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NEW SOUTH WALES STATE CORONER'S COURT

STATE CORONER: J ABERNETHY

FRIDAY 24 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 with Mr P Santamaria for the Bureau of
 Meteorology
 Mr R Weber for Cruising Yacht Club of Australia
 Mr P Callaghan SC for Mr Kothe
 Mr A Shand QC for Mr R Purcell
 Mr A Colefax for Mr L Carter

PART HEARD

<CARL CAMPBELL WATSON(10.35AM)
 RESWORN, EXAMINATION CONTINUED

HILL: Q. Mr Watson, I think we finished off yesterday with you being up on deck of the Sword of Orion at about half past nine, ten o'clock on the Sunday morning, that Sunday twenty-seventh?

A. Correct.

Q. Do you recall that?

A. Yes.

Q. What was the weather like at that stage?

A. The weather at that stage had started to build in intensity. We were talking about alterations to our sail configuration, whether we needed to put another reef in the mainsail, go to a smaller jib with the advent of the weather building. This was discussed by people on deck and from memory we had a storm jib and a couple of reefs in the mainsail at that stage.

Q. I understand that at one stage the vang broke, is that right?

A. That's correct.

Q. Would you explain what the vang is?

A. A boom vang is an aluminium tube, a tube within a tube that has a spring at the base and if the main halyard broke or the main came down it would actually hold the end of the boom up off the deck, thereby alleviating it from hitting

people in the head if a halyard broke or something of that description. When we were actually reefing the mainsail, or actually putting the mainsail on the boom, we actually dropped the full sail and we pulled the main sheet on to get the boom into the centre of the boat so that people didn't have to be on the leeward side by the gunnels on the port side of the boat and in doing that unfortunately - the beam has a - the vang has a stroke length - inner tube has a stroke length and in pulling the sheet on too far that tube collapsed so therefore rendering the vang broken.

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Q. That having occurred, without the vang does that in any way influence the sailing of the vessel?

A. No, not at all because we could have - a vang is used for what we call leech tension on the back of the sail and what it does is that if you ease the sheet on the mainsail the end of the beam the outer end of the beam will rise up and it tends to what we call open the leech the sail and depower the mainsail and what we do is use the vang to keep tension on the back edge of the sail as well as main sheet pressure. The reason why people have gone to what we call a solid vang is for terms of normal sailing because people have been heard in the past - we have a tackle system from the same angle which is a block and tackle but if you do have a problem when you're reefing the mainsail such as having such a big wheel on the Sword of Orion that the boom could come down and actually collide with the wheel, so this actually held the outer end of the boom up. After that if we had got back into full sailing mode we could have actually removed the solid vang and made up a tackle system to utilise.

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Q. So lashing it to the starboard side would not - that is the boom, would not influence the stability of the vessel or anything like that?

A. No, we had the boom on the port side of the boat and we had the main on - we discussed at one stage whether we should try and take the mainsail off and get it down below but it was too dangerous for the people on deck to try and remove the sail from the boom, bearing in mind that people have their safety harnesses on and are clipped on to - what we have as part of our safety regulations is that we have things called jackstays(?) which run the length of the boat and they have to be made out of a particular webbing or a - in the yachting blue book there's a specification for these items so that a person can basically walk from the cockpit to the bow of the boat unimpeded so that they're basically clipped onto the vessel at all times so it would be dangerous for them, because they can't get a length across from one side of the boat to the other without, especially across the cabin top, without having to unclip and clip on to the other side.

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Q. All right. Now the weather you said - this is about half past nine, ten o'clock was starting to get up?

A. Yes.

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Q. What did it get up to?

- A. I think in the vicinity of 40 to 50, 55 knots around that time.
- Q. You were starting to get 55 knots at that stage?
- A. Yes, gusts up to 55 knots, yes. 5
- Q. Now gusts of what?
- A. 50 to 55 knots, so more steady 45 to 50s and then gusting up to 55. I can't say that I had my eyes on the anemometer at all times. Part of it is you tend to look at the way that the spume(?) comes off the sea, gives you some idea of windstream. 10
- Q. Now the gusts that you're talking about up to 55, are you talking about eight second gusts, what sort of period of time?
- A. To put a time-frame on it I'd say probably in the vicinity of maybe 30 seconds, 30 to 40 seconds. 15
- Q. Was that unusual as far as you were concerned?
- A. Sometimes not, because as you come out of the chop of the wave and come up the wave you tend to get a full force. You get a little bit of a lull in the bottom of the wave and as you come to the top you get the full force again and then the boat takes the motion down again so you are protected a little bit so that is in effect-- 20
- Q. So that was nothing unusual as far as you were concerned?
- A. As far as I was concerned, no. 25
- CORONER: Q. Could you give me an idea of the seas at that stage, ten-thirty - nine-thirty to ten with those sort of winds and gusts?
- A. In metres? 30
- Q. Yeah.
- A. I would say probably between four and five metres. 35
- HILL: Q. Where were they coming from, the seas?
- A. The sea was a little confused, I think we had a wind direction, I couldn't be exactly accurate here, somewhere in the vicinity of about between 265 degrees which is just westward, just south of west. The sea was a little bit agitated because where we were sailing is into Bass Strait, which is the continental shelf and it's quite shallow and the seaway tends to get a little crisscrossed. You'll get a wave from maybe south of the wind direction or get a little bit of westerly influence because I believe the wind had been further west if not a little bit north during the day, so there was still a bit of crisscross action in the sea. 40
- Q. When you say you were - the talk about Bass Strait, where was your vessel at that stage. That's about nine, ten o'clock on twenty-seventh?
- A. In actual distance I couldn't be sure. We were - I know we were into Bass Strait, we were south of Gabo Island. 45
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Q. So you were into Bass Strait?

A. Yes, yes. I couldn't give you an exact position, I wasn't at that stage downstairs.

Q. But you were into Bass Strait at that stage?

A. Yes, yes.

Q. And although the seas were confused, as you've said, were they coming from the starboard bow area or the starboard beam or the starboard quarter, what was the situation?

A. We tried to keep the boat - the bow of the boat towards the incoming wave so we had the starboard bow coming up into the wave and when you're steering the boat you tend to pull the boat up the face of the wave to try and keep the bow of the boat coming into the wave so that the action is the minimal amount of water that you would be pushing onto the boat.

Q. I see.

A. If we had pulled the boat away we would have taken the full side force of the wave.

CORONER: Q. So you're sailing in effect so that the boat was pointing towards, more towards the starboard quarter?

A. The starboard bow of the boat was sailing more towards the wind. If that was the wind direction here we were trying to sail - we obviously can't sail directly into the wind but we tried to keep it as close to that and minimise your boat speed as you come up over the wave.

HILL: Q. Was anything said at that stage about retirement from the race?

A. I think we'd all talked about it in groups. Not all of us were present on deck. I think we - waiting to get more information. Nobody likes sitting on the side of a boat getting totalling wet and damp and the duration of the winds we had. I think it was voiced but we basically kept going about our jobs and keeping the boat sailing--

Q. So that's at about 9.30, 10 o'clock you think it was voiced about retirement?

A. Yes, there was a little bit of I guess what you'd call anxiety, might be a better word. We'd had a fairly fast ride down the New South Wales but nothing untoward at that stage.

Q. And who displayed this anxiety?

A. I think from memory Nigel Russel, who was a little bit queasy, he--

Q. When you say queasy, you mean seasick?

A. He'd been a little bit sick yeah and a lot of people can rest in their bunks if they're sick, other people have a claustrophobic area where they don't like being downstairs and tend to be on deck and you know you're sitting out in the weather and I guess you're not communicating with people all the time and it's hard to tell what's going on in the

individual's head at each time.

Q. Was Nigel Russel one of the helmsmen?

A. No, Nigel was I think what we called our mastman, or he worked around that area on the boat.

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Q. Getting towards--

CORONER: Q. Anyone else?

A. Not that early in the day I don't think, no, from recollection.

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HILL: Q. You've told us about Nigel Russel, was anyone else anxious?

A. Not overly. In this time-frame I'm not - what time-frame were you--

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CORONER: Q. Say nine-thirty to ten?

A. About nine-thirty, no, not really. No, we had sort of settled the boat back and as I mentioned to you yesterday, we had a routine whereby when it got to what we would term a survival stage, not for the vessel but for all of us to have the two people on deck resting the rest of the people, so it wasn't a situation whereby we were all sitting out on the rail to weigh the boat down.

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HILL: Q. But it had been discussed at half-past nine to 10 o'clock in the morning about retirement. That had been discussed at that?

A. Right, yes just briefly I think.

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Q. Moving on from 9.30, 10 o'clock?

A. Yes.

Q. Did the weather become worse and if so when?

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A. It just very much built during the day and I think around twelve-thirty, quarter to one we were getting winds I think in the vicinity of around about 70 knots and from my recollection Adam Brown, who was one of the drivers who was actually steering the boat and doing a very good job, he - when you get a helmsman who - some people can lock into a job that they're doing and do it very well for - and have a good concentration span for a long time and he knew how to drive the boat through the seaways, and not to say that any of our other helmsmen didn't, but he wasn't tired, he felt in control of the boat.

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Q. So what was the weather like at about half-past twelve, quarter to one?

A. The ceiling had started to drop, the cloud ceiling had come down. We had some rain obviously with the wind strength gusting up towards 70 knots. There was a fair bit of spray off the top of the sea itself so one couldn't look forward all the time and what we have is there are two people on deck and the fellow that's sitting next to the helmsmen tries to protect his view as much as he can with his body so that the helmsmen - the helmsmen often times will look at an instrument, what we have is what we call a

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close haul gauge and that gives you the vessel's, it gives a head to wind and then we have red sector which is the port side and a green sector which is the starboard side, and there's an arrow which reads from our wind gear at the top of the mast that tells you the boat's angle to the wind. Often times if you can't look forward all the time you'll glance down at that instrument to say that you're sailing the boat at 25 degrees to the wind or 30 degrees to the wind and in that wind strength you try and keep what we'd call a slightly feathered, which is closer to the wind that you would be if you were normally in a full race mode.

Q. Where were the seas coming from, that's at half past 12, quarter to 1?

A. Again west to south west, I think 270 and they shift a little bit around to about, I would only guess here, at around about 240. At that stage we were able to sail our course towards Tasman life which is a course of 180 degrees.

Q. Where ere the waves coming onto to the vessel, where was the vessel taking the waves?

A. The waves would, as you would come over a wave it would it pretty much as where the shrouds for the mast come down or a little bit further towards the bow of the boat, half way between the very point of the boat and the capture afts which are about, I think in that in that boat about 3 metres back from the bow and they'd hit there and blow down the boat.

Q. So it's still in the starboard bow area was it?

A. Yes that's correct.

Q. What size were the seas, had they increased or what?

A. I'm sorry?

Q. Had they increased?

A. Yes they had. I would say, I'm only guessing I haven't got a huge idea of heights, but I would say probably in the vicinity of 8 metres on some of the bigger waves, if you're looking up in the term of scale of our mast, I remember looking up and seeing some of them coming over which, when you climb wave, probably you know at a maximum 12 metres, 10 to 12 metres.

Q. Was there any discussion about retirement at that stage?

A. Yes I think Steve had been on deck--

Q. Steve who?

A. Kulmar, who's one of our principal helmsmen, I think Steve, I know one of the other boys who is our sailmaker, Halfounce I can't remember his other name at the moment--

Q. Sorry, what was he called?

A. We call him Halfounce. Halfounce, yes, he's only a little fellow.

CORONER: Q. Christian name Adam?

A. No. Andrew Parkes. Halfounce because he's only a

little fellow. He had mentioned that, and I know that the thoughts had gone through my head, what were our options, were we better to keep tracking, I know there was a bit of discussion about it, I think Steve had been down and spoken to Rob, I know that I'd spoken to Rob about, we looked at our position on the chart. As you can imagine it wasn't very comfortable down stairs, in some ways up on deck it was a little bit more comfortable, you can sit down and you're locked in there. Downstairs where Rob was sitting on the starboard side of our chart table he was very much in control of trying to gain as many forecasts, we had our VHF on at all times and as a normal what we do with our VHF, we run it on 16 and have a dual watch system in them which built into most standards VHF. All commercial shipping keep an eye out on channel 16 so if you do see a ship in the distance you can contact them on VHF 16, if you have to pass and--

HILL: Q. But I wonder could you concentrate on what was the discussion about retirement?

A. The discussion was were we going to see more wind, were we racing at that stage or were we purely bashing on. There was obviously the thought of some of the people to get back to the mainland and protection.

Q. Who wanted to get back to the mainland and protection?

A. This is probably more towards 2 - 2.30--

Q. Well no I want you to concentrate about - prior to the sked right?

A. I think Steve, Andrew Parkes, I know Nigel had voiced concerns, Rob was giving us as many options to look at as to, was it better for us to continue with our head towards the point we're heading to or whether we're going to be maybe slightly worse, we didn't actually know which was the system was travelling.

Q. When you say the system, what do you mean by that?

A. The actual low that had formed, we weren't sure as to which way that system was tracking. Sometimes a low pressure cell can change direction quite drastically, it can be coming from the west and travelling to the east, it may change direction and head up the New South Wales coast.

Q. It was still south of you at that stage is that correct?

A. Ah more south west of us I would say, yes.

Q. So what was decided, do you recall?

A. I think from memory that we would wait until the sked. I was downstairs, I went up on deck for a while, I remember Glyn coming up, Adam Brown who was steering he came down and said to Rob that it was getting bad and what are options, and then again we've spoken with Steve. Glyn had voiced his option, he was in a bunk downstairs prior to this.

CORONER: Q. What was that?

A. That he was concerned, whether we were actually still physically racing. We had got to that point where the winds

were--

HILL: Q. I'd like you to concentrate your mind, what did he say?

A. He mentioned that he felt we would be better off to probably retire from the race and return. 5

Q. And return?

A. And return, yes, to-- 10

Q. What was said to that and by whom? 10

A. I think we were all, it was a forum I should imagine is the better word to put it, as to whether again were we in a more beneficial state to keep travelling safety wise or return and maybe head back into worse, or whatever. At that stage Glyn went up on deck and relieved Adam Brown and was steering the boat, he felt a little bit more comfortable on deck as you can imagine with the boat enclosed, and quite a few people inside the boat it was very humid and-- 15

Q. What was the decision made? Or was there no decision made when he voiced his opinion? 20

A. The decision was that we would, I think from memory was to wait for the sked to see if we could get any more information on what the system was doing, if there was going to be an abatement of the system, whether it was a 12 hour or the duration might be longer, whether we were actually going to come out of the system, come into lessening winds, that was an option that we all had to look at, not purely because we were there to just win the boat race but to maybe feel that the weather may have passed us and was moving up the coast and we may come out of it and get into lightening air. I mean dropping maybe 20 to 25 knots or whether we were going to actually turn the boat around and sail it back with that 70 knots, it was a case of very hard to make it, you know. 25 30 35

Q. Was there any more discussion about turning back before the sked?

A. Yes we had, we'd had many discussions as to our safest course, whether we turn the boat around and it really came down to the fact of getting this information and, as I said Steve was a little concerned that we may be better off to turn, Glyn, Adam Brown said that he was also thinking of the option that we should turn the boat around. At no stage did I think we shouldn't turn the boat around, I was not going to go to say I was with the flow but I was trying to think ahead with the situation and try and use some, I think what can be learnt from experience, is to not rush in to make a decision purely because of the situation we had on hand at that particular time. 40 45 50

Q. Do you recall it being voiced to you that the reason for turning around was so that you get back closer to the mainland so that if anything happened rescue would be closer? 55

A. I didn't, I can't actually remember those words that rescue would be closer, I certainly appreciate that it was

mentioned that we would be getting back towards the mainland of Australia.

Q. For what purpose?

A. We, well, I think it's very much a human nature thing that if you go back and you see land, it's a moral thing, it was a moral thing and also that the conditions of the seaway through that distance back towards the mainland would have been identical to what we were in. We would have actually had to have got up onto the east coast of Australia before we would have actually got into any flatter water so to speak.

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Q. At the 2 o'clock sked you would have been about 25 miles, 30 miles into Bass Strait with approximately another 140 to go?

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A. Right, I can't actually remember our total position. I consulted with Rob and had a look on the chart on several occasions. I think from memory we would have been further into Bass Strait than 20 miles.

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Q. About how far you do you think?

A. Putting a rough estimate on our speed of around about 6 knots, I would say at times we weren't travelling at 6 knots all the time, I would have thought probably maybe 40 to 45 miles.

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Q. Well it's 180 between land and land isn't it?

A. Yes, that's right, across--

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Q. So it would have been certainly much shorter to go back to the mainland?

A. In distance you're correct.

Q. In distance, yes. Do you see any other reason that there would be a problem with going back?

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A. We were with the seaway and we had a few times where the breeze had moderated, so we weren't running on a steady 60 to 70 knots, the breeze would drop back to 40 to 50 knots, it would level back a bit and the question would be asked, are you comfortable with this to our helmsmen and they would say yes we're fine, the breeze has moderated. And I think it's a case of - I don't think it is wishful thinking but I think it is a case that maybe the first or the heaviest velocity had passed and that we would be in better shape.

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CORONER: Q. In your answer you said the seaway, what was it about the seaway that, you're implying that it was a factor why you wouldn't turn around?

A. Yes.

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Q. Explain to me would you what it was about the seaway? Explain it in your view--

A. Right. The seaway was, the waves in Bass Strait tend to become very steep and short because of the depth of water. In turning the boat around with a storm jib, it is trying to pick the correct wave and whether you may get caught right in the middle of trying to do a turn, just with the

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ferociousness and has been mentioned of maybe a rogue wave and turning the boat around was just being caught and it required more people on deck to actually physically do that movement. And it was a dangerous situation.

Q. Once turned, did you consider what sailing would be like once you did turn around, allowing for the difficulty of turning?

A. Yes. We--

Q. Would you explain what your assessment of the situation was if you had turned around at that time?

A. I think it would have been extremely difficulty with the seaway again coming in because it would tend to force the boat away a little more. We hadn't set a guideline course but I imagine that the position of our boat to the mainland would have been west of Gabo Island to try and keep our bow more up into the waves. We weren't, obviously our destination point of a return would be to Eden on the New South Wales Coast but taking the sea lanes around.

HILL: Q. If you'd turned around would you have had a following sea or would the sea still be onto the port beam this time?

A. If we had of sailed a reciprocal course to the course that we were sailing, yes the seas would have been on our port quarter, which is the port hand back of the boat. That was a to do a full turn at that stage and head back with those seaways.

CORONER: Q. Does that make sailing more difficult than to your starboard bow?

A. Yes. Yes because we had a storm jib up at this stage and the waves are travelling very fast and you might go down a face of a wave but not actually have the momentum to come out of the trough of the wave and have a breaking wave come over you and have, I think the term is peaked, by an oncoming wave.

HILL: Q. Back to the 2 o'clock sked, were you present when the sked came through over the radio, could you hear it?

A. From memory I was on deck with Glyn Charles at that stage.

Q. Were you told what occurred?

A. During the sked I went down I should probably think around about 3 to 3.15, somewhere around about that time or maybe earlier, it may be about quarter to 3, I remember during the sked we had very low cloud all day and we hadn't basically seen the sunshine at all. And all of a sudden we sailed into a patch of opening blue sky, which is a sign sometimes that the front maybe moving to the north of us and the breeze moderated considerably and after with the boat's angle of heel had been quite high we were sitting, the boat was sitting far more upright and you felt that you needed more power in the boat in terms of sail plan to keep the boat moving. Now that lasted for about 15 minutes and I know there was the call 'oh the breeze is abating' and I

think there was, everybody was, their eyes lit up and it was sign of a moral boost, you know, the breeze had dropped, we've got 70 knots or more and the touch of blue sky was a big awakening for everybody and it was, oh hallalula we might be through the other side of it. I went down and discussed with Rob with the forecast, I think he had, he told me that he had radio through to the race relay boat of the wind that we had been experiencing prior to the sked and he mentioned to me that, I think it was Mr Leech-Harder(?) has passed that information on or had asked boats to be aware of it. After being down and discussing that, it wasn't I guess probably much more than, we were in this lull patch for probably in the vicinity of 20 minutes, and I'm not sure if everybody's aware, the breeze can drop very quickly and also the sea state or the wind waves on top of the bigger swells will drop quite quickly because a lot of it is wind driven where the actual swell is built over the continental shelf, the actual wind waves would drop quite quickly in terms of wind speed.

