

W1127 245/00 RMB-C1

NEW SOUTH WALES STATE CORONER'S COURT

STATE CORONER: J ABERNETHY

FRIDAY 21 JULY 2000

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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

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Mr A Hill assisting the Coroner
 Mr R Stanley QC for the Bureau of Meteorology
 Mr R Weber for the Cruising Yacht Club of Australia
 Mr R Lancaster for the Australian Maritime Safety Authority
 Mr Remington for Mr Lew Carter
 Mr PR Callaghan SC for the Royal Australian Navy

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PART HEARD

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LANCASTER: May it please the Court, my name is Lancaster, I seek leave to appear on behalf of the Australian Maritime Safety Authority.

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CORONER: Leave is granted, Mr Lancaster, welcome on board.

REMYINGTON: Your Worship, my name is Remington, Mr Colefax won't be with us this morning so with your leave I'll be appearing for Mr Carter.

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CORONER: Leave is granted, Mr Remington. Do you have something Mr Weber before we start?

WEBER: I just wish to update the Court in relation to Mr Green, your Worship.

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CORONER: Yes.

WEBER: Mr Green's signed statement was served on the Crown last night and has been disseminated amongst the other parties this morning. I'm instructed that he flies in to Sydney from New York on Sunday. Because of the time differences between Sydney and New York and the fact that people are in Court we haven't been able to make contact with him and so he's unaware that he might be required on Monday in Court. If it's still desired we will do our best to get him here. We think it's sub-optimal getting him straight off a plane but anyway if it needs to be done, it needs to be done.

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HILL: I made that remark about calling him on Monday if he was in Australia. I'm quite happy to try and fill some

other witnesses in for Monday and Mr Green can take their place. Possibly if I have a chat with my learned friend after we can possibly move the witnesses from Wednesday, or a great many of them, to Monday and save some time that way and then put Mr Green in on Wednesday, if that is convenient, something like that.

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CORONER: Yes, okay.

HILL: We'll make an arrangement.

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CORONER: We'll make some arrangement, okay. Are you ready to go, Mr Hill?

HILL: Yes. I'm told there are some annexures to Mr Green's statement that we don't actually have with the statement. Paragraph 37, page 8 refers to an annexure marked A and a few others but they don't appear to be with the statement.

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WEBER: We'll attend to that, your Worship.

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HILL: Having done that, I now call Lieutenant Commander Galletly.

<NEIL RONALD GALLETLY(10.16AM)
SWORN AND EXAMINED

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

A. My full name is Neil Ronald Galletly.

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Q. And your address sir? Professional address will be fine.

A. I work at HMAS Cresswell in Jervis Bay.

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Q. Your position in the Royal Australian Navy?

A. My rank is lieutenant commander and I'm currently a staff officer for the commanding officer of HMAS Cresswell.

Q. I want to take you back if I can to the December of 1998. You were the commanding officer of the vessel Young Endeavour, is that correct?

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A. That's correct.

Q. Could you explain to the inquest what the Young Endeavour is?

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A. Young Endeavour is a sail training ship, indeed it's the national sail training ship which takes young Australians on trips at sea, 10 day voyages billed as an adventure under sail.

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Q. It's a sailing vessel but it also has an engine?

A. Two engines.

Q. It was also used as a platform for Telstra Control, that was the controlling network radio station for the Sydney to Hobart Yacht Race?

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A. That's correct.

Q. Where were they aboard the vessel?

A. Telstra Control sit in the staff mess which is a mezzanine deck below the charthouse.

Q. What was the communication between the bridge of the Young Endeavour and Telstra Control where they were?

A. Voice primary, which means we talk, shout down the hatchway basically.

Q. How big is the mess where they were?

A. It's not large. It's the size of a small bedroom. If I tried to give it in metres, shall we say four metres long by the width of the ship which was eight metres, almost the width of the ship, so four by six metres and a little bit - say two metres high.

Q. They came on board when, do you recall?

A. They embarked on the day that we sailed, which was Boxing Day. They had - Lew Carter had been down several times before in the days leading up to it but they embarked the day that we sailed.

Q. About what time?

A. That's stretching the memory a bit. I would imagine they would have been there from about 8 o'clock, 7.30, 8 o'clock.

Q. Where was the Young Endeavour at that stage when they embarked?

A. We were berthed alongside at Garden Island, Fleet Base 5, next to Harry's Cafe de Wheels.

HILL: I know it.

CORONER: A Sydney icon.

WITNESS: But we weren't provisioning.

CORONER: A Sydney icon Mr Stanley for you Mexicans.

SPEAKER: I think he knows it, your Worship.

HILL: Q. Did you go out before the racing fleet set off at 1 o'clock?

A. Yes.

Q. About what time, do you recall that?

A. I think we sailed at 1100, proceeded down out through the Heads to be in a position to try to get some PR for ourselves actually as the yachts were - leading yachts come out of Sydney Heads, I was trying to jockey with full sail up to try to get into those helicopter shots for the TV news, without success.

Q. I think you proceeded down the coast at that stage and I think that the radio of Telstra Control packed up, is that right?

A. That's correct. Telstra Control couldn't talk to

anybody or them in return with any clarity, so we had to replace the radio.

Q. Was there any testing of the radio prior to bringing it aboard?

A. Not - I don't know about testing prior to bringing it aboard but the radios each year are tested alongside at Fleet Base 5 and we know from experience that we always receive back a weak signal, because it's in the bay of Woolloomooloo there and it's always poor propagation. So that year we had poor propagation again and it shows a flaw in the system that they weren't being tested properly enough - well enough. In fact Lew and I resolved that the next year, which was '99, we've got to go outside and test them because it was a - I'd been in command for the Sydney to Hobart Yacht Race twice, this was the second time, so it was becoming a bad habit. We had to sort these radios out. On that occasion in '98 we were out there, the radios were not working and Lew was doing his darnedest to - and my maintainer, doing their darnedest to try and fix it up and in the end we - Lew came up with the bright idea of getting the fellow that maintains the radios, that installs the radios, down to Wollongong and we were met by a police boat, rendezvous, and put on a new radio.

CORONER: Q. So you actually pulled in at Port Kembla or Wollongong?

A. Yes.

HILL: Q. That was a new HF set we're talking about, are we?

A. Yes.

Q. I think there was some trouble with the radio the year before, the HF radio?

A. That's right. As I said a moment ago, well there weren't - there was actual trouble, that's right, a fuse blew and we were lucky, our Young Endeavour had a fuse that fitted and we made it to Hobart with the radios intact - radio intact.

Q. So you had to take - you had a fuse aboard the Young Endeavour that fitted the Telstra Control radio set?

A. Not by good planning, by good luck.

CORONER: Q. Was there much involved that you could see in replacing that radio?

A. In '98 or in the year--

Q. Yes. Leaving aside you had to go into port at Port Kembla or Wollongong but was it much of a job to actually replace it?

A. No.

Q. Was the radio very big?

A. No.

Q. Would it be feasible to carry a spare?

A. Yes.

HILL: Q. Incidentally, I think that - were you aboard the Young Endeavour as the commanding officer last year, that's 1999?

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A. No.

Q. Who was?

A. The captain was Andrew Rourke.

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Q. Andrew?

A. Rourke.

Q. Back to the 1998 situation. I think at page 8 of your statement - do you have a copy of that?

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A. Yes.

Q. The weather I'm going to turn to. What was the warnings that you got?

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CORONER: Before you do, are you going to cover the actual comment about the forecasting? The weather forecasting? Item 4 on the synopsis.

HILL: I see, yes. That's page 8.

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CORONER: We're coming to that now?

HILL: Yes, that's on page 8.

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Q. You're on page 8?

A. Yes, I'm at page 8.

Q. The weather forecast. What was the warnings that you got?

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A. To answer weather forecasting questions I should go back a few days, if that's alright.

Q. Alright, you go ahead.

A. I'm not on Young Endeavour now, I'm still the captain but I'm ashore, it's Christmas time. I can recall saying to my family at the usual Christmas gathering we are in for a clanger, or words to that effect. I knew at that stage on 25 December that we were going to have two fronts, one - the first one more moderate and the second one to be stronger. I couldn't give wind indications but certainly a strong front. So I knew that this year's Sydney to Hobart was going to be another one that was going to be potentially rough, or likely to be very rough. And I commented to the family. I got this information from the press, from the newspapers, from the TV. I watch it avidly at times like that to see what I'm in for on a sailing ship. So I was very happy - well, I was happy at the time with what I was hearing, I had no reason to doubt it and indeed I'll go so far to say as what we got out there was what was forecast. I'll continue on, so now I'm on Young Endeavour, captain of Young Endeavour, I'm receiving signal traffic from the Navy weather people and I'm listening to the weather forecasts

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that Lew is forecasting on his circuit and I'm listening to the radio weather forecasts from Penta Comstat and all sources. If you're captain of a sailing ship you soak up weather information. Really I don't recall anything any different to what I had said to my family on Christmas Day where two fronts are coming along, a smaller one followed by a bigger one and I think I've said in my notes here that the wind speed was - I think it was 45 to 50 knots, I've said that somewhere in--

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Q. If you go to page 8, the top of the page at about point 2, I knew it would be big, I think they were saying 45 to 55 knots?

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A. That's right.

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Q. That was what was forecast and you go down - if you go down to question 48, the answer to that, because they came through at 65 knots, so yes, I think the weather forecasting was fantastic?

A. Yes.

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Q. And that's still your opinion?

A. Absolutely. If I may add some more?

Q. Yes, certainly.

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A. I've read the newspapers subsequently and I'm aware that there's some controversy about the forecasting. I'm prepared to say hand on my heart that I was completely happy with it. Because any yachtsman should know that what you - it's not - it's not written in stone what the weather forecast is going to be. You go out there, we were told 45 to 55 knots. Well it can be more than that, so you have to go out there with a degree of caution. So I wasn't expecting a mill pond, I was expecting rough weather, strong winds, and that's what I got. So the weather forecasting was spot on as far as I'm concerned.

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Q. When they forecast 45 to 55 knots, what's your understanding of that? Is there going to be higher winds above the 55 knots or what?

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A. Of course there are.

Q. I'm sorry?

A. Of course there are Mr Hill because it doesn't stop at 55 knots necessarily, it's like trying to predict the stock market I suppose, it goes up and down. So anyone that would take it to the letter of the law that it will not make 55 and a half knots or 60 knots or 70 knots, you're kidding yourself, because what you get out there at sea is what you get, it's real life, it's the real ocean. It's only a guide.

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Q. So it's your understanding is it that that's the average wind?

A. Introducing terms like averages and means implies a certain mathematical connotation. I would like to keep it in a casual colloquial sense. Yes. If someone says to me 45 to 55 knots, anybody says that to me, I take it with a

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grain of salt and rig my sails accordingly with the expectation that it could be less or could be more. I suppose that boils down to an average.

Q. No, that's fine. So you in fact were - your vessel was prepared for this? 5

A. Yes, we were prepared.

Q. Some hours prior to it actually getting into these winds, what did you do? 10

A. We set our storm sails very early on the day of the big blow. But I would like to add that we were not racing and I had main engines to use quite legally, so I was able to - and I had a youth crew on board so I was able to do - take those precautions much earlier. If I'd been racing in a yacht there's no way I would have set storm sails five or six hours before it did eventually come through. 15

Q. Page 9 and there's a question there at question 56. Can you just describe to me what the blow was like, what the conditions were like out there and you say in the thick of it, it was 65 knots maximum, six metre waves, so that's a sea state 6 force 11. Now, sea state 6 force 11, is that from the Beaufort scale? 20

A. Force 11 is the Beaufort scale, that's correct. 25

Q. I see, that's--

A. But the sea state 6 is from a scale, that's correct, a mariner's scale. 30

Q. So the maximum winds that you got were 65 knots, is that--

A. That's correct.

Q. How do you know that? 35

A. By looking at the ship's anemometer.

Q. Then I'm going to take you further along to page 32. You were asked a question about the Business Post Naiad. See up the top there? You were asked this question. Do you recall any maydays that may have been sent from Naiad or did anyone discuss any maydays that may have been sent from Naiad and you say you don't think you heard any from Naiad? 40

A. That's right, I don't think we heard anything. 45

Q. You would have been on the bridge at the time?

A. I was on the - at the wheelhouse, you call that the bridge, the charthouse half a deck below and the staff mess where Telstra Control were half a deck below that again all the time, hovering up and down in that area. 50

Q. What I want to know is where is your radio with regards to the Young Endeavour?

A. It's in the charthouse, so that's in the middle if you like between the wheelhouse and the Telstra Control area. 55

Q. Could you hear it?

A. Yes.

Q. It's on loudspeaker I take it?

A. Yes, that's right. There are two, VHF and HF on loudspeaker.

Q. What stations were they tuned to? What frequencies? 5

A. The HF was on the distress frequency, international distress frequency, 2 meg, 2182 at the time and the HF was on the - sorry, the VHF was on channel 16 which is the distress and calling channel as well.

Q. So you've got those tuned to both distress frequencies and you can hear them? 10

A. Correct.

Q. You don't recall hearing anything from Business Post Naiad? 15

A. No. If I may add, my officer of the watch is on the bridge at all times as well regardless of where I am and they're listening to the radios as well and they would call me if they heard anything like a mayday from someone. 20

Q. I think that you also saw what Lew Carter was doing during these hours when there was a severe storm?

A. Yes I did.

Q. What's your opinion of what he was doing? 25

A. He was doing an absolutely fantastic job with limited resources and by limited resources I mean the radio set, the radio set, one of them, a lot of yachts to control, he was a one-armed paperhanger basically and he was on a heaving deck, a rolling ship. The wind noise was very strong on the bridge and the charthouse, probably strong in the staff mess, so quite arduous conditions to work in and he was doing a sterling job. 30

CORONER: Q. Over a long period of time? 35

A. Yes, a very long period of time. If I may add to that as well?

HILL: Q. Yes. 40

A. The year before when it was shall we say a normal year, the three Telstra Control people, it was the same three, led by Lew, they seemed to run a watch on stop on routine, they love it so much, they're dedicated, they're volunteers and it's almost as if they can't go to bed. They did go to bed the year before a couple of times to keep up their strength but every time I walked through the staff mess it was like they were a permanent fixture, stuck to the seats there, working their radios and keeping a link with their little yachts out there, their ducklings if you like, they cared so much about them. So it was certainly the same in the big storm. 45 50

CORONER: Q. Do you have any comment about the fact that there was apparently then only the one watch right throughout on Telstra Control - at Telstra Control? 55

A. Yes. I would say that having one watch your Worship is the best that volunteers, there were only three of them,

could do in the circumstances. If I were to analyse it from a professional communications point of view or try to put a naval communications slant on it and indeed in hindsight, even just a common sense slant of what you should have for so many yachts out there, well you need a watch system, you need to be able to go to bed and rest and get your mind off it and come back. 5

Q. That's what I'm getting at.

A. So they were fatigued through being diligent and caring I suppose. 10

Q. Could the boat - could your ship have coped with the personnel involved in an extra watch, second watch?

A. I'm sorry, I don't understand. Could we have assisted? 15

Q. Could the boat have carried extras who would form a second watch?

A. Absolutely. We could do that. We would have to have less - we'd have to take up some of the bunks that are given or sold I should say to the youth crews so it would cost us money to give away bunks but absolutely, we - I think we had 38 people on board, so plenty of room. 20

HILL: Q. I think we've dealt with the fact that there were the problems the year before, that is with the VHF - sorry, the HF set. No spares or anything, just the radio, that's all they brought on? 25

A. That's my understanding. 30

Q. The other thing that is important and that's at page 38, down the bottom. It's an answer to question 223. We knew that there were red flares and distress signals all over the place. If you had one red flare, if you saw or had reported to you in an area just one red flare, not in a storm or anything like that, what's your understanding of that? What would you do? 35

A. A red flare means distress. I would go and investigate and take into account the prevailing wind, whether I could turn my sailing ship that way. I might have to hand sail, which means take the sail down and flush up the main engines and go and motor towards it. 40

Q. In this particular circumstance of the night of the 27th you've said that there were red flares going off everywhere? 45

A. Mmm.

Q. So the usual practice that you've just told us about, about going towards where a red flare was, I take it couldn't be done under those circumstances? 50

A. No, no, there was no chance that we could alter for every red flare. We wouldn't have maintained any kind of course. There were too many. We couldn't tell range because of the poor visibility and when you're being thrown around, it was - you couldn't always verify where in fact it was, because a youth crew might say to me red flare and they don't know the way to take a bearing of it and if my officer of the watch didn't see it, who could take a bearing of it, 55

a true bearing and find out which way it was, it was just red flare. And then you'd hear red flare from Telstra Control, a yacht would report in to Telstra Control red flare and then I might see a red flare myself and very quickly it was overload. And we couldn't manoeuvre in any case. And later on in the evening we were dispatched to a various number of yachts and therefore we were being dispatched somewhere, it wasn't our duty to zig zag all over the ocean.

