which such a bump would happen?

A. No. 25

Q. There was certainly nothing on the starboard side of the mast?

A. That's correct. 30

Q. So it was just this bump there about the size of a twenty cent piece?

A. That's right.

Q. You didn't consider it a problem? 35

A. I didn't but still bought it to the owner's attention as I thought it was my duty.

Q. And you also brought it to the attention of Mr Kulmar?

A. Yes. 40

Q. Now I'll go back to the damage to the starboard side, what part of the vessel on the starboard side?

A. From the very aft point of the boat to three metres along, there was a blue mark on the side of the boat where they had rubbed along the boat, the aft lifeline rail had been bent in and the inner support had punctured through the deck the next two stanchions along had been damaged as well, they'd been bent. 45

Q. The inner support what do you mean by that? 50

A. It's more or less a brace to stop the stanchion from falling in towards the centre of the boat, it had been pushed through the deck.

Q. How far through the deck, right through? 55

A. No not clear through but it was a hole enough that you could see daylight through and it was clear that the

stanchion hadn't actually pushed right through the deck but the immediate deck material had been pushed through and actually pushed the inner skin of fibreglass off the boat in that area of a six inch radius.

Q. Was there any other damage? 5

A. Yes the bow rail on the boat had been lifted free of it's front mounting due to the lifelines being pulled extra tight by the Nokia somehow got tangled in them and it lifted our bow rail off the very front of the boat. 10

Q. Now did you carry out repairs ..(not transcribable)..

A. I did.

Q. And this was on it's-way down? 15

A. As we were continuing on in the race.

Q. What did you do?

A. To the bow rail? 20

Q. Yes to the bow rail?

A. To the bow rail I lashed it to the forestay fitting in the bow which holds the rig in the boat, I lashed it down to that with some Spectra which is a three mil Spectra rope which is quite strong, lashed it down to that as the screws that were holding it on were pulled through so it's fixings were no longer any good. As far as the stanchions go I straightened them by hand as best I could and the hole in the back of the boat I covered with a plypad so no water could get in. 25 30

Q. With a ply?

A. Plywood pad which was a bunktop from downstairs, an inspection hole cover, I covered the deck with that to seal it and also give some support for the stanchion that had pushed through there. 35

Q. Did you do anything else?

A. I did all I thought I could do and that was it. 40

Q. But you didn't do anything else that you want to tell us about?

A. No.

Q. Now, the weather. Had you been told what the weather was going to be? 45

A. The start of the race the morning of the race the crew were - they were briefed key members of the crew being Steve, Glenn, Adam, Carl and the owner and I was actually not involved with that conversation as I had other duties as so far as making sure the boat - the equipment was stowed properly as far as gear bags, perishable foods, water and what have you. I had my own jobs to do. I was briefed of what - briefly I was told what we were in for on the way to the starting line not as in depth as the rest of the crew were told. 50 55

Q. What were you told that you were in for with regard--

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A. We was either in for a typical Hobart - nice nor'easter down the coast, freshening nor'easter before a southerly sou'west change of 40 to 50 knots which is typical when you expect that in a Hobart race.

Q. Were you told that there was a gale warning?

A. No.

Q. You weren't told that?

A. I was told of the breeze strength, which is all that concerns me. 5

Q. Were you made aware of the weather report at 8pm on the Saturday night, that's the 26th of December?

A. No. 10

Q. Were you told anything about a storm warning?

A. No.

Q. Did you then know what a storm warning was?

A. Yes. 15

Q. What was your understanding?

A. My interpretation of that is severe winds with high seas. 20

Q. What sort of winds, any idea?

A. Fifty to sixty knots of wind, I imagine.

Q. You say you imagine. Did you--

A. Well, yeah, that's 50 to 60 knots. 25

Q. Is that an average wind or what was your understanding at that time? It is important.

A. When you say an average wind, what do you mean? 30

Q. When they tell you that the wind is going to be between 50 and 60 knots what's the maximum you're likely to get?

A. A little over 60, 65 knots. In a gust. 35

Q. Have you ever heard about adding to the wind that's given up to 40 per cent to take into account gusts?

A. I've always heard of adding to what your forecast is given as but never 40 per cent. I would always assume anywhere between 15 to 20 knots more than what you're actually forecast. 40

Q. You think that you add 15 to 20 knots more for gusts?

A. In my experience that's been what's happened, so that's what I go off, my own experience. 45

Q. If you were told between 40 and 50 knots in the weather forecast--

A. I'd expect up to 65 knots. 50

Q. Up to 65?

A. And wouldn't be surprised if I saw 70.

Q. And beyond that?

A. Never had to experience it until this day, until the day in question. 55

Q. What about wave heights? What's your understanding in

regards to that, at that time? If you were told that the seas were going to be between 3 and 5 metres, have you been told to add 80 per cent on top of that to take into account--

A. No, I haven't been told to add any percentage to it. I'd assume a 3 to 4 metre seaway I'd assume to add another 2 metres to that. 5

Q. Have you heard of rogue waves?

A. Yes. 10

Q. What was your understanding of those?

A. A rogue wave is a wave which comes through in some kind of a pattern, be it timing or in the number of waves. I usually went off timing more than anything because I never actually sit there and count waves, which was slightly bigger but with a lot of breaking water on it, and generally of the same direction but a little different. More or less just a confused seaway with a lot of breaking water. 15

Q. That was your understanding in December of 1998?

A. That's correct. 20

Q. The next morning, I want to take you to 3 o'clock in the morning, the 3am schedule. Were you awake for that?

A. I was. We - at about that time the breeze was shifting along and we were undergoing sail changes and settling the boat down. Most of the crew were off at that stage. 25

Q. Were you anywhere near the radio?

A. No, I was on deck. 30

Q. How far away from you would the radio be? Where was it?

A. Very close. I think it was below decks. I was probably sitting on top of the radio but I was on deck. 35

Q. You would have had to go downstairs, would you?

A. Yes. I couldn't hear it from where I was.

Q. You couldn't hear it?

A. No. 40

Q. Who was the radio operator?

A. Rob Kothe. 45

Q. All the time?

A. Yes, and he took that on as his duty. It's--

Q. I'm sorry?

A. He took that as his duty. He felt that was a huge contribution to the boat, which it was, and that made him feel important, as he was. That was his contribution to the team. 50

Q. Was he also the navigator?

A. That's correct. 55

Q. Did anyone check his navigation?

A. In what respect? Where he put us as a position?

Q. No, you make it sound as if Mr Kothe is somewhat like a little bit of supercargo. He's the owner but he's not really an experienced member of the crew?

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A. That'd be correct.

Q. He's given tasks that you feel are within his competence. Was he ever sort of people looking over his shoulder to make sure--

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A. Everyone looks over everyone's shoulder and takes an interest in everyone's job, not just Rob's job. Rob's job was to - as far as a navigator goes he did his job perfectly. He put us on the chart. We knew exactly where we were. Also a navigator's job is to interpret the weather and also to determine where we want to be placed on the race course. That was never a responsibility taken highly by Rob - solely by Rob, sorry. That was - again when people look over your shoulder you can see where you are on the chart and then where you want to be placed on - where you want to end up is more or less a team discussion which is why someone looks over your shoulder.

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Q. Someone did look over his shoulder?

A. Yeah.

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Q. I'm not saying there's anything wrong with that, I'm asking what the situation was.

A. Yeah, that was the situation.

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Q. Who would have been looking over his shoulder?

A. Steve Kulmar would have been the first person.

Q. Because, what, he is the sailing master? I know you've referred to him as skipper at one stage.

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A. You could say yes, okay, for argument's sake, yes.

Q. I don't want for argument's sake. I want to know whether it was there. Is that the situation?

A. Yes.

40

Q. What were you told about the weather from the 3am schedule on the 27th, anything?

A. That the southerly that we had talked about at the start of the race was almost upon us, still 40 to 50 knot forecast.

45

Q. Was there any special preparation made?

A. No, more different than what would usually be done in a situation like that. You can see lightning and hear thunder and the atmosphere is quite intense. Just as to when it was actually going to hit you, the breeze, and how it would do it was always a little bit of a mystery. We were all on our toes ready for that at all times.

50

55

Q. When does the wind increase on the 27th?

A. On the 27th?

- Q. Yes, on the 27th.
A. Around 10 o'clock in the morning from memory.
- Q. Prior to that had you been told of any radio messages about other vessels radioing extreme wind conditions? 5
A. No.
- Q. None at all?
A. None at all. 10
- Q. Any messages at all?
A. General messages you get on a normal sked of boats retiring, that could have been the case. I don't remember. I do actually - boats had retired before that time and we mentioned - those boats were mentioned as they were boats we were racing against. 15
- Q. Was there any reason given for their retirement?
A. From memory I don't remember. 20
- Q. When does the wind increase after 10 o'clock?
A. The breeze actually increased for I'd say an hour or so at 10 o'clock and then it died back down again and - for 15 to 20 minutes then increasing again so at around 11.30, 12 o'clock the breeze had started to increase quite somewhat to I guess from memory 70 knots and over. 25
- Q. Were you expecting that sort of wind?
A. No, no. 30
- Q. You weren't expecting?
A. No.
- Q. Was there any discussion about that?
A. There was, as to how long it would last for, was it going to get windier, any faith we had in the 40 to 50 knots had sort of been - was being questioned. How long was this breeze going to last for, how much windier would it get and how big an area was it covering were questions we didn't know and were trying to figure out and only in our situation were assuming at that stage. 40
- Q. If you were expecting gusts up to 70 why is this different?
A. Seventy and over was what we had. A gust of 70 is something which would last for five seconds maybe. 45
- Q. How long were these winds that were over 70 lasting?
A. Consistent for like five minute periods which was quite a long time. 50
- Q. They weren't the mere gusts that you're--
A. No.
- Q. How long do you define a gust lasting?
A. Five seconds. Five to ten seconds. They were definitely longer. Five minute periods. A gust of 70 knots for five seconds is an awful long time. For five minutes it 55

seems like forever.

Q. What's the highest reading that you got?

A. I'm told later, back in Sydney that the highest reading we got was 90 knots. 5

Q. Who told you that?

A. Adam Brown. He was on deck at the time.

Q. Adam?

A. Brown, who was on deck at the time with Steve Kulmar. 10

Q. How as that wind assessed? How did you know it was 70 knots?

A. The wind instruments which is on top of the mast so it's not obstructed by anything and it reads out on a display on the bulkhead on the back of the coach-house at deck level. 15

Q. At the back of the coach-house. Is that where the radio is?

A. No, it's downstairs in the chart table. 20

Q. You tell me previously about yachts retiring. That was in the other sked at 3:00 hours?

A. Yes. 25

Q. It was after that that you were told about yachts pulling out?

A. That's correct. 30

Q. You've said this was about 12.30 that these winds are above 70, is that right?

A. Till 2 o'clock. In that time frame.

Q. Did you look at the instrument gauge at all?

A. I was downstairs. I didn't see it. 35

Q. How did you know about them being over 70?

A. Told by the people who were on deck. 40

Q. What, shouted down at the time or told later?

A. From memory someone came downstairs, like they were replaced by a new person and they told us of what the breeze had been doing while they were on deck. From memory I think it was Steve Kulmar. 45

Q. You had another person on board, Glyn Charles?

A. Correct.

Q. Did you know Glyn Charles?

A. I'd met him once before a year earlier in England. 50

Q. Do you know how he came to be on board the vessel?

A. He was asked to sail on the boat by Rob Kothe and Steve Kulmar who had sailed with him when I had met him in England 12 months earlier. 55

Q. Did he have any gear with him when he joined your--

A. He had his personal gear bag. What was in it I don't know. He had his own wet weather gear.

Q. His own wet weather gear?

A. He did have his own gear, yes. Whether it was his or not I don't know. If he had borrowed it off someone I couldn't be sure but on the day of the race he stepped onto the boat with his own personal gear. 5

Q. What about the harnesses?

A. That was the property off the boat. That was property off the boat. 10

Q. Were you all issued with harnesses from the vessel itself?

A. We were. 15

Q. I think these were an orange colour, is that right?

A. That's correct. 20

Q. I wonder if you'd just have a look at this. Is that the type of harness that you were issued?

A. Yep. He was wearing one of them and we get issued one of them. 25

Q. Just so that we're clear; that harness goes over your body itself?

A. Over the shoulders and around here. 30

Q. Around the chest area?

A. Yes. 35

Q. And then you have a lanyard and that clips on the harness round your body and then you clip the other end to a strong point somewhere along the vessel?

A. That's right, it clips to the ring on the harness. 40

Q. On the front of the harness?

A. That's correct. 45

Q. Were you present when your vessel radioed the sked in to the Telstra Control?

A. I was-- 50

CORONER: Which one? 55

HILL: Q. The 2 o'clock one?

A. I was actually at that stage downstairs resting and could hear the radio but wasn't taking too much attention to it. I was trying to rest. 60

Q. Did you know that your vessel radioed in that you were getting winds above 70 knots?

A. I did. I was aware of that. 65

Q. You were aware of that?

A. Yes. 70

Q. When did you become aware of that?

A. When Rob actually made that call.

Q. You heard that?

A. I heard that call.

5

Q. Did you hear any answer to that?

A. Not that I remember. There probably was an answer to that but I don't remember.

Q. Before or after that period, that is all in the 2 o'clock sked, did you hear any other vessels radio in about the wind?

10

A. There was another boat which I heard and I think that boat was a boat called Yendys, from memory.

15

Q. What did it say?

A. They had similar breeze as well which just confirmed that we weren't - what we were saying was true and that we weren't mucking around.

20

Q. I think that later on then there was a meeting with the crew as to what you were going to do about this situation, do you recall that?

A. This is true. This meeting actually went on - it started before the sked and it was put on hold but still discussed as the sked was going on.

25

Q. What was the meeting about?

A. It was what we thought the weather was going to do, whether we thought continuing on in the race was a wise move and what our best options were. There was some doubt whether we should continue on in the race by certain members of the crew. They'd already made their mind up that they didn't want to continue on in the race.

30

35

Q. Who had made their mind up about that?

A. Steve Kulmar, Glyn Charles and there were two other members of the crew who weren't happy about being there and were quite happy to head for home.

40

Q. Who was that?

A. Nigel Russell and Andrew Parkes.

CORONER: Q. What was your view?

45

A. My view was we were in those conditions, turning the boat around wasn't going to get us out of there instantly, continuing on was possibly our best option. There was some doubt but as to what the conditions lay ahead and how long it would be like it for.

50

HILL: Q. That was your view. Who else shared your view?