Q. But the wind picked up again?
A. Yes it did.

Q. So, was there a discussion about turning around?
A. Yes there was. After the wind picked up it came back to normal, basically back up to--

Q. To what?
A. To 55, to 60 knots.

Q. Is that inclusive of gusts?
A. ah, I guess there could have been guests higher to maybe 70 knots, again I didn't see the anemometer all the time. But definitely it went back into the same pattern that we had experienced.

Q. What happened, who decided what?
A. We all came to the, Glyn had voiced his opinion to me on deck, he was driving the boat, that we should turn around. I went downstairs, Steve--

Q. I just want to stop you there. Glyn Charles was a helmsman?
A. Yes.

Q. Aboard the vessel and he was steering the vessel at that stage?
A. Yes that's right.

Q. Did you set a great deal by his opinion that you should turn around?
A. I respected Glyn as a yachtsman, in his opinion of driving the boat, it was getting very difficult, it was getting more tiring for him. I took that into account that people were getting ragged, we were getting tired, therefore our situation to make, our mental capabilities to make a correct decision should be voiced to all of us in a

consensus because he had discussed that if the breeze was going to moderate we would re-evaluate the situation. Obviously once the breeze returned and we sailed back into the same thing, I went downstairs--

Q. He is the helmsman?

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A. Yes.

Q. He was the one steering the vessel?

A. Yes.

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Q. He was saying that if we go on it's getting hard?

A. Yes.

Q. Did you accept that from him or do you think you could have done a better job?

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A. No that's what I was scared about for quite a while before Glyn came up on deck and I needed a break and I said to Glyn would you like to steer the boat which he said to em yes that would be fine, he had no fear. I believe he had done the Fastnet race as well a dinghy sailing. I can't say that I knew full well his overall ocean sailing experience. I hadn't known Glyn that long. I accepted his - he was very talented, he was an astute sort of a person, so therefore I respected his opinion when he said to me after I had been driving the boat that we should get back and speak to the others and make it known to the owner.

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Q. Were you confident of his ability to steer the reciprocal course, to go back the other way?

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A. After watching Glyn he on what we call on the wind, I was confident that he could sail the boat to the proper angle. With the wind direction we weren't sailing away from the wind. It was very hard to steer a set course but Glyn was capable of sailing the boat safely into the seas.

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Q. So back the other way, you were quite confident of his ability in that?

A. Yes I was confident that he was able to - he said to me that - we discussed it that the sea angle when we turned the boat around we would have to keep the bow of the boat higher to the waves than say if we had have retired for some damage in 25 minutes of breeze. Purely the sea state and the wind speed directed that.

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Q. Mr Kulmar was also a helmsman?

A. That's correct.

Q. It was also his opinion that the vessel be turned around?

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A. Yes I went down, we all spoke and Rob said we will turn the boat around.

Q. And you had confidence in his ability as a helmsman?

A. In Charles's?

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Q. No in Kulmar?

A. In Steve Kulmar yes. I hadn't done a lot of sailing

with Steve but I had been aware that he is a very very experienced ocean racer and he's done a lot of miles and a lot of hard sailing miles, competed in very rough Hobart races and was aware of how to steer a yacht in a safe manner in a seaway.

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Q. And he felt it should be turned?
A. Yes.

Q. And I think there was one other helmsman. Who was that?
A. Adam Brown.

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Q. Adam Brown?
A. Yes.

Q. And you were confident of his ability as far as being a helmsman was concerned?

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A. Yes extremely. Adam during the morning, Adam is a big boy, he's about six foot two and probably about 110, 115 kilos, he's a big boy and he sticks to a task and he does it very well. He knuckles into a situation and not takes over but it is very much a challenge to him and he steered the boat very very well and it was important for what we call our designated helmsman that we had a rotational system through that group whereby not one person would steer until they basically couldn't steer the boat any longer or the--

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Q. His opinion also was to turn the vessel?
A. That is correct.

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Q. So you've got your helmsmen. They were the helmsmen, that we their job?
A. Yes.

Q. On that vessel and there were no other designated helmsmen on the vessel. Apart from people who could steer, these were the designated--

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A. These were the people that we listed as being the group of people that would steer the boat during the race.

Q. There were no other designated helmsmen?
A. Not to my knowledge I don't think so, no.

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Q. There were other people who could steer?
A. Yes.

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Q. No question about that?
A. Ye.

Q. Going back to the vessel being turned around, was there any opinion as to when that should be done? What we've heard from Mr Senogles is that it was decided that if the winds got back up again, then the vessel would be turned?
A. That is correct.

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Q. Was that correct, that was your understanding of it?
A. Yes.

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- Q. The winds did get back up?
A. Yes they increased back to what I would call a mean wind strength of 55 to 60 with gusts to 70, so we came back into a situation of what we'd encountered previously to the lull. I think in my view in my statement I would call it maybe the eye of a storm, we would sail into a centre of the pressure system and the duration, I don't know, sometimes it can take an hour, in this case I think it was like 18 to 20 minutes. 5
- Q. The vessel was turned?
A. That is correct. 10
- Q. Were you on deck for that?
A. Yes I was. 15
- Q. What position did you hold?
A. I actually had - we had a storm jib up, we had the beam latched on to the port side of the boat. We did a thorough inspection of the boat first to see that we had no ropes over the side of the boat because what we had decided to do was to start the motor and this was close to the helmsman so that at any stage if something went away and we didn't have enough wind they could put the motor fully into gear and propel the boat through the turn thus helping us with - to get it round. 20 25
- Q. Was the motor held in neutral?
A. Yes at that stage I believe it was.
- Q. So the propeller is not turning at all at that stage?
A. No. 30
- Q. Just started and it's ready?
A. Yes we had it ready and made sure. That was one of the major things did was to make sure the boat was clean and tidy because what happens with the propeller on the boat I think it was on a sail drive which is a strut down under the boat about this far, any of the ropes from the windward side or from the leeward side because we did have spinnaker sheets and braces which run to the bow of the boat, they could have been washed over the side. If we had it engaged it could have actually picked up that rope. 35 40
- Q. And the vessel was turned?
A. Yes the boat was turned around. We discussed that we'd turn the boat past the wind and basically what we call a jib with no mainsail up and we'd turn the boat around and we had I think it was Sam Hunt who was on the port side on the sheet that was holding the jib. From my recollection I think I was on the starboard side sheet, Darren Senogles basically made the call. He spoke to Glyn. We all were thorough in what we were going to do, how we were going to complete the manoeuvre and basically once Darren - we were happy that everything was clear, we then turned the boat successfully. 45 50 55
- Q. A difficult manoeuvre under those circumstances?
A. Yes it was. We were all very prepared and it was Glyn

who had to call a position on the water or a wave the he was happy with to turn. It couldn't have been someone who wasn't looking forward actually steering the boat because the helmsman is the best person to judge. Say for instance you couldn't turn the boat half way up the face of a wave that might be cresting, the helmsman can look for, he can find maybe what we call a piece of flatter water, an ideal situation for it to turn even giving the seaway. 5

Q. Was the motor engaged at all during that turn or was it done purely on sail? 10

A. I can't recollect.

Q. I think that the vessel then travelled on a course back towards the mainland? 15

A. Yes.

Q. For about some time and then something occurred. Any idea what the time was?

A. I would be guessing, I would think in the vicinity of 20 to 25 minutes. I know that I'd been on deck and I went down and Steve was discussing with Rob what would be our best course given the sea conditions, our wind conditions and the safest course given the seaway and we have up on a deck a steering compass which is in the bulkhead and the helmsman can give a rough course. You can say to him if you can make that bearing we would like you to try and steer that course given that you can't - a compass has damp in the card and if you look at a compass all the time visually your heard would be going like this. So what you tend to do is look, Glyn would be looking out to his left at the waves as well, you take an occasional glance out of your field of sight down at that compass to say that yes I'm making course because at some stage if the wind does shift, if you didn't have a compass you could actually probably say if the wind had gone more to the south we could have actually been heading to the west to keep the seaway. 20 25 30 35

Q. The vessel rolled over at one stage. You recall that?

A. Yes. 40

Q. Where were you?

A. I'd gone downstairs, Adam Brown was downstairs standing up, Rob was at the chart table. I was on the port side of the boat just after what we call the companionway entrance which is the stairway going into the boat and under there what we call the back of the cabin top there's then the deck and under there we have two layers of bunks. I was standing in that corner. I think Adam called out to Darren about a rough course or what course we had looked at as an angle. I can't exactly remember the time but it was almost - all I remember is an enormous sound like an express train and the world turned upside down. I was in a standing position and my head hit the under side of the deck. It was all so quick, the noise and it just went black and we came up but there was just an enormous noise and it was the darkness initially that was frightening and enormous noise and I got the feeling that in that brief space of time that we were 45 50 55

almost air borne. The boat righted itself and I didn't know what had happened, it was just so quick, what's happened, and then all of a sudden we had daylight, we had people lying around downstairs. I saw Rob Kothe's legs sticking out from some sail bags where the companionway stairs were with sails on top of him. I didn't know if he was injured or how badly. Other people were thrown around the boat, directly across the boat. I remember the scream from Darren "Man overboard". At that stage we had to try and get a grip on what had happened. We tried to get the fit people straight on the deck to assist Darren and from memory that was Simon, Nigel, Steve Kulmar, Rob was incapacitated, Sam Hunt was with me. They were calling for lines. At this stage the base of our mast had been - as part of our safety, the bottom of the mast where it comes through the deck and attaches to the bottom of the boat as a regulation has to have a bolt through the base of the mast so that if the mast breaks and is still attached by wires, that it can't lift that up and the face of the mast be going round the boat and my first thing was to find out what had happened to Rob. I didn't know if he was dead or what had happened. I ripped the sail bag off Rob. His leg was nearly back to front with like a tether round it wrapped in it. We had to cut that off his leg. I remember pulling the sail bag off and there was a lot of water in the boat. I could hear everything going on the stairs. I remember when the bag came off Rob his eyes were closed and his cheeks were inflated. He looked as though he was going to go right under water. He just said my leg, my leg. We had a knife that was in a pouch next to the companionway, we were able to cut that and get him up with the help of Sam, against the chart table or on the seat where the radios were. We had the call for rope on deck. The longest rope we have on the boat is the anchor line. This was stored in the main cabin at the back of the mast along with the anchor. They're latched into position, they have to be for safety. It was I think about a 24-mil rope, 12 or 143-mil rope approximately 50 to 80 metres in length and it was a rope that would initially float whereas a lot of our ropes on deck like jib sheets being moist would tend to sink very quickly. While this was going on I knew that Darren was up in the back of the boat, I could see him. I looked out the back of the boat. I could see Glyn, I saw him once and I saw him give one stroke and I had to get my brain around, getting the rest of us inside the boat trying to make the rest of the boat safe because the people on deck at that stage were looking after, trying to get Glyn. I had to try with Sam's help to get Rob to get the maydays out to make sure that the boat would not sink, to find the ingress of water coming into the boat, we had to get buckets, we had to try - as you can imagine with the amount of gear inside our boat with the water ingress there was gear everywhere.

Q. Was there a man overboard button?

A. Yes the MOB button was - I remember Steve after the roll Steve was down and he was one of the first ones that went to -our console was on the starboard side for'ard of the companionway stairs and I remember yelling once the call

through man overboard to hit the MOB button.

CORONER: Q Who did you yell that to?

A. I just yelled out MOB button and I'm pretty sure that it was Steve that went straight to the chart table and it'd identifiable on the screen, it's a touch screen and it the button itself has a small circle on it with a person and what happens is when you press that button on the GPS it actually logs the position of where the person went because the global positioning system will keep changing its longitude and latitude as you go round the course. So once Rob was in a position he was able to write that position down so that if anything happened to the GPS we actually physically had written down the last known position of Glyn where he actually went into the water or as close as we possibly could for a search and rescue.

HILL: Was a mayday given out?

A. Yes we went straight into the mayday situation. We had a lot of electricians in that area including a laptop computer that was on the chart table. With the ingress of water it had moved - the motor had actually moved on its mountings. We were worried that with the ingress of water that our batteries were actually reasonably high, they had a sealed lip around them and we had some electrical smoke coming out of the back panel. We weren't sure if we were going to have a fire at this stage. We went to transmit on the HF radio because with losing the mast our VHF which is the aerial which is on the top of the mast was rendered useless. We had an emergency HF radio aerial that we could put on the back of the boat was set up but the HF radio was full taken a lot of water in the..(not transcribable).. and we tried everything to sort of make it work but we could not get any signal out of it, nothing.

Q. So you didn't have a HF radio at all?

A. Just the VHF.

Q. Just the VHF?

A. That's correct.

Q. That was transmitting?

A. Yes it was. We had an emergency aerial and it was some time before the full aerial was attached but we were still calling out mayday, mayday, Sword of Orion, Sword of Orion, mayday. Any vessels in our vicinity or basically anybody--

Q. Was that continuing?

A. Yes we did that as often as we could. We gave the strong consideration that we had to conserve - we made sure that power was only going to the radio and to the GPS and no other sources because we had no means of putting power back into our batteries and it's not a normal occurrence that during the day when you're sailing because of the electronics on the boat we use a reasonable amount of power, so that maybe once or twice a day you would put the motor in neutral and charge your batteries for maybe one hour just to keep that topped up.

Q. The vessel was also physically damaged as well?

A. That's correct.

Q. What did you see?

A. On the starboard side right through from the aft end of the boat from the starboard quarter where the transit(?) meets the side of the hull along right through to basically where our galley was. The frame and cased frames had shared and they were broken through in several places. The actual deck had parted from the hull itself on the turn and you could physically out through the side of the boat.

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CORONER: Q. So where the hull meets the deck you could now see through there could you?

A. That's correct. In the side of our cockpit we have what's called a port light which is a small opening port light. It's an aluminium framed window with a perspex cover which sits and is bolted into the side of the cockpit. That had also been blown out in the rollover, whether it was air in the boat or the force of the cockpit changing shape, and unfortunately what happens with a foam cord boat and this is a thing that has happened in the past to a lot of boats is that the foam is held together by two skins. You have an outer skin of the boat and an inside skin and they're both laminated to that foam with a high density glue and in a lot of these cases the boat what's called vacuum bag, they put a layer of kevlar down, they would put the foam on it, they would put a vacuum on it and they would vacuum that at a certain pressure to make sure of the adherence of the glue. What happened around the side of the cockpit was that the kevlar and the foam had started to shear and what happens is that the two sides go like this and it becomes like rubbing your hands together and that foam turns to powder and gradually surely that will just work its way around and make the boat very very unsafe and just--

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Q. Well it starts to break up doesn't it?

A. Eventually the boat, once the skin had started to move, yes. Once we'd come to the conclusion or I hadn't but the guys on deck, that there was nothing that they could relay to Glyn, anything off our boat, the only thing that would have got a line to Glyn would have been something in the vicinity of a very pistol which is a firing pistol. There is no physical way that you could have thrown anything into that force of wind, it would have blown up over your head.

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HILL: Q. I think you remained below decks helping repairs and things like that, I think the rest of the crew or some of the crew cut away the mast and the rigging?

A. Yes I was downstairs actually holding on while the boys, I had to give them some tools, we had to - with this boat it had rod rigging and they had the turn buckle and those turn buckles are locked off by split pins. Rod rigging is very hard on the outer casing, it's very hard to cut if it's knot and tension. Normally you can - where they're actually secured to what's called the chain plate there's pins that locate them and what we were trying to do is to knock those pins out to release the rigging. So we'd pass them tools

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up. My main concern down below at that stage apart from Rod getting the maydays out, getting everything happening, was that the base of the mast inside the boat was trying to hit the starboard side of the boat because with the mast in the water and the boat rocking and doing this, you physically could not have held on to - anybody safely could have held on to the rigging, it wa just too dangerous.

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Q. There was some difficulty in fact cutting away that rigging?

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A. Yes there was. I couldn't give you an exact time span of how long it took.

Q. A hacksaw had to be used?

A. A hacksaw had to be used on a couple of the pieces I believe. I think the boys, where all the halyards had come down the mast and come back to what we call the jammers which stop the rope, I think all those ropes were actually cut.

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Q. Would bolt cutters have helped in that situation do you know?

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A. I don't think so in terms of rod rigging. I would think you'd need a pair of bolt cutter in the vicinity of probably eight feet long to cut through it and with the motion of the boat and trying to steady into a position would have been nigh impossible and Darren who as we call him is a - we call him a gopher because he runs around, he's very astute at what he's doing, he knows having dealt with a lot of boats, the things to look at of how to get the rig out of the boat and he'll delegate to people, maybe Nigel and Simon who is a big boy, of the harder tasks of getting all that stuff clear of the boat.

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Q. The vessel had to be baled?

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A. Yes I know we all had turns. Steve Kulmar and myself, we had a downstairs bilge pump which was a hand pump. We found that where a lot of our water had come through was from the hatch but also where the wheel, such a big wheel, that actually goes into a recess through the cockpit floor and that is like a radius, a half circle, and when the wheel was damaged that smashed the fibreglass wheel well and we had quite a lot of water coming into the back of the boat and that would run down the wheel well and initially when we were baling the boat we weren't aware of that and there is nothing faster than an anxious man with a bucket and throwing the water back out, at that stage we didn't realise that it wa basically running straight back down the cockpit back into the bulk. So we were in some ways chasing our tail. Much to Rob's dismay, when Andrew Parks came down who was our sailmaker and Rob purchased some new sail for the race, it was only in our interests to jettison these off the boat to be able to get to the source of our problems. They were very heavy, they were wet, they were covering area that we couldn't look at. I think from memory we jettisoned four to five sails off the boat because downstairs where the motor had moved we had some diesel, a slight amount of diesel coming into the boat, so we had that mixed with salt

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water which is making conditions downstairs fairly unpleasant.

Q. Some time after this situation you've just described another vessel came past. Did you see that vessel?

A. I got the call. I believe that Steve and Nigel Russell and Andrew were on deck and there was a frantic scream and at that stage we had our life rafts were stowed down below. We had placed those life rafts up into the cockpit for safety. There was the call of a yacht and the flares. I immediately - during this time I had been giving mayday calls out, Rob had been doing the same. I came up on deck. The top of our companionway had been broken in during the roll and I looked up and saw a boat going what I would call to windward or towards Hobart. It was a white hull I think with a silver mast and a storm jib.

Q. Did you recognise it?

A. I think I recognised it by it as the Margaret Rintoul. Nigel Russell concurred with me, he actually had said that's the Rintoul.

Q. How far away would it have been?

A. I would put it at approximately 300 metres.

CORONER: Q. Have you any idea what time this was?

A. I think from memory around between 6.15 and 6.30. I couldn't give you - I just wasn't watching my watch.

Q. You may not be able to answer this but have you any idea what time in your estimate Mr Charles went over?

A. Maybe round about 5.15, 5.20, somewhere round that span.

SHAND: Didn't hear your worship's question.

CORONER: I asked what time Mr Charles in his estimate - in this witness's estimate went overboard. He said I'm sorry I missed it.

Q. 5.15, 5.20 Mr Watson?

A. That's correct yes.

HILL: Q. What was the weather like at that stage that you saw that other vessel, the Margaret Rintoul?

A. The wind had decreased in that time from the seventies more into the 40 to 50 knot breezes more to what the forecast had been.

Q. What about the seas?

A. The seas were still quite vigorous, they had settle back to probably more of a four to five, six metre swells with an odd bigger wave coming through.