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Q. What I wanted to do is I want to ask you this question. If you, and this is hypothetical, if you in those circumstances, that is of the night of the 27th, heard a radio message that said red flare sighted with a latitude and longitude position, that's it?

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A. I would relay that to RCC.

Q. If you had another radio message that said dismasted yacht, crew on deck waving red flares at a latitude and longitude, would that make any difference to you?

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A. No, in fact it would be - it'd be worse if you like, you can actually see the yacht that's did you say dismasted.

Q. Yes, dismasted.

A. So it's not just a red flare which sometimes are let off by pranksters and I'm not suggesting that that would have happened in this storm but that's - you can see the yacht and the red flare, you've definitely got to do something and go - and if you can't - if you see the yacht then it must be close so you would go to it and indeed if I was going to in this hypothetical situation to another yacht and I went by someone that was in obvious difficulty now, I would have a decision to make and I would suggest that I would probably try to effect a rescue or at least check they're okay there and let them know I'm here, we're a big ship, that's a little bit of reassurance to them. And then try to communicate with them and say are you okay, look, I have to go somewhere else, would you like me to drop you a liferaft or should I say with you. And I'd seek clarification from my operational controller and at this stage I volunteered the ship under the operational control of the RCC. So I would seek clarification from my superiors, say I have this quandary here, we've got one - you've dispatched me to one that's in obvious danger now, you're the officer in - allocate your resources. If you need to re-allocate them, so be it.

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Q. But in essence what you're saying is that a report of a red flare at a particular position is quite different from a report of a dismasted yacht with crew waving red flares at a particular position?

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A. The latter is much more certain. I may have misunderstood. Are you saying a report of that or am I seeing it myself?

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Q. No, a report of it.

A. A report of it? Okay. When I was saying before I was referring to if I'd seen it myself waving the red flares.

If it's a report of a dismasted yacht waving red flares, it's a little higher up the degree of certainty I would say but it's still only a radio report, so in that case it's certainly not a prankster and so yes, it's a little higher up the priority listing. You'd need to do something. You'd have to relay it, if it was to me, I'd have to relay it. 5

Q. This is important, at one stage you heard a mayday from the vessel Winston Churchill?

A. My navigator who was the officer of the watch at the time heard a mayday on VHF, that's correct. 10

Q. It's on VHF, what does that mean to you, if you've picked up the mayday from the Winston Churchill on VHF?

A. On VHF it's a much shorter range radio than the HF, so it hasn't come from Noumea or New Zealand, it's come from somewhere very close, relatively speaking, on the east coast, not north of - we're down near Eden, certainly not north of, pick a spot, Jervis Bay and even that'd be too far. Maybe 25, 30 miles, 40 miles possibly. We have a very high mast and where the aerial is up there affects the range of what you can receive. VHF is generally regarded line of sight communications. 15 20

Q. So if you'd picked this - as you say, you picked this mayday up from the Winston Churchill on VHF, are you able to give us an approximation of how far away it would have been, that is the source of that mayday? 25

A. I'm not an expert. I don't have any range tables on my yacht - on the Young Endeavour to say the aerial's at this height, what could the range be, I don't have anything to work for like that. But I would say generally speaking 25 to 40 nautical miles would be the limit. I shouldn't say - 40 miles would be really stretching it. 30 35

Q. There was a position given in that mayday and I think it was 20 miles southeast of Eden?

A. That's right.

Q. How far away were you from a position of 20 miles southeast of Eden? 40

A. Okay. I was about an hour to an hour and a half sail away from that position.

Q. What did you do? 45

A. I made preparations to alter course. At the time when I heard that mayday I was being dispatched to search for Stand Aside by the RCC. I--

Q. We've got two RCCs so-- 50

A. Okay, the - I'll use the term AMSA in Canberra if you like.

Q. Alright, the rescue--

A. Rescue centre. 55

Q. --coordination centre?

A. Rescue coordination centre in Canberra, not the radio

control centre. So the rescue coordination centre had me dispatched to search for Stand Aside. I made preparations to alter course to the north. Stand Aside was south. I had to make preparations to alter course and in the meantime - I don't recall what came first, whether I signalled the RCC with a signal saying I'm going to Stand Aside, I've heard this mayday and as a bit of a prompt, hey guys, you know, send me over here, I'm quite close, or if I turned and then sent the signal, I don't remember that. And I haven't been able to retrace it from using the ship's log or the date time group of the signal because I don't have the date time group of the signal in my photocopy. 5 10

Q. I think that you actually have those signals with you, is that correct? 15

A. I do but I don't think I have the date time group of that one. It's a question I've asked myself what did I do first, turn the ship or just prepare to turn the ship by getting crew on deck and things like that. If I - so let me just look at my signals again. At signal number 2 I've sent to the RCC that we've received the mayday, so we've passed that information on to them. 20

Q. That's the one that says from Young Endeavour to RCC, that's the rescue control centre Australia, received mayday from Winston Churchill in position approximately 20 nautical miles southeast of Twofold Bay, that's where Eden is, is it? 25
A. That's right.

Q. Abandoning ship to liferafts, vessel taking on water rapidly, Young Endeavour unable to determine exact position. ABC aircraft in contact. 30
A. That's right.

Q. So that's what went off? 35
A. That's right.

Q. What happens next? 40
A. Okay. We turned. Now, I don't remember whether we turned before or after but if you look at message 4, I've said to the radio coordination centre - rescue coordination centre currently en route to yacht Stand Aside 10 nautical miles south of - actually there's a bit of ambiguity here. What I'm saying is currently en route to yacht Stand Aside. I am, I'll insert there, 10 nautical miles south of Winston Churchill. That's not what I said. I just said currently en route to yacht Stand Aside, 10 nautical miles south of Winston Church, request advise priority. I'm giving a hint to the RCC, you know, I'm here guys, I would like to go to Winston Churchill. And I said intend proceeding to Winston Churchill unless otherwise advised. The use of the word intend is something that we will do in the navy sometimes to advise a superior. You then put the superior in a situation where they have to overrule you. So that's what I did intend. But they have to come back with something. 45 50 55

Q. So what happens next?
A. We are proceeding to Winston Churchill, to the datum,

I'll use the term datum 1 which is 37 14 south, I won't worry about saying the longitude, so we're proceeding to datum 1. I set an extra sail so we can try - we're under storm sails, we set an extra sail to get there faster, main engines are on full speed and we're preparing a rescue plan to recover people.

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Q. You were going to look for people in liferafts?

A. Correct. That's what we were planning to do, yes.

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Q. What time is it on the 27th that this is taking place?

A. The mayday was according to my log at - I'll look at the log, I won't use my memory, if I can find it. I'm assuming you're after an exact time so--

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Q. Yes, if that's possible.

A. The mayday was at 1719, 1719 was the mayday, my log says at 1748 I altered course to 010, which is essentially north to respond to the mayday and I set the mainstay sail.

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Q. It would have taken you how long to get to that position approximately?

A. Approximately an hour.

Q. An hour, so you would have been there at approximately quarter to 7pm?

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A. Yes.

Q. Thereabouts?

A. In a position to commence some sort of search, that's right.

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Q. How much daylight would have been left at that stage, taking into account that there was that heavy storm et cetera?

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A. I can't recall when sunset was but I can recall that it was - we had a small amount of leeway, there would still be light and twilight, even taking into account the storm, but it wouldn't be pitch black and it wouldn't be bright sunshine either.

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Q. No. What are we looking at, an hour, a half hour, three-quarters of an hour?

A. It's a moveable feast. We don't know how fast the ship is going to go with the swell, by setting the extra sail, but once you start getting along a bit you can work out your speed made good and my recollection would be at the most 45 minutes of sunlight and twilight.

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Q. So you're on your way to the Winston Churchill, what happened next?

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A. We were asked to proceed to another position which was a revised position for Winston Churchill. It was what I call datum 2 or 37 46 degrees.

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Q. Is that message number 5, is it? That's the one that says from the rescue control centre Australia to Young Endeavour?

A. No.

Q. Winston Churchill?

A. No, message number 5 is saying - is a response to my previous message when I'm saying I'm intending to go to Winston Churchill unless otherwise advised, then the RCC dispatches me to datum 1, at message 5.

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Q. Right, that's message 5 and it says - which is - it says please proceed to position 37 14 south, which is Winston Churchill's last known position, crew reported to be abandoning to liferafts?

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A. That's right.

Q. That is cancelled, is that correct?

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A. Yes, that is later cancelled.

Q. Which message do I look at for that cancellation?

A. Message - yes, it's message 6.

Q. Yes, that's the one that says "cancel" - it's from the rescue centre, "cancel my 27" et cetera "zulu, Winston Churchill, distress relay message, updated mayday relay AUSAR" and gives number.

A. Right.

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Q. And then it's the next one is it?

A. Message 7, that's correct.

Q. Message 7, which is from the rescue control centre, "yacht Winston Churchill sinking with nine persons, sinking in position 37 46 south." So that's a different area.

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A. It's a different area and that's the one which I have called datum 2.

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Q. So when you proceed to datum 2, how far away from datum 1 is it?

A. The best way to answer that is look at the chart. About 30 miles I think.

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Q. So that is your original chart that you had on the night and it's still marked?

A. This is the chart I had on the night. Not using navigation instruments, but datum 1 to datum 2 is about 33 miles.

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Q. How did you react to being taken from position 1 to this new position? What--

A. My reaction, well we obeyed orders, but my feeling was what's going on? I was on the one hand 10 miles away with the wind behind me, pushing my ship - the swell behind me, pushing my ship towards a mayday that we had heard or my navigator had heard on VHF, and that we were preparing a rescue. We were excited. People were in peril and I thought we were going to be able to save them. And then we were despatched against the wind and against the swell, 33 miles to another position. I was disappointed, I was concerned and I had a lot of things to weigh up my mind, was this the right to be doing, and I weighed up a lot of factors as to my response to that.

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Q. What gave you the concern?

A. The datum 2 didn't fit in with 20 miles southeast of Eden. It isn't 20 miles southeast of Eden whereas datum 1 is. So my navigator had heard the mayday with his own ears. At the time I can recall thinking these yachties must know where they were. The second datum is a long way away, surely in a race they knew where they were, but then you have to think well maybe they didn't, maybe their GPS global positioning system was broken or maybe yachties can't navigate. So there was an element of doubt, where are these guys. So we obeyed the directive and tried to rationalise was it right. I took into account a whole series of factors in that process.

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Q. What were the factors?

A. I've written out a list and so I'll refer to that if that's okay?

Q. Yes, by all means.

A. Okay. Well first of all I'd given my undertaking to work under the operational control of the radio - of the RCC co-ordination centre, so that's an undertaking to co-operate, and I was mindful of cluttering their communication systems which were already stretched with a query that I might have, hey, you know, hey guys, are we going to the right place. I was a small slow unit bouncing around in a gale and they were an ops room in Canberra with all mod cons and lots of staff and professionals trained in search and rescue. So it would be - I had to think very carefully before I would say to those professionals trained in search and rescue in an ops room hey guys, I'm implying that you might have made a boo boo. I had to think about what they said to me in their signal. They had an aircraft positive ID. That's, that's in - to enable a person to positive ID is positive ID. I now with hindsight wonder whether the civilian rationale of what a positive ID is, is really - if it goes through a process, you know, did they interrogate the aircraft, the ABC helicopter that sighted them and is it really a - is it really Winston Churchill? How do they interrogate what is a positive ID and what isn't? The ops room have received EIPRB information. Maybe Winston Churchill had a 406 EIPRB which says here is my location and I am Winston Churchill. I didn't know if Winston Churchill had a 406 or not. I had thought it might have been a typing error in the process of just typing out the telex on Satcom Charlie but I thought no, it can't be because they've cancelled the previous signal and they've re-sent this, re-directed it, so it's a re-directive, so it can't be a typing error. I thought at the time the RCC must have realised the weight of what they were doing. They were telling me a slow sailing ship under power in a storm, using main engines in a storm to go from a place that's easy to get to, to a place that's very difficult to get to and we would not get there till well after sunset, so I hoped that they wouldn't make that decision lightly. It had to be a very weighty decision and I had faith in their processes, and indeed I still do have faith that the processes were logical, and we were despatched according to reason. Having said that, I during the night talked to the ABC helicopter, I think it was the ABC helicopter, Victor Hotel-SAR anyway, a helicopter with the call sign Victor Hotel dash SAR, and it was on VHF and it was sort of - imagine me hanging on with one hand trying to stay upright and the helicopter, this is Young Endeavour, are you sure it was - it was - I don't remember the words but I was querying them saying hey, have you really got this right, and I was able to call them because I heard them talking to a merchant ship. And I think I did get through to the merchant ship because we did have a conversation, but it was garbled and I couldn't make any sense of it, but I didn't ever hear a response from the aircraft. So I was trying to see whether a mistake was being made. And then at 7 o'clock in the morning when I had received press reports on the ship, that people had not been found, I called Sam Hughes and he directed me to call the 1800 number and--

Q. Just before we go to Sam Hughes, I want to take you back

to what you got from - the message you got from the rescue co-ordination centre. It looks to be item 10 and it's to do with the - it's to the Young Endeavour and it says "yacht Winston Churchill, last known position of Winston Churchill was as reported by VH-SAR when it overflow yacht in position 37 46 south. Aircraft reported yacht had no mast and appeared not to be sinking. Original advice was that crew were abandoning to liferaft. This information cannot now be verified. Helicopter search under way." So an aircraft has spotted what they say is the Winston Churchill, it's not sinking and that's at this new position that you've been directed to. 5

A. That's at datum 2, yeah. So they're saying to me, the RCC - I'm sorry, what was your question? 10

Q. Well the question was that this was the message you got, to say that they had a visual sighting now of the-- 15

A. That's right, it - if I can go back beyond the visual sighting topic. 20

Q. Yes. 25

A. Our first signal right back at message 2 says that ABC aircraft in contact, so I knew an aircraft - so we heard that from Winston Churchill because my navigator has written it in the signal here, so we knew there was an aircraft there. Then we hear the message you just said, your aircraft in position, so it's tying in that an aircraft has spotted and identified Winston Churchill certainly, and that signal number 10 is as at 20.41 so almost 9pm, 20 to nine. By that stage we had been turned around for a couple of hours and I had been talking to Victor Hotel-SAR with that garbled message I mentioned before and - so now we receive a message that like really hammers the nail home, go to - it's not a typing error. It's datum 2, 37 46 south. 30

Q. So go to the second position? 35

A. Exactly.

Q. You still have that feeling and you've told us that you heard then the next morning at 7 o'clock people have not been picked up, so you rang Sam Hughes? 40

A. Mm.

Q. What did you say, do you recall? 45

A. It was words to the - well the meaning I wanted to convey was look, I'm worried about this, I still don't understand why you guys have changed us to datum 2. You know, with respect would you please go back and have a look downwind of datum 1, and Sam advised me to call the 1800 number in Canberra, which I did, and - that's the ops, that's the RCC itself, and I called them on their 1800 number and said the same thing. 50

Q. When you said go and look downwind, for what? 55

A. For liferafts, for evidence of - or for Winston Churchill itself. Go and start putting more faith in datum 1. I had this gut feeling all night and I still have it, why did they go to datum 2, and at the time you see well

there's been aircraft spotting, so I kind of tend to hone in on well was the aircraft misidentifying something and I look at the chart. I'm waffling a bit now, I'm probably answering your question, but I look at the chart and I see well Stand Aside is a vessel that we'd been despatched to earlier, it's near the datum 2 for Winston Churchill. Could it be that - and Stand Aside was dismasted. Could it be that there's been a misidentification.