A. Everyone who was discussing it. Well, sorry, there was Rob, Adam Brown, Carl Watson and myself.

55

Q. You're going to have to give me some surnames. Rob?

A. Rob Kothe, Adam Brown, Carl Watson and myself shared the view that continuing on was our best option.

- Q. You say that meeting was suspended so no decision was made--
A. That's correct.
- Q. --to turn around? 5
A. We wanted to try and get more evidence as to what was actually going to happen. We were really hoping to hear something from the bigger boats in front as to what conditions they had and I don't think that happened.
- Q. I take it that by suspending that meeting someone must have said words to the effect of we'll keep going till the 2 o'clock sked and see what's happening, is that-- 10
A. Yeah, well, the 2 o'clock sked was actually all bar happening so it was important to do that sked and try and find out as much as possible and then make a decision. 15
- CORONER: Q. And that's what happened?
A. That's what happened. 20
- HILL: Q. About what time are you talking about when this meeting first starts before the sked, bearing in mind you think that the wind started to really pick up above 70 at about half past 12?
A. That's correct. This decision was made - this first started to become a conversation at about 1.30. 25
- Q. You'd had about roughly an hour of the weather--
A. Yes.
- Q. --and then decided that-- 30
A. It was worth questioning.
- Q. You said that you were hoping the bigger boats up ahead would radio back the weather?
A. Yes. 35
- Q. Is that a usual thing to do?
A. No, no, it's not.
- Q. What made you hope for that? 40
A. Under the circumstances we felt we were in quite extreme conditions and voiced our own opinion - our own conditions and were hoping that seeing as we did that people would have heard what we were in and that it would have been - would have given them some reason to give their position and their conditions as well. 45
- Q. Did you expect that call prior to your vessel giving out that warning?
A. No. 50
- Q. Your warning was issued in the hope that some people would come back?
A. Not fully. Our warning was given, if we couldn't get any idea of what was happening in front of us at least the boats behind us, which was the majority of the fleet, would get an idea of what we were in and at least we could do 55

something to stop them from racing down into this conditions.

Q. What about Telstra Control?

A. What about them?

5

Q. Did you expect anything from them?

A. Our conditions were broadcast to them and I think from memory that it was repeated by Telstra Control, which was more or less just to confirm that whatever we say on the radio they'll say back to us to confirm that that's what we said.

10

Q. Did you, and I'm not talking about you personally, but your vessel, did you ask Telstra Control to find out what's up ahead?

15

A. From memory I don't remember whether we did that or not.

Q. Was it discussed?

A. Yes.

20

Q. That Telstra Control should tell you what's going on, what you're getting yourselves into?

A. It was discussed. It wasn't a simple matter of just what conditions we had but it was also - there were boats missing off the sked who hadn't been heard and I guess that took - that was more of a concern at that stage because boats simply hadn't been heard and it was more important to find out where those boats were, which we had a part in as well.

25

30

Q. Which you had a part in?

A. Well, there were boats who for one reason or another had quite weak signals and race control couldn't hear that. We were quite fortunate enough to hear one of those boats and then relay that position through to race control, so there was a little bit more going on than just what's the weather doing up further. It was quite a hectic sked so to just find out what was happening for our own benefit wasn't really a huge issue because there were other boats who possibly could have been in danger or had something wrong with them.

35

40

Q. There were other priorities, is that what you're saying?

A. Yes.

45

Q. You were taking part in those in relaying messages?

A. Correct.

Q. Is that something that you're obliged to do?

A. Yes.

50

Q. You are obliged to do that?

A. Yes.

55

Q. In what way?

A. It's more to help race control and to help the boat who doesn't get the signal across. It's just a seaman-like

thing. It doesn't affect your race or your - it doesn't affect you in any way. It's just helping someone else out and making sure that everyone else is safe.

Q. You consider that a priority, do you? 5

A. Absolutely.

Q. After the sked was completed was a meeting held with the crew about what you were going to do about this? 10

A. There was and the consensus was that we still headed south as it was the safest way to go and that turning around wasn't going to get us out of the conditions, provided it didn't get any worse.

Q. What was the weather like at that stage? 15

A. We'd had breeze - we'd had the breeze to - the gust to 90 knots and then the breeze sort of - it died down a little and we were happy to keep continuing if the breeze stayed down low.

Q. What was it down to, any idea? 20

A. Back to the 70s. It wasn't gusting up to 90 at that stage. Provided the breeze stayed where it was at that stage and wasn't going to get any stronger we were happy to persevere with it. 25

Q. About what time or how long after the sked, the 2 o'clock sked, was that meeting?

A. Straightaway. 30

Q. Straightaway? 30

A. Straight after the sked.

Q. Was it at the completion of the sked?

A. I think it actually happened while certain things were still being broadcast over the radio which didn't actually concern us so we concerned ourselves with our own well-being at that stage. 35

Q. It appears that the sked takes about an hour? 40

A. Yeah, and it may have taken longer from memory but from what I can remember we spent an hour involved with the sked.

Q. Are we looking at about 3 o'clock in the afternoon of the 27th? 45

A. That's correct.

Q. Was there some who wished to at that meeting, were there some who wished to turn around and go back?

A. Correct, there were people who wanted to - it was made quite clear that certain people in the boat instead of wanting to discuss the situation had in their minds made their mind up that they were wanting to go back and-- 50

CORONER: Q. Who were they? 55

A. Steve Kulmar. He was, I guess, the instigator of this. Glyn Charles, Andrew Parkes and Nigel Russell I guess were the people who were quite happy to just straightaway turn

around.

HILL: Q. You said that it was made clear. Why? What was said?

A. Not to quote someone but this is stupid, we shouldn't be here, we should be heading for home. 5

Q. That was certainly said by someone who was of the--

A. That's right. 10

Q. --opposite view--

A. Yes. 10

Q. To you?

A. That's right. 15

Q. Who had your view?

A. My view was shared by Rob Kothe, Adam Brown and Carl Watson. 20

Q. You personally, what was your view based on?

A. My view was based on - in my opinion the safest way to tackle the seaway was to head the way we were heading and to turn around and head for port didn't get us out of the conditions we were in, but possibly put us in a more vulnerable position. 25

CORONER: Q. In what way?

A. More or less the seaway, the angle of the boat to the seaway. There was more chance of some damage being done to the boat heading back to the coast. 30

Q. What was the reason the others took the opposite view?

A. I honestly don't think they considered the consequence of the seaway the other way and were more or less wanting to just get out of there. If there was a helicopter there they would sort of want to be on that. They didn't want to be there any more and in their minds psychologically heading for home was a great option. 35

HILL: Q. Was this a decision that was based upon numbers, that is four this way five that way? 40

A. No, it was a decision based on the boat's well-being.

CORONER: Q. You went on.

A. We - as the conversation went on, yes. 45

Q. The decision itself, what decision was made in the end?

A. The decision was made to turn the boat around. 50

Q. At that stage?

A. At the end of this conversation, yes.

HILL: Q. There was only the one meeting?

A. Yes. 55

Q. And it was decided to turn around?

A. The decision was made that if the breeze was to get up

to the 90 knots again that, yes, the boat would be turned around and headed for home.

Q. What I want to find out is this; at the stage where it was back in the 70s, that's the wind, the situation was that Mr Kulmar, Mr Charles and I think you've said two other people wanted to turn the vessel around at that point and go back? 5

A. Right. Mr Kulmar was the one who wanted to turn the boat around and go back. That was his opinion at 11.30 or half an hour before the sked at 1.30. 10

Q. He still maintained that position at the 3 o'clock meeting?

A. That's right. 15

Q. There were three others in support of him so there were four all told, is that right?

A. Yeah. 20

Q. Against that opinion was yourself, Mr Kothe, who else?

A. Adam Brown and Carl Watson. 25

Q. There were four against. How many in the crew all told?

A. Ten. 30

Q. The other two stood by?

A. Didn't voice their opinion. 35

Q. Sorry?

A. Didn't voice their opinion, were either on deck or sleeping. 40

Q. What I'm trying to find out is that there's obviously a compromise takes place?

A. That's right. 45

Q. That says if we get back up into the 90s then we will turn around.

A. There was a decision made that the people who wanted to turn the boat around weren't happy with the situation and neither - no-one was happy with the situation. Being confident in handling the situation there were only a handful of us. The problem with that was that you can't handle the situation by yourself forever, for hours on end. Sooner or later you get tired and then you do need to rely on the people who weren't exactly confident with the situation and being able to handle it, so the decision was made to turn the boat around on that basis, that we didn't know how long the breeze was going to last for, how long we would have to tough it out and persevere with those conditions. 50

Q. I understand that but what you've told us is this, that you were at 70 knot winds and someone makes a decision that look, if we get back up to 90 then we'll turn around. Someone has made that decision? 55

A. Yeah.

Q. In other words, someone has said to the four who want to go home, no, we won't go home, this is what we'll do. Now I'm trying to find out who made that decision.

A. Mr Kothe, with the grants off the other people who were on his side - well not his side but agreed with his theory. 5

Q. So in effect he says we won't turn around, what we will do is we will continue on, and if it reaches 90--

A. Well not necessarily 90, but if it got any stronger than the 70 knots that we were experiencing. We weren't going to wait for it to get as extremely bad as it was before. 10

Q. But that was what occurred?

A. Yeah.

Q. What happened next? 15

A. The decision was made to turn the boat round.

CORONER: Why?

HILL: Q. How did that come about? 20

A. That came around because the breeze had increased and that decision was based on - even though turning the boat around wasn't getting us out of the drama we were in, psychologically for the people who didn't want to be there, it made them feel better, and morale on the boat did need to be lifted. Even though they're not happy with where they are, they still need to be able to do something. The decision was made to try and boost morale and to make people feel as good as possible. I mean it wasn't nice being-- 25 30

CORONER: Q. So about what time was it that you put the boat about?

A. From my memory it was around 3.30. 35

HILL: Q. What had the winds increased to that made the boat come about? 35

A. Eighty to 85 knots I guess, I was told. I was downstairs discussing this at that stage, so I didn't see the gauges. 40

Q. So the vessel was turned. Were you on deck for that?

A. I was on deck. I was on deck and checked the boat before we turned it around, checked that everything was in place and in good order. The engine was turned on, Glyn was at the wheel. We picked - we waited for a good time to turn the boat around. We turned the boat round on the back of a wave, which was a perfectly safe and good seamanship thing to do. 45

Q. Not a problem? 50

A. Not a problem at all. It was a very controlled and well-executed manoeuvre.

Q. So you've turned it around 180 degrees roughly? 55

A. Yeah roughly, yeah.

Q. In other words you're pointing--

A. The opposite direction.

Q. The opposite direction. What sort of sail did you have up?

A. We had the storm jib up at that stage, which is a tiny little jib which goes on the front of the boat.

5

Q. How many on deck?

A. There were four or five of us.

10

Q. And the motor, was the motor used at all in the turn?

A. The motor was used to turn the boat around, to keep momentum going and to give us steerage, keep steerage up to the boat.

15

Q. Once you'd turned, what happened then?

A. We were given a reference as to where we wanted to go and that was Eden. It wasn't actually said that we had to steer to Eden. We turned the boat around with - knowing that reference and then steered the boat in a manner which was safe to the seaway, which worked out that we were steering west of our course. That was one of the most important things we had to work out straight away. Once we determined a safe course, the boom was then lifted to the other side of the boat and lashed down, and the boat was settled down.

20

25

Q. I just want to stop you there. You say that the boom was moved.

A. Mm.

30

Q. From what side?

A. It was moved from the port side to the starboard side of the boat.

35

Q. Why was that?

A. Leaving the boom on the port side of the boat meant that you couldn't see the waves coming because it was quite high. It was lashed to the deck and it was also in the way of where the steerer and myself were sitting, so it was important to get it out of the way so we had clear visual of the seaway and the conditions.

40

Q. It was moved to the other side. Did you move it to the starboard side?

45

A. With the help of two other people.

Q. Who else helped you?

A. Adam Brown and Carl Watson I think from memory.

50

Q. How was it secured to the starboard side?

A. It was tied through a strong point or a padeye.

Q. Where was the strong point?

A. Just aft of the first stanchion.

55

Q. Now padeye is what?

A. It's a strong point which - one of the sheet blocks was

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- turning blocks was shackled to and--

Q. Perhaps if - it's like a circle isn't it?

A. Yeah a square, rounded corner which is--

Q. --it goes into the deck and is bolted under the rear of the deck so that it's as strong as the deck itself?

A. Correct, and takes quite a lot of load.

5

Q. All right and that's what you usually tie your blocks to for your--

A. For the sails yes.

Q. Now it was lashed to that?

A. Correct.

5

Q. What sort of rope was used?

A. I used a 10 mil Spectra rope which is of quite strong material and lashed it through the padeye twice and around the boom twice and then tied it off.

10

Q. So it was through the padeye and then onto the bodice(?) was it?

A. Onto--

15

Q. What did you say it was called?

A. It was through the padeye around the boom twice--

Q. Twice.

A. Through the padeye twice and then tied to itself.

20

Q. And you were happy with that?

A. More than happy with that.

25

Q. Was Charles still at the helm at that stage?

A. Yeah.

Q. Where were you?

A. I was tying the boom off and then straightening up ropes and putting them in rope bags and just and clearing the deck and just making it tidy and sound.

30

Q. What about the other two people did they remain on deck with you?

A. No they went downstairs they'd been on deck for a while so as soon as we got the boat settled down they went downstairs for a rest and to tidy up and move things around downstairs and I continued to tidy up on deck cause there wasn't too much to do.

35

40

Q. Where was Mr Charles sitting?

A. Sitting on the port side of the boat with a leg each side of the steering wheel.

45

Q. Now when you say leg each side of the steering wheel, it's a rather large steering wheel--

A. Yeah he was sitting on the side of the boat with the leg - one leg in front of the wheel and one leg behind the wheel and the wheel between his - with his hands like this.

50

Q. Between his legs?

A. Yes.

Q. Now it's a big wheel, it's about six foot is it not?

A. Yeah.

55

Q. So he sat - was he on the gunwale or?

A. He was sitting on the deck.

Q. On the deck itself?

A. Yes.

Q. He have a harness on?

A. He did.

Q. Including the tether of the lanyard?

A. That's correct.

Q. Where was that tied off to?

A. It was clipped to himself and then it was also clipped I think it was clipped to the strong point on the port side of the boat.

Q. And what was that?

A. The - a strong point was the same as the strong point on the starboard side of the boat which the boom was lashed to.

Q. So was the--

A. Just on the opposite side of the boat.

CORONER: Q. The padeye was it?

A. The port padeye yes.

HILL: Q. Where did you go and sit?

A. I sat directly in front of him, right beside him.

Q. Was there anyone else up on deck?

A. No.

Q. Anyone else near you where you had sat?

A. No.

Q. So it was just you and Mr Charles?

A. Correct.

Q. What happened next?

A. We were discussing how we - if we were happy with where we were heading discussing whether Glyn was happy steering the boat and the course that he was steering.

Q. Yes?

A. This went on for 15 minutes and then I was called by Adam Brown, he was standing in the companionway still downstairs, he called - he asked me something but I couldn't hear him cause it was so windy so I moved forward to talk to him - before sorry before I moved forward in the 15 minutes with Glyn sitting beside Glyn I was actually sheltering the wind and the rain the driving rain from hitting his face cause it was quite hard to look forward which is what he had to do, so sheltering him and then also looking over my shoulder for bad waves coming through and whenever we'd get a bad wave you had to steer the boat higher up into that wave otherwise you'd get knocked down or worse, Glyn was concentrating more on the instruments and then looking over his shoulder so I did that for him. It was a team effort.

When I was called forward I was then not looking over my shoulder at the waves and was talking to Adam about the course we were steering and that was when we got hit by the big wave which rolled the boat.