Q. Did you - I think you said something about you heard the call for flares?

A. Yes.

Q. What did you do to that?

A. We passed up our flare container. We carry, which we have to do, each yacht in the race has to carry I think it is 12 flares. These flares were passed to Nigel who - each person on the boat before the race we were all aware of where - we had a tour of the boat if you like as Darren had run the boat and he had stowed the safety gear, so each person had to know in the boat where each piece of safety gear was and Nigel was what we called the minister in charge of flares. He had a very good handle on the use of the flares, where they were, how they were actually packed into containers.

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Q. What happened with the flares?

A. Nigel and Steve were on deck and Nigel grabbed the first set of flares and there was a lot of talk of the trajectory that we should be aiming these flares up at because if we aimed them directly above us the flare would disappear quickly down wind because obviously with the height, there would be an increase in wind pressure. I think the call was given to something like 45 degrees above the horizon or a little more. So that as the flare went it would lift and give a longer span and basically try to get up wind of our position.

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Q. So were you firing them at anything?

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A. We were firing them towards the boat basically directly off wind of us, like directly into the wind and that was why our trajectory was up off the horizon so that it would go out towards that vessel before it went up. If we had fired them directly up, the flare would have been going down--

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Q. So it's towards the Margaret Rintoul?

A. Towards the vessel that was going past us yes.

Q. Could you see any people on board the other vessel?

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A. For the time I was up there I thought I could visualise three people on deck of the boat. I couldn't be exactly sure. From looking, I thought I could see three people.

Q. For that vessel to come towards you, what would it have needed to do, would it need to turn to starboard, to port or completely turn around or what?

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A. Not knowing their situation it would have been pretty much up to the skipper of the boat how he would have addressed turning his vessel to come to our aid. We were still going on the radio calls hoping that they may have picked up a signal from us or we may have been able to just communicate really.

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Q. Was it sailing past you?

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A. Yes it was.

Q. Would it need to turn to starboard to come towards you if it could?

A. Yes.

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Q. It wouldn't need to turn around?

A. The boat would have actually have had to have turned.

If it had turned say directly down wind it too could have been in some danger exactly the same as what we did. They could have turned their boat maybe through head to wind and done a couple of circles, come back the other way. I can't judge for their actions how they would feel the best way to do it but they couldn't have just turned the boat I don't think in a safe manner directly down wind of our boat.

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Q. You continued the flares to--

A. Yes I think from memory I counted six, there may have been more. I know we had I think one faulty flare that when the flare was actually set off it basically fizzed and didn't do its job. The flares were all up to date. They were checked basically before our yacht race.

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Q. What did the vessel do, the other vessel?

A. I could hear the boys on deck screaming that the boat had sailed past and not seen us and that's what we had to assume. We still kept calling mayday, mayday, mayday for anybody to pick us up and the vessel continued on its course and we just had to keep going with our mayday situation, getting out boat tow and while there were other people up there we had to be very careful that we couldn't have too many people in the cockpit given the state of the boat because--

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Q. If it had seen you and come over, what could it have done for you?

A. It may have been able to stand by us or maybe be able to get close enough to see, maybe a visual inspection of the boat which if we had have lost maybe half the cabin top, I don't know, I'm just suggesting but to basically reassure us that there was someone there if we were in a position of full peril where we had lost five people over the side of the boat we could have had some very seriously injured people on board and they may have been able to get out a signal and stand by us in case the boat was going down and incapacitated people were there who couldn't help themselves. It is one of those things in seamen that you try and look after your people. It's a very difficult situation given the position but as it was getting on to dark it would have been nice just to have - we didn't know how their communications were going, we couldn't speak to them on the HF frequency. Obviously they couldn't receive our VHF frequency.

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Q. If the positions were reversed and you could, you could, I emphasise that, come to the - you see another vessel, what would you do?

A. We would go to their aid, get as close to them and see if there was anybody on deck. If they couldn't speak to us say by radio they may have been able to have a person on deck that could signal for help or it would have been obviously very hard for them to get within one boat length maybe of us but there are times if they sail past or could sail past them in a safe manner that they could have maybe visualised any danger that we were in, say that he hull was badly fractured or whatever but to stand by--

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Q. Eventually you went to Hobart?

A. That's correct yes.

Q. You had a confrontation with some of the crew of the Margaret Rintoul?

A. Correct.

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Q. How did that come about?

A. Rob Kothe and his girl and my fiance, Angela Shaw, and myself flew down for the memorial service on the evening of 31 December. We had - checked into our hotel. The balance of our crew weren't due into Hobart until the following morning and Hans Summer who was the vice commodore of the CYC had met with us at our hotel, made sure that we were all checked in. We spoke briefly with Rob and then Angela and I decided that we would walk down to the waterfront and see the people that had got into Hobart itself and we said to Rob that we would catch him down on the waterfront later that night for the new year. I'm walking down there and Angela and I bumped into a fellow who was - a crewman, I can't remember his name, off the yacht B52 which was rolled over in the race itself. He mentioned that those people were at a hotel called the Customs House Hotel which is near Salamanca Place.

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Q. What people?

A. I'm sorry?

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Q. You said he mentioned those people?

A. He mentioned that some of the crew of the B52, one of them was from Townsville and I'd known him quite well, were at the hotel and we hadn't really realised until we got back to Merimbula the devastation in the fleet and which boats were damaged and who was missing etcetera. And we went down to see Wayne and basically talk about the whole situation and my memory that Graham Purcell was at the Customs House and we were talking about from memory that we had a boat going past us and that - at that stage I was still very upset at the loss of Glyn, everybody was exactly the same, and we spoke for some time.

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Q. With who?

A. With Wayne Miller and the crew and Graham Purcell was there with us. We left the Customs House that night, I had left to go down to the dock. The following day we had a memorial service for the people who were lost at sea. We had a debriefing with the British sailors that knew Glyn and then we had a crew dinner which included Glyn's sister and a cousin. Following this dinner as a group the crew apart from Stephen whose wife was staying at a hotel down near the restaurant, walked back to where we were staying which was the Salamanca Inn. We walked past the Customs House Hotel. We were at the front outside and we were debating whether we were going to stop and have a drink. I was with Adam Brown, there was Simon, all of our crew apart from Steve. Rob was there, Darren is a bit of a straggler. I was standing there with Angela, we were about I guess 10 metres from the actual front door. Richard Purcell walked out of the hotel and saw

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me and made a beeline for me and he confronted me face to face, walked straight up to my face and said to me, "You have been harassing my brother and lying to him" and I said "About what Richard?" and he was very agitated and I don't know, we'd been to dinner, we'd had wine, I guess he'd been to the hotel, the same thing. I said to Richard, I looked him straight in the eye. I said "All I am asking, did you see us?"

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Q. And what did he say?

A. He said yes I did.

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Q. Now the night before his brother had said what to you?
A. His brother was basically in the conversation with Wayne, he was there prior to us getting, me and my fiancée getting to the hotel. I have no idea how long they were there for, and he was basically, I don't know fully involved in our conversation because we were swapping, Wayne and ourselves about what had happened to us and we mentioned a boat had gone passed us and that, in our view which boat it was--

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Q. Can you please be candid, can you say what you said?
A. I just said to Wayne that a yacht had gone passed us and we'd visualised that boat and identified and not solely but three other crew members as being Margaret Rintoul.

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Q. What did he say to that?
A. Who was this, to Wayne or to--

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CORONER: Q. You said that to, you were talking to Mr Miller in the presence of Mr Purcell?
A. In the presence of yes.

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HILL: Q. Now which Mr Purcell?
A. Graham Purcell.

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CORONER: Q. This is the night before?
A. That's correct.

Q. On the Friday, so you were saying you could visualise the Rintoul?
A. The Margaret Rintoul, yes.

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Q. What was said to you by either Mr Miller or Mr Purcell?
A. Wayne was decidedly taken aback at those comments, knowing that--

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OBJECTION (SHAND).

CORONER: Yes, it is admissible in this forum but I note your objection.

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Q. If you can try to keep it in the, I know it's difficult, you're not a lawyer I assume, try to keep it in the first person, you understand? I said, he said, and even if it's not verbatim we understand that of course, no one has phenomenal memories but if you could try to keep it as close as you can to what you recollect was being said by yourself and by Mr Purcell or Mr Russell--

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A. Right. My basic conversation was between Wayne Miller and I voiced to Wayne that what had occurred to us, the boat had gone past, he'd passed, he knew which boat it was, I told him that we had identified as the Margaret Rintoul. He was most shocked at that comment and the crew were, we didn't just debate on that subject for the full time, between the two of us.

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HILL: Q. Look Mr Purcell was there?
A. Graham?

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Q. Graham Purcell?

A. Yes.

Q. You've just said in his presence that the Margaret Rintoul had sailed past you when you were in a very precarious position?

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A. Correct.

Q. What did Mr Purcell say to that?

A. My memory of that is quite brief.

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Q. You might go to page 55 of your statement that you made to the police on 2 January 1999, you see at the bottom there?

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CORONER: This is the next day?

WITNESS: Page 55?

HILL: Q. Page 55?

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A. Which item was it I'm sorry?

Q. You see that, the bottom of the page, question 201 'Who's Richard, Richard', that was the question that was asked of you. 'It was Richard Purcell, his brother, but I actually spoke to his brother when we first got down here and he just said we never saw it, didn't see anything, you know'. Is that what he said to you or not?

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A. Yes I'm pretty sure it was because I didn't want to have confrontation with anybody.

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OBJECTION (SHAND).

SHAND: I know the usual rules don't apply but we have this mental processes being produced that can't be examined--

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CORONER: I know. At the end of the day I've got to try to look at the admissible evidence, you know that of course Mr Shand. I understand, it's just pretty hard to get witness not to give observations.

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Q. We really have to try to look just what was said in this particular phase of the inquest, if you could listen very carefully to the question and try to answer it in those terms. I'm not interested for the purpose of this exercise of why you felt some certain way?

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A. Yes, certainly.

HILL: Q. You see that statement?

A. Yes.

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Q. Was that true?

A. I believe it to be truth, yes.

Q. That's what he said to you?

A. Yes.

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Q. That was the night before?

A. That was the night of 31 December.

Q. That was the night before you spoke to his brother Graham Purcell?

A. No Richard. Graham Purcell, I may have it wrong here, it was Graham Purcell that I spoke to on the night of 31 and Richard Purcell on New Years Day, or New Years evening.

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Q. They're twin brothers?

A. That's correct.

Q. So Graham denied seeing your vessel?

A. Right.

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Q. And Richard said, and you've made that statement the following night, that you were saying things about - well what did he say to you?

A. He basically confronted me and was extremely angry. He came up and it was a chest to chest situation, the guys in our crew were very close to us at that stage because we didn't--

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SHAND: Could we have an answer to the question--

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CORONER: Yes, try to answer the question--

WITNESS: Mr Purcell said to me 'you have been harassing my brother' and I said in return to him 'I have not Richard, all I'm asking is did you see our boat'.

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HILL: Q. What did he say to that?

A. He looked me in the eye and said 'yes I did'.

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Q. What did you say to that?

A. I said 'thank you' and we retired from the situation, we did not want any confrontation further.

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SHORT ADJOURNMENT

SANTAMARIA: Q. Mr Watson, do you have that record of interview with you?

A. Yes I do.

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Q. I think you said yesterday Mr Watson that you were present in court when the evidence of Mr John Stanley was given?

A. That's correct, yes.

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Q. You were present in court yesterday during the evidence of Mr Senogles?

A. That is correct.

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Q. I take it that they're both people you respect, their experience and their ability as yachtsmen?

A. Yes I do, I have known John for..(not transcribable)..

Q. Yes indeed. Did you hear Mr Stanley say that if he had a forecast of 30 to 40 knots winds he would expect gusts of another 10 to 15 knots. Do you remember him saying that?

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A. I remember some of that, I couldn't tell exactly.

- Q. If you just accept for present purposes that he did say that. I wanted to ask you whether that adding on of another 10 to 15 knots would be consistent with your own experience?
A. I wouldn't say the 10 to 15 knots is an overall consensus for a given wind strength. In the high wind strength of wave ratios may be yes, in the lower wind graphs not quite as high a margin in the changes, maybe a 5 to 10 knot increase in the overall wind strength. 5
- Q. When you say overall consensus do I understand you to mean that there are different people who have different views about all this? 10
A. Yes, I do agree with you. Given a forecast from you guys, if it was 15 to 20 we could expect may be some gusts up to 25. 15
- Q. This morning you said at the time the decision was made or thereabouts at this time to turn the boat around, that the mean wind strength was 55 to 60 with gusts up to 70 knots? 20
A. Correct. 20
- Q. That would be consistent wouldn't it with Mr Stanley's view about adding 10 to 15 knots?
A. As you get up to the top of the graphs in wind speed yes. 25
- Q. So, as you increase the mean speed do I understand that you would, there'd be a tendency to add a greater amount for wind gusts? 30
A. Yes, I would be consistent with that. 30
- Q. Is the word expediential rise?
A. Yes. 35
- Q. In fact in storm conditions you might get gusts of another 20 knots above the average wind speed?
A. Yes I have actually been in a low pressure cell of 970 hectoPascals and we had steady winds of 65's and we had occasional gusts of 80 knots. 40
- Q. When was that as a matter of interest?
A. The year was 1984--
- Q. Sydney to Hobart? 45
A. No, I was taking a boat to, it was actually 1983, I was taking a yacht from Perth to Hawaii and we'd left Western Australia and we were doing the great circle route down into the southern ocean and we got a very, you know, quite a big low pressure cell. 50
- Q. So it's conditions like that, in fact you might get more than the 20 knots, you'd get 20 knots plus?
A. At the front of the system we got a high wind speed than forecast initially. At about the initial front of the, it was basically a black cloud like a southerly front and at the start of that we got a higher wind speed than the mean wind speed they forecast. 55

- Q. Did you sail in the 1993 Sydney to Hobart race?
A. Yes I did.
- Q. Do you recall, in fact I think in fairness your record of interview refers to the wind speeds in that race - page 52, question 185, just to fresh your memory down at the bottom of 52 'I remember in '93 the guys they had 55 to 60 knots or 55 to 60 in the front of it, but 45 to 50 steadily-'
A. This is on page 52?
- Q. Yeah, bottom, well it's question 185?
A. Right, okay, yes.
- Q. You've got it there?
A. Yes I have.
- Q. Just have a quick look at the first few lines, I had 55 to 60 knots or 55 to 60 in the front of it?
A. Yes.
- Q. But 45 to 50 steadily and one of the boats in '97, they actually sighted the eye of it and the calm from like 10 or 11 minutes and popped out the otherwise back into again. And you went on to day it's amazing. Now did you remember yesterday Mr Senogles said that. in fact I think he said he won this race form '93?
A. That's correct, yes I believe that.
- Q. He said that he experienced winds of 50 knots gusting 70 knots with 10 metres seas?
A. Right.
- Q. Is that consistent with your recollection?
A. We travelled in close, we actually retired from that race with boat damage, their boat continued on. At the time that we retired we were only just into Bass Strait, they had a lot further to sail, I couldn't say further than what they had down the track.
- Q. You could me by telling me a bit about what happened to the fleet in that race? In summary terms what happened to the fleet with retirements and--
A. Yes there quite. I couldn't give exact numbers.
- Q. No?
A. There are a lot retirements, I think the sea state more so than just the given wind. It was very bad, we had the case of a lot of what we call backless waves because there's this big crest and nothing, not much water behind it, there's a steep rise of water and the boats that we're now sailing are called IMS boats which is the International Measurement System and they are slightly lighter in overall weight and more easily driven. What happens with these boats is to slow them down in that type of sea way so that, you know, damage can't done.
- Q. Back in '93 race were there a good number of yachts which suffered significant damage?

A. I'm not sure, I think a couple of boats from my memory had keel loses, I think the one boat lost its keel and rolled over. Just from memory I couldn't be sure of the other--

Q. Would you have described the weather conditions in '93 as being extreme? 5

A. Ah, no not usually extreme, no.

Q. Let me ask you about the 1984 race, did you sail in that race? 10

A. Yes I did.

Q. You haven't missed many Sydney to Hobarts?

A. I have but the '84 one was quite a heavy race. 15

Q. That was in relative terms more extreme than the '93 race from your recollection?

A. Yes. 20

Q. In the Cruising Yacht Club's report into the '98 Sydney to Hobart race, there's a mention of the 1984 race and it says this 'It start with a strong southerly change that built to a solid 40 to 45 knots over a hard flowing east Australian current making the waves particularly vicious'? 25

A. Yes.

Q. Does that accord with your recollection?

A. Yes it was. Where we received most of our worst winds we were off Montague Island and we're approximately 15 to 18 miles east of Montague Island which is just north of Eden. 30

Q. Did your boat make it through to Hobart?

A. Yes we did. 35

Q. Reading the report, it said at the '84 race that there 104 retirements, 69 percent of the race, the race encountering 45 knot south easterlies on a fast flowing east Australian current. When you heard the forecast of 45 - 50 knots for the '98 Sydney to Hobart race, did your mind go back to the recollections of these earlier races? 40

A. Yes it does. In the races I've experienced we've had those wind strengths and often times the bureau will give you a time span of the change and really it meant very much the same, that we would be facing a front and the wind would change back that-- 45

Q. Mr Hill asked you a question yesterday about whether you'd heard of a formula of 40 percent being added on gusts to mean - and I think you said that you'd never heard that? 50

A. No I hadn't up until this morning.

Q. I want you to understand that I accept completely your evidence about not ever having heard the formula of 40 percent. But what I want to put to you is this, given your evidence yesterday and today about the possibility of winds gusting up to 70 knots where you've got a 50 knot wind, don't we come to the same result? 55

A. To answer your question it probably does. In my sailing

for me personally, I don't look at it in terms of percentages, I look at the given wind speed and the think that I base an assumption - not an assumption but a decision on is the given wind strength, the wind direction and the rate that the system is travelling. I don't think I've used the 55 to 70 as a graph--

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CORONER: Q. No but you mentally, with your experience, allow for a gust factor which, as you've said, is perhaps higher in percentage terms--

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A. As the graph goes up yes.

Q. That's right, the higher the wind speed?

A. Yes.

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SANTAMARIA: Q. But I got the impression listening to your evidence over yesterday and today any in fact you know a very great deal about the weather and you're probably talking to experienced weather people quite regularly?

A. I've actually done quite a few sailing miles with Ken Batt and have listened to him. I respect, one thing about yachting is that you never know everything, it's a physical impossibility, and your try and pick up from any learned person or skilled person in their field and keep that in the back of your wind for when the time arises, like that clouds. In the 1984 race for instance the boats that did well and suffered very little damage and didn't even reef their sails were a 110 miles east of Gabo Island. And they only got winds in the vicinity of 24 to 30 knots of breeze.

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Q. You mentioned Ken Batt's name and Ken Batt is someone you respect I take it?

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A. Yes.

Q. Ken Batt has written quite a articles it seems over the years and would you make it habit to read an article written by--

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A. I've read quite a few of Ken articles especially on the dangers of the east coast low which is one of the lows we have on this coast and I think that everybody should be sort of pretty to well aware of that occurrence.

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Q. Would you be, would it be right to say that one of Ken Batt's edicts about racing this race and weather is that you can get winds stronger than 20 knots or more higher in speed that the average wind speed and so you really have to watch out. Would you accept that?

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Q. I would accept that in some instances for sure.

Q. Mr Watson, in your record of interview you tell us about attending some of the weather briefings?

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A. Correct.

Q. What I wasn't clear about from page 4 of your record of interview, at least page 4 of, it's question 20, the question was 'prior to the race which started at 1pm on 26, did you have any dealings with racing briefings', and then you tell us that you did and that Steve called Mark, Glyn, Charles, Adam Brown, Rob Casey and yourself attended a race

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briefing. Was the Christmas Eve prep race briefing at the Yacht Club?