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CORONER: Q. Identifying Stand Aside for Winston Churchill?

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A. Yes sir, that's right. I'm only asking the question, it's a--

Q. Of course. That's what I'm going to have to try to decide.

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A. Or indeed if I - it could be any other yacht, but that was the one that alerted me. I thought these guys are quite close, and imagine flying in an aircraft in these gale force conditions, what is the interrogation procedure to find out a positive ID. I would in hindsight think it may be a little bit different to what the military should do, or would do.

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HILL: Q. I think that you actually - it wasn't as if you just had this feeling. You and your officers were looking at the various messages?

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A. Absolutely. We were trying to go through it with a fine toothcomb. I was talking with the navigator and the XO thinking well we've got to have justification to be able - XO is second in command. We've got to have justification to be able to query these guys. I'm the kind of guy that will look a superior in the eye and say look sir, I'm not too happy with this, but I'm not going to do it without a good reason, and the reasons were stacking up. There were - there was an aircraft sighting and they have all the resources, the professionals, they have all the communications. I'd heard there were 25 aircraft out there searching. I couldn't make the mistake of kind of disobeying if you like and steaming a little bit further south to datum 1 and have a bit of a quick look before I go to datum 2, because that would be foolhardy. That would just take me - it's not obeying orders and it's - and it would take me further away to datum 2 and much much longer to get to it, because I'd have to go against the wind and the swell to get back to datum 2. So it's a matter of following orders, turning the ship around as best we could and then going through the motions of well have they made a mistake, picking holes in it, is this right, because of this gut feeling see, I don't understand this. And finally proof in the pudding - that's not the right phrase, but finally in the morning no one's found, so I call the guys on the telephone and say what's up?

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Q. And today, how do you feel about the situation? Is it still the same or has any answers been given, or what?

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A. No. There may be - I'm very careful to point out there may be absolutely valid reasons for datum 2 to be set, but as an XCO of a small unit in a big search and rescue -

search and rescue event, I don't know the answer.

CORONER: Q. But - and it's really not a matter of evidence, it seems to you that there's been some sort of misidentification of a craft surely?

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A. It does.

Q. That readily explains it?

A. It does. I think there are a couple of things.

Possible misidentification by an aircraft, the communications overload. I've read in various places that the RCC was stretched in its manning and resources to cope with the workload. In conversation with other naval counterparts just in the last few days trying to piece this together I've been talking with Captain George, and indeed he has a plot where other yachts were in that position as well, and you add my doubt with some other doubt in the aircraft world, I think there's definitely a question there. Another one is possible confusion in the signals that I have, that I've numbered 1 to 14. Now I don't know for sure but it just seems to me that there is evidence that 43 72 which I'll point - I'll show you message 1, AUSAR 98/43 72. Can you see that?

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Q. Yeah.

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HILL: Q. That's number 1, numbered 1?

CORONER: Yeah, 1.

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A. Message number 1.

HILL: Q. Yes.

A. That - the text of that signal talks about Stand Aside and it's us sending the signal but we've referenced an RCC signal that's 43 72, so I'm trying to link 43 72 with Stand Aside. 43 72 is linked with Winston Churchill at messages 4 and 3. 43 81 is Winston Churchill at message 5, and so it goes on. It seems to - these are numbers used to identify incidents I understand. I would suggest that it needs to be looked at by the RCC who draft some of these signals and say well what were they really saying when they were talking about 43 72 and what were they really saying when there was 43 81, referring to the Stand Aside and Winston Churchill. Did they get them confused?

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CORONER: Q. So what you're saying is that it seems to be confusing in the message numbers. Each number is meant to relate to a separate incident and these ones seem to move Churchill from 43 72 to 43 81. Is that right?

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A. Sure, that's correct, your Worship. Now if I could go on and say I qualify that by saying it's only - I'm not an expert in how the RCC write their signals, it may not mean anything but I don't understand it. But if I had that piece of evidence with Stand Aside being near - the datum for Stand Aside being near the datum 2 for Winston Churchill and other yachts in that position, the doubt increases a little bit.

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HILL: Q. So effectively you think that the second position you were sent to was in fact a different yacht to Winston Churchill?

A. I need to be very careful how I answer that. I wouldn't go so far to say I think it, but I'm not fully appraised of why - I'm not fully appraised that a mistake has not been made. Does that make sense?

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CORONER: Yeah.

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A. It's a little bit less than I think it happened. I think - I'm not saying I think they made a mistake, I just think I'm not fully appraised of why it's happened and I would like - I would like people to find out.

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Q. Datum 2 for Winston Churchill is very similar to the position, the original position you were told about Stand Aside. Is that right?

A. That's correct.

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Q. And that's important isn't it?

A. Well I think it is.

Q. If Stand Aside was dismasted?

A. If Stand Aside dismasted and there's a aircraft out there that has got a visual ID, and I understand it's a civilian helicopter, would have different I imagine identification criteria to a military helicopter. Maybe more, maybe not as good, maybe a mistake's been made. At the time I was quite - I'm thinking - I'm on my shift, I'm thinking that's a positive ID, and it's only afterwards when it all starts to ..(not transcribable).. I was thinking hang on, what is their version of a positive ID?

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Q. Did you think about the concept of inherent similarity in a lot of these craft anyway?

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A. Of course. They're all generally white-hulled, dismasted there's a great similarity to a small number of them at the time and they're all in terrible seas at night in a gale. It would be easy - difficult to identify any of them. We were misidentified by Moira Elizabeth as Team Jaguar and we've got two masts and we're 240 tonnes.

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HILL: Q. But the reality is that at the time you had this suspicion?

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A. Yes.

Q. And it continued on, so much so - and I'm not just talking about you, you and your officers on the bridge, that you were moved enough to actually phone Sam Hughes the following morning and then contact Canberra, the rescue co-ordination centre, and ask them to search downwind of the original position?

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A. That's right, and if I may go a little bit further. This is 18 months ago, my memory is a bit sketchy I suppose, but if you look at signal number 10 it's from RCC Australia t 20.41 so it's 20 to nine at night. It's from RCC Australia just to Young Endeavour. It's not to the world,

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it's just to Young Endeavour, and they're clarifying things to me. They're saying last known position Winston Churchill was datum 2, identified by an aircraft. It's almost as if they're explaining it to me alone. Now I don't have a brilliant memory. I wondered did I get on the phone to them that night as well and say look guys, what's going on, and they've signalled me back. I can't remember, but I was on the phone a lot, I was on the radio a lot and I was trying to sail a ship. I look at their signal and I suppose I'd pose the question, or someone else might pose the question to AMSA well why did they send that to Young Endeavour specifically at 20.41 explaining the situation, explaining datum 2 if you like. Yeah, explaining their reasoning for datum 2. It might well be because I've got on to them, but I can't recall actually doing it.

CORONER: Q. Could it be that it is an unusual thing for them to do and they wanted to reinforce--

A. It could be. Again it could be a completely valid reason for it, but it does stare out of the paper at me now. I'm thinking maybe I did call them, because I was on the phone a lot. We had - we had phone communications, mobile phone coms the whole time. We were never out of range.

HILL: Well I've got no further questions, Mr Coroner. I know my learned friend has just come into this matter, Mr Lancaster, and I'm wondering if we could take the morning tea adjournment. It may well be - I've got another witness that I can actually put in which is nothing to do with AMSA whilst my learned friend takes instructions. I'm quite happy to do it that way, it's an opportunity. So if we could take the morning adjournment now.

CORONER: Does that suit you, Mr Lancaster? No objection from the bar table? Yes. Welcome to the Coroner's Court, Mr Lancaster. Would you stand down please, Commander, and we will interpose another witness to enable counsel for AMSA to get on top of this matter.

<WITNESS STOOD DOWN

SHORT ADJOURNMENT

CALLAGHAN: Your Worship, a situation has arisen during the short adjournment which I'd raise with counsel assisting and with others. I was given this morning a marked up chart which has shown on it other material relevant to matters that Lieutenant Commander Galletly has given evidence of this morning. It seems to me, and I gather that counsel assisting agrees, perhaps I should take the Lieutenant Commander through this material now so that AMSA has time to take this on board as well.

CORONER: I've got no problem with that.

CALLAGHAN: I've distributed a copy of the marked-up chart and it might assist your Worship if I were to approach the witness box and lead the evidence that way.

CORONER: Yes certainly, Mr Callaghan.

<NEIL RONALD GALLETLY

- CALLAGHAN: Q. On the chart, first of all if I could take you to what is marked as WC datum 1, Winston Churchill datum 1, and that is evidently the point arising from the co-ordinates, the latitude and longitude given in the first lot of messages from RCC in Canberra. 5
- A. Right. 10
- Q. See that?
- A. So that's 37 14 south?
- Q. Yes. And the position of Young Endeavour is marked you see south of that, slightly to the west? 15
- A. Mm hmm.
- Q. And there has been marked adjacent to that a point designated 20 nautical miles southeast of Twofold Bay. Do you see that? 20
- A. Mm hmm.
- Q. Of course there would be an arc of possibility around that area. 25
- A. Yeah.
- Q. One would not assume that it was a precise southeasterly point.
- A. And also where you put the point of your compass is, where's Twofold Bay? It's a big bay. 30
- Q. That's right.
- A. So - but okay, yeah. 35
- Q. Then if I can just go southeast down to datum 2, which is the southern latitude and longitude in the subsequent messages to you from RCC in Canberra, and you see where that's marked? 40
- A. Mm hmm.
- Q. Around that area there are marked various marks, certainly of the positions of some boats. You mentioned Stand Aside which is-- 45
- A. Not there.
- Q. --not marked there but she was down there somewhere.
- A. She's on my sea chart, this is an air chart.
- Q. Yes. 50
- A. She was down there in addition to those other yachts.
- Q. Yes, so there's Solandra down there and Inner Circle and Team Jaguar of course.
- A. Right and I think maybe Renegade was in that area too. I'm not sure. But anyway, yeah, several yachts down there. 55
- Q. And further south is Business Post Naiad which was in a

distress situation also and Sword of Orion further south again.

A. Mm hmm.

Q. Then in terms of other material or other information, there is a note up near datum 1 concerning Shark 905, one of the Sea Kings, which evidently sighted in the early hours of the Monday morning at about 01:00 I think what appeared to be a strobe light submerged, floating but submerged below the surface.

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A. Yeah.

Q. Across to the east of that there is a position of a Securite, a signal that was sent out in the early hours of Tuesday morning, the 29th.

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A. The 29th.

Q. Yes, that was a normal ship's message. In your record of interview you mentioned to the police in Hobart the relevance in your mind of the location of the areas of retrieval of the liferafts and the bodies.

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A. Yeah.

Q. You see that that has been - or those have been marked across to the east, the locations of the recovery of two bodies and the liferaft early on the 29th.

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A. The 29th.

Q. In relation to those last mentioned locations in relation to the retrieval of the raft and the deceased from Winston Churchill, have you got any information you can place before the Coroner in terms of the direction and speed of the drift of rafts or even bodies in the conditions prevailing from the evening of the 27th through to the 29th?

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A. I said to the - I don't have forensic type information of how fast a raft can go under these conditions and indeed what the conditions out there were, but I put it to the police in my interview in Hobart after the race that in the doubt about the two datums, one clue to assist would be to see well where were the bodies actually picked up and then work backwards to see where the yacht might have gone down, and then see if they bore any relation to datum 1 and datum - or datum 2 and indeed some other place. That wouldn't necessarily prove anything but it would just be useful information.

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Looking at the positions on this chart where you have shown me where the deceased were picked up by the Navy helicopters, I can't draw any real conclusions and especially without having any some ..(not transcribable)..

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problem of what I can - a liferaft or a submerged yacht might have proceeded. But if I hadn't seen this and you asked me what would the liferafts have done with people in them and having gone down at about 18:00 of the - on the evening of the 27th, I would say that with the very strong westerly winds and a swell from the southwest I think, that you would expect them to be moved very quickly to - to the - in a northerly sort of direction - sorry, a northeasterly sort of direction away from the coast and - yeah, northeast basically. Then I would expect that the wind - or the wind

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in a northerly sort of direction - sorry, a northeasterly sort of direction away from the coast and - yeah, northeast basically. Then I would expect that the wind - or the wind

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abated and then I would expect as they got further off the continental shelf that the east Australia current which heads south would then cause them to go from the northeast in an arc, out and south. That's a mariner's best guess without using instruments.

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Q. Have you got any idea of the rate of flow of the eastern current off the continental shelf at that time?

A. My guess would be about three knots, but that's easily checked because most of the yachties would have used that information anyway in their racing tactic, so they would have satellite imagery of the different temperatures and currents and all that information. It's a basic racing tactic so they'd have that.

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CALLAGHAN: That's the additional evidence which I feel we should have led at this stage.

CORONER: Thanks for that, Mr Callaghan.

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CALLAGHAN: Could I just add this, your Worship. Captain George prepared this. If there are any questions people have about the entries on it, Captain George is here and he's quite happy to speak to people and if needs be he can be recalled.

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CORONER: I appreciate that.

CALLAGHAN: There's one other matter. In relation to the materials shown there, the northernmost marking on the chart is a marking at 12.30 on 28 December. Lieutenant Commander Galletly does not know this, but I just inform you your Worship that that was the first time that Navy aircraft were tasked specifically to look for Winston Churchill. That's a matter that I will raise with AMSA. Thank you, your Worship.