Q. Mr Charles, was he tired or was he sick at that stage? 5

A. He had been downstairs for most of the day. He was seasick. He wasn't incapable of doing anything. He was just not feeling well. He - prior to the boat turning around he started to go on deck and to help the crew out as he did and hopefully being upstairs in the fresh air would make him feel better. 10

Q. So I take it that the wave that struck the vessel came from the stern area? 15

A. It came - yeah beam on but more towards the stern other than instead of on the bow where it should have been.

Q. You were keeping your eye out for those waves, you were distracted by Adam? 20

A. Brown. 20

Q. Brown asking you something?

A. He was asking me why we were steering the way we were. 25

Q. And it was then that the wave came over was it? 25

A. That's correct.

Q. So it's taken you only port-quarter is that right? 30

A. Yeah. 30

Q. What happened?

A. The boat was picked up by white water and thrown or picked up and pushed into the solid water. 35

Q. If that's the vessel perhaps if you have a piece of paper you can show us what the vessel did, bearing in mind that the piece that's next - nearest you the end nearest you that's the stern, so if you can show us how your vessel rolled over? 40

A. Sorry? 40

Q. The blunt end of the vessel--

CORONER: Hang on, hang on, I've got an idea. 45

A. I've - yeah see, I've viewed it from--

HILL: Q. From what?

A. --your, your way, not from the front so it's-- 50

Q. Right, you were looking, you were looking--

A. --not going to be easy for me to now describe it opposite. 55

Q. Okay well, you understand what I'm after, I'm just trying to get the roll in action of what--

A. My interpretation of the action of the boat.

Q. Mm yeah.

A. Yeah. I can probably do it. I can probably make do. This is your boat is it?

CORONER: No that's one made by my investigators when they're playing games you see.

5

WITNESS: I can see.

CORONER: I've caught them.

10

A. Okay, the back of the boat, port quarter--

HILL: Q. Yes.

A. The wave here has sort of hit the boat there. The boat has been - it was already on its side a little bit because of the wind laying the boat over, has hit the boat here.

15

Q. Yes.

A. Picked the boat up, dropped it into the body of the wave so onto its side.

20

CORONER: Q. Starboard side?

A. Onto its starboard side and then rolled over a little more by the white water. So then if that's you know - I hope you don't mind if I put this down, if that's the face of the wave now and we're on top of the wave--

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HILL: Q. Yes?

A. --the mast is now laying parallel to the wave so its over 90 degrees, then the boat's then pushed down the wave on its side--

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Q. Yes?

A. --like that, on its side.

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Q. I see.

A. Like 90 degrees to the wave, and then when the mast has hit the bottom of the water, the bottom of the wave, the mast has just pierced into the trough of the wave and started to collapse. The boat has hit the bottom of the wave and rolled upside down and stayed upside down for two or three seconds and then righted back up to the way it's supposed to be, upright.

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Q. So if Mr Charles was sat on the port side, port quarter, just by the wheel, he would have - as the vessel came over he would have fallen towards the starboard side, is that right?

45

A. Fallen to the starboard side, correct.

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Q. When the vessel came upright, what did you see?

A. I saw the mast laying in the water on the port side of the boat in small pieces of all of maybe two metre long sections at the most. I saw Glyn Charles' lanyard dangling over the port side of the boat and assumed that because I had ended up on the port side of the boat and just almost off the edge of the boat that he had ended up in the water

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off - because his lanyard was tied to the side of the boat, so I scrambled to my feet and ran to his lanyard only to find that he was not connected to his lanyard, immediately looking up directly into the wind to the port side to see Glyn floating in the water 15 to 30 metres back.

5

Q. Where was the boom?

A. The boom was on the port side of the boat.

Q. So that had moved across from the starboard side?

10

A. With the mast, that's correct.

Q. What had it done to the wheel, if anything?

A. Smashed it to pieces.

15

Q. Now you saw Mr Charles I think you said 20 to 30 metres is it?

A. Back in the water, yes.

Q. What did you do?

20

A. I screamed at him to swim back to the boat. The boat you could actually see being pushed through the water by the wind and was moving at let's say two knots. Glyn couldn't swim as fast as the boat was moving. He did all of six strokes and then that was as much as his attempt to swim back to the boat well.

25

Q. His swimming strokes, how were they, overarm, breaststroke?

A. He tried overarm but it was a half-hearted effort. It wasn't a full stroke, it was more a half stroke as if he could barely lift his arm out of the water.

30

Q. Well what's your opinion of why he did that, that you could see?

35

A. Because he was injured.

Q. So you think he was injured?

A. I definitely believe he was injured.

40

Q. Did he have a life jacket on?

A. He didn't have a life jacket on. He had a harness on.

Q. Now when you were on deck in these winds, did people not put their life jackets on?

45

A. No life jacket was put on, a harness was put on. A life jacket was quite a bulky item and restricted movement, and if you had to do something it was more a hindrance than a help. The harness was there to keep us on the boat and if we were attached to the boat, what was the point of having a life jacket on? It was more of a hindrance.

50

Q. When you say a hindrance, is it because it's uncomfortable or because--

A. It's bulky.

55

Q. --it's the design?

A. It's bulky, yeah.

Q. Well do they have ones that aren't bulky, that can simply inflate?

A. They do.

Q. Why don't you have those?

A. I guess it was never a consideration as to having to use them.

Q. Is it a fact that on the market you can buy a jacket that will inflate with a harness built in?

A. Correct. We now have them on the boat we have now.

Q. Right, so they are available?

A. There is such a thing.

Q. The harness that he had, would that have restricted his swimming, so what you presume would have been a restriction because of injury was really the result of the harness itself?

A. What was the question again?

Q. Well you say that his swimming appeared to be restricted and you think it was because of an injury. Was it? Is it possible that it was the harness that was preventing him from swimming properly?

A. I tend to think not because the straps come over here and around here, they actually don't get in the way of the arm. If anything was restricting him it was probably his wet weather jacket.

Q. What sort of wet weather jacket was it?

A. I don't exactly know the brand. I know it was yellow in colour, of similar material to most common wet weather jackets, with a fluorescent hood.

Q. He still had that on?

A. He did.

Q. What happens next?

A. It's clear that he wasn't going to get back to the boat for one reason or another. I screamed to the guys down below to get on deck and was quite annoyed as to only a few people came on deck. I wasn't aware that there were injured people downstairs. I called for a rope to tie around myself and had intentions of jumping in the water, and I figured if I could swim to him and he could swim to me, that we'd hopefully meet in the middle and then both get dragged back with the boat and then get pulled in. Finding a rope long enough or ropes to tie together to get long enough took a couple of minutes, at which stage he was getting further and further away. Finally I got a rope and was outside the life lines, ready to jump in the water, and another really bad wave came through and I was held until that wave went through, and the boat was pushed some 100, 150 metres away from Glyn, which made it impossible for me to be able to swim back to Glyn. Once I was in the water I wouldn't have been able to see him at all and wouldn't know what direction to swim to, and I couldn't have swum that far back anyway.

Q. You were prevented - when you said I was prevented, you were prevented by other crew members?

A. Someone held me until the wave went through, steadied me.

Q. When did you last see Mr Charles?

A. About two minutes later.

Q. How far away was he?

A. Some 150 to 200 metres away. The next wave actually, at that stage, instead of him being on the same wave as us and having visual contact with him all the time, we'd be in one wave and he'd be in the back of another wave, so it wasn't until we came up onto the top of a wave that we could see him, and that happened two or three times and at which - each time we saw him we could see him just treading water, and obviously losing the battle and was struggling and starting to go under water, and he'd disappear under water and then he'd come back to the surface, struggle back to the surface. And then a wave would go through and then he'd come back and you'd see him again, and then he'd struggle and he'd go under. That happened three times. The third time he went under and didn't come back.

Q. The man overboard button. As I understand it, on your GPS there's a button that you can hit, press.

A. Correct.

Q. And that gives you the location of your vessel at that time?

A. Correct.

Q. This is classed as the man overboard button, and you'd now have the latitude and longitude so that - and that remains on there does it? That's stored so that you know that's where the man went overboard and you'd calculate drift and stuff like that?

A. Yes.

Q. Are you all right?

A. Yeah.

CORONER: Q. Are you all right to go on?

A. Yeah.

HILL: Q. That was pressed?

A. I don't know.

CORONER: Q. Were you ever told it was pressed?

A. I don't remember. I was more involved with what was going on on deck. I didn't--

Q. I realise that, but I thought after the race--

A. I don't remember. It had no relevance.

HILL: Q. Some time past I think then, did you go below deck?

A. An hour after last seeing Glyn.

Q. You still kept looking during that hour?

A. Not for that period of time, no. There was myself, Simon Raffault, he was the guy who held me when that wave came through and pushed the boat away from Glyn, he and I were both continually looking back in the water. Even if we couldn't see him, looking where we thought he was, and didn't take our eyes off that spot once. I made the decision some five minutes after not seeing Glyn again to stop looking. Simon stayed there for some 15 minutes. I made the decision to turn around and save the boat and nine other people, and took action to do that.

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Q. It was some time after Mr Charles had gone overboard that another vessel was sighted. Do you recall this incident?

A. Yes.

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Q. How long after Mr Charles had gone over was that vessel sighted?

A. An hour and a half, maybe two hours.

20

Q. During that period of time to sighting that other vessel, what were you doing?

A. Before that - sorry, before that vessel?

25

Q. Yes, before sighting that vessel, that period after Mr Charles has disappeared and the sighting of that.

A. With the mast being where it was, broken in pieces and laying in the water and pushing into the boat, it was very important to actually cut the rigging and the mast away from the boat so as it didn't penetrate the hull and cause more damage. That took us some 40 minutes to do. There were myself and I think three or four other people on deck doing that. That was my first issue, to get rid of that and to make the boat some sort of safe. My next issue was to go downstairs, because the boat was full of water, to knee deep water, and to investigate to see if there was any structural damage under the water, whether the keel had been - had fractured the hull or - just check out everything downstairs and make sure the boat was somewhere near sound.

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Q. What did you find?

A. I found that the hull, even though it was - all the frames in the boat were actually broken, the hull hadn't actually broken.

45

Q. So frames had gone?

A. All the frames in the boat had been crushed, yes.

Q. Any other damage that you saw?

A. The deck had been split across the back of the cabin. The deck had split across the chain plates where the mast was and the cockpit floor had collapsed six inches.

50

Q. Was there anything else?

A. The companionway hatch had blown into the centre of the boat as it - as the boat went through the roll. That's where all the water came from. A metre square companionway

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hatch had been forced in by the water and all the water had rushed in that hatch, but we didn't know at the time where all the water had come from.

Q. So what was your assumption at that stage?

5

A. Of the condition of the boat?

Q. Of the condition of the boat.

A. The condition of the boat in my opinion was that in time it would break in half. How long we were on the boat I didn't know. I didn't think the boat was going to fill up with water at the stage - while we were on it. We were getting water over the deck still and that was going down all the holes in the cockpit sides and where the wheel well used to be and filling the boat up, so the boat was continually baled out. I got a spare spinnaker pole, cut it up into small sections and supported the cockpit floor. I figured that if the cockpit floor couldn't drop down, the sides of the boat couldn't flex in, which would prevent any tearing down the sides of the boat from happening, so it would hold the boat in one piece for a long period.

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Q. So the boat was being baled?

A. Yeah.

Q. And you were undertaking damage repair, is that right?

25

A. Yeah, yeah. Preventive measures of any further damage.

Q. Did you have a worry about the vessel sinking?

A. I wasn't overly concerned with it sinking, no. My opinion of it was that if the boat filled up with water that it wouldn't actually sink, it would float just below the surface.

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Q. When you say just below the surface, what do you mean by just below the surface?

35

A. Well the boat was actually made of foam and fibreglass, so if - I didn't think it would sink straight away. I think it would wallow just below the surface of the water.

Q. How far below?

40

A. Maybe, maybe half a metre.

Q. What, you would stand on the--

A. On the cabin top or something. I never considered getting into the life raft until that stage.

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Q. You wouldn't consider getting into the life raft until--

A. Never, never.

Q. Have you had life raft training?

50

A. No.

Q. Have you seen demonstrations or--

A. I have.

55

Q. Where did you attend those?

A. I attend them at local yacht clubs, seminars held. I

was quite young when I first saw my first one. It was after the '84 Sydney Hobart.

Q. Why do you say after the '84 one?

A. That was again another bad Sydney Hobart yacht race and people went on the educational push I guess after that. 5

Q. Is it a concept that there has to be a very bad race with regards weather--

A. Not to my knowledge. 10

Q. --before people start looking at safety issues?

A. No, that's not true. Safety measures are always looked at. I guess it was more just fresh in everyone's mind. People get complacent. 15

Q. Just going back to when Mr Charles went over. Was anything thought to throw to him?

A. It was thought to throw the life ring to him, but due to the force of the wind and the distance he was back in the water, there was never a chance that that could get to him or that he could get close to it, so it wasn't even attempted. Throwing a life ring into the wind towards him, I would bet the life ring would end up in front of us. 20

Q. The other thing he didn't appear to have is a personal EIPRB, is that right? 25

A. That's correct.

Q. Where were you when the sighting of the other vessel took place? 30

A. I was looking for damage downstairs.

Q. What did you hear?

A. I heard "there's another boat, there's another boat." 35

Q. Who yelled that?

A. I don't remember.

Q. What did you do? 40

A. I think I scrambled to the companionway to see the other boat. The companionway was obviously filled with people looking themselves, so after not being able to see I continued on with what I was doing. 45

Q. Was any signal put out to the other boat, do you know? 45

A. A signal over the radio was tried.

Q. Who tried that?

A. I think it was Carl Watson. Carl Watson became in charge of radio and sending distress signals and things like that. 50

Q. Why was that?

A. Rob was injured and in quite a lot of pain. 55

Q. What happened to him?

A. He we thought had a broken leg as a result of the

rollover and was in quite some pain and was not capable of actually doing anything.

Q. The signal that was tried over the radio by Mr Watson. Were you there?

A. The first signals no, because I was on deck cleaning the rig up and cutting it away. 5

Q. Were you there for the second ones or what?

A. They happened continuously. 10

Q. I see, there were--

A. It was never just one or two signals, it was every five or ten minutes try a signal, hoping that a boat would get closer or to within range and maybe hear us. Flares were also set off. 15

Q. What sort of signals were sent out?

A. "Mayday, mayday, this is the yacht Sword of Orion." 20

Q. So you were sending maydays out?

A. Correct. 20

Q. Anything else?

A. I think our position might have been quoted. I don't remember exactly. "We have man overboard." 25

Q. Did you manage to see the other vessel?

A. I saw white sails. 30

Q. White sails. You talk of plural there.

A. I remember seeing a white hull with a white sail through someone's legs. 30

Q. A sail or sails?

A. Sail or sails, I don't remember. I definitely saw a mainsail. I don't remember seeing a jib. 35

Q. You definitely saw a mainsail?

A. Very small. 40

Q. Very small?

A. Yeah. 40

Q. Certainly not a storm jib?

A. I couldn't be sure. I saw a sail on the mast. Whether it was a trisail or a three reef main, I don't know. 45

Q. Did you recognise that vessel at all?

A. I didn't get that much of a look at it. 50

Q. Were there any flares?

A. There were flares fired in the boat's direction.

Q. Who fired those?

A. From memory, Andrew Parkes and Nigel Russell. 55

Q. What did the other vessel do?

A. Continued on.

Q. I think later on you were told which vessel that was, is that right?

A. Correct. 5

Q. Which vessel were you told it was?

A. I was told the name of the boat was Margaret Rintoul II.

Q. Margaret?

A. Rintoul II. 10

CORONER: Time to take the break, Mr Hill. You're an appearance, Mr Shand?