A. Yes, that was the, the actual complete race briefing?

Q. So that the four of your from your boat there at the time?

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A. Yes, as I can recollect, yes.

Q. Your account of the weather forecast given by Mr Batt is summarised under question 23. Would you just have a quick look at that. If I could just give some edited highlights about it and if there are other parts of this that you want me to refer to please tell me?

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A. Right.

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Q. The prognosis that came back from the weather bureau in Sydney gave a weather briefing of just the last part of the Hobart race and they went through the facets, they had three different models how they forecasted the weather and they really could tell us there was a low which is to the east of Australia, basically east of Brisbane coming south. They really couldn't forecast, we had a high pressure system or a high pressure cell which was blocked over the South Islands of New Zealand. If that cell had moved the low coming south they had forecasted to dissipate. The biggest thing that they were worried about, is what is called the east coast low which is what developed and you began a moment ago to tell us about the east coast low. At this stage I think that your evidence was that there was, Ken Batt was there was a 15 to 20 percent change that the low might form, that they really couldn't give a solid prediction?

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A. Ah, that's, yeah, principally correct.

Q. Why do you people worry about east coast lows?

A. What happens, I believe in what I've read and what I've actually seen of lawyers is a pressure cell that can come down from the east coast which is low and typically what I believe is that the weather we have now, when we have a high pressure cell that is low in the Bight of Australia we tend to get a lot of southerly fronts of it. Those highs move to New Zealand and if the system, a high pressure cell from what I father does move on it can force, with the oncoming high, bringing that low and form a ..(not transcribable).. with the pressure cell gradient. So that it's now allowing the low pressure cell to move off, it's actually coming in towards the high pressure cell and forming a low.

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Q. So at this point there was a difficulty of working out where the low was going to go and if it was going to develop?

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A. Yes. Yes if the, that's correct.

Q. Once a low of this sort develops is there an element of unpredictability about its movement?

A. Yes I think we do rely on the Bureau through the radio skeds as to the movement of the cell, if it is forming and in what direction it may travel. Sometimes the cells slip away to the south east, sometimes they move up the New South Wales coast. And, as I stated to you, what we have to do is

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try and put out board on the - and the best possible cause to avoid that cell or maybe to make the best of use of it.

Q. In the Sydney to Hobart, before this particular case, would you have known that with an east coast low that possibly hazardous weather conditions on the sea would result?

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A. Yes and no to that question, depending on the east coast current at the same time with the flow of the hot water coming down out and where that movement of the current ceased on our coastal..(not transcribable).. we've actually provided with colour images of those at the briefings so that everybody is quite aware of where those currents are.

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Q. In his statement Mr Coatie said that the crew also consulted Doctor Badham on the morning of race, do you remember that?

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A. ..(not transcribable).. Doctor Badham, the fellow that I remember speaking to was Mark Gibbs, I think he's a, when I was introduced to Mark he was an oceanographer in New Zealand, he did some weather lectures there as well. He might have been associated with the Bureau here, I couldn't be precise on that.

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Q. Was he the one that you thought was a New Zealander?

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A. Yes, yes.

Q. You refer to that in your statement I think. You spoke to him on the morning of the race itself?

A. Yes he actually got the sheets and the prognosis sheets and--

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Q. From where?

A. I think, I'm not sure, from Doctor Roger Badham or from the Bureau and he joined us on the boat, there was Steve Kulmar, Rob and the others that I've mentioned and we sat on the bow of the boat in disgust, in quite depth, because it is a case of again placement of the boat for the best use of the system and duration.

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Q. Do you remember going to the Yacht Club itself on the morning of the race?

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A. Yes, I walked through the back entrance to the Yacht Club, yes.

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Q. Did you see the weather stand put up by the bureau?

A. I can't fully recollect, I may have done, I really had a bit on my mind, I always make it a thing prior to the race at home of looking at the weather and getting an update on that, the paper, it's same thing.

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Q. In any event do you remember talking to any Bureau people at the Yacht Club that morning?

A. No I can't recollect because we had, Rob had mentioned to us previously that we were going to have this briefing, our own briefing on the boat prior to us leaving the dock.

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Q. The Meteorologist you spoke to on the morning on the boat, he ran through the weather pattern with you, according

to your question 25 and the answer, and he spent about 25 minutes with you?

A. Correct.

Q. He expressed an opinion that it was still only a 20 to 30 percent chance that they low may develop? 5

A. That's right, yes that's correct.

Q. Then he said 'look just watch your barometer'?

A. Yes. 10

Q. You would be aware of the significance of watching a barometer during the race?

A. Yes, yes. 15

Q. Was that done on the boat?

A. It was until the barometer came out of situ, I don't know what happened to it, it was on the bulkhead and maybe in the early part, it was when the weather started to deteriorate a little bit but the pressure initially hadn't changed a great deal as we were going dow the coast. But then I couldn't be exact at stage and I am sure that the barometer was broken or damaged in the boat itself. I can't give you exactly how or why. It is a very integral part of a system. 20 25

Q. Because when you've answered the investigating police officer's questions you said that this Meteorologist said to you 'if it falls 20 to 30 points in a big hurry you could be in danger, but just keep an eye on it and keep an eye on the weather pattern generally, and this is what we did'. Can I ask you, was there ever a stage prior to you turning around where there was a discussion about a drop on the barometric pressure? 30

A. I couldn't give you a precise answer on that, I can't remember. 35

Q. You mentioned Ken Batt before and I think you said yesterday that, going back to the Christmas eve briefing, that you went to speak to Ken Batt after the briefing? 40

A. Mm-mm.

Q. You've obviously known him before?

A. Yes I've known Ken before, I'd attended his briefings for not just the Sydney to Hobart races but for other offshore races that the Cruising Yacht Club-- 45

Q. You approached him to get more details?

A. Just to basically, to say hello and speak to him and sometimes Ken might have a little bit of other stuff that he just doesn't bring up in his full process of doing the weather, but normally he, it's more on a friendship basis than anything else. 50

Q. Did you see any other people approaching Ken Batt after his weather briefing? 55

A. I really can't recollect, there may have been, Ken's quite a popular person, I should think there were probably, I couldn't give you a solid answer as to yes or no.

Q. He's generally regarded by the yachts crews as being accessible?

A. Yes, Ken has always come over as a personable bloke, some people think he looks like a bit of a clown sometimes when he wears the Father Christmas hat but deep down in surface view he's a nice fellow and I respect his judgment, I believe he lectures at Universities on the subject.

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Q. If some one asked his opinion you've no reason to think he wouldn't give his opinion?

A. No, I don't think that any in way shape or form would have anything to hide.

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Q. I want to ask you some questions Mr Watson about events during the race?

A. Strike.

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Q. In particular your knowledge of what was communicated during the 8pm sked on Boxing Day night?

A. I think--

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Q. Perhaps I might just ask you a question and just get you to focus your mind. Were you told at that stage that the storm warning had been issued?

A. Yes I think Rob had actually had - he had access to the CSIRO meteorology details through the laptop and he was getting information through them as an update rather than - and also listening to, being able listen to maybe coastal station reports as well and we were informed prior to that that we would expect winds of 40 to 55 knots.

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Q. I think you said yesterday you were speaking of 50 knots but in fact you recall now that the wind speed of 55 knots was mentioned at about the time of that sked?

A. Yes I think so. I was actually on deck during the actual sked itself, we were quite busy sailing the boat.

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Q. When you hear a forecast of winds going up to 55 knots in a region of Bass Strait, would there not be significant risks to boats and lives at that point?

A. Given the experience on our boat there is certainly a danger relevant. It's the same I guess in a motor vehicle. However on the yacht we had very experienced people, we had discussed fully how we would handle or try and cope with each situation as it developed and we were trying constantly to keep ourselves updated with any outside information other than just the normal two sked weather forecasts.

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Q. And Ken Batt had told you how you could do this hadn't he?

A. Yes Rob was doing that pretty much on a full-time basis covering the updating of any forecasts and he would pass that on to all and sundry. It was never a hidden agenda.

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Q. On the morning of the Sunday was there any discussion about reports of wind speeds at Wilsons Promontory?

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A. I do remember at some stages during the morning that Rob had received and I have used it in the past or picked up I think it's the Esso report from the oil rigs and also the wind speeds recordings from Wilsons Promontory which I believe were--

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Q. High seventies?

A. Yes.

Q. Was there discussion about those particular wind speeds on the boat from your knowledge?

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A. Yes there were.

Q. What was said?

A. That they were recording gusts of that. I don't think there was a huge amount said other than that we experience quite fresh winds at that time. We were unsure as to which way the weather system was moving at that stage and we couldn't directly say that those winds were coming due west from Wilsons Promontory directly to our yacht at that stage.

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Q. Was it still your hope or expectation that the morning of the Sunday that you might somehow miss the centre of the east coast?

A. Yes we were forever hopeful that the system - I couldn't tell you your job but I'm not sure how you actually physically track the system. We have to relate that information back from the bureau as to which way the system is travelling and it's the placement of the boat for that system and we were forever mindful that we could be all right.

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Q. But forever mindful about being all right but the

distinct possibility that you might not be all right given the reports of wind speeds at Wilsons Prom for example?

A. All right in the terminology of not as great a wind speeds, not in terms of all right as in being safe but in terms - what I should have said was that we could have expected those winds but 65 to 70 we were ready to cope if necessary. It wasn't going to be a shock to us in other words.

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Q. Could you look at question 53. It's on my page 14 and you were being asked questions about the weather conditions and I'll just try and put a time on this. At this stage you were going into Bass Strait. We watched our barometer and it had only fallen two or three points so at that stage there was nothing to panic. We actually thought if we were lucky as you were getting out into Bass Strait we might have a north westerly to westerly gradient wind for the trip across Bass Strait. I was attracted to that sentence because you used the words "we actually thought if we were lucky". What were you going to be lucky about?

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A. Lucky in the fact that if my memory of the forecast was a south westerly change then the system backing into the west to the north west, thus giving us a quick angle, a sailing angle across Bass Strait itself if that forecast had been correct rather than staying in the sou'west and moved into the west north west it would have given us - the breeze angle would have come further aft on the boat and given us a quicker speed, quicker travelling speed to get across there.

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Q. So am I right in saying at this point you're still concentrating primarily on how to use the weather conditions to your best advantage to get down to Hobart?

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A. That is correct.

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Q. We've heard a fair bit about Bass Strait?

A. Yes.

Q. And Mr Kulmar in his statement to the police spoke a bit about it. It goes without saying I take it that he'd be one of the most respected ocean racing sailors in Australia?

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A. Most definitely.

Q. He's sailed in all the big ocean races in the world?

A. Yes.

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Q. He's won quite a few of them?

A. Ye.

Q. He's won world championships. He would be pretty well placed wouldn't he to describe how Bass Strait compares with other seaways in the world?

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A. Yes.

Q. I want to ask you for your comment about his evaluation of Bass Strait to see whether you agree. He was asked, question 117 of his record of interview how he would rate Bass Strait in terms of sailing water and he said in his

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opinion by far and a way the single most treacherous piece of sailing water in the world. What do you say about that evaluation?

A. I'd say that would be a fairly astute assumption in many regards. I haven't sailed in as many oceans as Steve has but I've sailed in a lot of areas where there has been a lot more wind or current against wind forcing bigger seas in New Zealand where you can have up to - an air current of up to five to six or seven knots to breeze of maybe 50 to 60 knots which causes enormous seas. It's not over as great an area but it is a very hard place to sail.

Q. Can I suggest to you that you really wouldn't need your experience in the '98 race to know about the treacherous conditions that can be expected in Bass Strait?

A. Certainly. I think every yachtsman is aware and has great respect for the ocean and more so for Bass Strait yes.

Q. Have you ever sailed in Australian waters before when there was a storm warning prevalent?

A. Yes I have.

Q. Where was that?

A. I was sailing a yacht from - returned from Hobart to Perth and-

Q. What were the weather conditions?

A. We had a south westerly course. We had left near South Australia near Mount Gambier, the port there, and we had left and we had got an update on the weather with a high pressure cell coming through and one thing that with the storm warning we - in an open seaway as to give yourself plenty of sea room off the shore, so we weren't in a racing situation at that stage, we were in a delivery situation.

Q. You took shape to get away from the centre of the storm?

A. Yes in which way the system was travelling.

Q. I take it that that was because the idea of sailing into an area of sea subject of a storm warning would be rather unpalatable?

A. It is not the nicest thing but it is to try and skirt the distance and when you're not racing you have a little bit more room maybe to utilise or sail off course so to speak but not going out there with the view of sailing directly into a storm but unfortunately when you are in that distance between Albany and where we left, Warrnambool, we were well out and our other option was to either turn around or to lay a hull to the weather.

Q. Well what is it about this situation, is it the fact that you were in a race situation that your visions are coloured perhaps?

A. I think in a race situation you have a great deal of experience and Rob like any leader, tried to assemble around him people who were skilled and to help evaluate situation and become a core group and I think as you say, with Steve he's a very good seaman and we respect it.

Q. This morning you were describing the state of the sea at about 12.30 to 12.45?

A. Right.

Q. I think you said the sea had increased eight metres some of the bigger waves and you talked about the scale of the mast and then you said some of the waves were a maximum of 12 metres and you talked about the scale of the mast. And then you said some of the waves were a maximum - the waves, some at the maximum of 12 metres. Do I understand you to be describing there roadways?

A. I think we would get - that was more of the higher scale of a roadway. It would be a little bit over that. My time of actually looking at all the waves all the time wasn't a direct focus for me.

Q. You said yesterday when you received the forecast you knew the meaning of a storm warning, the gale and the storm but you said what you tend to look at is the strength of the wind. In other words you analyse the forecast?

A. Yes.

Q. And you said it gives you an opportunity to work out where to place your boat within the system and the weather behind it. A couple of times when you gave your evidence you talked about looking up to the clouds?

A. Yes.

Q. And evaluating things from where the clouds were and what they were doing?

A. Correct.

Q. And you also talked about looking at the spume conditions of the sea to work out what was going on?

A. The spume conditions more so through my evidence was handle of wind speed as the top blows off the water.

Q. I just wonder whether someone with your experience of the weather and ocean racing in fact uses a weather forecast primarily as a means of working out the best strategy in a race?

A. We do. I for sure would never ignore a weather forecast and say that's not going to happen. There may be a likelihood that it may not develop as much as it is but you always have it there that that is the forecast and you could experience a little more or you may experience a little less. I think we're all human beings and we take that into account but primarily I tend to look at wind speed, wind direction and also as I said on this case, the effect that the current has against the - the hot water against the cooler water coming in from the southern ocean through Bass Strait.

LUNCHEON ADJOURNMENT

RESUMPTION

<CARL CAMPBELL WATSON(2.00PM)
ON FORMER OATH

WEBER: Q. Mr Watson when you're planning for a race like the Sydney to Hobart, I take it that one of the many variables that you have to consider are the prevailing currents, is that right?

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A. Yes that is correct.

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Q. And I take it that in the 1998 race and in your preparations you did come to consider the currents?

A. Yes we did.

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Q. And I think you said that you were aware from the briefing on Christmas Eve that there were likely to be favourable north to south currents running down the New south Wales coast?

A. Yes that's correct.

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Q. Would that accord with your expectation in any event for that time of the year?

A. Yes and no. I think the east Australian current has a few vagaries about it in terms of how it moves in maybe from 100 fathom line towards the coast of Australia and I think I noted in my statement that at one stage the boats that were sure of it staying on the coast had more--

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Q. I'll come to that I can assure you. So you took the advice that you'd got in the Christmas Eve briefing that there would be favourable north to south currents running down the New South Wales coast?

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A. Yes.

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Q. And I take it from your statement and I'm reading from page 11 of it, that between you, the experienced people on the crew, you thought that you might find a better current if you went four to five miles east of the rum line. Is that correct?

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A. That's correct.

Q. And after you got out of the heads that's the way you proceeded, is that right?

A. Yes.

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Q. And I take it that you were successful in finding a good current?

A. Yes we found some aiding current for our boat speed.

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Q. And I think you've estimated that the current between there and at least Wollongong was two and a half to three knots?

A. That is correct.

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Q. Am I right in assuming that you measure current in this way that beneath the hull of the yacht there's an impeller?

A. Yes.

Q. And it's measuring how fast the boat is going relative to the water?

A. That is correct.

Q. And then you check your GPS navigation equipment to see how fast the boat is going in relation to the land - the surface of the earth I should say? 5

A. That's correct yes.

Q. And if there's a disparity that's current? 10

A. That is correct.

Q. And it's by that process that you ascertained that the current was two and a half to three knots? 15

A. That is correct yes.

Q. And then, this is the point that you were about to come to, you say on page 11 at about point seven on the page "As we got further south we noticed boats in that were closer to the coast than ourselves. We were approximately seven to eight miles off the coast. The guys who were in shore of us during daylight were actually making a gain on us. They were like a similar size in a couple of places a couple of smaller boats". Whereabouts did you notice that-- 20

A. I think that was prior to darkness and prior to Jervis Bay. 25

Q. And so you made the decision to come closer to shore to try and capture what appeared to you to be the better current that would be now running closer to shore? 30

A. Yes we'd had the - various people on the deck of the boat had been keeping a visual on the boats around us and we had boats to the east of us and boats to the west of us and after by what I..(not transcribable).. observation the factors we thought that the boats in shore of us definitely had more of an assistant-- 35

Q. So you sailed within shore and you found a better current, correct? 40

A. Yes we did.

Q. And was that current again running at two to three knots? 45

A. I couldn't answer you with a firm answer but I would think probably round about the three knot range.

Q. And then you say in your statement that, I'm not page 14 on the top of the page? 50

A. Right.

Q. You say that when you south of Gabo, Gabo Island that is, it was extremely fast time down the coast because we were aided by this current? 55

A. Yes.

Q. Did you continue to have the aid of the current--

A. To answer that question no, we didn't have the aid of the current all the way. We certainly had an assistance

down the coast. I couldn't give you an exact point where the current might have eased or if not sped up in certain areas.

Q. I realise it's not going to be constant but south of Gabo Island you still were having the benefit of some current were you not? 5

A. I really couldn't answer you that in a firm - I really wasn't looking at that on the speed. 10

Q. A couple of times in your evidence you've used the expression the wind against current effect? 10

A. Yes.

Q. Did you experience the wind against current effect when you ran into the beginning of the deep low pressure system? 15

A. The sea built up I'm not sure a much to as current as to depth in the area of Bass Strait more so than just absolute current. There was probably some current there. I couldn't give you a firm answer as to what amount of current there was but also as I briefly explained before, when the water comes through Bass Strait it can lump up. 20

Q. So would it be fair to say that your reading of the sea was the seas got big in Bass Strait because one, there was a large swell? 25

A. Yes there was a large swell.

Q. Two, there were large wind driven waves on top of the large swell? 30

A. Yes.

Q. Three, the effect of building of the waves caused by the relative shallowness of Bass Strait? 35

A. Yes.

Q. And four, the effect of a countervailing current?

A. Yes I think at some stages we noticed that we actually sailed into what we would call an Eddy where the current actually spins and it might - instead of coming down just parallelling the coast itself, it might head out and so an Eddy and just do a reverse. I think we experienced a few of those where we actually were aided by a current and then we would sail just into normal conditions. 40

Q. Should his Worship take it that those Eddys were quite powerful? 45

A. Yes as we were given the graphs taken from satellite which is an infra red colouring of the water currents and where we would expect to meet the colder water coming in from the southern ocean and see the end of the eastern Australian current. 50

Q. And that's where you were experiencing a strong eddying-- 55

A. Yes some eddies at different stages, I couldn't give you precise times on those.

Q. You were asked some questions by my learned friend, Mr Santamaria, about your trip where you delivered a yacht I think from - you were asked some questions by Mr Santamaria concerning the other occasion upon which you experienced a storm warning in Australian waters?