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CORONER: Mr Hill, are we in a position to continue with examination of this witness?

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HILL: I think that there may well be an application from my learned friend Mr Lancaster and I'll let him make that application.

LANCASTER: Your Worship, I do apply for some time before asking this witness some questions for the purpose of obtaining instructions about matters of fact that the Lieutenant Commander has given in evidence. In particular, to take one example, there was evidence that he possibly made a phone call during the night of 27 to 28 December. I'm instructed that some 3,600 telephone calls were logged by the RCC over the course of the incident. To put this Court in the best position to consider the material I need instructions as to whether or not there was any log of such a call during the night. That's just one example of a factual matter that I would seek some time to consider. I understand from counsel assisting that there are days available on 2, 3 and 4 August. I would seek an adjournment

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until that time because these may be complicated matters of fact about which we obtain instructions and to put the Court in a position to understand the Lieutenant Commander's evidence.

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CALLAGHAN: Can I just say something at the outset, your Worship. The Navy's not here as a protagonist, but it is appropriate with respect that I be here. I simply am not available beyond Monday of next week. I have a criminal trial and then I have another matter during the whole of that week that Mr Lancaster's referred to. I would respectfully put to the Court that an adjournment certainly would be appropriate, but over the weekend would be sufficient.

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CORONER: Are you available on Monday?

CALLAGHAN: I'm available.

CORONER: Monday it is, best I can do. Some overtime might have to be applied for, but I'm sorry, I can't do any better than that. There's a lot of evidence to come and I can't juggle it around better than that. You'll certainly have the weekend and the rest of today, but I want Commander Galletly in the box again on Monday. Best I can do.

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LANCASTER: One other matter, your Worship. I would seek at this stage leave to - I tender a statement prepared by John Young in relation to the certain limited range of time in relation to calls that were made to and from the RCC. I do this at this stage simply to put before the Court the evidence that Mr Young will give on Monday.

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CORONER: Have you seen that yet, Mr Hill?

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HILL: I'm aware of it, I haven't yet seen it.

CORONER: That can be distributed.

EXHIBIT #32 CHART - YOUNG ENDEAVOUR TENDERED, ADMITTED WITHOUT OBJECTION

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EXHIBIT #43 STATEMENT OF JOHN YOUNG TENDERED, ADMITTED WITHOUT OBJECTION

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HILL: Perhaps if I could ask my learned friend Mr Stanley if he could complete any cross-examination of--

CORONER: You'll be touching on other issues, won't you?

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STANLEY: I'll be three minutes.

CORONER: Yes, because you're not interested in the latter matter.

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STANLEY: Not at all.

CORONER: What about you, Mr Weber? Have you any questions

relating to Winston Churchill and this witness, will you be touching on other areas? What's the position?

WEBER: Other areas and very briefly.

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REMINGTON: I don't expect I'll have any questions.

CORONER: Why don't we conclude the other examination of this witness and that'll leave the way clear for you on Monday. We'll do that.

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HILL: I'm more than happy to.

CORONER: Mr Stanley.

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STANLEY: Q. Lieutenant Commander, I appear on behalf of the Weather Bureau about whom you've said some very favourable things. I just want to clarify a few matters. In your evidence you said that you as the skipper of the boat, you soak up all you can about the weather?

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A. That's right.

Q. How do you go about doing tha?

A. Look out the window, number one. Listen to all immediate comments, newspaper, radio, Penta Comstat, Navy signals, if I have access to it satellite, your Polfax system, people, CYC, all those kind of things.

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Q. In terms of actual forecast, what were your sources of information?

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A. Radio, newspaper, Navy, CYC which I got from Lew Carter. So I like to - I like to hear what it was that was being said to the fleet as well as what the media were saying to Australia.

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Q. So you heard what, the fleet were being told, you knew what Lew Carter had been told, and you also had access to Sydney radio did you?

A. Yes.

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Q. Are you able to recall now when it was that you first became aware of the storm warning and the 45 to 55 knot forecast winds?

A. Could I refer to my notes with the police?

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CORONER: Yes.

A. Rather than rely on the memory. I've made a comment along those lines in here, I think it was page 8 so we'll go to that. I'll go back to page 7, sorry. I've said here at question 45 on page 7, I said yeah, sure. On Christmas Day and probably even on Christmas Eve I knew were going to have a tough Sydney Hobart. Now your question was when I had a storm forecast?

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STANLEY: Q. Yes, the storm warning--

A. Storm warning.

Q. --was forecast just after 2 o'clock on the Boxing Day, on the Saturday, just over an hour after the start of the race? 5

A. I can't recall when I first heard a storm warning, I can't answer that but what I would safely say is that I knew when Lew knew. So whenever the CYC - I'm sorry, whenever Lew broadcast it, I knew then. I may have known a smidge earlier through the motion(?) system. 10

Q. In your record of interview or statement, if you go to page 9, you'll see that - and the answer to question 56, when you were asked to describe what the blow and the conditions were like, you indicated that your vessel was in the thick of it, is that so? 15

A. Well, I can only say that from my perspective, I felt like I was in the thick of it. I can't comment on what others had 20 miles away. 20

Q. You noted that the wind speed was 65 knots maximum with six metre waves?

A. That's right. 25

Q. Sea state 6 force 11?

A. That's right.

Q. Those measurements, that 65 knots, is that just a guess on your part or is that what was recorded? 30

A. That's an instrument recording, it's accurate. The wave height is my seaman's eye.

Q. Right, but so far as--

A. Actually, let me just correct that. I've used the word wave there and I'm talking to non-mariners in my interview but for precision I should use the word swell. 35

CORONER: Q. A six metre swell?

A. Six metre swell. 40

STANLEY: Q. Does that include wave as well?

A. The waves are on the swell if you like and I'm more interested in swell. That's what I record. 45

Q. Just to make sure I understand what you're saying, if you're in a yacht in the lee of a - in the trough of a wave, and you've got the swell and the wave, what are we looking at? How high?

A. From the perspective of a yachtsperson in a small racing yacht and you're looking up like that at that wall of water, you're looking at a swell and a wave. The swell is what's caused by a wind going over the ocean for days and in roughly the same direction and that's called the fetch, so if you have a long fetch with strong winds then you'll have a big swell and the wave is what happens, is the wall of water if you like that happens locally. So if suddenly a wind appeared out of the sky on a flat sea you'd have waves 50

but the swell is what happens over the fetch, across hundreds of miles across oceans. So in that situation that we were in, we had a swell that was caused by something somewhere, down in the Antarctic say, and on top of that were waves. Now the yachtsperson looking up at this wall of water will simply call that whole great big thing a certain height and he's not going to worry about whether it's a swell or a wave, it's just a wall of water and it's going to hurt him probably. 5

Q. And what would be the height of that swell of water? 10

A. That swell of water, I recorded it as six metres and that includes waves if you like. Maybe we'd better use another term. The wall of water was in the opinion of my officers of the watch who have recorded in the log and in my own opinion six metres and I could stretch it up to about eight. 15

Q. On occasions--

A. On occasions. 20

Q. --it might be as high as eight, is that what you're suggesting?

A. Sure, yes. 25

Q. So far as the 65 knots for the wind speed, that was the maximum recorded on--

A. Yes. It could have got over that, if you're not staring at the anemometer at that instant, but of course we were pretty - we were looking at it. And you can hear the wind in the rigging and if it changes pitch, you look over and-- 30

Q. Have a look?

A. --have a look and it's clear what was going on. 35

STANLEY: Thank you very much.

CORONER: Mr Weber?

WEBER: Q. Lieutenant Commander, you gave some evidence about the availability of berths on the Young Endeavour, do you recall that? 40

A. Yes.

Q. Do you actually make the arrangements for berth allocation? 45

A. The Young Endeavour Youth Scheme does that.

Q. That's done on shore?

A. Correct. 50

Q. Is that done by Margaret Powell, the operations manager?

A. One of her staff does that and she's in charge of it, that's correct. 55

Q. So would you be aware for example that the CYC were unable to obtain more than three berths on Young Endeavour in 1998? Or is that outside your bailiwick?

A. No, it's not my bailiwick if you like. I would take essentially she's given to me, or the numbers given to me, provided I had a crew to work my ship and indeed the navy crew itself can man the sailing ship if need all youth crew were seasick or something like that. So as far as crewing is concerned it doesn't really worry me. I suppose it's dollars lost that would concern the scheme. And dollars lost that the CYC would be prepared to pay for the use of the Young Endeavour. Now that you mention that, there might well have been - I think you've implied the CYC might have asked for extra bunks. That does possibly ring a bit of a bell there, you may well have--

Q. Does it ring a bell that in 1998 they were unable to get extra bunks?

A. I can't categorically state that but if I were able to give some background, if you'd permit me to. I would suggest that the - the CYC had been using Young Endeavour for a number of years and I knew that there were concerns about the fee that was being asked for and the fee that was paid and indeed even on occasional anecdotally whether the fee was even ever paid, there might be bills outstanding. So the relationship between the CYC and the Young Endeavour Youth Scheme was very much a business relationship that was possibly under some stress.

Q. You weren't involved as the skipper of the Young Endeavour in 1999, were you?

A. No.

Q. At the risk of stating the obvious you obviously aren't aware of difficulties concerning berthing arrangements for that year?

A. No, don't know.

Q. You gave some evidence Lieutenant Commander concerning your estimate that the eastern current was running at approximately three knots outside the Continental Shelf on 26 and 27 December, recall that?

A. That's correct.

Q. That was your evidence, wasn't it?

A. Yes.

Q. Of course, you weren't sailing yourself outside the Continental Shelf were you?

A. Not at that stage, no.

Q. But you were on the one hand when you were sailing towards Hobart sailing with the benefit of the current, correct?

A. Yes, I think everybody was sailing with the benefit. Even on the Continental Shelf you would expect there to be some benefit to mention.

Q. Correspondingly when you were asked to turn around the first time, or you did turn around, you would have been getting the detriment of the current, correct? You'd have

been sailing into it?

A. Sorry, I don't follow you.

Q. You'd be sailing into the current?

A. I would - are you saying when I went from heading towards the datum for Stand Aside and was turning north to Winston Churchill datum I'd be going against the current?

5

Q. Yes.

A. The current there would be negligible so close to the coast, 20 miles if you like off the coast, and it would also be insignificant in relation to the swell and the wind at that time. I wasn't thinking current at all.

10

Q. So you don't have an impression of what the current was at that time?

15

A. No, other than I've heard how people have described the various steep waves, that to me would indicate wind against current, the wind was west southwest so a current heading south, they would meet and object to each other.

20

Q. As an experienced mariner, that's suggestive of the fact that the current even closer in than the Continental Shelf was still running at a substantial rate?

A. No, because I've said my swell - the swell that we had was about six metres. I'm talking about these anecdotal swells that I've heard about that were much bigger, phenomenal, things that I've never seen in my life and those wind - all this anecdotal talk about the wind strength out there, that that would be so, but not where I was.

25

30

Q. From your view as an experienced mariner, the huge waves about which his Worship's heard a considerable amount, they're described as both huge and shallow backed typically. Would that in your experience, waves of that type, would they be the product of wind against current?

35

A. Do you mean shallow backed or steep backed?

Q. Steep backed.

A. A steep backed wave would be some evidence of wind against a swell for sure.

40

Q. Wind against the current?

A. Wind against the current. Wind and swell against the current.

45

Q. Finally, you gave some evidence concerning the transmission - sorry, I withdraw that. You heard - did you hear any part of the 2000 sked on Boxing Day?

A. Telstra Control?

50

Q. Yes.

A. I can't answer that categorically, I heard so many skeds at different times and I didn't really pay a lot of attention to skeds. Telstra Control were down there doing their job and I was running my ship.

55

Q. Might it have been that you gave to Lew Carter the

Weather Bureau's 1414 weather warning of 26 December?

A. It might - I might have given Lew Carter a weather warning? I could have given him a Navy one. If I give it to him I've got a mental picture of me handing him a piece of paper, so the only one I would have on a piece of paper would - well, no there would be two, would be a satcom Charlie which we receive from the Navy, or it could be something that I've written down on a scrap of paper because I heard it, I was listening and writing it down from the radio. So I could have, yes, for sure, trading information on what's going on, definitely, yes. 5 10

Q. Because that's what you did?

A. That's what we did. We were a team. I suppose we had different roles but yes, we were always talking to each other and communicating and trying to help each other, hey, did you know this or whatever and Lew would - yes, that's right. 15

Q. Was the Young Endeavour not on to your knowledge on a broadcast list for Weather Bureau weather warnings? 20

A. I don't understand the question. Do you mean a special message to Young Endeavour?

Q. No. Did Young Endeavour not receive Weather Bureau forecasts, warnings, as a matter of course? 25

A. Yes, just like anybody else that had a radio.

Q. Certainly but they were radio rather than by say facsimile? 30

A. We didn't receive facsimiles sent to us from the Weather Bureau. I think I did a Polfax prior to leaving port. You mean weather facsimile?

Q. Yes. 35

A. We don't have a weather fax.

Q. So the communications to Young Endeavour from the Weather Bureau are by radio? 40

A. Yes. From the Weather Bureau? Okay, I've got to be precise with this. My means of hearing weather from the Weather Bureau directly, I mean I don't suppose there is any direct stuff, it's the media and when I see it, it's no longer a newspaper obviously, it's the different radio mediums, mainly VHF. No weather fax and satcom Charlie signals from the Navy, not from the Weather Bureau. 45

Q. Just recapping, it's possible that you did hear the 1414 storm warning, jotted it on a piece of paper and conveyed that information to Mr Carter? 50

A. I'd say it's probably more than just possible. If I heard the first storm warning by whatever means there is no way that I would not tell Lew Carter. So if there's some suggestion that I might have done that, I would agree entirely, yes, for sure. 55

WEBER: Yes, thank you sir.

CORONER: We'll leave it at that ..(not transcribable)..
come back on Monday, have you? Is that a problem?

HILL: Actually Mr Coroner I'd like to draw the Lieutenant
Commander's attention to this chart which shows the drift 5
for the Business Post Naiad and also the position of the
Winston Churchill and where the deceased were found so that
he may wish to comment on that, because it shows the drift
from the Business Post Naiad and it seems to be straight out 10
from shore, due east, that those vessels in that vicinity.
went.

Q. You can see there Lieutenant Commander that there's one
there that shows the Business Post Naiad, little squares,
and how that drifted? 15

A. Business Post Naiad is a blue dot well south, is that
correct?

Q. Yes.

A. I don't understand how the squares could be so far-- 20

Q. Perhaps if I approach. The situation is that this is
the Business Post Naiad and how it drifted in that
direction?

A. The yacht itself? 25

Q. The yacht itself.

A. Okay.

Q. This is the various positions, now the deceased from the
Winston Churchill were found in those positions. 30

A. Right.

Q. What I'm pointing out to you is that it appears that
anything in that vicinity, that is due east, in fact went 35
due east--

A. Basically.

Q. --basically straight out from the position.

A. Yes, it's gone slightly north head, northeast, and then 40
I suggest as predicted when the wind abated it's gone - it's
gone right out, yes. I would have thought it would start to
arc a bit south. But yes, that's right, straight out. Am I
able to ask where this came from? Who plotted it?