SHAND: Thank you, your Worship. I have leave to appear for Mr Richard Purcell. 15

LUNCHEON ADJOURNMENT

<DARREN PAUL SENOGLES(2.00PM)
ON FORMER OATH 20

HILL: Q. Sir, just before the luncheon adjournment we were talking about the other vessel that you saw. So you caught a glimpse of that? 25

A. Yes.

Q. And you were then told later I believe that it was the Margaret Rintoul? 30

A. Correct.

Q. Were you in Hobart when discussions took place between crew members of the Sword of Orion and crew members of the Margaret Rintoul? 35

A. I was.

Q. What occurred and where?

A. We went to dinner with the crew and members of Glyn's family after the service that day. After dinner we were walking back towards the Customs House Hotel. 40

Q. Just stop there. Who's we?

A. The crew and the family, Glyn's family members. 45

Q. The crew of what?

A. Sword of Orion, sorry, and their partners. I was one of the stragglers I guess you'd say and by the time I got to the Customs House, our crew had gathered outside on the street with members of Margaret Rintoul and were discussing things. 50

Q. Discussing things? First of all, what is the Customs House?

A. The Customs House is a hotel where - in Hobart where most of the yachties meet after the race. 55

Q. When you say they were discussing it, who was saying

what and to whom?

A. There were Carl Watson and Richard Purcell.

Q. And what was said by whom?

A. I'm not exactly sure what was said by who, but I know it was a heated discussion. 5

Q. Did you hear anything that was said?

A. No. I actually decided that instead of staying at the Customs House I continued walk on to Salamanca Inn, which is where we were staying across the park. I didn't have any interest in sitting and listening to any argument of what - of such and was since-- 10

Q. Go on. What?

A. And was later told what had happened. 15

Q. Taking you back to your vessel when you saw that other vessel going past. What was the damage and the situation in regards to your vessel? 20

A. As I described to you earlier, the boat was in quite some severe - had some severe damage to it and after time would have broken up and sank. I think we were quite lucky that the 14 hours or so we spent on the boat, it didn't happen in that time, even though it did deteriorate. 25

Q. How was it deteriorating?

A. Generally the waves were washing the boat around and the boat was actually - the boat was actually twisting, like if that was the boat, it was twisting like that. 30

CORONER: He's indicating a sideways motion sort of counter-placed between the bow and the stern.

A. Well the keel was actually connected to the front part which - and the stern being so beamy was getting pushed around by the wave. And the keel was keeping the front part rigid and the stern was able to sort of rock around on that. The whole boat was just like jelly because there was no actual - all the reinforcing members of the boat had actually been crushed so they weren't supplying adequate support. 35 40

HILL: Q. So whilst the bow was going to port, the stern was going to starboard? 45

A. Exaggerated, yes, yeah, and the cockpit floor was continuing to collapse.

Q. What floor?

A. The cockpit floor, the working area of the boat, in the back of the boat. That was about I guess 7 o'clock that night that I actually cut the supports in under the cockpit floor to stop it continuing to-- 50

CORONER: Q. That's when you cut the support? 55

A. Yeah. We figured that that was - it was something we thought about later, and it managed to work and stiffened the boat up quite considerably.

Q. You mean it stiffened the hull itself?

A. Yeah. The problem being that it was moving so much that the supports would keep falling out, so several times I went back and put the supports back in.

HILL: Q. When you saw this other vessel, was it daylight? 5

A. It was.

Q. About how far off dark?

A. I would say an hour. 10

Q. What aid in your opinion could that other vessel have given to you?

A. Due to the - our outcome, what ended up happening to us, all they could really have done was stood by and maybe relayed our position over the HF radio, and that's all they really could have done. They couldn't have done anything to assist Glyn Charles at all. 15

Q. You don't think they could have done anything to assist Glyn Charles? 20

A. No, I don't. I think his fate had already been set.

Q. Tell me, when the mayday was sent, do you know whether your EIPRB on board the vessel was activated? 25

A. It was, yes.

Q. Who did that?

A. From memory I don't know, but it was activated and put in the cockpit floor on the deck, which is not actually the correct procedure. The EIPRB is supposed to be activated and put into the water and tied to the boat. 30

Q. What time would that have been done, that is, set off?

A. That happened whilst we were getting rid of the rig I think from memory, so about half an hour after the rollover, maybe earlier. Pretty much straight away I guess. 35

Q. You've told us that in your opinion you could not have thrown a life ring to Mr Charles. 40

A. Correct.

Q. Is there any other piece of equipment that you can think of that may have aided Mr Charles at that point of time that you would have-- 45

A. A really long rope.

Q. Simple as that?

A. The only other option was me on the end of it. 50

Q. Was anyone else wearing a life jacket prior to the vessel rolling over?

A. No, no that I am aware of.

Q. And is that standard practice?

A. Yes.

Q. What, people don't wear lifejackets, even in weather that you've described?

A. Harnesses definitely, they go on quite early, but lifejackets, no.

5

Q. So you rely--

A. I've never worn a lifejacket until that day in an ocean race.

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CORONER: Q. Did it change your thinking?

A. It's changed my thinking. I would tend to wear a lifejacket and not a harness.

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Q. Not a harness?

A. Mm.

Q. I see. You risk going out on the basis you stay afloat?

A. For example, I this year did the Hobart on a boat called Nokia and we were going quite fast speeds, and if you were to fall over the side of that boat while connected to it, I'd hate to think what would happen to your body. I think if you fell over the side of that boat and at least floating in the water, you'd have more chance for surviving than the initial fall and being dragged along by the boat.

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Q. So you wore a jacket this time instead of--

A. On the Nokia?

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Q. On the Nokia.

A. Inflatable ones, yeah.

SHAND: Sorry, I didn't catch that.

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CORONER: Inflatable ones, yes.

Q. Yes, you indicated earlier that the whole crew of the Nokia I presume used inflatable jackets?

A. We have ..(not transcribable).. yeah.

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HILL: Q. Going back to what I was saying. So you rely very heavily on the harness?

A. On being connected to the boat.

45

Q. When the vessel was turned around and you were heading back, just before Mr Charles was washed overboard, how was the boat managing in I think you said it was about 20 minutes or so?

A. The boat was - the boat was fine, the boat was handling quite well. We had just enough sail up to get momentum forward, to give us steerage and manoeuvrability. It wasn't easy to hold the course because you were getting knocked around by the waves, but we were managing.

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Q. What time on the 27th did the concerns of Mr Kulmar and Mr Charles first come to your attention about the weather

and turning round, do you recall?

A. Steve Kulmar's concerns were brought to our attention half an hour before the sked, when he'd come down from being on deck. He'd simply had enough of it I guess.

Q. How do you mean came to your attention? Did he say something?

A. That's when he first came downstairs and mentioned - and voiced his opinion.

Q. What did he say?

A. From memory I couldn't quote his words exactly, but it was something along the lines of I rather think you should seriously consider retiring from the race, I think this is extreme and we shouldn't be here.

Q. And you think that was about a half hour before the 2 o'clock sked?

A. Yes.

Q. The other thing is this, that in regards to the vessel, the yacht that sailed by, you thought that it could have aided you by standing off. Is that in hindsight or at the time?

A. At the time. We didn't know what our fate was going to be. We didn't know if our boat was going to break up. It would have been nice to have had another boat in our vicinity and to also relay our position and our situation.

Q. When you say it would have been nice, many things are nice. What do you really mean by nice to have them there? It sounds somewhat casual.

A. It would have been a huge advantage to us to have had someone there.

Q. Reassuring, is that--

A. It would have been reassuring, yes.

HILL: Nothing further, thank you.

STANLEY: Q. Mr Senogles, how was it that you came to get on this yacht?

A. I was asked to sail on the yacht in about May of the year, earlier in the year.

Q. Had you sailed on it in a race before this?

A. I'd started on that boat with the previous owner in January of that year, in a regatta in Melbourne.

Q. Was that do you think the reason you were asked, because you had some experience on the boat?

A. A little bit, yes.

Q. Mr Kothe had only just purchased the boat during 1998 had he not?

A. That's correct.

Q. Your relationship with Mr Kothe was that - did you know

him before?

A. I'd never met him before. When he bought the boat, I imagine he asked the broker who - what sort of people should sail this boat as the crew that he had from his existing boat weren't familiar with the sort of boat, and he asked the broker I imagine to help him find a few crew that could teach his crew and then - and give them some experience on those sort of boats, and I was asked.

5

Q. Did any of the others on the crew, had they had previous experience on this boat, racing?

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A. They had - there were - in the Hobart race itself, one of the crew members had done the Hobart, the race before in '97 on that boat.

Q. In that boat?

15

A. In that boat.

Q. You were engaged what, specifically as a bow man?

A. Yes.

20

Q. You understood that to be because you had some particular experience with the boat as a bow man?

A. Not particularly that boat. I've been a foredeckhand and bow man for quite some time and I guess people consider that I do a pretty good job at it, and to find someone who does a reasonably good job at that part of the boat is quite hard, so--

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Q. Despite your youth, would it be fair to say you've had considerable experience with sailing and deep water sailing?

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A. Correct.

Q. Have you ever been on a boat that has pulled out of a deep sea race because of a forecast, a weather forecast?

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A. No.

Q. What conditions in a forecast would ever cause you to want to pull out of a race?

A. Extreme weather conditions, extreme warning, extreme warnings. Like I imagine if we had have been told that we were going to get those conditions, not in our right mind would we have gone into it.

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Q. You were told that you were going into - that a storm warning had been issued?

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A. Correct. We were also still told 40 to 50 knots.

Q. But did you know that a storm warning was the most extreme warning that could be given for these waters?

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A. No.

Q. I'm sorry?

A. No.

55

Q. Did you know that a storm warning was more severe than a gale warning?

A. I think I did, yes.

Q. Did you?

A. Because a gale isn't exactly all that much breeze.

SHAND: Sorry, what was that?

CORONER: A gale isn't exactly that much breeze. 5

WITNESS: Exactly that much breeze.

CORONER: It's enough for me, but-- 10

STANLEY: Q. You apparently had some knowledge of the 1984 Sydney to Hobart race.

A. Just lectures and videos and what have you. 15

Q. From those you know that it was one of those races that was regarded as one that involved considerable risk and danger to the crews participating?

A. Correct. 20

Q. They were bad weather conditions?

A. Correct. 25

Q. And an extraordinarily large number of boats had to pull out?

A. Correct. 30

Q. Is that why it was sort of fresh in maybe your mind and you'd been taught about it, that because it was regarded as an extreme condition for the race?

A. I wouldn't say it was - because it was an extreme condition. I think it was the duration that people were in those conditions for. 35

Q. Are you aware that - I'm reading from the report of the Cruising Yacht Club - with respect to the 1984 race, that it started with a strong southerly that built to a solid 40 to 45 knots over a fast flowing east Australian current, making the waves particularly vicious. Were you aware that in that race the waves were reported as getting up to 40 to 45 knots - sorry, the wind speed up to 40 to 45 knots? 40

A. Yes. From my memory the wind in the 84 hyper wasn't as extreme as wind that I've experienced after that and before this incident. 45

Q. But nevertheless, you were aware then that speeds of 40 to 45 knots could end up with the conditions that were experienced in the 1984 race?

A. With all the other factors combined, yes. 50

Q. And yet you would still be prepared to go on with a forecast that indicated 40 to 45 knots?

A. Correct. 55

Q. Are you aware what the conditions were in the 1983 race?

A. Yes, I was in the '83 race.

Q. Did you sail in that race - I'm sorry?

A. I won the '93 race.

Q. That again was something of extreme conditions?

A. Correct.

Q. The winds in that race were recorded at up to 50 knots with gusts in the mid-70 knot range?

A. Correct.

Q. With 10-metre seas?

A. Correct.

Q. So is this the position, you knew before this race started that if you had a forecast of 50 knots, it could easily gust up to 70 knots?

A. From my own personal experience in the '93--

Q. And you could get 10-metre seas?

A. Correct.

Q. And yet you would still be happy to sail in those conditions?

A. Correct.

Q. In January 1999, about 10 days after the race, you were interviewed by the police were you not?

A. I was. I don't exactly remember the date but--

Q. Shortly after, obviously at a time when the events were still pretty vividly in your mind?

A. Yes.

Q. I just want to put some matters to you that were in that record of interview. Do you have a copy of it?

A. I do.

Q. Have you read it recently?

A. Yes, briefly.

CALLAGHAN: He should have a copy with him.

CORONER: Q. No, you've got no copy with you?

A. Not with me, no.

Q. Not in court?

A. Sorry, it's in the back room, yeah, it's up the back.

STANLEY: It might be easier for the witness if he could just get the record of interview.

CORONER: Q. The record of interview dated 7 January 1999 Mr Stanley is referring to. It's in the fourth line Mr Senogles, do you see the date 7 January 1999? We've got the same document?

A. That's right.

STANLEY: Q. Can I take you to page 4 and the very foot of that page, just look at it yourself and you can see that

it's describing the events I suggest to you from 10 o'clock on, on the 27th.

A. Yeah.

Q. Is that right?

A. Yes.

5

Q. In the very last line you say "and within about half an hour from that we were back to the storm jib."

A. Yes.

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Q. "And then not long after that we went to just a storm jib because we had 50 knots."

A. Yes.

15

Q. "Fifty knots and so we were just sort of in survival mode again at that stage."

A. Yes.

Q. So is this the position, that when the yacht was travelling at 50 knots, you regarded it as being in survival mode?

A. Yes.

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Q. Because of the nature of the conditions?

A. Yes.

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Q. I just take you a little further down that page, you're describing what happened. In about the tenth line, do you see there "the wind picked up to 50 to 60 knots constantly"?

A. Yes.

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Q. And that's about 12 o'clock isn't it, if you just look at the line above?

A. Yeah.

35

Q. So at about 12 o'clock you told the police that the wind had picked up to 50 to 60 knots constantly, then it got to 60 knots constant, gusting to 70, 75, nearly 80 knots, but that was only in gusts?

A. Right.

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Q. And averaging out about 60 to 65 knots for the period. Is that correct? What you would say there, do you still believe that's correct?

A. It's - it's correct. It could have been more, and as the crew on the boat said, yes, it was more than that.

45

Q. So when you give evidence of speeds that are higher than that, you're really relying on what other members of the crew have told you?

A. Correct, because I wasn't on deck at the time. I was on deck for the 50 knots with the storm jib and things like that.

50

Q. When you were in survival mode?

A. Yes.

55

- Q. Which was quite a different thing when it gets to 60, gusting up to high seventies?
A. It's still survival mode.
- Q. Perhaps more survival? 5
A. It's still survival.
- Q. If we just go on. You said that this is when the winds were averaging out at 60 to 65 knots. You then say "then it was we had decided that things weren't - well weren't that flash." 10
A. Right.
- Q. So is that the position, that with the conditions being at 60 to 65 knots, things weren't too flash, and that decision was-- 15
A. Also with the 70 to 75 knots as well, all of that considered.
- Q. Gusting up to that speed? 20
A. Yeah, and the touching 80.
- Q. And then you go on in the next sentence, "and whether we should keep going, and the general idea on the boat was to sit it out and keep going, do the sked, listen to what everyone had to say and then make our mind up then." Do you see that? 25
A. Yes.
- Q. So what you're saying is I think consistent with what you're saying today, that the boat's at 60 to 65 knots, you wanted to wait, listen to the sked and then decide what you do? 30
A. Correct.
- Q. Can I take you over the next page to page 6. Eight lines from the bottom, I suggest this follows on. You say "so while the breeze was at 60 knots" - do you see that line? 35
A. Yeah. 40
- Q. "While the breeze was at 60 knots we were quite happy to keep going, and then the plan was if the breeze got over 60 knots then that was it, we'd pull out, as we didn't know whether getting away from the coast that the breeze would die out, we didn't know what was going to happen so we kept plodding along, and then when the breeze got over 60 knots we decided that we it, enough's enough, and we turned around." 45
A. Yeah. 50
- Q. "That was probably two hours after the 2 o'clock sked."
A. My timing's probably not--
- Q. At all events, it was some time after the sked? 55
SHAND: What was the answer?