A. That's correct.

5

Q. And that was going from what, Warrnambool to West Australia?

A. Yes. I had one also in '83 in the southern ocean where we got a very significant low.

10

Q. When you are at sea and you confront a deep low pressure system like you confronted in 1998, would his Worship be right in thinking that your approach to that crisis doesn't vary depending on whether you're racing on the one hand or hypothetically delivering a vessel on the other?

15

A. No that's a little incorrect. On a delivery basis there is no sort of time frame or racing against another boat or you're not pushing the boat as you would in a racing situation.

20

Q. But once you're confronted the storm and we'll come away from hypothetical situations and go back to 1998, you stop racing don't you?

25

A. We got to the stage before we retired of not racing yes.

Q. Where you are trying to preserve first the lives of the crew and secondly the ship?

A. That is correct.

30

Q. And when you get to that point the fact that you're in a race becomes entirely irrelevant?

A. That is correct.

35

Q. And so if you confronted that situation on the delivery, you'd be doing the same things as you'd be doing if you had been in a race?

A. Yes I think the only difference may be delivery. If you were in the Great Australian Bight for instance and you had a lot of sea room and you were continuing on, you might heave to instead of actually turning the course and I think Mr Stanley gave in his evidence that you can lash the storm jib to one side of the boat or if necessary trail lines from the bow of the boat, put the washboards into the boat and actually go below and in most of the instances I've heard and as of the Fastnet race that often times in those severe storms the boats will survive the conditions.

40

45

Q. But leave aside the fact that your previous experience in Australian water of storm warning had been in the Great Australian Bight, just assume hypothetically you were on a delivery from Sydney to Hobart?

50

A. Yes.

55

Q. And you met precisely the same extreme conditions that you confronted in December 1998, your approach would be more or less the same wouldn't it?

A. Yes I would have assessed the course as we did in the conditions and if the amount of less experienced people we had on board as to what course of action you would actually deem to be safe.

Q. Just taking it one step further, if you were doing a delivery with the same crew that you had on the Sword of Orion in December 1998 and you came across the same conditions you basically do - approach the problem in a similar way that you approached it?

A. Yes we would obviously have given it a lot of thought as to in a racing or delivery mode you're trying to protect the vessel and the lives of the people on the vessel.

COLEFAX: Q. Mr Watson you've told his Worship that you were present at the Christmas Eve briefing session?

A. Yes that is correct.

Q. And at that session a black bag was distributed to each of the vessels, is that correct?

A. Yes the--

Q. Just yes or no for the moment please?

A. Yes.

Q. Was it the case that one bag was distributed for each vessel?

A. That is my belief yes.

Q. Has that been the practice at all of the sailing briefings you've been involved in over the years?

A. Yes in most of the time I've been sailing yes.

Q. And in particular this race?

A. Yes.

Q. How many races have you been in?

A. Fifteen or sixteen and in other coastal races they do--

Q. Just the - how many Sydney to Hobart races?

A. Sixteen.

Q. Sixteen?

A. Yes.

Q. Were you familiar in 1998 with the contents of the black bag that was allocated to Sword of Orion?

A. I didn't go through the full contents of the bag that was--

Q. Are you aware of some of the contents of the bag?

A. Yes.

Q. Are you able to tell his Worship whether or not a document entitled Cruising Yacht Club of Australia Telstra Sydney Hobart Yacht Race 1998 sailing instructions was in that black bag?

A. I believe so yes.

- Q. Did you see a copy of the document in the bag allocated for Sword of Orion?
A. I did not see it in the bag, I saw it in the possession of Mr Kothe. 5
- Q. When did you see it in the possession of Mr Kothe?
A. After we were in the briefing area of the yacht club.
- Q. Before or after the briefing or during?
A. During the briefing. 10
- Q. Was the document, sailing instructions 1998, the subject of any discussion at this briefing?
A. The-- 15
- Q. Yes or not?
A. Yes.
- Q. Who was conducting the briefing?
A. I believe Mr Phil Thompson. 20
- Q. Did Mr Thompson make reference to this document in the course of the briefing?
A. Yes. 25
- Q. And so far as you can recall did Mr Thompson direct his remarks to that part of the document beginning at page 12 which has at the top the words radio instructions?
A. I couldn't answer you in an overall sense. He may well have done, yes. 30
- Q. But you can't recall?
A. No.
- Q. During the course of the race you from time to time had occasion to use the radio and particularly when attempting to make the maydays?
A. Yes the only time I actually physically used the radio was in the course of the mayday. 35
- Q. Had you had any expectation before you went on board the boat in December 1998 that you may have been called upon to use the radio?
A. Yes. 40
- Q. Did you have that expectation when you were at the briefing on christmas Eve?
A. I could answer that yes. 45
- Q. So if Mr Thompson had in fact directed his attention to the radio instructions, it is likely is it not that you would have paid attention to him because you had some expectation that you'd be using the radio?
A. That is correct. 50
- Q. Would you agree that if you cannot now recall Mr Thompson saying anything about the radio instructions, it is probably because he did not refer to them or would you 55

not agree with that proposition and would you say that he may have and you've forgotten?

A. He may have, I may have forgotten.

Q. Whilst on board the vessel during the course of the race do you know whether this document, sailing instructions 1998, was on board the vessel? 5

A. Yes I do believe it was on the boat.

Q. And so far as you can recall, where do you think it was kept? 10

A. In my belief Mr Kothe was in charge of the radio procedure and the navigation. It would have been in possession probably in the chart table of the vessel or in a secured bag at that station. 15

Q. Was it a document to which any member of the crew could have had access if he wished to?

A. Yes. 20

Q. Do you recall whether you saw anyone apart from Mr Kothe looking at the document?

A. During the race or prior?

Q. During the race? 25

A. I really cannot recollect that, no.

Q. Did you have an opportunity to look at the document before the race and after the briefing session?

A. Yes I did. 30

Q. And did you look at it?

A. Yes I did.

Q. From your experience in numbers of Sydney to Hobart races, would you be able to agree or disagree or say you don't know from discussions around the - whether most members of the fleet would read the sailing instructions before a race? 35

A. I would agree that all the navigators would read thoroughly through their sailing instructions and all briefings in that book. 40

Q. Would you say that most members of the crew would be familiar with this document or only the navigator? 45

A. No there were more than just the navigator who was privy to that document.

CALLAGHAN: Q. This morning you gave some evidence about the turn or the contemplation of the turn to go back? 50

A. That is correct.

Q. And you explained again how the turn was effected, it was a controlled jib, a steady jib with the engine running and so forth? 55

A. That's right.

Q. Prior to the turn you'd been sailing a generally

southerly direction?

A. That is correct.

Q. And I think that the figure of 180 degrees due south was actually mentioned this morning?

A. Yes.

5

Q. Also mentioned this morning was the matter of reciprocal courses. Do you recall that?

A. Yes I do.

10

Q. Of course the reciprocal course to 180 is due north zero degrees isn't it?

A. That's correct.

15

Q. And in making that turn to come home, it wasn't your intention I take it to sail the reciprocal course?

A. Definitely not, no.

Q. And you would be sailing a course more to the west. Would that be right?

A. That was correct yes.

20

Q. You had the seas coming from a generally south-westerly direction?

A. Yes.

25

Q. And as you explained this morning when you were travelling south you were receiving those seas on and over the starboard bow?

A. That is correct.

30

Q. And when you jibed and made the turn I take it you were going to put yourself into a situation where you would receive those waves or that sea on a particular part of the vessel?

A. Yes.

35

Q. What part of the vessel was that?

A. We would try and keep the wave pattern to the forward part of the boat rather than the aft part of the boat, forward of the cabin pocket.

40

Q. Generally on the port bow I take it?

A. IF we could possibly do that yes.

45

Q. And generally in terms of a heading what was the course you were going to try to steer?

A. In the vicinity I think of 280 degrees, something like that.

50

Q. A bit north of due west?

A. Yes it would have put us from recollection west of Gabo Island at some point.

55

Q. And the purpose of that was to give you the same good sailing conditions or stability in comparative terms that you were experiencing trying to maintain going south?

- A. A safe course yes.
- Q. The matter of the drivers of the boat was raised this morning. Can I just ask you some more details on that. Sword of Orion was what's termed a grand prix racing boat? 5
- A. That is correct.
- Q. And the grand prix racing boats are the best of the best, the top racers? 10
- A. Yes.
- Q. The top ocean going racers?
- A. Yes.
- Q. Very competitive? 15
- A. Yes.
- Q. And the boats are well designed, expensively designed and expensively built and expensively maintained? 20
- A. Expensively.
- Q. And well crewed, is that right?
- A. Yes for sure.
- Q. You have a specialist crew? 25
- A. Yes.
- Q. And this was a specialist crew on board this boat? 30
- A. Yes.
- Q. There are differences aren't there between the degree to which specialisation comes into play in short races or regatta-type races on the one hand and long off shore races on the other, is that correct? 35
- A. That is correct.
- Q. For example in the regatta-type races or in the regatta parts of a long race perhaps the driver or the helmsman at the time in tight situations would really have the absolute control or the final call, would that be so, such as the start of a race? 40
- A. Definitely at the start of the race yes. He would be aided by what we call a tactician but the end degree would be to the man on the - tiller of the wheel. 45
- Q. On board this boat you had four designated drivers didn't you?
- A. That is correct.
- Q. There was yourself, there was Mr Brown? 50
- A. Yes.
- Q. There was Mr Charles?
- A. Yes.
- Q. And there was Mr Kulmar? 55
- A. That is correct.

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Q. And of those four you had a watch system of course?

A. Yes.

Q. And you had some watch captains?

A. Yes.

5

Q. You had three watch captains?

A. That is correct.

- Q. And they were the three drivers other than Mr Charles, is that right?
A. That's correct.
- Q. They of course were still specialist positions?
A. Yes. 5
- Q. The drivers, they are the specialist positions on the boat, and then Mr Senogles would say that the bow man was a most specialised position?
A. Very hard position, yeah. 10
- Q. And Mr Kothe, his part of ship was communications navigation?
A. Yes, as well, yes. 15
- Q. And he had a sort of a roving function around the boat?
A. That is correct, yeah.
- Q. And in the situation of a long race there would be far more consultation in terms of decision-making than in the in tight situations in regatta racing would that be right?
A. That would be correct. 20
- Q. And that was the sort of situation which we've heard about for example in the contemplation of the weather conditions?
A. Yes. 25
- Q. And the appropriate course to take in relation to the boat?
A. That is correct. 30
- Q. Just going to another matter, you yourself weren't involved in setting off the flares at the time this other boat was sighted, is that correct?
A. That is correct. 35
- Q. Now on board you have flares of different sorts, don't you?
A. Yes, we do. 40
- Q. There are different colours, there are smoke flares, there are parachute flares?
A. Yes. 45
- Q. Amongst the flares are red parachute flares, are there not?
A. That is correct, yes. 50
- Q. What is the significance of a red flare?
A. It means a vessel in distress, urgent distress. It is the flare that is - that everybody dreads to see.
- SHAND: Q. I want to get you to tell us again if you would about the variations in the weather and the conditions, not just the weather, the various times from the moment when you or the other members of the crew first considered possibly 55

returning, that is turning round and thereafter. Would you please describe the conditions as they were when serious consideration was being given to turning around?

A. The serious consideration would have been prior to the 2pm radio sked, serious consideration.

5

Q. What's your description of the weather or sailing conditions, whichever, all the relevant features of the results of the storm at that time? Will you describe it to us?

10

A. Could you rephrase that, I didn't--

Q. "Weather conditions" would include would it not, in your view, both the force of the wind, the size of the waves, the current, the amount of white water and such matters as those wouldn't they?

15

A. Yes.

Q. Would you describe what those conditions were at the time just before the 2 o'clock sked when consideration was being given to turning around?

20

A. We had, as I mentioned before with the white water is the spume or the top of the waves being blown off by the wind. As to current I couldn't give you a firm description of current, I wasn't looking at a GPS module to see if we had assistance with current or a negative current.

25

Q. All right, leave that one out then. Go on?

A. The wind conditions again were up into the 55 knot range, the seas were very - were quite steep with the odd rogue wave attached to that as well.

30

Q. What's "quite steep" mean?

A. I guess in the vicinity of eight to ten metres.

35

Q. With the odd rogue wave?

A. That's correct.

Q. How often was the odd rogue wave arriving?

A. I wasn't on deck all the time but I would - from the time that I was on deck we might get a rogue wave in every six or eight minutes, I couldn't give you an accurate time frame.

40

Q. It was after that was it not when you sailed into the blue sky some time after that?

45

A. Yes, it was actually during I believe the time of the sked we sailed into a patch of blue sky, it wasn't a total opening.

50

Q. You needn't give all the details about the patch of blue sky because I've mentioned--

A. Right, fine.

Q. --what you've already talked about, having sailed into a patch of blue sky. It was some considerable time after the conditions you've described when you did that was it or was it only a short time after?

55

A. It was during the sked it was almost like sailing out opening a door from in here and going out into a howling gale, the breeze moderated very quickly.

Q. You went from a howling gale to a condition of comparative calm, did you? 5

A. Not dead calm, 20 to maybe 30 knots which was - after what we've been experiencing was quite a lull in the vicinity and something that we would be not attuned to sailing. 10

Q. Then after some 15 or 20 minutes I think you said didn't you, all that changed again?

A. Yes, we went back into the same. 15

Q. Was it the same intensity when you went back into it as it had been before entering this blue sky situation?

A. Yes, it gradually built up again, it wasn't as straight open the door. It was - it built to the 55 to 60 then we were reporting high gusts up to 70 knots. 20

Q. And the waves?

A. The waves again had come back to - they take the swells with the - as the intensity of the breeze first dropped the tops of the waves had stopped breaking, this gradually reformed with the onset of the current wind. 25

Q. They developed too?

A. I guess in the vicinity again of eight to ten metres in my assumption, my opinion. 30

Q. With some far bigger waves?

A. Yes, but the odd rogue wave yes.

Q. What size did the rogue waves feature in either of those two periods you've been describing? 35

A. They varied, I couldn't give you a constant height, maybe three metres high.

Q. Three metres high? 40

A. Higher.

Q. Higher?

A. That's correct. I couldn't give you an accurate assumption because I wasn't looking at every wave. 45

Q. What was the greatest wave height that you encountered at any time before this Sword of Orion was abandoned?

A. In my opinion probably in the vicinity of 14 to 15 metres. 50

Q. Have you heard some people describe waves of as great as 70 feet occurring during those conditions during this race?

A. I've heard of those statements, yes, I've heard of those. 55

Q. Would you consider that it may well have been the case in respect of some of the waves that you encountered?

A. It may be I can't say that I have seen any 70 foot waves.

Q. They were the biggest waves that you'd ever encountered, weren't they, at various points during this race? 5

A. At various points during the race, yes, they were pretty large seas.

Q. They were the biggest waves you'd ever encountered at the worst stages of this race weren't they, which you're aware of, that's what-- 10

A. Yes.

Q. And that's looking back over a fair bit of experience, isn't it? 15

A. That is correct.

Q. The manoeuvre to turn the boat around was accomplished successfully you told us? 20

A. That is right.

Q. How long was it after that turn around that the roll over occurred? 25

A. I couldn't state an exact time but my time would be in the vicinity of probably 20 minutes.

Q. At the time of the turnaround the conditions were at their worst again weren't they? 30

A. They were back to what we had been experiencing, yes.

Q. Twenty minutes after they were still as bad as that weren't they, when you rolled over? 35

A. The 20 minutes after we turn around the breeze had abated a little bit, I was not looking at anemometers all the time, but I'd say that the overall gusts weren't as high, the wind pressure may have been down to a maximum of maybe 60 knots instead of the higher 70.

Q. Well, only a small margin better than what you have just described was the position when the boat turned back or turned around-- 40

A. Twenty minutes later, yes.

Q. Marginally better-- 45

A. Marginally better.

Q. Did that continue at that level for quite some time thereafter, that is after you rolled over? 50

A. To be precisely honest with everything that we were doing I would believe that the wind speed was consistently around that same mark, maybe 55, 60. I couldn't give you an accurate reading.

Q. For quite a long time after the roll over? 55

A. Yes, by the time - well we had no way other than guesstimating what the wind speed was. We had no way of reading the true wind speeds.

Q. Because you didn't have the instrument?
A. We didn't have a mast.

Q. No, but from your own observations, you could form some idea about the comparative wind speed during that following period and you could also form some estimate of the size of the waves, couldn't you? 5

A. That is correct, we had pretty much the same wind speed of 55 knots with seas of in my opinion eight to 12 metres, maybe the odd rogue. We had set up a drogue(?) on the boats so the bow of the boat was positioned to the wind. 10

Q. At those higher levels that you've described, higher levels of wave size, accompanied by the higher level of wind force, conditions were exceedingly dangerous, weren't they, in your view? 15

A. They were dangerous but not unassailable.

Q. It all depends whether there were fluctuations in the degree of danger I suppose, doesn't it? 20

A. In what regard?

Q. Well, rogue waves of course would increase the danger very appreciably would it not, would they not?

A. Yes. 25

Q. This yacht, even before it rolled over had been for some considerable time in real danger of rolling over, hadn't it?

A. No. 30

Q. Not at all?

A. No.

Q. Not once?

A. Because we were in control-- 35

Q. I didn't ask you why, I asked you whether you say not once before it rolled over had this yacht been in any danger of rolling over, do you say that?

A. No. 40

Q. You don't say that?

A. That's correct.

Q. It had been in danger at previous times, hadn't it? 45

A. Not in the fact that we were sailing the boat in control, the boat in keeping the bow up as much as we could.

Q. Yes?

A. There is the possibility that we could have been struck by an enormous wave and thrown over, yes. 50

Q. And some waves did test you in that way, did they not?

A. Some waves did, we got a lot of water over the deck, yes, from waves breaking onto us. 55

Q. But you were able by the exercise of skill to resist those occasions, is that right?

- A. That is right.
- Q. Now the time this passing boat was sighted what were the wave conditions then?
- A. I imagine-- 5
- Q. I don't want you to imagine.
- A. Ten to 12 metres approximately not all the time we were getting smaller waves that in the sea conditions sometimes you'll get breaks between waves it's not like a surf beach where you get continuous just wave after wave after wave on a shallow pattern. You will get smaller waves and then you take ..(not transcribable).. 10
- Q. And the wind?
- A. The wind in my guess still around the 55 knot mark, 50 knot mark. 15
- Q. With gusts to a greater force?
- A. No, pretty much maybe a little bit up to 60 at times but the tops of the waves had stopped blowing off as much as they had in the past. 20
- Q. As much but there was still white water, was there not?
- A. That is correct. 25
- Q. You can't remember this with any real accuracy, can you?
- A. Certain parts I can but what you have to realise also is that we were drifting at this stage and not building any wind pressure, apparent wind pressure. We weren't forcing ourselves into the wind, we were going with the wind. 30
- Q. So the impression you had of the wind might have been of a lower force?
- A. A slightly lower force yes, yes. 35
- Q. So we can take it that your impressions of that time would need to have a bit added to them in order to estimate wind force?
- A. Not necessarily because of the way of the action of the boat the actual wind against the side of the hull the Sword of Orion was quite a high-sided boat and just wind on the side of the boat in that force can force an angle of heel on the boat. 40
- Q. At the time you say you saw this passing yacht, would you call the conditions - let's start with wind - ferocious?
- A. Yes, I guess severe but not totally ferocious. 45
- Q. I'm asking you about--
- A. Severe. 50
- Q. You wouldn't call them ferocious then you'd say, would you?
- A. I'd say they were very severe. 55
- Q. Will you please answer my question?
- A. I would say they were very severe.

Q. I'm going to ask you again--

A. Or ferocious--

Q. --do you say that they were ferocious at that time?

A. If that's the question - if that's the word yes, ferocious. 5

Q. They were. It's a very extreme word isn't it?

A. Yes it is. 10

Q. Would you agree that the word ferocious would fit a combination of wind and wave at that time?

A. If that's the way you're suggesting it to me. 15

Q. I want the truth from you.

A. I said in my opinion they were severe winds and severe seas. 20

Q. Do you understand what it is to tell the truth?

A. I am, sir. 25

Q. You have agreed, have you not?

A. I said they were ferocious and if you want me to call the seas ferocious they are ferocious. 30

Q. I only want you to tell the truth and you know what I mean by that, don't you?

A. Yes sir, I do. 35

Q. So you adhere to the description "ferocious" in respect of both wind and waves at the time I'm asking you about, do you?