45

Q. It was plotted by Land File I think they're called,
isn't it?

A. Land File, yes. For the purposes of working out--

Q. It's a series of charts and you certainly can have a
look at the rest of them. The only purpose I'm bringing 50
that to your attention is that that shows how vessels
drifted out towards the east as it were, and whether that -
bearing in mind that that's what they appear to have done
and in relation to the chart that Captain George has 55
prepared that you have, does that assist you in any way in
coming to a conclusion whether the first sight of Winston
Churchill is correct as opposed to the second sight that you

were directed to? If it doesn't, then--

A. Let me start off by saying that I think this is excellent, that - I mean this is exactly what I said to the police, we need to work out where the deceased were and work backwards so someone's done it, excellent. And it looks like it's been done professionally. Before I just try to answer the question, is the information from EIPRB? I mean they're very accurate dots on this chart, are they from EIPRBs and like so therefore it's - or is it off some sort of plot?

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Q. Can I just say this, that before we develop that in the witness box, perhaps if you have a look at them later on and I can continue this on Monday morning.

15

CORONER: Yes.

HILL: Q. Because what we're looking at is the drift and we'll take it from there, rather than do anything on the run.

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CORONER: I think so. It may be that Constable Grey and Upston can assist to familiarise him with it, the whole - everything we have--

25

HILL: Yes, there's a full set of these.

CORONER: --this afternoon.

WITNESS: May I still try to answer the question now?

30

HILL: Q. Yes, if you would.

A. Just from looking at it for a couple of minutes, it appears to me that there's a mayday relay position on this chart for Winston Churchill and down further south there's a Winston Churchill position at sked 3. I assume sked 3 must be the datum 2?

35

CORONER: I'm not sure.

40

HILL: Q. We're not sure--

A. It looks like it is.

Q. --exactly and that's why it's a little bit dangerous to--

45

A. Yes. I wonder whose terminology sked 3 is but it certainly would not be too far to - going too far out of the way to say that's it, there's datum 1 and datum 2 on this chart and the deceased are basically--

50

CORONER: Q. Due east.

A. --slightly - due east but slightly north. So--

Q. Yes, east nor'east?

A. Yes. So it seems like datum 1 - working backwards these link up to datum 1.

55

HILL: I'll confirm that on Monday whether in fact they do,

because from that a conclusion can be drawn.

CORONER: I think so.

WITNESS: It's kind of obvious.

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HILL: Q. In fairness I'd like you to look at that very carefully.

A. I would appreciate as your Worship said the guidance from the people who did this so that I know what I'm looking at.

10

CORONER: We'll get you briefed as best we can.

<WITNESS STOOD DOWN

15

HILL: Your Worship, the position for Monday then will be this, that we'll recall Lieutenant Commander Galletly and then Mr John Young, followed by Andrea Holt. Now, as far as the Wednesday is concerned, we're looking at Mr Green, because he's from the UK and Mr Bush and then I will push back all the other witnesses by a day. So I'm just forewarning everyone of that. The next witness is Mr Brenac. He deals with the CYC. The Navy is not involved and I don't believe the Weather Bureau will be involved.

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CORONER: They might.

HILL: But it's a matter for them.

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CORONER: Okay. You've got nothing else, Mr Callaghan, you're excused.

REMINGTON: Your Worship, might I be excused?

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CORONER: Yes, you're excused too, Mr Remington. And I don't know whether you're interested in this Mr Lancaster? It's a matter for you.

HILL: I don't believe so.

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CORONER: If we feel you are, we'll let you know I can assure you.

LANCASTER: Might I be excused?

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CORONER: Yes, you're excused.

<ROBERT WILLIAM BRENAC(12.26PM)
SWORN AND EXAMINED

50

HILL: Q. Sir, would you give the Inquest your full name please?

A. Robert William Brenac.

55

Q. And your address sir?

A. 4 Cottenham Avenue Kensington.

Q. And your occupation?

A. Self-employed yachting administrator.

Q. From I think 1988 or 1986 till 1994 you were the sailing secretary for the CYCA, is that right? 5

A. That's correct, yes.

Q. What sailing experience did you have?

A. I've probably sailed more miles than 90 per cent of people in the Hobart Race I would imagine. I've been sailing almost since I was born and I've travelled to America and to Europe and probably done every category 1 and 2 race out of the CYC over those years. I've been to Hobart 14 times and Noumea, Lord Howe multiple times, plus probably eight or nine full seasons offshore out of the CYC. And from an administrative point of view, I was a volunteer down there for probably 15 years as a mark lane navigator and that's how I finished up being appointed as sailing secretary after I returned from Hobart in the Bicentennial Race with my family on board what was then Swuzzle Bubble which became Business Post Naiad. So quite frankly, without trying to blow my own trumpet, I would probably be as qualified as anybody in this place to speak on the Sydney Hobart Race and ocean racing in general. 10 15 20

Q. I think that you're accredited by the Australian Yachting Federation as a yachtmaster? 25

A. Yachtmaster ocean.

Q. And for 17 years you've had that? 30

A. Yes, early '80s I got that.

Q. I think you are also a state accredited race official, is that right?

A. Yes, that's a fairly recent accreditation, they didn't have accreditation for race officials up until a couple of years ago and I've since got that. 35

Q. The racing committee of the CYCA, who was it when you were there? 40

A. The race committee was appointed by the sailing - CYC sailing committee and I believe that's still the case and it comprised usually two or three people from the CYC sailing committee, one or two, usually two from the Royal Yacht Club of Tasmania and a contracted race director, it was Greg Halls. That's what - that's the procedure and what have you that was in place when I started there as full time sailing secretary in 1988. And that was the same all the way through. 45

Q. Until nineteen ninety-- 50

A. Until certainly until 1994.

Q. What was your position?

A. Sailing secretary, which was the full time staff member looking after the sailing office. There was no sailing manager at that time. 55

- Q. A race director was actually contracted in, was it?
A. Yes, I believe that started a year or maybe two before I took up that appointment and that was Greg Halls and he had an assistant with him, Mike Fletcher, and they were virtually private consultants to the CYC and took on the job as - appointed as the race director. 5
- Q. So they were paid, as it were?
A. Yes. 10
- Q. How was it run?
A. The leadup work from February March until the Hobart Race in December, the notice of race would be - I would draw up a notice of race, that would go to the sailing committee and the eligibility requirements, upper and lower limits, all the eligibility requirements would be in there. Greg Halls even at that stage, because it was immediately following the previous race, he would get involved in that as well. Once that was set, that was published and that was virtually the contract for the race, set out all the conditions of entry. Then that would be mailed out to all prospective entrants with an application for entry. When the applications came back, they usually closed on 31 October each year, you'd get all the applications in and then they would be vetted by a vetting committee, which was nominated by the sailing committee at that stage. 15 20 25
- Q. Let me just stop you there. They'd come back in to where?
A. Into the CYC sailing office. 30
- Q. And who would have access to them?
A. I usually get them first and then I'd just glance over them and then hand them on to my secretary there who would then-- 35
- Q. Who was that?
A. Elaine Gazzard.
- Q. Elaine Gazzard?
A. Yes and then she would - she had the procedure where she would file them and add them to the list of applicants et cetera. Then they would all go into one file with any documentation they supplied at the time and that would - that's what would go to the vetting committee. 40 45
- Q. What exactly was a vetting committee?
A. The vetting committee was appointed by the sailing committee to look at all the entrants to make sure they comply with the entry requirements. 50
- Q. Who were they and where they did they come from?
A. Usually one, maybe two sailing committee members or anyone that would sort of be asked to look at them, usually experience - people who had been experienced before in Hobart Races. 55
- Q. Once the vetting committee saw them, what did they do?

A. The vetting committee had to sign off on each one to say that they'd looked at it and they were satisfied with the eligibility. The main things they looked for were whether they complied with the ABS, whether they complied with the limit of positive stability or minimum stability index, whether the three nominated experienced crew were sufficiently experienced. They were the three main things they looked at. 5

Q. You said they signed off on them, what do you mean by that? 10

A. There was a spreadsheet there which had those things on and possibly a couple of other things, whether they had actually supplied all that documentation. It wasn't unusual for expired certificates to be lodged with the application, possibly because they didn't bother revalidating until after 31 October but they might use the previous year's. The crew experience, that was another thing that came under fairly close scrutiny and if someone had done a lot of cruising that may not be enough for them to be accepted as an entry. But on the spreadsheet, each vetting committee member had to initial that to say they had looked at it and they had approved it and there was a column there for comments where if they thought there was something that wasn't quite right they would leave the comment in there and not sign it. 15
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Q. How many were in a vetting committee?

A. Three.

Q. Did they all have to sign? 30

A. All had to sign, yes, three initials.

Q. So if you complied, each of the vetting committee would sign off, is that basically it?

A. Correct. Very few complied first up, very few boats, because-- 35

Q. What was the usual situation?

A. There are three standard letters went out. One said we've accepted your application, or your application is accepted subject to and that would say, you know, we've have to tick these boxes, whether further documentation was required, that was the most common letter that went out. Normally the rating certificate at the time, even if it was expired, if the stability was okay they'd sign off on it anyway. Crew experience. The second letter - sorry, the first letter said it's accepted because all the documentation was complete and there was no question. The second letter would say it's accepted subject to these certain items being provided and the third letter would go out and say we're sorry, we can't accept the application until you send in more information. Some people would just send an application in with hardly anything on it, the name of the boat and the name of the owner and expect to be accepted. 40
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Q. The vetting committee. I think at page 10 of your statement you actually say you used to chase the vetting

committee all the time?

A. Yes. Some. Depends who they nominated as the vetting committee. They didn't meet as a committee, they were just three nominated people to check the applications but it was called the vetting committee. Some people that were nominated were pretty good, they'd come in every day or every second day and go through and they would put - you know, either sign it or put their comments in. Others I'd have to ring up and say look, you know, we're building up here with applications and you know we want to send the letter of acknowledgment out and you know would have to chase them to get down there.

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Q. Right, so you would physically--

A. I'd ring them up and say, you know, get down here and, you know, catch up with the rest of them.

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Q. If you had two signatures, that wasn't good enough?

A. No, no.

20

Q. Had to be three signatures?

A. Had to be three.

Q. If it didn't comply, what would the vetting committee do?

A. They would just put a comment in the comments column and not sign it.

25

Q. And you wouldn't allow it to go any further until it was signed, is that--

A. No, no, no. I'd have to send a letter with, you know, telling them what else - what they were short of.

30

Q. You had to report to the sailing committee about this?

A. Yes, every month, the sailing committee meetings, you'd just bring the sailing committee up to date on how many applications had come in, how many had been approved, how many had been rejected and how many had been approved subject to meeting a few other conditions.

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Q. That was a manual check by you, was it?

A. How do you mean?

Q. Of the entries?

A. Yes, yes, yes. It was straight off the spreadsheet that was in the front of all the applications.

45

Q. At page 13 you say they would not get a tick unless they had a valid IMS certificate. You say here that who sat on the - the question was, who sat on the vetting committee in '94, do you recall and you say - and this is the top of the page, in '94 I know it was Hugo was on it and I think it may have been David Kellett who had been a past commodore and experienced yachtsman. I was the third one. So you were part of a vetting committee, were you?

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A. Actually I re-thought that if you go down a bit more and I said there may have been another, a third person apart from myself, and I have a feeling that's probably right. I

mean this went on over six - it's six years ago now and it went on over the seven years I was there and sometimes I was on it, sometimes they'd get three outside people entirely.

Q. You also go on to say that they were very strict on the signing, is that right? 5

A. Yes, yes. Particularly in '94 because of the number of entries, there were over 400 applications and 370-odd starters and a lot - because it was the anniversary race, the 50th race, you know, some people would come along with a butter box and want to go to Hobart just to be part of it. So there were a lot more knocked back in 1994 than in previous years. 10

Q. Okay, so not everyone who applied gets in? 15

A. Not every - certainly not that year.

Q. At page 14 you were asked about the position in regards to the Business Post Naiad and I think that you know that the situation was that that had an IMS certificate which showed a stability under, I think about 104 degree? 20

A. Uh hmm.

Q. And you said that that wouldn't have got through? 25

A. I can't see how it would if three people looked at it. One might miss it, two might miss it but certainly someone's going to see it.

Q. So this was the system that you had certainly up till 1994 that three people saw it probably on different occasions? 30

A. Yes.

Q. And you think that system would not allow a certificate like the Business Post Naiad to get through? 35

A. It stands to reason with three people looking at separate I can't see how it - like I say, somebody would have picked it up.

CORONER: Q. If the first of those committee members picked it up, would they make a note? 40

A. Yes, yes, they'd put that in the comments column.

Q. And it's clear to see for the second and third vetting committee member that might look at it? 45

A. Mm. But like I say, sometimes certificates came in that were valid and then - but they were expired and as I understand it that's the case with Business Post Naiad, he had a certificate that he lodged that was within the eligibility and then had the boat re-rated and there were quite a lot of boats always that get re-rated after 31 October. Some of them are leaving it right up to the death, particularly new boats, you know, where they're trying to optimise them and they're moving ballast and they might give you a new certificate every third day just until they get it right. 50 55

HILL: Q. I think that at page 17 of your statement you say

that it was extremely strict, so strict on one occasion someone didn't have a date stamped on the fire extinguisher?

A. Yes, that's part of the safety equipment inspection and you know you've heard the evidence before about the defaulters' list that's read out on the race briefing. That guy was told he had to get the - he hadn't lodged his safety certificate, he'd lodged it with that particular item outstanding and he was told that he had to get it done before he started.

5

Q. Otherwise what?

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A. Otherwise he didn't have a valid safety equipment certificate, therefore he wasn't an entry.

Q. So that was the strictness of the regime that you were under?

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A. Yes, I don't think that's changed at all. Certainly not with the safety equipment on the boats.

Q. After 1994 I think after the Sydney to Hobart of '93 you went on holiday, you came back?

20

A. Uh hmm.

Q. You went on holiday as the sailing secretary?

A. Uh hmm.

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Q. You came back as what?

A. As the sailing secretary. It's a mystery to me, there had been - while I was away there had been a sailing manager appointed, Mr Thompson, and suddenly I was a junior.

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CORONER: Q. Just out of the blue?

A. Out of the blue.

HILL: Q. Were you ever told why?

A. No.

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CORONER: Q. That right? Nothing said? No explanation?

A. No.

HILL: Q. What experience did you know that Mr Thompson had?

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A. I'd known and worked with Phil for all the time I'd been there. He was there before me. He was the marina manager and - well if I can give an opinion, I think the board at the time was very big on restructuring and changing people around and giving different titles all over the place. In fact the year before six of the senior staff there were given a redundancy notice and a big ad placed in the Sydney Morning Herald saying all these positions were vacant and you can reapply, including marina manager, sailing secretary, financial manager or whatever it was called, and three others, and the members reacted to that and in fact called an extraordinary general meeting of the club and had the board rescind it. It was just a board at the time that went corporate mad, quite frankly, and you know they just wanted to get into the restructuring that changed things around just for the sake of it rather than any benefit to the club. Like I say, that's an opinion and I stand by it.