A. My timing probably wasn't exactly - it's not 100 per cent. A lot happened that afternoon.

STANLEY: Q. I can understand that, but the point is that as you understand it or understood it then, the decision that had been reached was if it gets above 60 again, we head back? 5

A. I mean it could have been above 60. My figures on breeze strength is probably not - I didn't see them. I wasn't sitting on deck looking at the dial the whole time. It was probably 60 and gusting to more. There was one comment made on deck at one stage that we - I won't exactly say what was said, but we've got 92 knots, and that was like - just mindblowing and ridiculous, and this was towards the end of our conversation as to what we should do. 10 15

Q. What had been agreed between you, as you've reported here to the police, was that if it got above 60 it was turn back?

A. Well when I say it got above 60, I probably meant above, a little bit more than that. 20

Q. Well except aren't you here saying what you understood had been agreed between the crew or--

A. Yes. 25

Q. --following the discussions?

A. Yes.

Q. So it's not a matter of seeing how fast you were seeing on the dial. 30

A. No.

Q. It's a matter of remembering what had been discussed between you. 35

A. And what I'm saying is that 60 knots might not have been the figure we agreed on. I don't exactly remember. I know it was around that speed.

Q. But it was your view was it at that time, if it did get back over 60 you wanted to be out of it one way or the other? 40

CORONER: If it did? If it did get over 60?

STANLEY: If it did, yes. 45

Q. If it did get over 60, you wanted for the boat to get out of it. Whether that meant going for the shore, going back or doing something, you didn't want to be there with it going over 60 again, did you? 50

A. That's correct.

Q. In terms of giving instructions as to what sail would be up or if a sail had to be taken down, whether it should be taken down, who gave those decisions? 55

A. It was again a decision made by the team. We were fortunate enough to have on the boat a sailmaker from the -

from the loft where the sails were made, who knows more about the strength of the sails than we do, so his opinion was often voiced, and again with Steve Kulmar and Glyn and Adam and Carl, myself, we were all part of the decision.

CORONER: Q. Apart from you, who do you rate as the very experienced sailors on the boat?

A. Carl Watson, Adam Brown. Ocean racing yachts?

Q. Mm, for this type of event.

A. Yeah, Steve Kulmar and myself.

STANLEY: Q. I don't believe you actually listened to the 8 o'clock sked on the 26th, is that right?

A. No, I didn't.

Q. Following that sked, did you hear from any other member of the crew that winds of up to 55 knots had been forecast?

A. No.

Q. Or that a storm warning had been given, a priority storm warning?

A. From memory I don't remember.

Q. When you were asked what you understood by a storm and winds gusting, you said that you were given a forecast of 40 to 50, you would expect that winds could gust up to 65 and possibly even to 70?

A. Correct, from past experience.

Q. That's from your own experience on the water?

A. Yeah.

Q. You mightn't know of a specific formula that says you multiply or add 40 per cent.

A. I don't know of any formula.

Q. But you do know that when a forecast is given, it's only a forecast and you have to add a component for gusts and for the potential - for an increase in what's been stated?

A. From our own experience we had to 70, like I said.

Q. Similarly, if the forecast was say instead of up to 50, if it was up to 55, it would follow that you'd have to allow for the prospect of winds being in excess of 70?

A. Not by much but yeah. You're still talking only 5 knots of breeze there.

Q. I'm sorry?

A. You're still only talking a 5 knot margin. Sixty knots and 70 knots, as I said, you're in survival mode in both situations. It makes - has no huge bearing at 5 knots more on what you're actually doing.

Q. The assessment of speeds by the anemometer, that measures the speeds from the top of the mast?

A. Correct.

Q. Are you aware of where the wind is measured for the purposes of forecast?

A. Sea level.

Q. Do you think there'd be any difference between the two? 5

A. Yes.

Q. In what way?

A. I think the higher up you go there'd be more breeze. 10

Q. And what about the movements of the boat itself and the mast in these sort of conditions? Would there be a risk that that might influence the reading of the anemometers?

A. Yes. The pitching of the boat? 15

Q. Yeah.

A. Yeah, there could be, yeah. The boat wasn't actually violently pitching but - so as far as pitching fore and after it was quite steady considering. 20

Q. Finally Mr Senogles, have you ever sailed in a Sydney to Hobart race before where a storm warning had been issued to your knowledge?

A. Not to my knowledge, but I'm sure I have. 25

Q. Have you ever sailed in any race where a storm warning has been issued to your knowledge?

A. Not to my knowledge. Never been my department, never been my thing that I have to worry about. I have other things I have to worry about. 30

Q. You mentioned earlier today that a storm or gale warning wouldn't mean much to you. You think more in terms of knots and wave heights do you?

A. Yes. 35

Q. Is that still the position, that you don't think in--

A. Yes.

STANLEY: Thanks very much. 40

WEBER: I don't wish to ask Mr Senogles any questions, your Worship.

COLEFAX: Q. Mr Senogles, you told the Coroner before lunch that Mr Watson was in charge of the radio distress signals. 45

A. Correct.

Q. And you heard him sending out maydays whilst you were in the same cabin? 50

A. Correct.

Q. Would his Worship be correct in understanding that the frequency which Mr Watson was attempting to use was the VHF16 frequency? 55

A. Correct.

Q. Would that have been because the HF frequency radio had

been taken out of action by the water which had come into the cabin?

A. That's correct.

Q. The range of the VHF16 is, in the conditions you were experiencing, extremely limited. That's correct?

5

A. Yeah.

Q. Are you able to provide his Worship with any assistance as to the range which might have been applicable at that time?

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A. At the most, five miles.

COLEFAX: Thank you, Mr Senogles. That's my cross-examination, your Worship.

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CALLAGHAN: Q. Could I just ask you a few questions more about your prior association with the boat. You'd done some racing on the boat apart from your race at the beginning of 1999, is that correct?

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A. Correct.

Q. 1998. What races did you do on the boat during 1998?

A. When Rob purchased the boat we did the CYC winter series which was basically a regatta - a series to put a crew together, build a crew up in preparation for the Sydney Southport yacht race in August.

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Q. That's offshore racing?

A. That's correct, yes. And then the boat was to go from there to Hayman Island where it did a regatta for a week, and then back to Hamilton Island for another regatta the following week. Participated in all of that.

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Q. And it sailed the spring series did it?

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A. At the CYC.

Q. At CYC?

A. Offshore spring series, yes, as a lead-up to the--

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Q. And apart from that sailing experience on board, did you have an association with maintenance on board the boat?

A. As of when the boat got back from Hamilton Island, yes.

Q. And what was that?

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A. My job on the boat was to make sure everything was in good working order, that everything as far as safety equipment and what have you goes was in date and in good order as well. When I first started work on the boat it was basically the start of the spring, and one of the first things that needed to be done was the boat had to be - have its--

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Q. Its inspection certificate?

A. Its safety inspection certificate renewed, and for me I familiarised myself with the boat, I pulled everything out and looked at everything and looked where it was stored and how it was stored and checked the dates and lay everything

55

out, and then got the CYC representative down to inspect the boat.

Q. And you participated in the inspection?

A. Yes, as the owner's representative.

5

Q. And the boat went okay at that inspection?

A. It passed, fine, yeah.

Q. Were some rigging tests done on the boat?

A. There were some rigging tests done some time later. The mast was pulled out of the boat and laid down on the dock and pulled to pieces and checked.

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Q. And was the rigging itself tested, die tested?

A. It was tested before the boat went to Hayman and Hamilton Island earlier in the year. There was no need for another die test.

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Q. Were you involved in that testing of the rigging?

A. I wasn't involved in the die testing, I was involved in the test for Christmas which was just a thorough checking over of everything.

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Q. How about any specific check of the boat and its condition and its equipment prior to the Sydney Hobart?

A. Again the whole boat was thoroughly checked.

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Q. Were you involved in that?

A. I was, yeah.

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Q. As bow man you do work up in the rigging?

A. Correct, yeah.

Q. Were you happy with the state of the boat?

A. More than happy.

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Q. We've heard details of a bump or a collision with Nokia at the start of the race.

A. Correct.

40

Q. And of work that you did to refurbish the boat in a couple of areas after that.

A. Correct.

45

Q. And indeed of an inspection you made of the rigging and the mast as you went sailing down the coast.

A. That's right, yes.

Q. Were you happy with the boat at that stage?

A. After the repairs were effected, yes.

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Q. You gave to me this morning four photographs which you've told me you'd like to give to the inquest and explain to the inquest. Is that correct?

A. Correct.

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CALLAGHAN: Your Worship, probably the simplest way to do

this, if I were permitted to approach the witness and identify them.

CORONER: Yes, you can approach Mr Callaghan.

CALLAGHAN: Q. What I have done Mr Senogles is mark on the back the letters A, B, C and D, hopefully in an appropriate order. First of all there's photograph A which is clearly a photograph of the boat taken from the stern on the port side, and it would seem that it's alongside CYC, is that right?

A. Correct.

Q. That was on the morning of the race?

A. Correct.

Q. And it shows various features of the boat which will be obvious, but you mentioned a strong point was it, a strong point?

A. A padeye(?) yes, a strong point, padeye.

Q. It was to a strong point or that strong point that the boom was lashed, you've told the inquest, when it was put onto the starboard side, the then leeward side, when you jibbed to go in a westerly or head?

A. Yes, correct.

Q. Can you point out here that strong point or a corresponding strong point?

A. This strong point here is the adjacent strong point, on the opposite side to--

Q. That's on the port side?

A. You can't quite see the other one, the photo's cut off.

Q. That is?

A. The strong point here, just behind that stanchion. You can't actually see it on the other--

Q. If I could put that perhaps in cruder language, that's a block of some sort?

A. That is, it's a turning block.

Q. And it's a block through which the spinnaker sheet would go?

A. The spinnaker sheet would go.

CORONER: Just put a circle around that will you. You've no objection to that, Mr Callaghan?

CALLAGHAN: No, not at all.

CORONER: Just put a circle, a little circle around that, if you can do so.

CALLAGHAN: Does anyone want to have a look at it at the bar table at this stage? That for the record is photograph A and it's now marked in red, a strong point.

CORONER: Pass that down the bar table.

CALLAGHAN: Q. While that's being done, if we come to photograph B. Correct me if I'm wrong, this is a photograph taken after the roll?

A. Correct. 5

Q. And it's taken below?

A. Correct. 10

Q. Below deck. And you're looking aft?

A. Correct. 15

Q. On the starboard side?

A. Correct. 20

Q. And you can see the deck head?

A. Yes. 25

Q. At the top of the photograph and a circle of six bolts or nuts and bolts coming through the deck?

A. Yes, yes. 30

Q. What's the relevance that you want to tell the inquest of in relation to that photograph?

A. Where you can see the side of the boat and where you can see the deck, you can see where the hull and the deck were joined. In the distance, in the back of the photo, you can't quite see but that is where the strong point was that the boom was tied to. 35

Q. Further aft?

A. Correct. 40

Q. If I can just go on, and I'll pass that along the bar table also, I'll take you to photograph C, and is that a photograph also looking aft on the starboard side but taken from a position further for'ard, up towards the bow, is that right?

A. That's correct. 45

Q. Looking back at the area depicted in photograph B, what additional matters does this photograph show that you wish to point out to the inquest?

A. It shows where you can see the cockpit has actually dropped down, the deck has dropped in. That's basically all it shows in that photo and that the ring frame is split at the join at the deck. 50

Q. In terms of the ring frame, in fact is a ring frame that's shown there in the foreground in photograph C, also shown in photograph D?

A. That's a different frame there. 55

Q. A different frame, that's taken further for'ard, is that right?

A. Correct.

Q. What does that show, that is photograph D, in relation to the frame there depicted?

A. It - the photograph D shows the frame has been broken, but it has broken in a manner - it's broken out and the frame has actually stretched, which means that the side of the boat has been pushed in.

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CALLAGHAN: I'll tender those at the appropriate stage, your Worship.

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CORONER: Yes, in a minute.

CALLAGHAN: Q. Then while those photographs are still being examined at the bar table, what is it that you wish to put to the inquest that flows in your opinion from the matters depicted in those photographs?

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A. The photos show the damage that was done to the boat. I think what they show is that the force of the water has moved to the shape of the boat and broken it, which has resulted in the hull and the deck breaking apart. Now the side of the boat breaking in or pushing in and breaking the frame, the boat has actually got to get longer on that - that side of the boat gets bigger and because the deck has come down, the hull and the deck joint basically have gone like that, they've pushed away from each other because of the force of the water. Now once they've pushed away from each other, that strong point which was in a rigid part of the boat which the boom was lashed to, has lost most of its strength which has - then the boom has been forced by the water and allowed to sweep across the deck. Now when Glyn was steering the boat, he was hanging onto the wheel. I don't believe he simply just fell. I believe he was fighting to hold the wheel and to try and hold the boat in some sort of a direction as long as he could, as you do whenever you broach a boat or lose control of it. If you ever watch someone when they broach a boat and they've got a wheel, they tend to ride with the wheel, and if they're sitting down they'll ride up with the wheel and lift themselves off the deck. It's my thought that after this damage happened in the middle of the rollover, that the boom has been broken free from the deck. As the boat's gone up onto its side and pushed down the wave, Glyn has had the wheel and the wheel - he's lifted up with the wheel. Once this boom has broken free from the side of the boat and it's come across the boat, wiped the wheel out, and at which stage Glyn was now standing up and in full - catching the boom, and in my opinion the boom has carried him back to the port side of the boat and that has broken his lanyard, and consequently he was washed out of the boat.

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Q. You've heard an hypothesis that the body weight itself might have been sufficient to break the lanyard?

A. I have heard and read reports, but still strongly believe that the boom is what caused the damage. I believe that Glyn was injured. My harness didn't break. I fell into the middle of the boat.

55

Q. How did yours and Glyn's weights compare?

A. I'm - I was 65 kilos and looking at Glyn, say he wasn't more than - he was 70 or 75.

Q. Does that cover what you wanted to explain to the Coroner?

5

A. I think so, yes.

Q. You've also discussed your views on that with your dad have you?

A. Yes, who's a shipwright and a naval architect, and I discussed these photos at length with him.

10

Q. And you've taken into account that in coming to these views have you?

A. Sorry?

15

Q. You've taken that into account, discussed it with your dad?

A. Absolutely, yes, definitely.

Q. And, incidentally, you did a two-handed sail to Osaka with your father, didn't you? 5

A. No, not to Osaka, just a lot of yacht racing up and down the east coast.

EXHIBIT #23 PHOTOGRAPH TENDERED, ADMITTED WITHOUT OBJECTION 10

SHAND: Q. Mr Senogles, I haven't caught up with your history of ocean racing, perhaps will you fill me in. How long had you been doing it?