A. Yes sir. 40

CORONER: I'm not satisfied he does. I believe his answered for the purpose of this inquiry is that the winds are very severe and not ferocious. 45

Q. Is that the case, witness?

A. Yes sir. 50

HILL: This is an inquest, your Worship.

CORONER: That's right. I don't believe his answer at any stage was to the effect that he was keen to say ferocious. 55

SHAND: Your Worship, I can only go on the words.

CORONER: Yes, Mr Shand.

SHAND: I can't--

CORONER: I've asked him. Now you can cross-examine him further but his answer to me is that he's more happy with the term "severe". 60

SHAND: Your Worship, I'm leading up to something and I'd use that word.

CORONER: I'm not interrupting you lightly, Mr Shand, but I have an inquest to conduct.

SHAND: Q. Do you remember being interviewed by the police on 2 January 1999?

A. Yes I do sir. 5

Q. I suppose you told the police the truth did you the best you could?

A. As best I could recollect at the time, sir. 10

Q. Would this be a correct description as you now would tell this inquest that at the stage you saw the passing yacht the wind was fairly ferocious?

A. That may have been a term I used in that time. 15

Q. Would you say that was the truth when you used it to the police?

HILL: Perhaps if my learned friend would tell us what page he's reading from. 20

SHAND: Certainly. The page numbered 48 at the foot and it's an answer to the question 137. 25

CORONER: Put it again please, Mr Shand.

SHAND: Q. Would you say that what you told the police about the wind at the time you saw this passing yacht was the truth? 30

A. About the statement that I made, yes. The words "severe" and "ferocious" in my terms are - could have been used, I don't know that the word "ferocious" and "severe" to me it's the way how it's taken that was the term I used at the time, yes. 35

Q. It was the word you chose?

A. That was the word I chose at the time, yes.

Q. All I'm asking you now is the expression "fairly ferocious" is an indication of a very extreme set of conditions, isn't it, as far as the wind was concerned? 40

A. As far as the wind was concerned it was fresh--

Q. Please answer my question. 45

A. I have sir, if ferocious is the term I used there I'll stand by it.

Q. I'm not asking you that now, we know that you've used the term, I'm asking you now would you agree that in using it you were describing a very severe set of conditions involving the wind? 50

A. That is correct, sir.

Q. And the waves were of the same degree of severity weren't they, as the wind? 55

A. Yes sir.

Q. You have attempted in giving your evidence to this inquest, have you not, to try to play down the severity of the wind and wave conditions at the time the other yacht passed Sword of Orion, haven't you?

A. I have never tried to do that, sir.

5

Q. Haven't you?

A. No, I have not.

Q. You haven't tried to give that impression in order to attempt to emphasise how it may have been less difficult for the Margaret Rintoul to come alongside the Sword of Orion?

10

A. No, not at all it would have been very very hard for any yacht, not just the Margaret Rintoul, any boat that had passed us to assist us.

15

Q. And extremely dangerous, wouldn't it?

A. It would have been a dangerous operation, yes.

Q. One which by your use of the word "dangerous" you would mean to indicate involved very substantial risk both to the boat and to its crew?

20

A. It would have certainly involved some risk, yes.

Q. Substantial risk to the boat and its crew, would you agree?

25

A. Yes sir.

Q. I want to ask you about some other evidence that you've given, if I've noted this correctly and I'll be corrected by any others who may have taken a note at the same time, you said did you not that Glyn Charles went overboard at 5.15 or 5.20pm?

30

A. Yes sir, approximately 20 minutes after Nerol(?) which I think was in the vicinity of 4.40 or something like that, put it around 5, around that time.

35

Q. I noted you saying 5.15 or 5.20?

A. All right.

40

Q. That would be about the best you could do, is it?

A. That would be correct, sir.

Q. Is that a recollection which is merely a recollection or have you been able to assist your memory by reference to anything else?

45

A. We had obviously looked at the whole thing as a group for our times because you can't say that at every five minutes you were looking at your watch, we're assessing the time on a rough basis, not all the - not to an accurate within a five minutes here and a five minute there, didn't have time to look at your watch, sir.

50

Q. I can understand that but for the purpose of giving your evidence here, which I think was today or was it yesterday - it was today, were you relying merely on your memory?

55

A. We had spoken as a group just after the race and tried to get all our recollections together and to work out how

the - just for our benefits really.

Q. Did you plan any part in the construction of a time line for the Sword of Orion for that race?

A. We all had some - a meeting I think yes with some time spans. 5

SHAND: Should the witness be shown this document your Worship? I don't know whether it's in evidence but I assume it might be. It's the Sword of Orion Sydney to Hobart 1998 time line, can I show him a copy and I assume that your Worship has one available? 10

CORONER: Yes, I'll have to find it. It's somewhere in the sword of Orion part of the brief I think. 15

CALLAGHAN: Document 6 point 14.

CORONER: Thank you Mr Callaghan. Yes, everyone now have it? 20

SHAND: Q. Do you recognise that as a document you've seen before?

A. Yes I do, sir. 25

Q. Could you play some part in compiling the details in that?

A. Only in a small basis of what I could recollect at the time. I couldn't give exact times. It was I believe more of a recollection of each different person that we were there. 30

Q. Well, you notice it says that there was a roll over of 360 degrees together with a man overboard at 3.50 to 4.10pm?

A. Right. 35

Q. That's quite a long way from your evidence as to 5.15 or 5.20 isn't it?

A. Yes it is, sir. 40

Q. Would you accept that the time line is more likely to be accurate than your evidence in the circumstances?

A. If that's been presented to you it must be correct, sir. 45

Q. I'm really asking you, you're aware of this preparation are you not by those associated with the Sword of Orion after the race and you are, aren't you?

A. Yes sir. 50

Q. Now you notice that there's a wind speed which is mentioned against that same time and that same item?

A. Right. Right. 55

Q. And it's given a 70 to 90 knots isn't it?

A. That's what it says on that sheet sir, yes. 55

Q. And that you would regard as the result of recollections by members of the crew?

A. That is correct prior to - prior to the roll over because we had no way of registering that speed purely by guesstimation.

Q. Would you accept that as being a speed or should I say a span of speeds from 70 to 90 knots leading up to and just before the roll over? 5

A. I couldn't say that with accuracy that it was at the time or just at the roll over I couldn't give you that exact time, no. 10

Q. Clearly enough in the compiling of this time line would you agree having taken some part in it that that estimate of speed, 70 to 90 knots was given as close as could be estimated before the roll over? 15

A. Yes, I don't know whether that was just prior to the roll over or half an hour before the roll over, I couldn't give you that exact time.

Q. It looks as if it's meant to be taken as a wind speed at the time of the roll over, doesn't it? 20

A. The way it appears on there, yes it does.

Q. That's a great deal higher wind speed than you've made any reference to at all, isn't it? 25

A. It is.

Q. Let me ask you now about the time of which the passing yacht which we'll call Margaret Rintoul because we all know it is Margaret Rintoul, the time at which that yacht was sighted going past? 30

A. Right.

Q. You told us I think this, as I noted it, that it was seen between 6.15 and 6.30pm? 35

A. Right. Right.

Q. You added the qualification you couldn't give the exact time? 40

A. Yes.

Q. --saying that? 45

A. Exact to the minute no I couldn't, within five minutes, no.

Q. No one's asking you to do that as far as I'm concerned. You think that's accurate within say 15 minutes? 50

A. No, it's very hard to recollect just looking at these times it may be correct. I can't fully recollect, sir.

Q. Well looking at this document that's in front of you and you have been haven't you? 55

A. Yes I have, sir.

Q. The time given there is very very different from 6.15, between 6.15 and 6.30 isn't it? 55

A. Yes, it is sir, it's an hour difference.

Q. Would that cause some doubt in your mind as to the time you've given in evidence?

A. It may influence that but I again I'm trying to recollect the times exactly so.

Q. Well, as I said before I'm not pressing you to remember them exactly but to remember them with an accuracy of one hour more or less would be a reasonable suggestion to make to you wouldn't it?

A. Maybe less than an hour yes - at that time we had so much to do in terms of just looking after the boat and bits and pieces that - time was, you know, pretty open.

Q. Now I want to refer you to another piece of information.

SHAND: Your Worship, I wish to refer to the chronology from the - I think it must be from the Telstra control ship and its tape search and rescue which is headed on this particular page Sword of Orion roll and rescue time line, would my learned friend Callaghan be able to--

CALLAGHAN: I've done my dash, I'm sorry.

CORONER: Done your dash, have you? Right.

SHAND: I'll withdraw what I just said because this in fact has been compiled by my instructing solicitor from information. May we have access to the Telstra radio log, your Worship?

CORONER: Yes.

SHAND: Which will help us to the same extent I think.

CORONER: The 1405 sked.

SHAND: Yes, it's that page there. May that be shown to the witness, your Worship.

Q. Now you're looking at what's called Sydney-Hobart radio log?

A. Right.

Q. Sheet 19?

A. Correct.

Q. Would you look at the last entry on this page, do you recognise this or would you be prepared to recognise this, I'll assume it is as the radio log kept by Telstra control ship the Young Endeavour during the race?

A. Sure, I've got the right page here.

Q. Do you see the last entry on the left under the heading Time has 1920 on it?

A. 1930 I have here on this sheet sir. It's the last entry, sorry.

Q. You might have to go back one entry. Is there a--

A. A 1920 entry? Yes.

Q. Does that have Margaret Rintoul in the second column?

A. No, this has a full sheet across the page, I'm not sure I have the right one. "Handled all sail" ..(not transcribable).. I'm not sure that I have the right page.

5

SHAND: I see. I wonder if I could have it back again, your Worship? I'm told this might be a different document. Yes, indeed it is a different document. Your Worship I have a photocopy of the document which contains four columns of information.

10

CORONER: Show it to the counsel assisting and we'll be able to locate it. It's such a large brief, Mr Shand, and we haven't looked at this aspect until you've come into it so if you give us five minutes we'll all find it.

15

HILL: These are probably out of the subpoenaed documents. If you give us a moment we'll find them. They're not part of the radio log. They are subpoenaed documents, your Worship. No-one will actually have copies of these.

20

CORONER: We'll get copies made.

25

SHAND: Q. Would you look please at the radio log which I understand is Telstra control sheet 19 the last entry on the page against the time 19.20?

CORONER: Well I wouldn't mind a copy. Sorry to be difficult but I wouldn't mind seeing it as well.

30

HILL: Your Worship, I should say this, this log is compiled out of the actual transcript it won't go to the actual transcript, you'll have the complete voice message that was recorded.

35

CORONER: Well that would be a help, too.

SHAND: We're talking about the 2 o'clock sked. I'm told this, your Worship, and this is hardly helpful but I'm told this particular entry isn't to be found in that log. In the tape. In the transcript of the tape. Is that right?

40

CALLAGHAN: I was fairly sure that I read it and it's there at page 32.

45

CORONER: We'll get a copy.

CALLAGHAN: You might have that but if you go to tape 3 and you will see there that at p 32 at tape 4 it deals with the Margaret Rintoul's sighting and the quotation there is "Yes, we've having problem in that area. Just stand by, Margaret Rintoul."

50

CORONER: Wait a second, you've lost me now. Righto, p 32 tape 4. Yes.

55

HILL: You'll see that it starts about a point there "V, voice 64, force winds here, the visibility extremely bad but standby officer on board saw - did see a flare, over. He's got a flare sight in the air, we're having a problem in that area, just stand by Margaret Rintoul, yeah, have you heard anything from Zeus". It goes on, then he calls at the bottom "Margaret Rintoul, Margaret Rintoul, it's just another flare sighting, yes, I've logged that. There are some problems in that area, I haven't heard of a red flare being lit, over. Roger. It's a very difficult decision to see very far, saw flare. Yeah, Roger to that. Look, I've logged it and I'll just see if - fire another red flare if you require immediate assistance, over". So there's a mixture there but one of the voices in there is the Margaret Rintoul, she's reporting her sighting. The unfortunate part about this, I should explain this your Worship, is the radio was actually recorded by I understand a dictaphone that was held next to it so that it's not a true or an accurate transcript in the sense of you're going to get everything over there but that's where that appears.

CORONER: You've listened to it?

HILL: Yes.

CORONER: Did it appear to you that that section of the conversation seemed to involve someone from the Margaret Rintoul?

HILL: Yes. It's my understanding that that's where the log is then entered and it's from that particular piece that I've gone through.

SHAND: I'm sorry, I wasn't listening closely to your Worship and my friend then but apparently the tape has some blurred patches but the notes made by the officer on duty receiving the call resulted in the message that is on the document that I've shown to the witness. It apparently is a substitute and sometimes a fuller record.

CORONER: Righto. If you're happy to continue with your cross-examination on this radio log, that's fine.

SHAND: Yes, thank you.

Q. You have that in front of you, do you, that document?
A. Yes I do sir, yes.

Q. Does it have as the last entry on that page, that sheet, the reference to Margaret Rintoul?
A. Yes I do sir.

Q. I don't have a copy in front of me now but - thank you. It would seem to say this, wouldn't it? "38 15 150 22", which would be the position of the yacht you'd expect, wouldn't you?
A. They must have given their position, yes.

Q. Then the words are "red flare sighted at 1845"?

A. Right, correct.

Q. I ask you to assume that that's a message received by the Telstra Control from Margaret Rintoul at 1920 time reporting the sighting of the red flare at 1845?

5

A. Correct.

Q. On the basis that that entry means what it says and was transmitted to Telstra Control, that would indicate the passing of your yacht by Margaret Rintoul took place at 1845?

10

A. Correct sir.

Q. Which in layman's terms is 6.45, quarter to 7, is it not?

15

A. Yes.

Q. That compares, I don't suggest there's a bit margin but that has to be compared with your estimate of between 6.15 and 6.30, you understand that?

20

A. Right, yes sir.

SHAND: I gather these are going to be in evidence by some other means in due course, are they, this entry?

25

CORONER: We haven't turned our mind to it yet but there's nothing to stop this going in.

HILL: Undoubtedly when Mr Carter's called he will be able to explain the documentation and certainly they will come into evidence--

30

CORONER: Have you explained to Mr Shand the way we expect the inquest to go with regards to Mr Carter that really--

35

HILL: No, I haven't explained.

CORONER: We don't propose to call him during the Margaret Rintoul business past Naiad phase because his evidence traverses the whole of the race, so it's really better to call him towards the end.

40

SHAND: Very well, your Worship.

45

CORONER: Obviously if you don't want to sit through it, or any counsel don't want to sit through it, we'll alert the instructing solicitors when that sort of evidence is coming up. That may also have a bearing on the issue of your client's evidence of course, we wouldn't put him in the box before Mr Carter.

50

SHAND: Yes. I'm in your Worship's hands. If it's not going into evidence--

55

CORONER: It can go in, this can go in now.

SHAND: Go in now?

CORONER: Yes.

SHAND: In that case I'd be happy about that.

HILL: Just so that I'm fully conversant, perhaps if my learned friend could tell me whether he's got original rough notes or whether they're photocopies from these documents. 5

SHAND: This is - clearly what we have is a photocopy of that second set of records by the Telstra Control, or perhaps the primary set of records. 10

HILL: We've also got rough notes that were taken at the time and they're also there. 15

SHAND: I think that's the description, my instructing solicitor's nodding and he's looked into these matters.

HILL: Right, so that's where they're from. 20

SHAND: This is part of the rough notes.

HILL: If they're all one set of rough notes that's alright.

CORONER: Do you want to tender them now? 25

HILL: I'm quite happy--

SHAND: This is the formal log which is written up from the rough notes I'm instructed. 30

EXHIBIT #24A TELSTRA CONTROL FORMAL LOG TENDERED, ADMITTED WITHOUT OBJECTION

EXHIBIT #24B TELSTRA CONTROL ROUGH NOTES TENDERED, ADMITTED WITHOUT OBJECTION 35

COLEFAX: Your Worship, may I just seek some clarification of that tender. Is 24A the totality of the radio log from sheet 1-- 40

CORONER: I think so.

COLEFAX: --through to sheet-- 45

CORONER: I think so. Look, it might be used in other aspects of the inquest. I think it should all go in.

COLEFAX: ..(not transcribable).. sheet 43 inclusive. 50.

CORONER: Yes, sheet 43 is the part that Mr Shand's cross-examining on now - examining on now. The notes, I think it's reasonable that they're 24B so it's the one exhibit. Okay. Any counsel who want a copy of any aspects of it see the court officer after today and we'll - yes, is there anything else before we go on? 55

SHAND: Q. I don't know whether - you weren't in court

yesterday, were you, before you started to give evidence, Mr Watson?

A. Yes I was sir.

Q. Were you here when Mr Senogles was giving his evidence? 5

A. Yes, I was called after him, yes sir.

Q. You might remember having heard him say and I'd just like your view on the fact that there was a lapse of one and a half to two hours after Mr Charles went overboard before there was a sighting of this other vessel? One and a half to two hours? 10

A. I couldn't confirm the exact time.

CORONER: Q. What was your answer? 15

A. I couldn't confirm exactly the one and a half hours, I heard that.

SHAND: In any case you're not in a position to dispute that estimate of one and a half to two hours, are you? 20

A. I wouldn't dispute it sir, no.

Q. At the time this yacht came past, Margaret Rintoul came past, you have described it have you not as getting on to dark? 25

A. We were in daylight saving time and getting on towards the dark part of - before sunset, yes.

Q. Getting to the twilight stage perhaps?

A. I would say just prior to twilight, yes. 30

Q. I want to ask you about the sort of things you said Margaret Rintoul might have been able to do if it had come over, I think the expression was, at the time. First of all, have you become aware that Margaret Rintoul had no motor at the time? 35

A. I wasn't aware of that at the time sir, no, I've only learnt that afterwards.

Q. Would you agree that it would be a very important factor as to whether first of all it was either prudent or safe to come over? 40

A. I would agree that it would have taken some thought to consideration that they didn't have a motor in turning - in turning back, or turning around. 45

Q. It'd be a very important factor in whatever decision was made?

A. It would have a major bearing on it, yes I would believe so. 50

Q. That was something that you only became aware of obviously after the race had finished, that they didn't have a motor I mean?

A. Yes, I wasn't aware that they were having troubles with their motor at all, no, had no idea. 55

Q. Where did you first learn something to that effect?

A. I couldn't be positive. I think it was - I'm not sure if it was from anything I read or somebody told me, I couldn't be precise on it. I just heard that they had - did not have a motor operable at some stage in the race.

5

Q. Is it recent or is it weeks and weeks ago? Give us an idea, would you?

A. It would be quite a while ago, maybe a year ago, I couldn't be precise.

10

Q. You certainly hadn't learnt that when you were in Hobart for the memorial service, had you?

A. No I hadn't. I was not aware of that.

Q. Clearly enough would you agree for this yacht, Margaret Rintoul, assuming it managed to come across to the vicinity, whatever that means, of Sword of Orion, the availability of a motor would be vital to whether it could do anything effective at all, wouldn't it?

15

A. I believe not in the overall case. It would have been an assistance but they still may have been able to - that yacht, being what I would call a displacement boat, has a little - it has a - it's heavier in terms of construction and overall weight, probably handling the sea conditions presently better than we would do but it would still have been harder for them without a motor, yes.

20

25

Q. Hard to the point of it being really impracticable for it to come anywhere near Sword of Orion, wouldn't it?

A. Not to come too close but maybe to have come past and had a visual on the boat, that would be all at that stage.

30

Q. Have a visual means have a look at the outside of your boat, does it?

A. That is correct.

35

Q. How close would it have needed to be in order to have a useful visual?

A. It could have passed to windward of us safely so that the yacht Sword of Orion couldn't be washed down on them, maybe 50 to 100 metres.