Q. What about experience? What did Mr Thompson have over you? 20

A. Possibly - well I don't know. He'd been the marina manager for - well certainly well before I came to work there and he'd certainly done a lot of sailing as well. I couldn't fault his - but as far as race administration goes, I think the board saw to it that it was an administrative job rather than a practical job and maybe they felt that he was a better administrator than I was in as much as, you know, reports and writing minutes. 25

Q. Who was on the board? 30

A. Mm?

Q. Who was on the board?

A. Who was on it? The Commodore was David Fuller, the chairman of the sailing committee was Bill Sherman and the - that's right, they were the - probably the two senior people in the club then. There was a lot of upheaval in the club over those years. In fact of those six people I said were made redundant, all have gone except Mr Thompson. 35

Q. As far as you knew, what experience did Mr Thompson have in organising events, races? 40

A. To my knowledge I don't know. None, well certainly not while I was there. He was the marina manager, it was a full time job looking after the yard and marina. 45

Q. As the race manager, what happened as regards the Sydney to Hobart? What happened with Mr Halls?

A. Well at the first meeting when we - when I came back after holidays in January and they had the sailing committee meeting which is traditionally an informal race debrief, Mr Halls and I both came up with our comments and what have you of the Hobart race and then we were excused. Thank you, you won't be needed any more. And I didn't attend any more sailing committee meetings for the next six months. I was told I wasn't required to attend sailing committee meetings. 50

Q. Who told you that? 55

A. The chairman of the sailing committee, Mr Sherman, Bill Sherman.

Q. Did you remain at the CYCA?

A. I did. I kept doing the job that I'd done before. I enjoyed the work there, I enjoyed - I've got no other interests outside family and yacht racing, so I stayed on for a while and then I think I got a letter from the Commodore which was - required an answer within seven days and which was quite critical. I can't remember exactly how it went, but I answered the letter within the seven days, paragraph by paragraph, and everything sort of went away. He said thanks very much, that's all I wanted. 5 10

Q. Critical of what, of you?

A. Well you know, it went on about the club being in difficulties and needed a team effort and all this sort of thing. Not that that bothered me. I said well, you know, that's very good and I agree with it and why am I being criticised? The club's difficulties have nothing to do with the sailing, it's running perfectly well. And I had been invited up to sit on the protest committee at Hamilton Island Race Week for a couple of years, and I took a week's holiday in August and went up there and there was criticism of that, and my answer to that was well, you know, if other organisations see fit to invite a CYC member up there - and it is a quiet period for the CYC, it's between seasons - then I think it's a credit to the CYC that they've been invited in the first place, so I don't know why that's critical. 15 20 25 30

Q. And what happened after that?

A. Well it settled down for about - until after the annual general meeting. Then we had a new Commodore and Mr Sherman didn't get re-elected. And well it just got to the stage where I felt my position there was just untenable, you know, it was-- 35

Q. Well did you participate in the organisation for the--

A. Of the '95 race? 40

Q. Yes.

A. By that stage the notice of race had been printed and distributed. That had all passed by then, by October when I left there, and I stayed on until I'd finished the draft sailing instructions for the race and that was all. I left as soon as the draft sailing instructions were completed. 45

Q. You worked elsewhere after that, is that correct?

A. Yes. Well I actually wrote to the board. I wrote to the board and said, you know, the situation had changed and the position for which I had been appointed no longer exists, and I think I've got the response here somewhere. Shall I read this out? Do you want to hear it? 50

CORONER: Q. You wrote to the-- 55

A. I wrote to the board saying, you know, I wasn't satisfied with the conditions there and the position for

which I'd been appointed no longer existed.

Q. What was the reply? Yes, read it out.

A. "With reference to your memorandum, I have assessed that you wish to leave the employ of the club on the basis of redundancy as described by you. The club would be prepared, without making any admission of the correctness of the position as you describe it, to accede to your request and to pay you. The club is doing so however on the basis that the manner of your departure and the settlement terms are not to be disclosed to any third party and that the terms of our agreement are treated with the strictest confidentiality," and then it just goes on about on what basis I'm authorised to pay it. So I got paid out in other words.

HILL: Q. So that was presumably November, October/November of 1995?

A. October, yes.

Q. And you went and you worked organising races et cetera in other spheres?

A. Yes, yes, yes.

Q. I want to take you back to when you worked with Mr Fletcher and Mr Halls, Mr Halls being the race director at that stage brought in?

A. Correct.

Q. The sailing office. What was done with that? How often was that manned?

A. At that time it was manned seven days a week, the thought being that - or the philosophy of the club being that it is a sailing club and the members are entitled to have sailing office service. On race days, weekends, what have you, there was only one person in there, either myself or the secretary Elaine Gazzard, but it was manned seven days a week, and those quiet days are when you'd catch up with work and that's when I used to sit down there and write sailing instructions and--

Q. With the race itself, the organisation, the race day I want to take you to. The sailing office itself. We've seen statements, you possibly haven't seen these statements but it would appear that there's no one in the race office, certainly in the '98 race, for a certain period of time. What did you do, what was the situation when Halls and you were involved with that race?

A. Well Greg Halls being the race director would be out directing the start and Mike Fletcher. I would be out, usually stay in the sailing office until about an hour before the start of the race, then I would go out in a boat and just row around the harbour, wait. You know, if Greg Halls or Mike Fletcher want - or the Waterways or the Water Police wanted something done by the club, then I would zip out there and do it. I just hung around, you know, in a very fast little boat that I could get around in. You know, marks moving, that sort of thing.

Q. Sure. What about the sailing office, was that left--

A. Elaine Gazzard always stayed in the sailing office. The phone's ringing and, you know, all sorts of odd questions come in. People are ringing up at five to one and saying what time does it start, that sort of thing.

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Q. She was there, that's where she stayed?

A. Always.

Q. I think you said always did you?

A. Always.

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Q. What time would Halls, Fletcher and yourself get back? Would that be different times or what?

A. Probably - yes, well they were separate to me. Probably around - the race started at one, they would be back in 2.30-ish, 2.30 to 3.

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Q. What about if anything had come into the sailing office?

A. Well that would be all put in a file. Normally after the race we'd all come back in and, you know, sit down and have a couple of drinks and say what a great start it was and discuss whatever needed to be discussed, like the upcoming sked. But anything that come in during that time when we were out on the water would be kept in a file and we'd flick through it and anything in it was of interest, you know.

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Q. Where would you get the file from?

A. Elaine Gazzard, the secretary, would have that ready for you the minute you walked in the door. Just like a secretary, here are your messages.

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Q. You may or may not know about this storm warning, but what was the situation in regards to weather reports or anything like that, that is that might have come into the sailing office whilst you were out on the water?

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A. Well that would be - if it came in on a fax that would be another piece of paper in the file and, you know, that would certainly be something that you'd look at and say this is not looking good, a storm warning is a storm warning.

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Q. What do you understand a storm warning?

A. Well I know what a storm warning is, it's the highest - I've heard the earlier evidence that a lot of people don't recognise that a storm warning is the highest form of warning given by the Weather Bureau. I was certainly aware of it and I know Greg Halls and Mike Fletcher were. But it's true that a lot of people think a gale warning is worse, but it's not, but a storm warning is pretty severe. One would expect that they would get that on the Young Endeavour, but it's hypothetical. I would suggest that we take that pretty seriously and give the Young Endeavour a call and say look, make sure you warn everybody at the next sked. I don't think we would, you know, consider taking any more action than that at the time because the storm warning I think was for another day ahead anyway.

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HILL: I'm going to develop that Mr Coroner, I notice the time.

<WITNESS STOOD DOWN

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SHORT ADJOURNMENT

WEBER: Your Worship, might I raise a housekeeping matter before examination of Mr Brenac continues. I'm sorry to have to raise this in open Court but we're unable to make any headway through the normal channels. We've been told this morning that it's convenient to call Mr Green on Wednesday, which we're quite content with. There are nine witnesses presently for Wednesday. We've suggested to counsel assisting and those who instruct him that one of those witnesses be shifted, Mr Bush, and put him to the end. Without any explanation at all as to why this is not convenient, we're told that it's not convenient to move Mr Bush to the end but that rather than move one witness, eight are to be moved. Miss Gable, Miall, Foster, Mr Peter Campbell, Amelia Cater, Meredith Gray, Barbara Carroll and Lisa Smith. Of those eight, one are in our employ, and to make things worse we're told that we have to make the administrative arrangements to move the eight. We see the situation as frankly ridiculous.

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CORONER: Yes, I hadn't realised the ramifications of moving the other eight witnesses and not Bush.

WEBER: I didn't mean to interrupt your Worship, but can I also raise one other matter. It seems to us, and we obviously aren't running the thing and don't wish to, that there's a certain logic in having Mr Bush at the end.

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CORONER: It depends which way you look at the calibre of the yacht club's investigation I guess.

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WEBER: On one view of it it's--

CORONER: On one view it's logical that he should be at the end, yes. All right, I'll talk to counsel assisting after Court and see what we come up with.

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WEBER: Thank you, your Worship.

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<ROBERT BRENAC(2.10PM)
ON FORMER OATH

HILL: Q. Mr Brenac, you've told us that during the time that you were part of the organisation for the race, that is the Sydney to Hobart yacht race, it was ensured that the sailing office was in fact staffed whilst you, Mr Halls and Mr Fletcher were out on the water on the race day. That correct?

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A. That's correct.

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Q. And to recapitulate, that Lorraine - what was her name again?

A. Elaine Gazzard.

Q. Elaine Gazzard would in fact bring everything to you when you came back in that had come to the sailing office during that period of time?

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A. That's correct.

Q. What would you then do after you'd returned to the sailing office?

A. Well like I say, we would have a look through all the phone calls or notes that she left there for us and depending on what it was would depend on what action was taken. Often times there was very little. Somebody had rung about, you know, something incidental but I can't remember individual incidents where we would have taken any action.

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Q. There would then be the first sked, is that right?

A. Yes. The first sked, as I said in the record of interview, was not all that long after the start, probably only about four hours after the start, at which time all the boats are fairly close together, and we would just go through the entire exercise, like calculating results et cetera, and it was usually considered a test sked just to make sure everything worked okay and there were no glitches in the computer programming. But that was, you know, it was a sked and it was run as a complete sked.

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Q. Who would be available to listen to that?

A. Normally everybody that was involved with the start would sort of stay around for that sked. It wasn't time to go home.

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Q. Who?

A. Greg Halls, Mike Fletcher, myself, normally one or two of the CYC race committee, some of the Tasmanian people would stay unless they were catching a flight back to Tasmania. Yeah, it was normally a pretty full office when that first sked came through because we could listen to it in the sailing office as well as Young Endeavour because it was fairly close at that stage, probably only 20 miles down the track.

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Q. The group that - I think Halls, Fletcher and yourself, did you all go down to Hobart?

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A. No. I never went down to Hobart, I always stayed in Sydney.

Q. What was the purpose of you staying in Sydney?

A. Because all the computing was done in Sydney.

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Q. All the?

A. All the computing. All the - you know, when the sked would come through, all the race calculations, progressive results, that was all done in Sydney and then it was connected to more terminals down in Hobart so that as soon as it was updated in Sydney it was updated down there at the same time. We used to have an ISD n-line(?) from Sydney to

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the race centre in Hobart, so you'd have a race centre in Sydney and a race centre in Hobart. Normally Greg Halls and - would go - vice versa maybe, but one would go down in the morning of the second day on the 27th and the other would go down in the afternoon. The same with the media centre, half the media centre would move down in the morning and half in the afternoon, so there was always an overlap of people in Sydney and in Hobart. But I always stayed in Sydney and--

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Q. What, in the sailing office was it?

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A. Wherever the race centre was set up. Sometimes it was in the sailing office. In '94 and possibly even '93 it was set up in another room, but there were also terminals there for the phone information lines, volunteers. The associates committee used to nominate volunteers to man that, like four hours a day, four hours after each sked, just for phone calls, and they would be able to just pull up boats' names on screens and tell people - you know, answer the queries, where they were, where they were coming on handicap, et cetera.

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Q. Well where would the race control centre be, in both places or what was the situation?

A. Well yes, there was a race centre in Sydney, but once the race got started and Greg Halls and Mike Fletcher went to Hobart, the race control centre would be in Hobart. In Sydney it was all the computing, so we would get - in Sydney we would be - we would get the radio skeds in Sydney, enter them in the computer unless they were downloaded directly by satellite, which happened a couple of times, calculate everything and send it down to Hobart.

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Q. I daresay that a storm warning never came through whilst you were there?

A. Not that I can recall.

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Q. Okay, well what was the situation with weather updates?

A. Well much the same as it is now. We used to pay the Weather Bureau a nominal amount to provide special race forecasts for the area which the fleet was in, and that would be - that would be faxed to the sailing office, we always got a copy there as soon as it was issued, and they also used to get a copy straight to Young Endeavour and I believe to Hobart as well.

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Q. Well did you get them into the sailing office as well?

A. Yes, yes.

Q. Were they discussed, looked at or what?

A. We always discussed the weather forecasts as they came in, the first thing you look at, because we also used to photocopy that and give it to all the telephone information people, because people often ask what sort of weather are they going to get? That's one of the first questions they ask. On that point I should say we - there was a lot of discussion at different times about whether we should continue the practice of getting special forecasts on the grounds that a lot of yachts, as you probably heard in

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evidence, only listen to that forecast, whereas there are - no, I couldn't count, but at least a dozen other methods of getting the weather forecast. The Bureau distributes to all the coast stations and Sydney radio. As a navigator in the race when I was going down, I would be on the - listening all the time to - because a lot of the broadcasts give you station reports which you don't normally get on the special race forecast. You know, you can make up your own mind about what the weather's going to do, get as much weather information as you possibly can rather than just listening to the three skeds a day. You can listen to one every hour if you want to.

Q. You were asked this question at page 23 of your statement, question 132, "what are your views in relation to say one and a half, two hours after the beginning of a race, a storm warning is issued? To your mind is that a serious situation which should have been discussed or looked at by the--" and you broke in and said "most certainly, yes, well can't imagine it not being as a matter of fact."

A. Mm.

Q. So if a storm warning had come in--

A. Into the sailing office?

Q. Yeah.

A. Well I'm sure we'd discuss it. What - you know, it's hypothetical to speculate on what we would have done. You know, the storm warning would depend on the storm warning, when it was going to - when the fleet is going to be in the area. I don't think that we would have done any more than issue it to the boats at the sked. I mean there's no point in giving it any earlier because nobody would be listening. And as I say, it is - that storm warning would be available to everyone through the coast stations and the other scheduled broadcasts.

Q. Now tell me this. If the following morning you as part of the race management committee were notified at say 6, 6.30 in the morning that you were getting 70 to 80 knots at Wilsons Promontory, what would you have done? That's the second day.

A. Well other than - other than letting everyone know, I really can't say because I've never been in that position. It would be a - it would be a committee discussion. Now others may have a different view and say well you know we should call it off, others - I wouldn't have, I don't think I'd call it off. But certainly it would be - the warning would be transmitted to the yachts at the sked and like I say, if the people on the yachts don't make themselves available of the other forecasts that are available all over the place and don't hear directly from somewhere else that it's blowing 70 knots at Wilsons Prom, I - it's probably ignorance on their part because they should do it. And that was the reason we discussed at sailing committee at great length whether we should provide this special forecast or should we leave it to people to make the effort to get their own forecasts which are publicly available.