A. Ocean racing, since I was 12 years old. 15

Q. And you are now what age?

A. 27.

Q. And has your ocean racing taken up a great deal of your time during that period? 20

A. It has, yes.

Q. It's a sort of career, is it?

A. It's become a career in the last 18 months, yes. 25

Q. But you've had short of a career prior to that a very great deal of experience in a lot of conditions, have you?

A. I've participated in every major yacht race in Australia on the east coast since I was 14 years old. I missed quite a bit of school. 30

Q. You don't say that with apparent regret, it's just a matter of priorities, isn't it?

A. I guess. 35

Q. And amongst that experience has there been a number of Sydney/Hobart races?

A. Before this event nine. 40

Q. You mentioned, and I'm not sure that I heard you accurately enough, that there was obviously a very rugged race in 1993?

A. That's correct. 45

Q. Did you mention that you'd won that race?

A. I did.

Q. I thought you did, yes. What job was that?

A. I was on a boat called "Microbay Cuckoo's Nest". 50

Q. Then in respect of 1994 I didn't quite understand whether you'd merely seen videos of that race or you'd been involved in that yourself?

A. I'd only seen videos. I was a bit young then. 55

Q. Nonetheless you saw enough in the videos to know that that was a pretty savage race also, was it?

A. Yeah.

Q. How would you compare those two, 1993 and 1994, so far as you can?

CORONER: '84, Mr Shand.

WITNESS: '84 and '93.

SHAND: Q. That's right, is it, I'm sorry. I'm sorry, was it '84 and you've seen the video of it since?

A. Yes.

Q. Well, I won't ask you to conduct a comparison then. May we take it that the experience you had in 1993 in the result wetted your appetite for more?

A. I don't think the result had any bearing on wanting to go back and take on those conditions again, no.

Q. But it didn't give rise to any decision not to do it again?

A. I think if I had have come third, fourth, fifth, sixth, I'd still have the same attitude towards going in them conditions again.

Q. Which is, what?

A. To do it.

Q. Do it again?

A. Yeah.

Q. That's the measure of your love for the sport?

A. Passion, yeah, that's the challenge, yeah. If you don't have a sense of adventure there's not much point.

Q. Right. I suppose you've got to be prepared for both the best and the worst when you set out on races like those?

A. Absolutely.

Q. And if it turns out to be the worst then you cop it on the chin as best you can?

A. Absolutely. You're aware of what can happen, just by crossing the road you could get hit by a car. I think there's more chance of something happening there than - that's my attitude.

Q. Well, maybe the statistics are in favour of that but you're not really faced with the necessary courage and determination when you're crossing a road that's necessary for the operations of the kind you've mentioned, are you?

A. I guess it comes down to one's experience and how they feel about the situation at hand.

Q. Yes, you've got to be a certain type of person?

A. I guess so.

Q. Another thing which is absolutely vital, is it not, when participating in a race such as the 1993 one and also the

1998 one, is that - horrifying I think was one word you used - no matter how extreme, I'll put it that way, the going is during the worst parts of the sort of storms that you've been describing everyone on board has to button up, not give way, not show their fear or fright because to do so would be likely to have a detrimental effect on the rest of the crew, is that the way it goes?

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A. No.

Q. Are you allowed to show your fear?

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A. Absolutely.

Q. And to talk to others about it?

A. Yes.

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Q. That's part and parcel of a crew getting along together, is it?

A. Well, you respect them for what they are, not what they try and be.

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Q. But the words that are used between yachting people are in general terms, aren't they, more moderate than people would think conditions like those deserved to be described as?

A. I guess, only due to their experience in them conditions they can imagine what it's like.

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Q. Yes, they don't go into superlative descriptions of the terrible trials and the terrors of trips like that as in 1998 in talking to each other?

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A. Generally they describe their own experiences and things that happened to them and that people learn from different people's experiences and maybe use their advice at a later time.

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Q. But in general terms you don't go around exaggerating or even perhaps fully describing the problems of races like '98 and '93, would you agree? You speak in modest terms to each other as if it's the sort of thing to expect and that you have to endure?

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A. Maybe not as extreme as the '98 Hobart was.

Q. Would you put the '98 race at the top of the extremes in terms of conditions?

A. Yes.

45

Q. And nonetheless you'd do it again?

A. Yep. I did do it again

Q. You did do it again, yes. Is one of the most vital ingredients in a crew taking part in a race such as that one was to have complete unity in the crew?

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A. Work as a team altogether, yes.

Q. Not to have people pulling in different directions?

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A. Yes.

Q. You do have to have a recognised skipper, don't you, one

person only?

A. For what reason?

Q. So that you know who it is to look to for the decisions that have to be made, the vital ones? 5

A. Like?

Q. Like, for instance, whether to turn round?

A. As I said before, it was a team decision which ultimately, yes, came down to the owner's decision being his boat and his responsibility. He took on board all our opinions and based his on that with our support. 10

Q. Ultimately it was his decision?

A. Yes. 15

Q. It had to be because he was the owner?

A. Yes.

Q. Was he also the skipper? 20

A. I guess if - yeah, he was and Mr Kulmar was the skipper of the boat too as I said. On a start line situation things happen so quickly that someone has to make rash decisions on putting a boat here or putting it there or tacking it or driving it. Those are the decisions that you don't get a chance to talk about, they're things that get made by the person who put the boat in that position. That's what I call Mr Kulmar the skipper of the boat in them situations. For the remainder of the time it's the owner of the boat. If he had the wheel he would be totally the skipper but he doesn't take the wheel so sometimes Steve Kulmar or whoever is steering the boat becomes responsible. 25 30

Q. In critical times requiring the great skill and experience? 35

A. In tight manoeuvrable positions, yes.

Q. That's when you'd regard in a real sense Mr Kulmar as being the skipper? 40

A. Yes.

Q. And at other times, such as the start, and I don't mean this critically or in any way to reflect upon Mr Kothe, but he hadn't had great previous experience in yacht racing, had he? 45

A. No.

Q. And it's traditional, isn't it, for an owner to take the wheel at the start of a race like that? 50

A. No.

Q. It's not?

A. No and he wasn't at the wheel at the start of the race. Steve Kulmar was. 55

Q. Why wasn't he there for the start then?

A. Because he doesn't steer his boat at the start of the race.

Q. He doesn't?

A. He does not steer his boat at the start of the race.

Q. That's his habit, is it?

A. That's why Steven Kulmar was on the boat for. That's why I say he was the skipper but ultimately Rob Kothe was the skipper. The boat is in Steve's hands at the start of the race.

5

Q. And did that hold good for the really tough parts of the worst of the weather on the way down the coast?

10

A. Yes.

Q. It's needless to say, isn't it, that in conditions like those the person with the greatest of experience had to be in command?

15

A. Not necessarily because there was no one person who stood out as the ultimate person with the most experience out of everyone. It was a combination of different people.

20

Q. I see. Who are the ones who are closest to having the greatest of experience?

A. Carl Watson, Adam Brown, Steve Kulmar and myself.

Q. Obviously you don't include Mr Kothe in that group?

25

A. No.

CORONER: Q. Or Mr Charles?

A. No, from my interpretation of Glyn he was an olympic yachtsman who did a lot of olympic sailing and not as much ocean racing as myself or other members of the crew.

30

SHAND: I missed the name that your Worship mentioned, could I have that again?

35

CORONER: The deceased Mr Charles.

SHAND: Mr Charles, sorry, yes.

Q. Mr Charles had much experience at the wheel in his history?

40

A. Yes.

Q. And why was - he was at the wheel at the time of the boat turning round, was that right?

45

A. Yes.

Q. Can you tell us why he was in that position at that time?

A. He chose to be. He had been downstairs resting because he wasn't well and decided that he should get up and get some fresh air and then feel a bit better and it was also his opinion that if he was on deck that he'd like to be steering the boat.

50

Q. But his wishes only wouldn't necessarily be accepted, would they?

55

A. No, they wouldn't.

Q. The mere fact that he wanted to be?

A. He wanted to be but he was also respected and highly regarded as an extremely good helmsman so there was never any question of doubt as to him being capable of doing the job so if he wanted to steer the boat he could because he was one of the best persons on the boat for it.

5

Q. I see, no one was going to argue with that?

A. He's a highly respected yachtsman.

10

Q. Now, I want to come to the subject of the decision to turn around for a little while. You've told us that you were of contrary opinion there in the early stages at least?

A. Correct.

15

Q. And you were still of the same view as that one at the time that the majority view brought about the decision, is that right? Is that what happened?

A. Say that question again.

20

Q. Was it a majority view that brought about the ultimate decision to turn around?

A. Swing the boat around, that's correct. To turn the boat around, that's correct.

25

Q. In principle agreed on ahead of time and dependent on whether the wind got up again?

A. Correct.

Q. Which it did?

A. Yes.

30

Q. I'd just like to have your views about the comparison between the situation you were then facing depending upon whether you either went on or turned around. Would it have been your view then that on balance there were greater dangers to the boat and therefore to the crew in turning around and heading back?

35

A. The risks were higher, yes.

40

Q. Can you explain to us why that was in your view?

A. The direction the boat was heading in regard to the seaway.

Q. Yes, seaway is the direction of the current, is it?

45

A. No, it's the direction of the waves themselves, where they're coming from and going to and the angle of the boat on them waves.

Q. Yes and does that depend upon the angle that you choose to take after you'd gone around and started to head somewhere?

50

A. Correct.

Q. Are there dangers, first of all, in actually making the 180 degree turn?

55

A. Not if it's planned out and executed correctly which there were no dangers, it was done perfectly.

Q. Now tell me if you would what are the dangers, and I gather you say they were very large indeed--?

A. Mm.

Q. --in the control of the boat after that, after you'd turned round and you were setting on some new course. What was likely or what was there a considerable prospect of happening to the boat in the conditions you were then facing?

5

A. The chance of the boat being knocked down, ultimately rolled.

10

Q. What were the ways in which it would be knocked down?

A. To be hit by a rogue wave and capsize. Those risks were still there on the way to Hobart as well.

15

Q. Because the waves were still as large or what?

A. Yeah.

Q. And was it a particular direction from which a rogue wave or at least a very large wave might come in relation to the angle of the boat that would make it more likely to be knocked over?

20

A. The side-on to the boat, at 90 degrees to the boat, square on.

25

Q. Would a rogue wave be quite likely to come from an unexpected direction and be at a different angle from that which you expect?

A. In my opinion slightly but not much.

30

Q. The main factor is the size of such a wave, is it?

A. In my opinion, yes.

Q. And so the essential thing was to avoid being beam on?

35

A. Correct.

Q. To whatever wave came at you?

A. Correct.

40

Q. And on the occasion when the boat was knocked over can you tell us how it came to happen?

A. I can remember seeing the white water and it was beam on.

45

Q. You were beam on when you saw it?

A. Yes.

Q. Somehow the yacht deflected from its course?

A. I remember seeing the boat - I remember seeing the wave and it was on our beam.

50

Q. Well, would you agree with the proposition that the conditions in which your boat was at the time you turned round and then at the time you were knocked over and continuing after that were as bad as any you'd experienced or worse?

55

A. Worse.

Q. I may not have noted this accurately but I gather you have a memory of hearing one of the voices on your boat saying "We've got 92 knots"?

A. Mm.

5

Q. And what was the expression you used about that?

A. I'd rather not repeat what - how it was actually said.

CORONER: Q. It was said with emphasis?

A. Extreme emphasis.

10

SHAND: Q. No vocabulary was spared, is that right?

A. Not at all, it was quite colourful.

Q. Were the conditions such that from whatever you knew about the design of this boat and its strength, that there had to be a real chance of it not being strong enough to withstand these seas?

15

A. Can you say that question again, please?

20

Q. Bearing in mind what you knew of the boat and its design, and I gather you knew quite a bit about it, in your view keeping in mind the sort of strength that you may have thought the boat had knowing its design and construction were the conditions through which the boat was forced to go on that occasion such as to cause real doubts in your mind that it was strong enough to withstand those seas?

25

A. The boat itself was strong enough to handle those conditions provided it wasn't carried or destroyed by one of these rogue waves, the same as any other boat, it wouldn't matter what boat it was. If it had have been picked up by one of them waves the same thing would have happened. I don't think there is a boat built that could withstand that.

30

Q. No matter whether the boat was a super maxi or what it was?

35

A. If it was a super maxi it would probably fare off worse.

Q. It might come off worse, really why is that?

A. A bigger boat, bigger panels, a lot more boat to catch, hold more water. The bigger they are the harder they fall I guess.

40

Q. I don't have a great depth of knowledge about sailing so you'll have to bear with me a little. You've mentioned I think an instrument that these yachts carry and Sword of Orion did carry for measuring the wind velocity?

45

A. Correct.

Q. Is that an anemometer, is it?

50

A. Correct.

Q. And where is that stationed on the boat?

A. There's an instrument or a wand on top of the mast which gathers the information, it's then sent downstairs into the boat by cable to a computer bank which then runs it through and displays it on a display in the cockpit.

55

Q. And so the speed is read in the cockpit, is it?

A. Correct. There's a small delay for the time it gets from the top of the mast, get's computered and then read to the panel, a couple of seconds maybe.

5

Q. It maybe a silly question but was any record kept, that is, written record, a note of any kind of the various gusts?

A. There could have been, not that I know of. I don't remember seeing it written down and if there was it's still with the boat.

10

Q. It's just a matter of people's observations of it from time to time when the conditions were at their worst?

A. Correct.

15

Q. Is the most powerful factor under the conditions that we've been talking about by no means so much the wind or the direction of the current but the sheer height of the waves that puts the boat in so much danger?

A. Not so much the height of the waves, the shape of the waves.

20

Q. Do you mean by that that the waves may have no back to them making them even more dangerous?

A. I don't think it was the fact that they had no back to them. I think it was the wall of white water on top that was doing all the damage.

25

Q. I see, and how would that operate on the boat?

A. Sorry?

30

Q. How would the wall of white water operate on the boat to make it so dangerous?

A. It pushes the boat around and with all the white water around and surrounding the boat it's hard to actually get traction because white warrant is air and water, you're not actually guiding yourself through solid water so you're - steering the boat becomes hard because you're only effectively getting half your effect of the rudder because of the white water and then the white water's pushing you around at the same time as well.

35

40

Q. What is it that tends to knock the boat over, is it the white water?

A. Yes. It's just a wall of water pushing towards you at quite some speed.

45

Q. Did the Sword of Orion, having been knocked over, complete a 360 degree roll?

A. It did.

50

Q. I see. So, it went right down to the trough of this great wave, did it?

A. Yeah, it pushed - it fell, it was pushed down the face of the wave. Once it hit the bottom of the wave the boat continued to completely roll over and then roll back up on to its feet so to speak.

55

Q. You say it hit the bottom, mast downward?

A. Yes.

Q. And then kept on rolling, did it?

A. It stayed upside down for two or three seconds. I had enough time to think to myself - The boat's upside down, yachts don't go upside down, what am I going to do. I had enough time to unclip my harness and was about to undo it and the boat righted. I didn't actually get a chance to undo it because it pulled me away from it.

5

10

Q. A little of luck in your favour?

A. Just a little bit, yeah.

Q. And you completed the 360 degrees?

A. Yes.

15

Q. Now, your expression "being in survival mode" which you explained you wouldn't distinguish between, was it wind gusts of 60 and 70 knots or merely wind forces of those two velocities?