40

Q. In the - sorry, are you going to add something?

A. Just to add to that, if somebody - as I previously said that if somebody could have come on deck and maybe signalled them or given the - a wave, something like that. We obviously couldn't get through to them on our VHF radio. They may well have been listening to their VHF radio and it might have been just a bad contact. We were hoping more that if we had have been able to speak to them, if our HF radio hadn't been washed out, we would have been able to communicate with them that we had lost a person but would they be able to stand by in the general vicinity because of the boat and that would go for any boat in the fleet.

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55

Q. I started off in this question by asking you about a distance of 50 to 100 metres if the Margaret Rintoul was able to approach to that distance?

A. Yes sir.

Q. What possible utility would there have been in her doing that if she could manage it with safety? What possible thing could it have achieved?

5

A. To ascertain whether there was life on board the boat.

Q. This yacht had witnessed flares being fired--

A. That is correct.

10

Q. --from the boat?

A. That is correct.

Q. That would indicate life on the boat, wouldn't it?

A. Yes sir.

15

Q. Now what else might it have achieved?

A. Whether there were - how many people were on the boat or whatever. It would have been a case of - in your - in this - they had sighted the red flare but whether they would have stood by in the general vicinity or called in saying that they couldn't stand by because of the given sea conditions or the sea state at the time.

20

Q. How was it to call in?

A. They called in to the radio relay bloke and reported a flare.

25

Q. Yes. How was it to call in to the Sword of Orion?

A. Not to call in to the Sword of Orion but to investigate maybe where the flare had come from.

30

Q. You know very well now that what they did do was to contact Telstra Control, don't you?

A. Yes sir in their log.

35

Q. Which of course completely - completely confounds any suggestion that they were trying to pretend that they hadn't seen the boat, doesn't it?

A. It doesn't completely confound it. What I am saying to you is that the report of our flare was given by the Margaret Rintoul and in situations that I have been in in yacht races you tend to go and try and find the source of the red flare to be of any assistance, because it is a pure distress signal.

40

45

Q. Yes, depending on the circumstances in which the boat which has seen the flare is itself placed, would you agree?

A. At that time, yes sir.

50

Q. So what you're talking about in these other instances you mention is when it's practically possible and safe to go and find or look at the source of the flare, that's what you're saying, isn't it?

A. That's correct sir.

55

Q. Now, I'm still trying to find out from you what it is you suggest that if Margaret Rintoul could have sailed to

within 50 or 100 metres of the Sword of Orion, what could it have done to help?

A. Somebody could have come up on deck as I told you before and maybe given a signal that we're all okay and to continue on, or could you try and get closer. I'm not sure. They're the things that are all going through my mind at the time and everybody's on the boat. We were in--

5

Q. Come up on what - come up on what deck?

A. Up onto the deck of our yacht.

10

Q. Of your yacht? And say what?

A. And try and signal to them but arm signals or anything or wave to them to give them if we couldn't contact them for them to wave them on or to tell them to keep going, we were in - by signalling that we were okay.

15

Q. What was that going to achieve?

A. It was going to help us in the fact that we had a boat maybe standing by or in the general vicinity if we were in imminent danger of sinking.

20

Q. What would you have signalled if that had been the case?

A. We would have tried to signal them closer to us so that if we had to let any rafts go, if they could trail some lines so that maybe if they saw us going into rafts that they might have been able to trail lines behind their boat and the rafts may have been able to reach these. There are boundless things that may have been able to happen.

25

30

Q. Have you worked that out in your mind since as to what you would have done if they'd been within 50 or 100 metres? Is that what you've worked out?

A. It would have been of great help to us because we had no contact, basically we had no reception with the outside world. We had no means of propulsion. We were drifting. We weren't sure if - what the weather was going to do, if it was going to deteriorate further. If they had have just stood by and that would be for any yacht, I'm not saying just the Margaret Rintoul.

35

40

Q. But you know now that they became your means of connection or contact with the outside world, don't you?

A. Yes I do sir.

45

Q. So they weren't going to add to that were they by coming within 50 or 100 metres?

OBJECTION (HILL). LEGAL ARGUMENT. QUESTION ALLOWED.

50

Q. They became your contact or connection with the outside world in fact, didn't they?

A. Yes sir, they had reported the position of a flare and the latitude and the longitude of their vessel at the time, yes.

55

Q. Thus giving the rescue authorities all the opportunity that they could want to come to your help, would you agree?

A. Yes but did they know - I don't know how would they have known whether it was our boat, to come to our assistance you were saying, as to the Sword of Orion, or to any boat.

Q. They knew the boat was there and they knew the boat was in distress, didn't they, and dismasted? ..(not transcribable).. known that. 5

A. It doesn't say anything to me of any state of the mast at all.

SHAND: Dismasted-- 10

HILL: Once again--

CORONER: It's alright, he's-- 15

HILL: The log doesn't show that.

SHAND: I withdrew that. 20

CORONER: He withdrew it but the witness went on with the answer. It's taken as read that they didn't know the boat was dismasted.

SHAND: Q. In any event so we've got to that point that the existence of your yacht in distress and its location at the time was provided to the control ship? 25

A. A position of a yacht, yes.

Q. It turned out to be yours, didn't it? 30

A. It turned out to be ours but were they aware that it was our yacht?

Q. Would that matter?

A. No. I'm saying it wouldn't matter in the other instance of which boat it was. 35

Q. You're the person who'd suggested it, they didn't tell - they didn't tell Telstra Control which yacht it was, that's what you're saying? 40

A. That's right.

Q. And that doesn't matter, does it?

A. It does matter because there were - there could have been, I'm not sure exactly in the precise area, there could have been other yachts in that area that were in distress or whatever and not to know which particular vessel it was. 45

Q. All they had to do was to send someone to the location which had been given to them, is that right? Send the aircraft? 50

A. Certainly.

Q. Yes and they would have found your boat?

A. Our boat may not have been there. 55

Q. It's the best that could be done in the circumstances isn't it?

A. Okay, if you're saying that, I'm just saying that they - their yacht didn't - it reported the position of a flare but didn't attempt to make or give a visual sighting of that or come to the position of that flare, or get to the position or try and go to the scene of that flare.

5

Q. That wouldn't have given any more information if they had to Telstra Control, would it?

A. It may have been the fact that if they had have got closer we may have got VHF contact with them, we may have been able to speak to them. I'm not sure.

10

Q. You're not at all sure, are you?

A. I'm sure of the things that happened on our yacht and I'm sure that as any person, you try and help each other. I'm not saying that this boat did not try and help us, they radioed in the position of a flare. It was our boat obviously. They didn't come and have a visual at our boat, whether we were dismasted, whether we had a rig sticking the boat. The things that run through your mind when you're in a situation. We were in I believe a life and death situation. They were probably in a survival mode situation, they had no motor and they were doing the best of their ability.

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Q. Are there any other suggestion you want to make as to what you think or suggest they could have done if they'd come within whatever distance you suggest would have been safe, 50 or 100 metres? Is it 50 or 100 by the way?

A. Between 50 and 100 metres, something that's safe to do a passing, to see if we were going to launch any rafts to get off the boat. They may have been able then to call through to Telstra Control as they did when they saw a flare and say that these people are leaving the vessel in liferafts.

30

35

Q. Are you going to go so far as to suggest they could have safely stayed around to try and take people off liferafts?

A. Not safely stayed around, no, I would never have - I would never willingly put anybody in the position of coming to harm to themselves. We were in a situation where we were in strife. We didn't - the last thing we would wish to do would be to put another vessel in imminent danger but if we had the opportunity of leaving a boat that was in immediate danger of breaking up, it may have given us - or changed our minds and decided to get into the rafts, knowing that there was a vessel in the vicinity, even if they sailed off maybe four to five miles on a safe course and sailed off another four to five miles on a safe course and came back but obviously tried to log a position in case our boat had have gone down.

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45

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Q. Do you have any conception of the very great difficulty that would have faced this boat, assuming it could have manoeuvred without a motor--

A. Yes.

55

Q. --under sail, that is a storm jib, is that right?

A. That's what I believe, yes sir.

Q. Yes, under a storm jib, the difficulties it would have had in finding your boat again, having headed off in a direction which was designed either to enable it to jibe or to tack to get within the vicinity of your boat?

A. Sir, they have on board their boat I would imagine as every - each and other competitor, they would have a GPS logging system. When they did a pass on our vessel, they could log that position. They could take into account their set and drift and come back to a logged last position for us, to be somewhere precise. This was heading on to dark obviously but at the same time we had fellows on - we had strobe lights on the boat so that these could be seen in the ocean. And maybe just to have logged our known position until the advent that help could arrive to us from the mainland.

Q. What would you say about the risk involved in actually attempting to get around to what they thought might later be the vicinity of your boat in those seas? What sort of risk would you say that boat would have been running?

A. They would have had a great - a pretty strong risk of something going awry with the turning of the vessel now that I'm aware that they didn't have a motor, it does make it difficult, yes.

Q. They would have run a very substantial risk of capsizing, wouldn't they?

A. They may have, the boat is a very, very good seagoing boat, I'd imagine it's completed a lot of rough Hobart races and it's a very, very well built boat, well founded. They may as you say have run the risk of capsizing.

Q. There'd be a very real one, wouldn't there?

A. It could have been, yes sir.

Q. Looking at it soberly as one might attempt to do now, you'd agree would you not that the decision to take that risk, bearing in mind the limitations of what they could do even if they got there, would make a decision to do that one not worthwhile making?

A. Yes, that would be solely up to the people on their boat as to whether they made that decision.

Q. And that's a decision that you couldn't possibly criticise the skipper of that boat in the fact that he made it, isn't it?

A. No, I could not criticise him, no, that's purely his and the people's position on the boat.

Q. Mr Watson, I regret to have to ask you questions upon the subject I'm about to open up but as you'll appreciate there's been evidence given about what you say were conversations that occurred in Hobart.

A. Right.

Q. On as you say the evening of 31 January?

A. Correct.

Q. And later on, that is very much later on, on 2 January?

A. First or second, I can't remember. The date of the memorial service at--

Q. Yes. It occurring on the 1st. When do you say the conversation occurred with Richard Purcell, which I think you've suggested occurred after - some time after the memorial service?

5

A. Yes, that's correct.

Q. That right?

10

A. We were very emotional, I must - I will say to you quite strongly we were all very emotional as a crew, as any - I think anybody in the Sydney to Hobart race was we were not aware--

15

Q. Please, I don't like to interrupt you when you're giving an answer like this but my question really didn't call for that answer.

A. Fine.

20

Q. I'm asking you about the time at which you remember the conversation with Mr Richard Purcell happening?

A. I couldn't give you an exact time, we were coming back from dinner as a group, walking past the Customs House. I think there were approximately six of us, or eight of us, and I couldn't give you an exact time.

25

Q. About what time?

A. I think from memory it would have been maybe 10.30, I really can't be totally precise now.

30

Q. You'd had a fairly full dinner, hadn't you?

A. Yes we had sir.

35

Q. And including alcohol?

A. Yes we had some wine sir.

Q. You don't say you weren't affected by it, I suppose, do you?

40

A. We were all obviously a little bit affected by it and emotionally affected, yes sir.

Q. Well now I want to ask you this. You said in your evidence today that you had checked into the hotel on 31 December?

45

A. That's correct sir.

Q. That right?

A. Yes.

50

Q. Han Summer(?) had affected - had met you, had he not?

A. Yes, just briefly with his--

Q. At the hotel?

55

A. Yes.

Q. Did you have a chat with him after you came together?

A. Just briefly with his girl, Val, and Rob and he passed on his condolences about Glynn Charles and that they had been - through the Cruising Yacht Club of Australia had been in contact with the family and that they would only meet us briefly for - they had another engagement that evening.

5

Q. Yes but you were, were you not, indignant about what had happened during the race at the time you met him on that evening?

A. I was upset more so than - not indignant, I was extremely emotional with the loss of - because we - it was the first time in my life that I'd been involved in the loss of a person.

10

Q. Yes, I understand that. When I'm talking about indignant, I'm suggesting as to what had happened involving the yacht sailing past you. You were, weren't you?

15

A. I was upset about it, yes.

Q. You thought that yacht had done the wrong thing, didn't you?

20

A. At - to my knowledge at that time yes sir.

Q. At the time you spoke to Mr Hans Summer, you knew him to have been the chairman of the race committee for that Sydney Hobart race, didn't you?

25

A. Yes sir.

Q. And you didn't know - did you know at that point of time it had been the Margaret Rintoul that had gone past?

30

A. That was what I had learnt, I had no idea about anything else on their boat, no.

Q. Did you speak to Mr Summer about the fact that this yacht had sailed past while you were in distress?

35

A. I may have briefly, very briefly. I can't recall sir.

Q. Did he tell you at the time that he knew that the yacht that had gone past was Margaret Rintoul?

A. No sir, not that I can recollect.

40

Q. But you knew that anyway, didn't you?

A. We had - not on my - just on my own visions but other crew members on the yacht as well.

45

Q. You were aware by the time you spoke to him when you checked into the hotel that Margaret Rintoul was the yacht that had gone past, weren't you?

A. That's correct sir.

50

Q. So you didn't need to be told. Alright. There was bad blood wasn't there between you and Mr Richard Purcell from some years before this race, wasn't there?

A. On Mr Purcell's behalf maybe, yes.

55

Q. No, on your behalf, would you agree?

A. No.

Q. Quite certain about that?

A. I am absolutely--

Q. Are you telling the truth?

A. I am telling the truth. You asked me the question. There was - as you asked, there was some bad blood.

5

Q. You had it in for him, didn't you, in respect of something that happened about four years before?

A. No I didn't sir.

10

Q. And you've thought about that answer too, have you?

A. No I haven't sir.

Q. You'd better think about it then.

A. Because I haven't spoken to that gentleman until Hobart after that time, very, very rarely if at all.

15

Q. Let me just take your mind back to 1994. You do remember that, don't you?

A. Six years ago? Yes, I have some recollection of it, yes.

20

Q. Who were you employed by at that time?

A. I was employed by North Sails and I was also - also employed on another basis where I was looking after a yacht owned by the Premier's brother of Western Australia, a boat called Second Term.

25

Q. Please don't concern yourself with the latter, I'm talking about the former, your employment by North Sails.

30

OBJECTION (CALLAGHAN). RELEVANCE. LEGAL ARGUMENT. QUESTION ALLOWED.

35

Q. We'd got to the point where you said you were employed by North Sails in 1994. Do you recall that you carried out after sails service on behalf of that employer at least in part to Mr Richard Purcell's yacht for the purposes of the forthcoming 1994 Hobart race?

A. That's correct, I did sir.

40

Q. You recall that Mr Purcell purchased some sails from North Sails in preparation for that race?

A. That is correct.

45

Q. Do you also recall becoming aware through your employer, Mr Michael Coxon, that Mr Purcell had complained about the deficiencies, to use a neutral word perhaps, in the service you'd provided to him with regard to after sales service and the provision of those sails?

50

A. Do you want my comments to that answer?

Q. You became aware of that, didn't you?

A. I became aware of it. Can I tell you - can I--

55

Q. Would you kindly just answer my questions. You were aware that the complaints that had been made by him included

either your lateness for appointments or your failure to turn up at all? Do you remember hearing that was the text of what was being complained about?

A. Not clearly, no.

5

Q. What did you understand the complaint to be?

A. The complaint, I can tell you how it all stemmed. I sailed with Mr Purcell--

Q. What did you understand the complaint to be?

10

A. The complaint to be that Mr Purcell had wanted me to sail the Sydney to Hobart and I wasn't going to sail with him.

Q. I see, you didn't hear anything about a complaint about your failure to serve his interests by turning up for appointments either on time or at all?

15

A. No.

Q. Didn't hear about that?

20

A. No.

Q. Alright, we'll go on. I suggest to you that's absolute fantasy, what you've just said?

A. I have - I was approached by Michael and he had said to me that Richard is not happy, I had spent hours and hours trying to help out on that boat.

25

Q. As a result of Mr Purcell's complaint, your employment was terminated, wasn't it?

30

A. That's correct sir.

Q. And you didn't take that calmly, did you?

A. No, I was - I was extremely upset, given the service, I had raced on the boat with Richard, I had taken up things with the sails that a couple - one of the other consultants on the boat. He had a chap on the boat by the name of Mr Rex Forbes who ran the boat for him.

35

Q. Please don't go on, I'm really not asking you for that history.

40

A. Well, you asked me why and I'm giving you a history.

Q. I didn't ask you why, thank you. Now, the next thing I want to ask you is this. You were also aware, having been terminated, that your replacement in the employment of Mr Coxon, Mr Ben Fletcher, sailed to Hobart with Mr Purcell in 1994, weren't you?

45

A. I knew that Ben Fletcher worked at the Loft. If he went to Hobart that was - that was an act of the Sail Loft.

50

Q. You knew he'd done that?

A. I was - I might have been, I can't remember, honestly.

Q. It is fair to say isn't it that you nourished a very considerable resentment to Mr Purcell from there on, particularly relating to the fact that you'd lost your job because of a complaint he'd made, that right?

55

A. If I was not a human - if I'm not a human being, I was a little upset, I couldn't understand the reasoning behind it. I was--

Q. Would your answer to my question be yes, you did nourish resentment because of your dismissal? 5

A. Some.

Q. Some, is it? Alright, thank you. And you still nourished that resentment by 1998 at the end of the year, didn't you? 10

A. No sir I did not.

Q. Quite sure about that?

A. I am positive sir. It's that long ago that I have been sailing at that yacht club, I have probably been around him, had-- 15

Q. Please, I'm not asking you for a long history.

A. Good. 20

SPEAKER: It's not a long history.

SHAND: Q. You still nourished - the question was-- 25

CORONER: Go on.

SHAND: Q. By the end of 1998 and certainly at the time this yacht went past and when you were in Hobart in due course for the memorial service, you still nourished that resentment against Mr Richard Purcell, didn't you? 30

A. No, I didn't nourish - I don't have - I don't nurture anything. Sure, I am not - he's not my fondest person in the world but I don't - I'm not the person to hold a considerable and steady grudge. I might not choose to like a person, that was my thought. 35

Q. You hadn't forgotten that his complaint had led to your dismissal, had you?

A. It'd - it was past, it was past tense. 40

Q. You hadn't forgotten it?

A. It was past tense.

Q. Will you please answer my question? 45

A. It was not something I dwelt on every day.

Q. You had not forgotten it, had you, by the end of 1998?

A. It was still in the back of my memory I guess, yes. 50

Q. Let me take you to the time to which you've referred on 31 December when you checked into your hotel for the purpose of attending the memorial service the next day I suppose, was it?

A. That's correct. 55

Q. In fact, on that occasion and the occasion when you say that you had some conversation with Mr Graeme Purcell, it

took place did it not in the Customs House Hotel?

A. That is correct sir.

Q. You said that there was something said between Mr Graeme Purcell and yourself in that hotel, didn't you? 5

A. Yes, he was--

Q. I'll ask you another question. You had been talking to members of the B52 crew, hadn't you, inside the hotel?

A. That is correct. 10

Q. You claim that Mr Purcell was somewhere near, or that he was inside the hotel, not far away do you, or what is it?

A. When we walked in and joined the group of the B52 people that were there, Graeme Purcell was in that group or on the fringe of that group that were talking. 15

Q. Was there some reference made in conversation which involved you and perhaps Mr Wayne Miller about the boat going past Sword of Orion in the recent Sydney Hobart race? 20

A. Yes, in our chat, yes, we had.

Q. You were chatting to Wayne Reid (as said) on that subject were you?

A. Wayne Miller. 25

Q. I'm sorry, Wayne Miller. You were, were you?

A. We were absorbing differences of what had happened to us, yes. 30

Q. Within the hearing of Graeme Purcell?

A. That is correct.

Q. That's Mr Richard Purcell's brother?

A. That's what I believe sir. 35

Q. What was said about the act of going past the Sword of Orion by Margaret Rintoul at that time?

A. I just said that we had a yacht that passed us and as you can imagine it was - I was in a very emotional state and I have no aware (as said) of the facts now they didn't have a motor. I said this boat did not come to their - our aid. I had no knowledge of the fact that they'd fired a flare and reported a position. 40 45

Q. What's that about I had no knowledge of them firing a flare?

A. At that time.

CORONER: He's interspersed with his answer of conversation his feelings today. The answer really was the yacht - something about a yacht passing us but not coming to our aid, that's really what-- 50

A. That was what I said, yes. 55

SHAND: Q. Was there some mention made in this conversation which presumably was between you and Mr Miller, was it?