Q. If you are in a situation where you have a storm warning the day before, then at 6 the next morning you - or 6 to 7 you have notice that there is 70 to 80 knots at Wilsons Promontory, you've said you'd let them know, let the fleet know, but how would you do that if there's no sked due until 2 o'clock that afternoon? 5

A. There is no way you can do it.

Q. Well isn't that then a - doesn't that highlight a problem with the organisation of getting information to these people? 10

A. Well you could transmit it from Young Endeavour I guess, but how many people are going to be listening? I really don't know. A lot of boats listen - maintain a continuous listening watch on VHF and I think it's mandatory now but it certainly wasn't then. And, you know, VHF is VHF. Half the boats wouldn't even get it. And you - it really is not practical to keep an HF set on 24 hours a day. It's noisy and it's - you know, it's a race and people can't have that crackling and what have you that you get on HF radio running 24 hours a day. 15 20

Q. But now there is you say a 24 hour watch is there?

A. On VHF but it's the same-- 25

Q. On VHF?

A. Yeah, on VHF. Some boats may get it and others won't, depending on where they are in the fleet.

Q. So if the same circumstances arose today, are you saying that there's a distinct possibility that the race control management would not be able to get into contact with these people? 30

A. Most definitely, most definitely. When a yacht is at sea, unless they've got the radio turned on you have no way of contacting them. 35

Q. But even if you have a, as you've told us, a 24 hour listening watch on VHF, some people still won't get the message? 40

A. Correct.

Q. So if the same circumstances occurred today, race control would not be able to contact some people?

A. Until the sked. 45

Q. Until the sked?

A. Correct.

Q. And therefore we could have the same situation happen today? 50

A. Yes, I would say that.

Q. Well is there any - do you know of anyone who's given any thought to overcome this problem? 55

A. Well the warning - a storm warning normally comes - well I wasn't involved with the race, but how far ahead of actual storm was it? It was nearly a day ahead wasn't it, 24 hours

ahead?

Q. Yes.

A. Well, you know, that's giving people 24 hours warning and a storm just doesn't normally pop up out of nowhere. You could say the same thing about last year's hailstorm, of which I've got first hand information, first hand experience. I mean it just happened quickly, but that doesn't happen with a storm.

Q. I don't think there was a 24 hour warning with the hailstorm.

A. No, no, no.

Q. Well are you suggesting that therefore something more should have been done? Because we've got two skeds in between the time the warning is issued--

A. Yes.

Q. --and the time that the fleet sails into it. We've got one at 8 o'clock--

A. And as I understand the warning, the storm warning was issued on those two skeds wasn't it, unless I'm mistaken.

CORONER: Yes.

HILL: Q. Well yes, it was.

A. So therefore they were told about it.

Q. Yes, but I mean do you suppose it might have been prudent to tell them you should maintain a listening watch, we will update you every hour on what the weather's doing?

A. Well that may be - that may be okay for the boats that are 100 miles ahead, but what about the boats that are 100 miles back? I mean the boats spread out in the fleet all got different weather. Some had it a lot worse than others, and that's normal.

CORONER: True.

A. You know, you could be 20 miles away from another boat and the wind can be 20 or 30 knots less or more, and so, you know, when you've got a fleet spread over 100 miles, you know, what's good for one is not necessarily good for another.

HILL: Q. But you could have a system surely where you could get something from one that's at the 100 mile and one that's at the 80 mile and one that's at the 60 mile and say what sort of weather they're getting?

A. Yes, I think - that has happened in the past. I can go back 20, 30 years and that happened, you know, where a boat up near the front of a fleet has said, you know, we're getting 60 knots here, and I've been on a boat down the back of the fleet sailing downwind with a spinnaker on, a nor'easter, and you know, you say we're going to cop it sooner or later.

Q. What I'm suggesting to you, wouldn't it be prudent for a race administrator, someone who's controlling a race of 115 vessels of varying type, who knows that there's a storm warning issued, to actually put something in motion so that he can update the fleet and tell them what is happening, such as we've got 70 to 80 knots at Wilsons Promontory?

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A. What, other than telling them they should listen to the hourly broadcasts that are coming from all the other stations? I mean that is there, it's there for people to make use of. It is there all the time. The Bureau sends out the warnings and the station reports and they go to all the coastguard, coast patrol, Sydney radio, Melbourne radio, Penta Comstat.

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Q. But even in your time, even in your time you knew that people were overly relying upon what was coming out of Young Endeavour instead of listening to the weather outside.

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A. Yes.

Q. Because you've told us you were making a decision whether or not in fact you should cut that out and make them a little more independent.

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A. Correct, yes, well--

Q. So it was known that that's what the fleet or some of the fleet were doing, that they weren't listening to those other ones.

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A. Yes, well I guess in that respect I guess you could say you should warn them to listen to all the coast stations, you know, on the hour.

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Q. What I'm suggesting to you is that if you have that period of time warning as a race organiser, a prudent race organiser would have immediately put into play some system and said to them I want you listening every hour, and that would be the prudent thing to do.

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A. Because there are a lot of imprudent people out there. That's what you're suggesting.

Q. That's what I'm suggesting, yes.

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A. I don't know what you do with imprudent people but--

CORONER: Don't worry about it, that's their problem. Your problem as an organiser is to do what you can. If some of them are imprudent, that's their problem. As long as you've done all you reasonably need to do to make them aware of the position, surely. I mean you can't hold their hand to that extent but you can--

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A. Well you know, if that's what you're suggesting I guess possibly yes, you're right. You know, you could tell people to listen carefully because they'll, you know, be a bit more--

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HILL: Q. I'm not suggesting that you tell them look, do this or do that. What I'm suggesting is that a prudent race organiser would have seen that there was a storm as such and that he would need to keep the fleet informed of what the

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weather was doing.

A. Well that may have come up as a suggestion from the heads talking together when the--

CORONER: Yeah, when you discussed it.

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A. When we discussed it. It may well have done. You know, it's hypothetical because it didn't ever happen to me, but had it you might get a view from Greg Halls that he'd say we should do this. Maybe he would have done that, I don't know. Quite likely he would, because he works offshore I think he's far more alert to that sort of thing than even a race - a sailing secretary that's running races up and down the coast.

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HILL: Q. I think you also pointed out and said earlier that during the eight years that you were involved with the race organising, you did not go to Hobart once, you always remained in Sydney?

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A. Correct.

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Q. That was just part of the system that you had?

A. Yes.

Q. There was always someone that was contactable?

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A. Yes, yes, yes. Even when the computing was moved to Hobart one year, which didn't work very well, I think I mentioned that, because it didn't have the back-up facilities that we had in Sydney, even then I stayed in Sydney and just - I would be down at the club at each sked and all the computing, the whole race centre did move to Hobart including the computing, and I just used to update all the notice boards and, you know, the recorded messages, that sort of thing.

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Q. I notice at page 34 that after 1993 it was decided that there would be a club representative in Eden.

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A. Mm hmm.

Q. For what purpose, what was that for?

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A. Well just because the - it's a volunteer organisation down there and in 1993 there were a lot of retirements into Eden, again through bad weather, and they were stretched to the limit. And they don't know the boats, they don't know the people and there were people, you know, public ringing up and overloading the telephones, that we decided we would have a representative down there in a caravan, you know, with a mobile telephone, somebody that knew the boats, knew the people, just so they could assist. And that all came out in a debriefing survey that we would continue that because it was an outstanding success, having someone down there. I wasn't aware that it didn't continue but obviously it didn't, but it was - it certainly was the result of learning by experience, and we learnt by experience that it was a good idea to have someone down there, a club representative in Eden who could contact either Hobart or Sydney and assist the coast patrol and the Water Police down there, if they had any enquiries.

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Q. A sort of liaison officer?

A. Liaison officer, yes.

Q. I think during one of the races or perhaps more than one in fact you had an overland vehicle, a Land Rover--

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A. Uh hmm.

Q. --with Mr Halls, that was monitoring the radio--

A. Yes, that's correct.

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Q. --frequency all the way down to Tasmania?

A. Yes, yes.

Q. What was the purpose of that, do you know?

A. It was a bit of a trial to see if we could, you know, if the modern technology would handle running the radio skeds from land rather than having a radio relay ship out at sea. It did have a few problems, there were communication problems that year and it was decided we'd stick with the radio relay vessel. I think that was '92 or '93 that the Land Rover went down.

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Q. I'm going to move away from what we've been discussing, I'm going to go on to liferafts. Can I encapsulate what appears to be your theory and that's this, that because of the - not only because of the Fastnet Race of 1979 that it proved that you were far safer remaining with the yacht than getting into a liferaft, you have always considered the position that what really should be done is looking at maintaining the yacht floating?

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A. Exactly.

Q. Rather than abandoning it and therefore you have looked at the concept of placing some sort of airbags or whatever you would--

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A. Buoyancy.

Q. Buoyancy bags within the yacht itself. How would you envisage this working?

A. The only reason anyone ever gets into a liferaft is because they think their boat's going to sink, you don't get in it for any other reason. If the boat is not going to sink you won't get into a liferaft. And anyone who's ever been in a liferaft will tell you that it would - if the boat wasn't going to sink, it would be a much better place to be than in the raft. And it is quite simple to keep a yacht afloat, quite simple, it's no more expensive, it's practical and it will - you know, when you say I've had this view for a long time, I hadn't thought of it for a long time but the thing that fascinated me about the Fastnet Race was how many yachts were recovered and the people had died because they had abandoned them and got into liferafts and I think all except two yachts of the 17 that were abandoned were recovered. Now, even those two probably would have been recovered had they had buoyancy. All of the yachts that go around the world in the Whitbread Race, the Two Handed Race, Single Handed Race, they're category zero which requires watertight bulkheads. In other words, buoyancy - you close

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a door and there is a watertight area which is full of air. Tony Bullemore is a prime example, his boat tipped upside down, stayed upside down but it stayed afloat.

Q. I'm told though that if you started raising the Sydney to Hobart to a category zero race with the watertight bulkheads you'd basically eliminate half the fleet to begin with, because they wouldn't meet that requirement? 5

A. That's definite. I mean it would be the end of the Sydney Hobart Race to require watertight bulkheads. But it is - it's just as easy to put airbags inside a boat, up in the bow and in the stern, and inflate them exactly as you do a liferaft, you know, pull a string or a fire extinguisher, pull a pin and open a valve and it will fill up the airbags and the boat will not sink, it simply will not sink, and it is not difficult and there are examples of it here, there are manufacturers that make them. There've been submissions made on them and yet nobody seems to take much notice of it. Don't ask me why but-- 10 15 20

Q. They're the same ones that you've handed to me on a prior occasion?

A. Yes.

HILL: I have those and I'll tender those. 25

Q. Is there anything else you want to say on that?

A. No, it's just something I feel very strongly about, you know. Like I say, airbags, even the old Naiad wouldn't have disappeared if it had airbags inside it. Stand Aside would have been found if it had airbags in it. They just will not sink, it's as simple as that, you know, you blow up one of those bladders out of a wine cask, just try and push that down in the bath and see how much lift it has in it. An ordinary dive bottle, 90 cubic foot dive bottle, will hold up nearly two tonnes, has enough air in it to hold up nearly two tonnes. So two dive bottles would keep any normal ocean racing yacht afloat, a 45 foot yacht, that's all it takes. 30 35

CORONER: Q. I take it deflated they take up very little room? 40

A. Well it's the volume that you're filling up. They don't take up any room when they're deflated but once--

Q. But that'd be a concern of contestants that there isn't room taken up when they're deflated? 45

A. When they're deflated?

Q. Mm.

A. No, they fold up. They probably wouldn't take up any more room than a liferaft in a bag with all the gear inside it. 50

HILL: Q. There's only one further thing I want to ask you about, is this. You have in fact been retained by the CYCA over the past 12 months or so, is that correct? 55

A. No, just because the sailing office staff have to spend so much time here I've been retained as race director for

next weekend's Sydney Gold Coast race, which is a category 2 event, just for the duration of the race.

STANLEY: Q. Mr Brenac, you were referring earlier to the opportunities that those on the boats had to ascertain weather conditions at any time?

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A. Uh hmm.

STANLEY: We were going to tender this statement through Mr Love your Worship but it may be convenient now.

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CORONER: Yes.

STANLEY: Q. I'd ask you Mr Brenac if you'd just have a look at these pages. Those pages and perhaps I'll take you to the first page, it's the most relevant one, it indicates the areas or the places to which the initial storm warning, and indeed all storm warnings, from the Weather Bureau are as a matter of course distributed to. It's a big list. In fact I'd suggest to you that if you counted up there's some 65 bodies that receive every storm warning as it's issued. If you look at that list, we have first of all the marine radio stations?

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20

A. Uh hmm.

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Q. Then we have the Royal Volunteer Coastal Patrol?

A. Uh hmm.

Q. That includes Eden and many others. Then we have the Australian Volunteer Coast Guard at its various places, then the land radio stations and there's a large number of those, both in New South Wales and the ABC generally, then there's the television stations and then there's the emergency authorities, including the police, the water police, state emergency services, maritime services, Sydney ports, search and rescue emergency services and so on?

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A. Yes.

Q. If you look at the left hand side of each of those lists, there's the time at which the storm warning was in fact faxed to each of these bodies. I suggest to you that it shows between 2.17 and 2.25 on Boxing Day, that's Saturday, the fax of the storm warning was sent to each of those 65 bodies. Does that in general accord with your understanding of the availability of weather forecasts?

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A. Yes, most definitely. Not too many boats have televisions on them but--

STANLEY: Your Worship, as I indicated we had intended getting a statement from Mr Love and tendering this document through him.

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CORONER: I'll accept that.

STANLEY: It may be - if I could tender it at this stage and--

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WITNESS: All these - every one of these stations, the land

radio stations they may get it but they're only playing music and they might or might not rebroadcast it--

CORONER: Of course.

WITNESS: --but certainly all the volunteer coastal patrol stations and the marine radio stations would broadcast that in their normal course of operations at whatever times they have their skeds. In the satchels that everybody gets, all the race competitors get, there is - there was and I expect still is, there is a list of the times that they're broadcast from most of those stations. So I really - you know, my personal view is that nobody in the race has an excuse for not knowing they were going to get a storm, nobody.

STANLEY: Q. Even before they got the sked?
A. Even before they got the sked.

STANLEY: I tender that. There are in fact three pages, your Worship. The first of them shows the distribution of the storm warnings for coastal waters, the second one relates to the area between - the initial storm warning for coastal waters Wilsons Promontory to Gabo Island issued by the Victorian bureau and the third is the distribution of storm warnings for the high seas.

EXHIBIT #44 DISTRIBUTION OF STORM WARNINGS TENDERED,
ADMITTED WITHOUT OBJECTION

STANLEY: Q. In the race briefing pack made available to the competitors by the bureau, there's included and I'm referring to the exhibit being a preliminary report from the bureau, there's an indication that the competitors were able to obtain weather by fax. The pages are not numbered. It's appendix 7, about three-quarters of the way through.

CORONER: That's the--

STANLEY: The bureau's report.

CORONER: He hasn't got a copy of that.