20

A. They were gust readings. We had them on the display as that.

Q. And by your expression "survival mode" that means that you were in real danger of not surviving?

25

A. No, we weren't - no, it doesn't mean that at all. We weren't actually racing so to speak. We weren't sitting on the side of the boat to make the boat sit flatter and go faster. We weren't trying to make the boat go faster. We weren't putting lots of sail up to make it go faster or trim the boat in that respect. We had trimmed the boat and we had people downstairs resting out of the weather and sailing in a safe manner to the sea so I guess when I say "survival mode" I mean we're not pushing the boat to race and go fast and win. We're pushing it - well, we're driving the boat to survive, to keep it in one piece so as when it does moderate we can push the boat. It's not much point continuing in a race if you damage the boat.

30

35

Q. It means then, does it, that you're no longer trying to push it as in racing it?

40

A. Correct.

Q. But you are carrying out wise methods and manoeuvres and techniques to lower the risk to the boat?

45

A. Correct. I would call survival mode the situation we were in after the boat rolled over with no sails and just a sea anchor out and heading into the waves, just hanging off our sea anchor, yeah, that's it.

50

Q. It doesn't mean you think you're not going to survive, it just means--

A. Not at all, it's just--

55

Q. --you're doing your best to make sure you do?

A. --the best way just to get through the situation

Q. Now, let me come back to another matter. You described to his Worship how it was and the difficulties in which you were when you managed to catch sight of this other yacht?

A. Correct, from my position, yes.

Q. Looking between someone's legs I think you said, hardly the position from which, particularly in those conditions, you could be very certain of the fine detail of what you were seeing?

A. That's why I said I didn't recognise the boat and I can't be sure if it two sails on it or a three reef main or as a trisail. I do remember seeing a white boat with white sails.

Q. Would you think that it could have been that what you were looking at was a boat with a storm jib up and that's all?

A. It could have been. It could have been a trisail only, I don't know. I remember it was a mast head rig and a white boat. It really wasn't my concern at the time. There were other people on that.

Q. Now, let me come back to something that you said on the subject of what might, could have or could not have been done by the Margaret Rintoul if it had gone about and, anyway, stood by the Sword of Orion. Your comment was I think that at the time you thought "they could have aided us by standing off". Is it correct that you really meant by that that it might have been some sort of psychological reassurance to you if they had?

A. That as well as they could have been of assistance.

Q. You don't see any other practical assistance they could have given, do you?

A. Yes, I do. If the boat had have sunk and we did have to get into life rafts we could have been retrieved, if the boat had have sunk.

Q. Bearing in mind I suppose if the situation had developed in that way the enormous difficulties of your life rafts going up and down on 60, 70 feet waves?

A. Mm mm. No more awkward than what it was getting out of the water into a helicopter.

Q. Is that right?

A. Correct.

Q. But the helicopter's not going up and down that way, is it?

A. No, it actually makes it worse, you're not just sitting still, you go up and down.

Q. One of the greatest dangers involved though or which would be involved in that situation, isn't it, is that the boat that's been standing by and tries to pick people out of the life rafts may come up in the air and down and kill the people?

A. Of-course there's a risk involved, no less a risk as

involved in getting into a helicopter.

Q. Now, did you have any knowledge at the time you were forming a view as to what this boat might have done had it turned around and approached Sword of Orion that it had no engine? 5

A. We weren't aware of that.

Q. You weren't aware, were you?

A. No. 10

Q. That would, of-course, have made the possibility of any benefit from the approach by that boat even more remote, wouldn't it?

A. Absolutely. 15

Q. And in the seas as you knew them not having an engine to assist in, that boat perhaps jiving and coming around and attempting to approach Sword of Orion, would make that task of the greatest possible difficulty? 20

A. Correct.

Q. Now, just something about the VHF radio of which there was on in Sword of Orion, there was one, wasn't there?

A. Correct. 25

Q. It needs to have an aerial to operate at all effectively, doesn't it?

A. Yes. 30

Q. Where was the aerial situated when it was in place?

A. When the boat was in good order. 35

Q. Before the boat--

A. On top of the mast. 40

Q. On top of the mast, so mast comes down and aerial comes down with it. Do you happen to know what sort of effect that has on the capacity of the aerial?

A. Yeah, it doesn't work very well at all. 45

Q. It doesn't work at all?

A. We have an emergency aerial. 50

Q. Was there an emergency aerial?

A. There was. 55

Q. Was that attempted to be used?

A. It was. 60

Q. And who operated that or tried to?

A. I set it up. 65

Q. You did?

A. Yes. 70

Q. How did you go?

A. It's actually - it looks like a hand flare. You pull it 75

out of its container and then you extend the antenna and you fix it to the side of the boat, the cabin side, or whatever.

Q. Did you attempt to make calls upon it or did anyone try it?

5

A. Yes, once, Carl continued to try with it, yeah.

Q. Did he have any success at all?

A. Eventually we got through to a plane, a search plane.

10

Q. One of those fixed wing ones?

A. Correct.

Q. Now, there's one time you gave us which I want to ask you about. You mentioned that the decision to turn around was made somewhere around 3.30 pm, did you not?

15

A. That's my opinion, yes.

Q. Would you regard that as possibly being subject to quite some substantial error?

20

A. It could be, yeah.

Q. Were you aware that at the time the decision was made there was a call to the Telstra control ship?

A. No, I wasn't aware. I'd say I was on deck preparing for the turn around at that stage.

25

Q. Well, your Worship probably has this evidence before you but perhaps I should at least address Mr Senogles to the fact that seems to be clear, that the record of radio communications kept by the Telstra control indicates that at 16.44 the Sword of Orion was informed to Telstra control as heading towards Eden. That would sound like the action taken shortly after the final decision was made to turn back?

30

A. It could have well have been done. I wasn't downstairs to hear it.

35

Q. Would you accept that with that piece of evidence available, that 4.44 pm be more likely than the 3.30 pm that you estimate?

40

A. I don't have much choice, do I?

Q. I suppose not. Now, you took possession, did you not, of part of the harness, perhaps the tethering part of the harness that Mr Charles had been wearing?

45

A. That's right.

Q. And you did that, what, shortly before you were rescued from the Sword of Orion?

50

A. I did that when we were on land, someone else brought it off the boat, I don't know who.

Q. Is that so. I was going to ask you what did happen to the Sword of Orion in due course after I presume everyone was lifted off?

55

A. To my knowledge never seen again.

Q. The boat was never seen again?
A. Correct.

Q. I see and someone nonetheless brought that piece of harness to the shore?
A. That's right, one of the crew.

5

Q. And presented it to you?
A. There was a pile of wet sailing gear on the ground and we'd changed into dry clothes and I was sorting out what was mine and I came across the lanyard and figured being where I was when the boat had its accident that I'd be a key member of this and figured that I could take it in and give it to the correct people.

10

Q. Where did this happen?
A. This happened in the hospital in Merimbula.

15

Q. In Merimbula, quite some time--
A. The morning after, several hours after we'd got off the boat.

20

Q. Who was the person who handed it to you?
A. No one, it was in a pile on the ground with all the other harnesses and life jackets and wet gear and what have you.

25

Q. And you extracted that item from the pile on the ground, did you?
A. Correct.

30

Q. Why did you do that?
A. Because, like I said, I thought I was going to be a witness and that I could give it to the guys who I was talking to, the police or whatever.

35

Q. When you took possession of it did you notice that it appeared to have been subjected to some pretty strong forces there which had ripped it or severed it somehow?
A. Broken the stitching, yes.

40

Q. Did you have in mind that at the time you took possession of it that the broken stitching might indicate that the harness had failed in such a way that Mr Charles had not survived whereas if it hadn't failed he might have?
A. I think if the harness hadn't have broken and Glyn was still with the boat and had still been hit by the boom I still would not count out of the equation that he still may have died.

45

Q. Still may have died?
A. Through injury.

50

Q. But at the same time may have survived if the harness hadn't fractured or failed in the way in which it did?
A. Possibly, yes, I don't know, we're only assuming.

55

Q. Are you aware, and I must say I've received information

which may be correct or not, that that piece of harness was subjected to some tests?

A. I am aware.

Q. In order to see whether before it was damaged it measured up to the appropriate standard?

5

A. Yes.

Q. And the answer was that it didn't or wouldn't have?

A. It didn't meet the standard?

10

Q. Yes?

A. I am aware of that.

Q. To your knowledge were any tests carried out on the harnesses with which this boat was equipped in order to make sure that they did meet the standard required?

15

A. Before the race?

CORONER: Before the race.

20

SHAND: Q. Before the race, yes?

A. No, they weren't, visually inspected for any damage and kept in good order.

Q. Looking back on it now would you say that they should have been inspected by that means in order to see that they met the standard?

25

A. A standard for the standards?

Q. Well, I'm just talking about whether they in fact met the standard set as being that which was required to be met by a harness serving its purpose?

30

A. Yeah, if it has a standard on it you can - surely that's good enough, isn't it, an Australian standard marked on it surely that means that they've been thoroughly checked.

35

Q. Well, it might also mean that the harness has been produced quite some time before and may no longer meet the standard which had been set for them, mightn't it?

40

A. It could very well be the case.

Q. Anyway, it didn't occur to you that they should be checked before this race?

A. No.

45

SHAND: Thank you, nothing else.

CORONER: Anything arising, Mr Hill?

HILL: Yes, just one or two things to clear up. 5

Q. I'll just make it perfectly clear, you didn't at any stage see the boom hit Mr Charles did you?

A. No. 10

Q. You've said that what you saw was a masthead rig and a white boat.

A. Yes.

Q. That's as you call her. 15

A. Yes.

Q. What do you mean by a masthead rig?

A. Meaning the forestay and the backstay run right to the top of the mast, where in Sword of Orion's situation the forestay only ran to seven-eighths up the mast, which is called a fractional rig. 20

Q. Can you recall the sail at all?

A. No. It was white, and whether there was two I don't remember. 25

Q. The emergency aerial. How high was that?

A. They're about a metre high, nowhere near as high as they're on top of the mast, but they're again better than the mast being in the water. 30

Q. Do you know what channel you were broadcasting on?

A. The VHF? 35

Q. Yes.

A. Sixteen is the emergency channel.

Q. Yes, but is that the one that you were using? Do you know or not? 40

A. I didn't actually see it. Someone else was doing the radio. I'm sure they would have been on 16.

Q. What about your HF radio? Did you hear anything about that? 45

A. Only that it wasn't working, and we tried to get it to work but it had obviously been water damaged or something.

Q. So you heard that that was not working?

A. Correct. 50

Q. And later you contacted an aeroplane, is that right?

A. Yeah.

Q. Is that after the other vessel sailed past, the Margaret Rintoul? 55

A. Yes.

HILL: I've nothing further, thank you.

<WITNESS RETIRED AND EXCUSED

<CARL CAMPBELL WATSON(3.30PM)
SWORN AND EXAMINED

5

HILL: Q. Sir, would you give the inquest your full name please?

A. Carl Campbell Watson.

10

Q. And your address, sir?

A. My address is 5/157 Ocean Street, Narrabeen, New South Wales.

15

Q. Your occupation?

A. I'm a yachting consultant. I'm also employed three days a week as a technical service representative for the yachting company Harken Australia.

20

Q. How long have you been sailing?

A. I've been sailing for approximately 37 years.

Q. Is that including ocean going racing on yachts?

A. Yes, a lot of ocean going racing.

25

Q. How much have you done of that?

A. I've approximately done 100,000 sea miles. I've sailed to New Zealand, I've done major races, I've represented New Zealand, I've represented Australia here. I've delivered a maxi-boat from Perth, Western Australia, to Hawaii in its own body. I've circumnavigated Australia on other vessels, raced to Lombok. So I've done a fair bit of ocean racing.

30

Q. And Sydney to Hobart races?

A. Approximately 16.

35

Q. You were aboard the vessel Sword of Orion in the 1998 Sydney to Hobart race?

A. That's correct.

40

Q. What position did you occupy?

A. I joined the boat actually at the end of November as the main sheet trimmer on the boat, and I sat basically in front of the helmsman where the wheel was, the main sheet trimmer sat and had a winch there, a winch on either side of the boat because our main sheet system started off on a traveller system which is at the back of the boom, the sheet runs forward to some blocks on the deck, then back to the winches, purely because of the size of the sail.

45

50

Q. Did you attend the briefing at the CYC on the Christmas Eve?

A. Yes, I did.

55

Q. Did you hear the weather report--

A. Yes.

Q. --given by Mr Batt at the briefing?

A. That's correct.

Q. What was your impression of what the weather would be?

A. The impression that I gained from it was that the Bureau had three progs, they used three models. I'm not sure of the term, there was a European model, the GASP and one other, and the situation was that there - in their opinion was there was a low pressure cell forming. They couldn't actually stage at what time it would form and Mr Batt, as I spoke to him afterwards, said there's a 40 per cent chance.

Q. Boxing Day, the day of the race. What time did you join the vessel?

A. I was at the CYC probably around about 10 o'clock, 10, 10.30. We all had some specific tasks to do with the boat, deliver our gear, make sure it was stowed, make sure that various items were taken to the boat, ie some of the wet food, some of the foods that you know we couldn't have on the boat prior to the race.

Q. Any updating on the weather?

A. We actually had a fellow who came down, and his name was Mr Mark Gibbs, and he's an oceanographer and was formerly I believe with the Weather Bureau here, and he's based in New Zealand and he was involved I believe with team New Zealand as a weather forecaster. He came down with the charts on the boat, the weather maps. Rob Kothe, Steve Kulmar, Glyn, myself and few of the other crew members, we sat on the bow of the boat and he explained to us in detail of what his impression what the weather was going to do. And we asked him a number of times as to what his chances were of it developing into a storm whatever, and again he said he could only give a 30 per cent chance, he wasn't actually sure.

Q. Of what?

A. Of it turning into a windy Hobart.

Q. A windy?

A. A windy or rough Hobart.

Q. Sorry, someone else interrupted then. What did you say?

A. Basically that--

HILL: No, I'm sorry--

CORONER: He gave a 30 per cent chance of it being a windy or a rough Hobart.

WITNESS: And the low pressure system forming.

HILL: Q. What did you say to that?

A. We all questioned - the main thing we all look at, as John Stanley mentioned yesterday, that we tend to look at wind direction, wind speed and wave height as to which way - if the front forms, which way is the front going to flow? Is it going to come up the New South Wales coast, is it going to head to the east? This is the way you make your

decision based on that when you leave Sydney Heads, the run line to Tasman Island is the turning point, is basically 180 degrees.

Q. What time of day was this conference taking place? 5
A. Before we left the marina, about say around 11, 11.15.

Q. About 11.15, 11 o'clock?
A. Yes.

Q. Was any mention made of a gale warning? 10
A. I think we had a strong - I cannot remember the specific word gale warning. I know we were talking about wind speeds of 30 to 40 knots. Again we don't delve into the situation - or I might have this as more of a personal thing. I know the meaning of a strong wind warning, a gale warning and a storm warning. We tend to look at the duration and the strongest wind. In other previous Hobarts they forecast 40 knot winds for maybe 10 hours then backing though, so it gives you an opportunity as to where you want to place your boat with that weather system and the ensuing weather behind it. 15 20

Q. You proceeded across the race line and I think there was a collision with the vessel Nokia, is that right? 25
A. That's correct.