A. Yes and I--

Q. Was there something said in that conversation about the fact that they hadn't seen a flare?

A. No, not at all. They - I was not aware at that stage until I have seen this, that they had reported a flare.

5

Q. I'm talking about what was said, if you don't mind.

A. What I said was the boat passed us and didn't come about or whatever, a boat passed us while we were in difficulty.

10

Q. That was you informing Mr Miller about it, was it?

A. That was what I talked to Mr Miller, he asked about our situation.

15

Q. Knowing Mr Graeme Purcell to be standing very close and able to hear, is that so?

A. That is correct sir.

Q. And knowing that you were referring to the boat in which he'd been sailing?

20

A. That is correct sir.

Q. And knowing that you were pointing the bone at him while telling Mr Miller what had happened, is that so?

25

A. I guess if you put it in that text, if you say it was pointing the bone, I was upset, yes.

Q. Right, so clearly enough you wouldn't have expected Mr Graeme Purcell to be anything else but either hurt or outraged by what he was hearing you say?

A. He must have been upset, yes. I'd agree with that.

5

Q. Anything said after that during that conversation?

A. I'm not sure that I can recollect whether I actually asked Graeme to his face whether they had sighted us on the way through. I couldn't be completely sure. I may have asked him. I don't know how long they had been there but I may have asked him, I'm not sure.

10

Q. Yes, and what did he say, if you asked him?

A. From recollection he said that they didn't see a yacht and he didn't mention to me that at that stage that they had seen a flare.

15

Q. From recollection the best you can say is that he said "they hadn't seen a yacht"?

A. Or seen our yacht.

20

Q. So was it "they" that he talked about?

A. Or the people on his boat. I'm not sure if the term "they" or "a person" hadn't seen "a boat". He didn't tell me whether they'd sighted a flare. I didn't want to go into a long-winded anything. I was there for Glynn's memorial service.

25

Q. You were calling upon him to answer what you were putting in his presence to Mr Miller, weren't you?

A. Yes, I may have been, yes, sir.

30

Q. And challenging him as to whether or not he would admit having seen the yacht or not, weren't you?

A. If that's the way you want to put it, I may have done, yes.

35

Q. And what answer did you get from him? Was it about "they" or about "he"?

A. It may have been "he" or "they". I can't remember the exact wording.

40

Q. Well it might be important as to whether or not he was talking about himself or his brother, mightn't it?

A. That is correct.

45

Q. Now let me ask you this. Was this not what happened between you and Graeme Purcell on that occasion. That he was somewhere near where you were talking to Mr Miller, that at the time I'm about to refer to you were standing some 15 or 18 feet behind him, within the hotel of course, at the entrance between the restaurant and the saloon bar. Would you remember that?

50

A. Roughly, sir, yes. I know the layout. I couldn't quote whether it was 15 feet or five feet or ten feet. I can't remember.

55

Q. Do you recall that in that position you faced him and

you mouthed a word three times, not audibly, you mouthed it three times?

A. Not that I can remember, sir, no.

Q. Well let me ask you whether you remember this, that the word you were mouthing in his direction, and only in his direction, was the word "cunt"?

A. No, sir, I can't recollect that.

Q. Yes, but it happened, didn't it, whether you can recollect it now?

A. No, I can't recollect that word, sir, no, because my fiance was with me.

Q. You could have said that, couldn't you?

A. I don't think I would have said it, sir.

Q. You were very worked up, weren't you?

A. I was emotional, I wasn't affected by alcohol, I'd had one drink prior to that time. As I said to you, we were down there--

Q. Well don't worry about the story, please. I'm only asking you whether you were affected.

A. I'm not.

Q. Now after what I suggest was that conduct on your part, which would have been quite disgraceful if true, wouldn't it?

A. It would have been disgraceful if true, sir.

Q. Did he walk over to you and say to you "What did you say to me?"?

A. I can't recollect that, sir.

Q. You wouldn't deny that happened, would you?

A. I can't recollect it, sir.

Q. You wouldn't deny it, would you?

A. Well I can't recollect it. He may have done. I said I cannot recollect it.

Q. And you said to him in answer to that question, I suggest to you, "We fired five or six flares at you. We could have fired them right into your cockpit and you ignored us." That's what you said to him, wasn't it?

A. I may have done. I remember asking Graeme at one particular stage did they see us because we let off flares and that's my recognition(as said) of what I said to him.

Q. You could have said that then, couldn't you?

A. That was what I had said to you and I'm not saying what I said there.

Q. Do you admit you could have said that to him? That's my simple question.

A. What I said to you--

Q. Look, please answer.

A. The answer is that I said I could have said to him that they could have seen us and we could have - we fired some flares.

5

Q. I want to ask you this again. Please answer it. Did you say to him "We fired five or six flares at you. We could have fired them right into your cockpit--

A. I'm not sure if they were the exact words, no.

10

Q. Excuse me, "--and you ignored us." Now did you say that or something like it?

A. I may have said something around that. I don't know the exact words.

15

Q. And did he say this to you, "Carl, where were you?"

A. I cannot recollect that, sir.

Q. Did you reply in these terms, and I mean these terms, "In the fucking ocean. Where do you fucking think we were?" That's what you said to him, wasn't it?

20

A. Are you telling me that's what I said to him?

Q. I'm--

A. I cannot recollect that, sir.

25

Q. I'm suggesting that's what you said to him. Would you deny it?

A. I would deny saying those words, sir, yes.

30

Q. Do you remember Mr Graeme Purcell then said this to you, "Carl, all I can say to you is I'm sorry about what you guys have gone through in losing Glynn Charles". Do you remember him saying that?

A. Sir, I don't have a big recollection of this account, no.

35

Q. Did he also say this to you, "My brother spotted a yacht for a fleeting moment. That's all I can say to you"?

A. Right.

40

Q. Did he say that?

A. No, not that I can recollect, sir.

Q. But he could well have?

A. He may have done that.

45

Q. Well now I want to take you to just the next matter involved in these conversations that you've been relating in the witness box. It was on the following day, was it not, that you got into conversation with Richard Purcell?

50

A. On walking past the hotel, yes.

Q. And was that about 1am on 2 January?

A. I couldn't give you an exact time frame on that. I think it would maybe have been earlier because at the restaurant we were at on the pier I couldn't give you an exact time, maybe around about 11.30. I'm not sure, sir.

55

Q. Right, but it could have been after a heavy dinner, couldn't it?

A. Yes, it was an emotional dinner, yes sir.

Q. And one with plenty of alcohol?

A. Not a hugh amount of alcohol.

5

Q. Well now assuming that the conversation took place as you've said to us this morning, I want to put something to you that occurred in addition. The fact is this, is it not, that the conversation as you said went something like he saying to you "You've been harassing my brother and lying to them". That's what you said he said to you, wasn't it?

10

A. Yes, he came at me very strongly--

15

Q. That's what he said, wasn't it?

A. That is correct, sir.

Q. You said you were chest to chest?

A. That is correct, sir.

20

Q. And you said that you asked after that "All I am asking is did you see us?" to which he said "Yes". Is that--

A. Yes.

25

Q. Is that what was said between you?

A. Yes.

Q. So you got the clearest of affirmatives to the question as to whether he'd seen you at the time?

30

A. Yes, sir, at that time.

Q. Now you still had no knowledge of the reporting by Margaret Rentoul of sighting your yacht?

A. They didn't sight our yacht, sir.

35

CORONER: Sighting a red flare.

SHAND: Q. Of sighting a red flare, if you wish to have it that way.

40

CORONER: Well that's the way the evidence is, Mr Shand.

SHAND: Indeed, I understand, your Worship.

Q. Of sighting a red flare and in other words telling Telstra control that a red flare had been seen?

45

A. I was not aware of that, no.

Q. You weren't aware of that then?

A. No.

50

Q. This is what happened, wasn't it? After the conversation in substantially the terms you've related today, you followed Mr Richard Purcell at about 1am on 2 January along the promenade for some distance in front of the hotel, the Customs House Hotel, didn't you?

55

A. No, sir.

Q. No recollection of that?

A. My recollection is as what I've stated to you that we were passing the Customs House Hotel as a group, including Mr Kothe on crutches, and I'm not sure whether Richard was leaving the premises or whether he had seen us.

5

Q. Well you caught up to him, didn't you, on the promenade outside the hotel?

A. We came face to face on the promenade outside of Customs House, yes.

10

Q. Was that where the conversation I've just repeated to you occurred?

A. Yes, sir.

15

Q. On the promenade?

A. Just out on the footpath, yes sir.

Q. Well after that conversation occurred did you not say this to him, "I've been trying to get you for four years and now I think I have got you"?

20

A. I cannot recollect that, sir.

Q. That's all you can say, isn't it, you can't recollect it?

25

A. I have witnesses. My fiance was there, there are other members on the boat who were present, including Mr Kothe who came along and hit us both, I believe, on the back of the legs with the crutches and said "We are tired and emotional. We need to just leave this alone".

30

Q. That doesn't have anything to do with whether in fact you said to him what I have just put to you, does it?

A. No, I did not say that to him, sir.

35

Q. You deny it, do you?

A. Yes, I do. I wouldn't say that.

Q. It would have a familiar ring, wouldn't?

A. With what you have been trying to transpose I guess it would, but I did not say that to him.

40

Q. And did Mr Purcell with commendable conciseness say in reply to you "Get fucked, you prick"?

A. He may well have done. I can't recollect that, sir.

45

Q. And did you then say to him this. "Why don't you take a swing at me and then I can sue you for assault"?

A. No sir. He actually came up to me when we came chest to chest initially. He was going to grab me. I said "Richard, there is no need for violence here". We had a group of our crew around us including Glynn's sister. We didn't want to have--

50

Q. I'm not asking you about what you wanted or didn't want.

55

A. That's what I said to him. I said to him that if he was to take any force to me - and I just put my arms by my side and I asked him the straight question did he see us. I said

that's all I wanted to know.

Q. Well what I'm suggesting to you is that's what you said to him, "Why don't you take a swing at me and then I could sue you for assault", after which he laughed and went on his way. Now you say that's not true, do you? 5

A. I remember saying that in the first instance when Richard and I were confronted to each other.

Q. Would you agree with this, Mr Watson, that your resentment stirred up an exchange with both these two brothers while in fact what you were doing was venting your resentment based upon your belief that his yacht had sailed past you without justification. That right? 10

A. Their boat had sailed past us without - at that time I had no knowledge of the - without any means of assistance. Correct. 15

Q. Would you agree with me this. Bearing in mind what you've said about the decision that he made in the witness box in answer to my questions-- 20

A. Yes.

Q. --and your knowledge of the fact that there was no motor-- 25

A. Yes.

Q. --that in fact what you said to him and to his brother on those two occasions in Hobart justifies a sincere apology from you to both of them? 30

OBJECTION (CALLAGHAN).

Q. Would you agree that your behaviour, you would now admit, was grossly improper towards them? 35

OBJECTION (CALLAGHAN).

Q. You said this in evidence, and I'd like to know what you meant by it. It concerns the hitting of the MOB button. You know what I'm talking about? 40

A. The MOB button, yes sir.

Q. You said "It logs the position of where a person went over" didn't you? 45

A. It logs the position of the yacht at the time, yes sir.

Q. Yes, and you then following by saying this, didn't you, "We had physically written down the last position where Glynn Charles went over the side"? 50

A. Yes, that was carried out by Mr Stephen Kulmar.

Q. And what do you mean by "physically written down the last position"? How was it written down?

A. It was written down on some paper, either a book or something on the chart table. Because we'd had water damage to a lot of our instruments we weren't sure at any time if we were going to lose the contents of the GPS by either 55

battery failure or ingress of water so we had that notified down and I believe that when I contacted the SAR plane I was able to verbally give them that position.

Q. And has that written record been preserved? 5

A. No, unless somebody has it in - one of the guys might have it well in their mind. I can't be exactly sure, sir.

Q. Now did you have some direct contact yourself with any type of aircraft, be it helicopter or fixed-wing, while you were dismasted? 10

A. Yes, I think we spoke to the first contact we made, I believe it was with an Orion aircraft, that I think was - I'm not sure if it was an Orion. It was a fixed-wing aircraft that picked up our signal even though it was a breaking-up signal and-- 15

Q. What sort of signal is that?

A. A breaking - the signal was breaking-up because we didn't have a good aerial outside. 20

Q. Was that a signal by VHF?

A. Yes, sir.

Q. Yes, go on, please. 25

A. And we reported, from memory, first of all the yacht we were, our position, and the individual that we had lost overboard and his nationality so that they could - as we had no shore contact so they could relay that back to the authorities concerned in regard to our missing person. 30

Q. When did you make that contact with the Orion?

A. I think around 7.30 or 8 o'clock. I really - that time span was running pretty hard. 35

Q. Was it before or after you saw the Margaret Rintoul? 35

A. I'm pretty sure it was after that time, sir.

Q. But not much?

A. From memory being downstairs I think we were in actual darkness then. 40

Q. Well what would be your estimate?

A. After how long after we'd seen the-- 45

Q. The Margaret Rintoul?

A. Maybe an hour, maybe more.

Q. Was that the first contact you'd had with any aircraft? 50

A. To my recollection I think it was, sir. Yes. We were notified by them to - we had an EPIRB, that's an emergency Positioning indicating radio beacon in the cockpit. He then told us to - we had it tied to a winch but in the cockpit. From memory he told us to belay that into the water. I think the water gives the transmission of the signal more bearing. 55

Q. Yes.

A. Which we did.

Q. Well did that get through to an aircraft?

A. The EPIRB position I believe was picked up by helicopter who contacted us which was the first helicopter that came into sight. Initially they told us given our position at the time that we were too far away from the land for them to safely come out and do a sortie with us. 5

Q. But that helicopter was in possession of your position as a result, was it not? 10

A. That had been relayed to them in our EPIRB but I gather that during that time there were many yachts in distress with EPIRBs out in the water and that not all - that some EPIRB signals are the same and they had to home in on a particular beacon rather than a singular for each yacht. 15

Q. Well I just want to find out this from you. It having got to a helicopter--

A. Yes sir. 20

Q. --which you say it did--

A. They actually logged our position or a close vicinity of our EPIRB, yes. 25

Q. And they of course could make ready contact with Telstra control?

A. I imagine they would have been in conversation. Our HF radio transmission and receiving was very intermittent because of the placement of the aerial and the state of wind conditions being down below. 30

Q. But once having got to the helicopter--

A. Yes? 35

Q. --then your understanding is the helicopter could pass that information on to Telstra control?

A. I imagine that would be their process.

Q. Yes. 40

A. But I couldn't tell you.

Q. Now my only question now is, when did you let off that, what do you call it, an EP--

A. An EPIRB. 45

Q. EPIRB, yes. When did you let that off?

A. The EPIRB was actually activated from what I believe in the cockpit from the time-- 50

Q. When, though?

A. After our roll over. After we had been able to get the life rafts and safety gear on deck. I couldn't tell you. It may have been 40 minutes, 50 minutes after the time we rolled-- 55

Q. In any case that sounds as if it was comfortably at least before the Margaret Rintoul sailed past?

A. It may well have been, yes sir.

Q. So that the real chances are that Telstra control would have found out from that contact with that helicopter where you were?

5

A. It wasn't a helicopter at that time, sir. It was a fixed-wing aircraft that picked up the original signal.

Q. I see.

A. And then notified us to put that positioning beacon into the ocean attached to the boat.

10

Q. How long did it take Sword of Orion to turn around when it finally got round to it?

A. In the circling procedure?

15

Q. Yes.

A. To veer away?

Q. Yeah.

20

A. Not looking at a watch but I would say - from the time we were completely ready to turn are you referring to, or from the time that we decided?

Q. From the time you--

25

A. From the time that we had made the decision we were going to turn or--

Q. From the time you made the decision.

A. Okay, by the time we had checked all the ropes so that we could start the motor, have it in neutral, I guess in the vicinity of 12 minutes, ten to 12 minutes maybe. Maybe a little bit longer.

30

Q. And that completed the turn as well, did it?

35

A. No, going into the turn because people had to attach themselves onto the boat onto either the safety lines or to a strong point to be ready to--

Q. I don't want all the details but I want the whole time as you give it, 12 minutes preparing as you've said?

40

A. Yes, and the turn of the boat would have taken about three or four minutes.

Q. So that's about--

45

A. About three minutes by the time we'd done the arc, come back, and come up onto a course.

Q. That's about 15 or 16 minutes in all?

A. That's correct.

50

CORONER: Do you have anything else, Mr Callaghan?

CALLAGHAN: No.

55

HILL: I have two or three questions.

Q. Sir, you were told to put the EPIRB into the water because it doesn't work if you set it up on the boat, is

that correct?

A. No, the transference from the signal of the EPIRB apparently is better if it's saltwater-immersed rather than being in situ in the cockpit of the boat.

Q. You're supposed to put it into the water so that it works effectively.

A. Correct.

Q. And you hadn't done that?

A. No, we were afraid of--

Q. Now the reason you wrote down physically after you'd touched the man overboard button was because although it logs it, the GPS logs it electronically on the screen--

A. That's correct, yes.

Q. --what you feared was the screen going blank and then you would lose those numbers?

A. Yes.

Q. So you wrote it down on a piece of paper?

A. It was written down on a book head(?). That was the most important thing that we needed to know.

Q. Is there anything more that you could have done, that's aboard the vessel Sword of Orion, for Glynn Charles than what you've already told us?

A. No, sir. There was nothing that I could physically have done to help him.

CORONER: Thank you very much, Mr Watson, you can step down.

WITNESS: May I just add one thing about the EPIRBs that we learnt?

CORONER: Yes.

WITNESS: That the attachment line for the EPIRB is a polypropylene line approximately three to four millimetres in thickness. The gunwale of the Sword of Orion was very round in shape so there was no shape. When we were told to belay it it was tied to a winch and it was set out over the side of the boat. When the helicopter went to the position and said "Turn off your EPIRB now, retrieve it and turn it off" because it was interfering with his signals, Nigel went up on deck, pulled the line, and it had just - basically where it had been rubbing on the side of the deck had just sheared through. Polypropylene is - when it's opposed to heat, a constant little bit of friction, will snap and it would be a recommendation that in the future that I'd like to see them with a - you know a very good lanyard to be able to purposefully put the EPIRB into the water and know that it's going to be safely with your boat and not drifting off maybe some 20 miles away.

CORONER: Thanks for that. We'll look at that.

W804 88/00 CJC-J2

<WITNESS RETIRED

DISCUSSION ABOUT WITNESSES TO BE EXAMINED ON MONDAY

CORONER: The bar table can stay back briefly and we'll have
a conference with you when the public are out of the place
and try to work out the practical way to continue in the
next few days. I must say this has been a juggling exercise
for two weeks, it's going to go on like that. We've just
got to interpose witnesses because of their other
commitments. It's not been an easy task. All I can say is
we're doing our best to accommodate everyone.

ADJOURNED PART HEARD TO MONDAY 27 MARCH 2000

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CERTIFICATION OF TRANSCRIPT

We the undersigned being Sound Reporters 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 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 CLYN RODERICK CHARLES

on Friday 24 March 2000

Dated at SYDNEY
this *Twenty Ninth* day of *MARCH* 2000

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