Q. What happened, what struck what?
A. We were coming up the line on start. Nokia had proceeded into the start line and we were at the eastern end of the line, which is on the eastern side of Sydney Harbour. And Nokia was an ex-round the world boat, a fast 65 ketch I believe or 70 30, and they had made their intention to come into the line too early, and a big boat. We had right of way, we were on starboard tack. They were trying to sail down the line with their sheets pulled hard on to slow their boat down. We - Steve and the crew called the attention that we wanted them to go up to avoid us. We had the right of way, they must as the windward boat have to keep clear of us. We have to give them room to do it but they've got to keep clear of us. They couldn't turn their boat, we were still progressing forward, and the boat actually drifted sideways and collided into us, and it wasn't an enormous amount of speed. 30 35 40

Q. Was there damage to your vessel? 45
A. Yes, there was damage. I was sitting on the main sheet just in front of the wheel, and we heard the lifelines click together because we lock stanchions on the two boats which is the lifelines. And I had a quick look. My job is really to look after the sails, I didn't have a lot of time to physically look around the boat, it wasn't my job. I as the main sheet trimmer, apart from the guy who's on the helm, I physically guide the boat with the mainsail. If the mainsail's not on, you don't have helm, and if it's oversheeted, the same. So I didn't leave my work station to attend to the damage. 50 55

Q. So you just remained there, but there was damage. Is that all you know?

A. Yes. I saw the damage basically after we'd cleared the start line and gone up the Harbour. I was able to look around and noticed that the aft stanchion and the bushbed(?) had been damaged and it damaged the deck. After - I think after we got out the Heads, Darren then - Darren Senogles went into the mode of repairing the damage, first of all securing the pulpit so that our lifelines were fully intact. We all spoke together at the time going up the Harbour whether the boat was safe, the problem could be fixed, and it was fixable. We went about that. Darren's job was done. He could then attend to doing the minor repairs to the boat, which he carried out.

Q. What about the mast? Did you see this bump on the mast?

A. No, I didn't. It was some time later that we were running down the coast and we - Darren had voiced his opinion to me. He said that he had seen a little bit of a ripple on the mast and would I come and give an opinion on it. We marked it and had a good look at it. It could have been - I don't think it was a compression failure from any collision we'd had. It could have been - it was around what we call an exit box where the halyards that go to the interstay, that are fixed into the forestay and the mast, they actually come out of the side of the mast and go down to blocks on the deck and then are turned back to the winches. And I basically discussed with Darren that we just keep a good solid eye on it. This we did and there was no apparent change to it.

Q. In your opinion, what would that have been caused by?

A. There could have been a number of things in the past. As I said, I'd only been on the boat from the end of November and it was basically as a - just to sail on the boat, I didn't do the maintenance side of it. It could have been caused at any time from the - from the rig. A lot of boats, racing boats, we had what's called runners which are lines that come from the interception of the forestay and they go back to the back of the boat to winches, and you have one on each side so when you're on starboard tack that is wound up and that keeps the forestay very tight. And to aid a boat when you're running downwind, the runners are eased to get the per cent of effort and the rig forward, and if at some stage it may have been in its life or at some period a little bit over-cued, it may have caused a compression point there.

Q. I notice that you said that when the Nokia was coming close, Steve and the crew yelled out in the way.

A. Yes.

Q. It sounded as though Steve was at the helm, is that right?

A. Steve was at the helm at the start of the race, yes. Glyn Charles was calling the tactics to Steve. They'd had a good sailing relationship in England, I believe at Admirals Cup, and knew how each other would react on the start line.

Q. Steve of course is Steve Kulmar?

A. Yes, that's correct.

Q. What position did he occupy aboard the vessel in regards authority and the owner, Mr Kothe?

A. Okay. To go - to digress a little to where we are now, prior to the start of the race, after we'd left the marina we motored up to Watsons Bay. We had a crew, a crew round table talk. At that stage we went through the decision making process, who the key people were, who the final say came from, which was the owner and skipper, which was Rob Kothe. The final decision was resting in his hands. He could overturn any decision that was made by the other core group because he was the owner. He made that very clear, everybody was aware of that. We also went through the practice of - we would have three watches, which meant with the nine people - the people we'd have on deck, Rob was - well we'd say in a term was a floater where he would do a lot of the navigating, do the radio skeds and then he might come up. We'd have say three hours on and three hours off. Rob might come up on one watch for an hour and a half and consult with them, and the same with the other, and this meant that we always had three guys down below resting, the other guys were on deck. We had six people on deck, they would run the boat, and in the event - and we spoke with this at length - in the event of severe weather or what we'd call - what we'd call - as Darren Senogles said, when you get into survival mode, where you're not stacking the boat down with weight on the rail. We'd have two men on deck clipped onto the boat with safety harnesses, a third member of that group would be in his wet weather gear inside the companionway of the boat, ready to come on deck in case of a dire emergency, and that way we could rest the majority of people, keep them warm and rotate them round on a couple of hour basis.

Q. So that was the pre-plan was it?

A. That was the plan that we--

Q. And that's done at Watsons Bay?

A. I'm sorry?

Q. That was at Watsons Bay that this was--

A. Prior to the start of the race, yes.

Q. I think you said that Mr Kothe made it clear that his was the ultimate decision?

A. Yes, at the end of the day Rob was the owner and he was the skipper, and the decision would rest with him.

Q. I want to take you from there to the 8 o'clock radio sked that took place on the 26th. Were you present at that sked?

A. I wasn't actually, I was on deck. I think at that stage we were - we were running, we had plenty to do on the boat. I could hear the radio but I wasn't mentally attuned. We were basically looking at that stage - I think Rob had mentioned to the crew a little earlier that he had received

a forecast of a - of some strong winds, and we were mainly looking at - what we tend to look at is if we get a changing pattern down the New South Wales coast - and we had a northeasterly or a northerly pressure system at that stage and a northeasterly wind. In a lot of the races that I've done, pre-empting a front is that the breeze actually goes anti-clockwise, so it would start off in the northeasterly quadrant, it would then shift into the northerly quadrant, into the west and then southwest. The - that is not just a full norm. Sometimes we get what's called a southerly buster, which I believe happened in 1975 at Kialoa. They were running with spinnakers and they were hit by 55, 60 knots with - bang from the southerly. But in the normal run of the mill or the normal weather systems that we have, and that night down off Jervis there was a lot of electricity, there was a lot of lightning, the sky was quite stormy and the cloud was quite high, so it didn't indicate a quick southerly change. The breeze backed to the north, then it backed into the northeast again, and it was a thing that the change wasn't happening as quickly. We were all keeping an eye on the - what we have off the wind reading from the top of the mast. It also gives you a true wind direction and that is computed from the boat's actual course and the boat's speed, so that's all done in a computer and then that comes out and gives you an actual true wind direction.

Q. This warning that Mr Kothe had talked about, the strong winds. What did he say about that, can you recall?

A. Only vaguely, that we would - we'd possibly get winds in the vicinity of 40 to 50 knots maybe for a 12 hour duration, and I think that from the - from memory, from the actual forecast, was that the breeze would go southwest quite fresh and then backing to the west northwest, which is something that we had looked at and had wanted to place the boat on the - on the track down the coast, so that if that did breeze did go back into the west it would be a very favourable and shorter distance for us to sail.

Q. When you get a forecast or you hear a forecast that says 40 to 50 knots, what does that mean to you?

A. That we're going to get gusts in excess of 40 to 50, we're probably going to get gusts of 55, maybe the odd one to 60, but in very short bursts.

Q. When you say gusts, how long is a gust to you, just so that we understand what you say?

A. A gust can be I believe in the vicinity of 8 to 12 seconds in duration. It depends a lot on the type of cloud that you're around and the angle that the wind will come onto the cloud if you get a gust. I don't know if you've ever heard, but in lighter air a lot of yachtsmen chase clouds because there always seems to be wind under lower cloud.

Q. Have you heard that the weather forecast, when they give you wind such as 40 to 50 knots, that you are to add on 40 per cent to take into account gusts? Have you ever heard that?

A. I've sailed in a lot of countries in the world and I've never heard that.

Q. That's quite new to you?

A. Yes, it is. And doing trips up and down the coast, I haven't heard that before, not to add.

Q. How long do you say you've been sailing for?

A. Thirty-seven years.

Q. When they give you a forecast in sea height, say between three and five metres, do you add a further 80 per cent on top?

A. No, I don't. I'd add - as the breeze strength increased, if we were getting a three to five metre swell, maybe looking at an extra two-metre wave on top of the swell but not adding 80 per cent to it, no.

Q. What about rogue waves?

A. Yes, I think rogue waves are something we're all very aware of. I did the 1984 Hobart race and there were a lot of boats that retired. We had off Montague Island and I think the video shows it with the boat Vengeance with just a storm ..(not transcribable).. in air of only 60 knots, and we had a storm jib and trisail on this boat in 55 and 60 knots of breeze and we could really time a rogue wave in the vicinity of between four and six minutes. We actually had a sort of a check on it. Not that we'd look at our watches every four or six minutes, but you could be aware that a rogue wave could come.

Q. Going back to that 8 o'clock sked on the 26th, what were you told about the weather forecast, or indeed what did you hear?

A. Basically I was working pretty much on deck. Rob was informing people as to what was happening with the weather, he was getting updates. We had a laptop computer on the boat which was basically plotting our course. It was also receiving all the data from the boat, storing that data like wind speed, wind direction, how long the duration of the wind gusts would be, et cetera. All that sort of information we had at hand. And Rob would poke his head out of the companionway and basically keep a check on the boat, notify us that there had been a strong wind warning or a severe wind warning, and what we were experiencing on deck at that time, so we would give him wind readings. He may have had that downstairs but he - we'd confirm it with him, and direction, because it was very important for us as to the direction our boat was travelling, so as the breeze would go through the north it would - we had a spinnaker up with a spinnaker pole on the port side of the boat, and as the breeze shifts into the north it's what we call being lifted by the breeze. It comes round behind you so it makes you turn more east, so in effect we were sailing away from the land, and our objective was to - at that stage with the forecast we had in hand was to sail the 180 course, which is the shortest course down the - and Rob wanted to know, he would say okay, you have shifted two miles to the east of

the run line, he would then give us a decision as to what our consensus would be, should we jib back or how long would the breeze hold, and these were the sort of information Rob was giving to us.

Q. If you had been told that a storm warning had been issued by the Weather Bureau, this is at about 8pm on the 26th.

A. Right.

Q. What effect would that have had on you?

A. Not a hugely drastic one, one of awareness, and when you're sailing at night, as during the day you tend to be more careful. You balance your decisions, you make sure that the sails at your disposal or the future sails that you may require in terms of smaller sails are easy to come by. People are ready in their job positions so that we all - we talk about it as a group on the boat, the people who are working their jobs on the boat. In the event of a sudden wind change, that would be the way we would handle it, and--

Q. I want to take you to just after first light on the 27th. What was the weather like then? That's Sunday, the Sunday morning.

A. The breeze had swung. I think we were at that stage - from memory I think we'd actually gone into Bass Strait. We were out past Gabo Island I believe, after seeing in the media that quite a lot of the fleet had - we were ahead of the record time, and the breeze had shifted into the - to the southwest west. We were making course.

Q. What sort of wind force were you getting at that stage?

A. I find it hard to remember. 8am, I'm not sure whether I was actually on deck at that stage.

Q. See what I'm trying to find out is, the weather worsens or gets very very windy at some stage during that morning.

A. Yes, yes.

Q. About what time do you recall that happening?

A. I think around about sort of between 10 and 10.30 it started to heighten, because I remember the guys on deck saying okay, we may have to change sails, which is like drop the number 3 or - and when we went through a sail change there would be a call from the people on deck if extra hands were needed on deck to do that job safely.

Q. Were you up on deck on that Sunday morning before the wind increased?

A. I think I was up on deck during the night as the first lot of the breeze went through. When we first got the change we actually decided to drop the spinnaker. Glyn Charles was steering the boat and doing a fantastic job. It wasn't an easy job to do. We decided with the wind strength that rather than jib the boat as - which is going with the wind, we actually turned the boat through head to wind, again to preserve it because we'd all spoken - the boat was our house and if we were going to do well in the Hobart race

we had to look after our boat. So the least stress you could put on the boat in the early stages, because often times you don't know whether a front might only be a 12 hour duration, and if you can get through that you're fine, so we took adequate care. I believe that I was downstairs at eight and probably up on deck again more around 9.30 towards 10 o'clock.

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Q. Just one question. What were you expecting the winds to be like at about 9.30?

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A. I expected probably around 30 to 35, looking at the - at the cloud. The cloud was travelling fairly fast. It hadn't - the ceiling hadn't fully dropped to you know a low ceiling at probably 2,000 feet. You tend to look at - we look at the lower cloud. The lower cloud moving fast means the intensity of the front or the cold pressure system building down was there. Also we have a wind against current effect of the density of the wind where you've got a hot current, and the Weather Bureau had given us graphs of where the east coast current went, and we were past that stage. So that what happens when hot water meets a southerly change, it actually makes the wind denser, it actually cools it down, it's a cold pressure cell, whereas if you have - if we have like a northeasterly with current, your actual what we call apparent wind is lower because you're being aided by water.

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Q. So what, you were expecting the wind to get up to a maximum of about 35?

A. No, probably more, 35 and then it started to increase. It got up round - the monitor had been on deck, 50, 55. It would then abate back.

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Q. Just stop there. When it got up to 50, 55, was that what you had expected it to do or was this a bit more than what you expected?

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A. No, I think I'd expected it to get to that force from what we'd been informed.

Q. Is that a steady wind we're talking about or are you talking about gusts up to 55?

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A. Pretty steady round 45 to 50 with gusts in excess, 55, 58. I didn't all the time have my eye on the wind gauge. If I was deck, if I wasn't steering or I was sitting beside the helmsman - often times with the spray et cetera you're looking across the boat, sitting in front of the helmsman, protecting him. Just because of the spray and the velocity it's a bit hard to keep your eyes fully--

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Q. What time would it have been approximately that it starts to get up to gusts of about 55?

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A. Again I would say around about 10, 10.30 when we - 10.30, 11 o'clock when we started to really think about it, a bit of discussion around the boat as to the way the sea was building.

HILL: Mr Coroner, is that an appropriate time?

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CORONER: You've got a while to go?

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HILL: Yes. Tomorrow we will have Mr Kulmar here and we are at this stage looking at the other crew members that seem to have taken on some more importance at this stage.

CORONER: You're having some discussions with Mr Callaghan and Mr Shand in particular.

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HILL: Certainly.

CORONER: You still propose to keep - we'll get through Mr Watson's evidence.

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HILL: Yes, we will continue on with Mr Watson, then Mr Kulmar.

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<WITNESS STOOD DOWN

ADJOURNED PART HEARD TO FRIDAY 24 MARCH 2000 AT 10.30AM

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CERTIFICATION OF TRANSCRIPT

I, We the undersigned being (a) Sound Reporter(s) do hereby certify that the within transcript is a correct transcript of the depositions sound recorded at the New South Wales Coroner's Court in the matter of

INQUEST INTO THE DEATHS OF JAMES MICHAEL LAWLER, MICHAEL BANNISTER, BRUCE RAYMOND GUY, PHILLIP RAYMOND CHARLES SKEGGS, JOHN WILLIAM DEAN AND GLYN RODERICK CHARLES

on Thursday 23 March 2000

Dated at Sydney
this 29th day of March 2000

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ACS	40-42 : 48-72: 88-98	ACS
LT	73-87	LT
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