STANLEY: Q. I don't think you need trouble, I just want to put this through you. Were you aware that it was - the competitors were advised that they were able to obtain the current weather situation by fax, simply by phoning in on their fax to numbers that are set out in the briefing material which give them - enable them to find out the forecast for the relevant area that they're in, or the relevant area they want? Were you aware of that?

A. I'm aware that the bureau always provided quite a lot of information to go into the satchels, including that and I have no reason to doubt that that doesn't happen and didn't happen in 1998.

Q. So anyone who wanted to find out what the weather was, even if they happened to miss one of the radio broadcasts,

simply had to either apply by fax?

A. Very few boats have fax either, like televisions.

Q. Or alternatively they could simply telephone a recorded telephone service, which would be giving the forecast? 5

A. Yes, I'm not quite sure how well telephones work out at sea but anybody is allowed to get information that is in the public arena. In other words, you're not allowed to ring up and ask for specific information, it is against the rules, but anything that is available in the public area is not considered outside assistance, so yes, your answer is yes, everybody could avail themselves of all that and they were made aware of it. 10

Q. In fact, the numbers and the sources of that information are set out in the material that they're provided with by the Weather Bureau? 15

A. Yes.

CORONER: Mr Weber, any questions? 20

WEBER: Q. Mr Brenac, Mr Hill counsel assisting asked you some questions about what you might have hypothetically done if you were the race director in 1998 and you were told that at 6am or 7am on the 27th that the winds were blowing 70 to 80 knots at Wilsons Prom, do you recall that? 25

A. At 6am on the 26th?

CORONER: The 27th. 30

WEBER: Q. On the 27th.

A. The 27th?

Q. I think that was the question that was put to you.

A. Yes, that's the Saturday, yes, yes. 35

Q. And you will recall the question was put in the context of the previous evening at the sked, the 2000 sked, that a storm warning was relayed to the fleet, do you recall that?

A. Uh hmm. 40

Q. I think you now know don't you that that storm warning predicted winds of between 45 to 55 knots?

A. Uh hmm. 45

Q. You weren't obviously there in 1998 but proceeding on the same hypothesis that you were, if at 6 or 7 in the morning on the 27th you were told that it was blowing say 70 to 80 knots at Wilsons Promontory, you'd discount that 70 to 80 knots down, wouldn't you? 50

A. How do you mean?

Q. To your knowledge as an experienced mariner, aren't wind velocities at Wilsons Promontory notoriously high?

A. Yes. 55

Q. And the reason for that as I understand it is that the anemometers are very high above sea level?

A. Uh hmm.

Q. And so experienced sailors say oh well, Wilsons Promontory and they discount it at least 20 per cent, is that right?

5

A. I don't know about discounting it 20 per cent, I don't think you'd put a figure on it but if it's blowing 70 or 80 knots at Wilsons Prom, I mean that's - it's very rare that the wind gets that high. You certainly know you're going to get 60 bags full as they say but yes--

10

Q. If you hypothetically were told it was blowing 60 to 70 at Wilsons Promontory at say 7am on the 27th, would that not confirm to you in your mind that the storm warning that the Weather Bureau had issued the previous day was probably right?

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A. Undoubtedly, undoubtedly.

Q. It'd just confirm what you already knew, correct?

A. Mm, mm.

20

Q. You were asked also some questions by Mr Hill concerning the way in which communications with the fleet might be improved in the future, do you recall that?

A. Yes.

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Q. Are you aware that the 1999 fleet each carried a system called satcomsea?

A. Yes, yes.

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Q. Are you familiar with satcomsea?

A. Not so much satcomsea. Back in about 1992 or 3 we put on as a test supplied by a French company Argus. We put a similar thing on to I think about 10 or 12 boats, just to test it and they actually had the French engineer out here, he tracked all the boats down. The system was very good. Technology is not as - was not then as good as it is now but we actually looked at putting that onto every boat in the 1994 race but there simply were not enough transponders available in the world.

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Q. I'm just going to ask you a couple of questions about satcomsea in relation to weather. If you don't know the answer just--

A. I probably don't but go ahead.

45

Q. Are you aware that through satcomsea the bureau forecast called navarea weathers are made available on the system every four hours?

A. No, I'm not aware of that, no.

50

Q. Do you know that the special race forecasts are made available to the fleet instantaneously with being made available to the club?

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A. What on the satcom--

Q. Yes.

A. Through the satcomsea? No, I wasn't aware of that.

Q. Are you aware that any warnings, storm, gale, whatever, are also made available simultaneously to the fleet through satcomsea?

5

A. No, no I don't know enough about satcomsea.

Q. I'll move on. You were asked a number of questions concerning office procedure in your time and the questions tended to be related to 1994, do you recall that?

10

A. Yes.

Q. Remember you were asked questions about vetting committees and who ticked what?

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A. Yes.

Q. I just want to get you to a line of country that I want to discuss with you now. I think you told his Worship before lunch that it was not unusual in say 1994 for a large number of applications for entry to be lodged with valid IMS certificates which weren't current, do you agree with that?

20

A. Expired, yes.

Q. And they were valid insofar as relevantly their LPS was compliant, agreed?

25

A. Yes, yes.

Q. But they were expired in terms of time?

A. Correct, they normally expire at the end of June.

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Q. More often than not that occurred, didn't it?

A. Probably in I would think 50 or 60 per cent of cases.

Q. Could you explain to his Worship what it is about the sailing year that leads to that situation obtaining?

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A. Every year rating certificates expire on 30 June every year and you get a new one, it's no longer current. In fact it's not really valid, they call it valid but it's the certificate for the boat that is no longer current and you have to get a new one every year and when you apply for a new one to the AYF you sign a document to say no changes have been made to the boat, there may be changes made to the formulas that are used to calculate things and therefore the certificate that you get will not be identical to the expired certificate. That's pretty normal every year, they change the speed predictions, they may even change the formula for stability.

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Q. You told his Worship this morning or certainly before lunch that in your time if a certificate came in which was otherwise valid but not current in time, the vetting committee would sign off on it then, correct?

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A. Yes, if it was eligible they would sign off it--

Q. So all three would tick it?

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A. Yes.

Q. And then a letter would go out to the yacht concerned

saying that you'll be entered subject - and it might be hypothetically for the box ticked but we need a current in time IMS certificate?

A. 'Correct.

CORONER: Q. I didn't understand that. So what you're saying is, if say the boat was under 110 degrees and that was the minimum, absolute minimum, 115, you're saying the vettors would note that, they'd actually sign off on it but then they'd notify the entrant that subject to bringing it up to over 115 degrees they'd allow the boat into the race? Is that the way--

A. No, no, not if it was - it would have - on the expired certificate it would have to meet the eligibility requirements. In other words, it would have to be over 115 degrees. They'd look at it and they'd say this boat is alright, the crew experience is alright--

Q. But the certificate isn't current.

A. --and they would sign off on it. They still had to supply another certificate, a current one.

Q. So when you say sign off on it, what does that mean?

A. They used to put their signature to say that they have looked at it and approved it.

Q. Was there any check though to ensure that a current certificate was in fact received before the race? Was it ever revisited? You see, what worries me is that signing off implies there's no need to revisit it. You know what I mean?

A. Yes.

Q. It may be a clerical thing but it's the clerk in me.

A. A lot of boats, particularly the grand prix type boats, you know, the - they're forever trying to optimise and you might get another - between the time they have to get their certificate in and there is a date for that which is normally about two or three weeks before the race, they might be - and they're still racing in the normal club races, they might be changing their certificates. They might change them three times before the Hobart race, optimising. They might change - it's a simple thing like buying a new sail, you have to get a new certificate. You get a fat bloke off and put a skinny bloke on, you change the weight on the certificate. And they may do that two or three or four times. The general run of the mill boats tend not to but on the other hand they tend not to even revalidate until they're going to use the certificate, which may be purely for the Hobart race. So when they put their application in, they will put the certificate they've got in their hand which is the previous year, expired.

Q. I'm sorry to interrupt you but I really want to understand this. Is there a system there whereby at the end of the day - when do race entries close?

A. Applications close 31 October and I think entries close normally around the first - the end of November. A month.

Q. And after that no-one can enter any more, is that--

A. No, no.

Q. In that period, does the vetting committee or any other committee actually physically go through each entrant and check that everything's there? In other words, including a valid current certificate? 5

A. Normally not the vetting committee. Once they have seen the application--

Q. They don't revisit it? 10

A. --they don't revisit it, no, I don't believe so.

CORONER: Sorry to interrupt you. 15

WEBER: Not at all, your Worship.

Q. Just so that no-one's in any doubt, let's take the actual facts of Naiad and again hypothetically if it was in your era. An IMS certificate is lodged which is not current in time but shows an LPS of 112.9, right, assume that? 20

A. Yes.

Q. As I understand your evidence, what would happen in your era was that the vetting committee and all three of them would look at that IMS certificate and sign off on it? 25

A. Correct.

Q. A letter would go out to the skipper of Naiad saying you're in subject to producing a current IMS certificate, correct? 30

A. Uh hmm.

Q. And then the vetting committee would not check the current certificate but only you would, correct? 35

A. Towards the end - I mean, if that material came back before the vetting committee had finished, they'd see - you know, they'd go through them all again, they'd see the notes they'd made and they would probably look at it. If it came - if someone sent in a certificate for example with their entry form right at the last date, I would certainly look at it when it came in and I think it's here where you tend to experience - you tend to notice if something has changed dramatically. I would always look at the - the first thing you'd look at would be the LPS and also Greg Halls would go through the entries as they came in and certainly the latest certificates but it did not go back to the vetting committee. 40 45

Q. That didn't go back to the vetting committee? 50

A. No.

CORONER: Q. Right, so you were the secretary of the--

A. Yes, sailing secretary. 55

Q. The race committee? Sailing committee?

A. The race, sailing and race committee.

Q. And in your capacity as secretary of which would you look at them as they came in?

A. Race committee.

Q. And Mr Halls as the--

5

A. As race director.

Q. As the race director. So they were hands-on, you people were hands-on, you'd physically go through the fleet and make sure that that sort of thing was there, would you?

10

A. Yes, yes. The vetting committee was there to sort the chaff from the corn, you know, where you--

Q. Yes.

A. Say this bloke's - we really can't let him go or to virtually accept whether a boat was right or not. And like I say, it wasn't just stability, it was the crew experience which was at that stage probably as important, because you know that's where you've got to stop them. You get a fair idea of whether a boat's seriously racing or just going for a bit of a cruise to be part of it. ABS was another issue that was looked at very carefully. And the stability was the third. They were the three main things that the vetting committee looked at but once a boat had been passed--

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Q. ABS did you say?

A. ABS, American Bureau of Shipping, scantlings.

Q. Of course, yes. All that?

A. Yes. They were the three main things. But certainly as the certificates came in at the end, I mean I used to run my own spreadsheet and do the work at home because when you look at those things and go through them time after time you just tend to get a feel of the boats, you know, where they're going to fit, in which divisions, types of boats, whether they're fast, slow, you know, just in trying to group boats it helps to go through them time and time again.

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Q. So really members of the race committee would be pretty hands-on about ensuring that every entrant who was allowed to go was right in all those areas of ABS issues--

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A. Crew experience.

Q. Crew experience, everything that was--

A. Yes, the crew experience was another thing we had problems with because in those days you only had to nominate your three most experienced crew. Now, we found - you don't know this immediately, we found you would get an application from this boat and it'd have their three experienced crew and the LPS would be - everything was right, they'd sign off on it and then three weeks later, you only recognise this because you'd say hmm, that's funny, this boat's got the same crewman on as this other boat.

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Q. Right, so some fudging by the contestants?

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A. Well, not--

Q. Jockeying?

A. Not intentional fudging, it's just that some guy--

Q. No, people change, people change around.

A. --would say are you coming with us, yeah, yeah, okay and he's been to Hobart 14 times before and then he's talking to someone else around the dock and it looks like he's got a better offer so he says yeah, I'll come with you. 5

Q. So you've got to be really vigilant for that sort of stuff? 10

A. Yeah, towards the end--

Q. If you're going to be serious about experience?

A. Yes, yes, yes. Towards the end Greg Halls used to be very thorough on that because at that stage I was doing a lot of computer setting up and putting boats in and handicapping and divisions and that sort of thing and he used to come in and actually go through all those entries. 15

WEBER: Q. Again taking the facts as they happened in Naiad or as we think they happened in Naiad, if an IMS certificate which was current was passed across your sailing office counter probably as late as 20 December during your period, the probability is that you would have checked it yourself, correct? 20

A. 20 December would be very late. By that time they would have had to have applied in writing to the race committee to lodge a document late and quite a lot did that. 25

Q. And it would be a busy time, wouldn't it? 30

A. Yes, yes.

Q. You don't - everybody's capable of clerical error, aren't they?

A. Indeed. 35

Q. And you're not suggesting that in the system when you had control of it that it would be impossible for a--

A. A clerical error? 40

Q. If you'd just let me finish. You're not suggesting are you that in your period it would have been impossible for a current in time certificate which had an altered LPS reading to slip through at a period as late as 20 December? It's possible isn't it? 45

A. I'd say it's possible. I don't think it ever happened when I was there and I think it is unlikely that it could have happened mainly because of - that's why it was very important for us to have two people doing the job that one person now does. I just think it is too much for one person to do, because you've got to remember that the club is still rolling on, I mean they've still got weekend races, twilight races, there's a whole regatta going on in December which takes up a lot of time. And I just don't believe that one person can do everything. 50 55

Q. You were asked some questions about the time when you came back from leave and found that Mr Thompson had been

appointed?

A. Uh hmm.

Q. And understandably that would have been a time of great disappointment to you?

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A. It was a bit of a shock.

Q. Yes, I can understand that. You indicated that at that time - you were asked some questions about your view of Mr Thompson's capabilities at that time as a race director, do you recall that?

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A. Yes.

Q. I think your evidence was that you conceded that he was a very experienced yachtsman at that stage?

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A. Correct.

Q. And a very experienced blue water yachtsman?

A. Yes.

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Q. But that you thought he lacked a bit of race - of yachting administration experience?

A. Yes.

Q. Of course, by the 1998 Sydney to Hobart he'd had three Hobarts under his belt, hadn't he?

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A. Uh hmm.

Q. You wouldn't make that criticism I take it of him in 1998?

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A. I'll go back to what I just said. I just think it's too much for one person to do and I - well, to be critical again, in the 1995 race I criticised the results of that race, not to do with the eligibility administration but certainly the race calculations. You know--

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Q. You had a problem with handicapping the people--

A. Handicapping and the way results were calculated.

Q. And that in turn led to significant delays in providing results?

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A. Correct.

Q. You were highly critical of that, weren't you?

A. Yes.

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Q. That indeed was a catalyst in your ultimately leaving the employ of the CYC wasn't it?

A. Yes.

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Q. That was a system that Mr Thompson was given to administer, wasn't he?

A. Correct, yes.

Q. It wasn't his creature?

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A. No, no.

Q. Mr Hill asked you a number of questions about your

statement as if there was only one but of course you gave two statements to the police, didn't you?

A. Yes, my first statement was in I think January, January or February of 1999, just after the race.

5

Q. I just want to ask you some questions arising out of that statement because you told the police things which you thought were relevant to this inquiry in that statement, didn't you?

A. I haven't got a - I never got a copy of that statement, I can't even remember.

10

Q. Alright then. You recall you were asked some questions about your actual experience on board the yacht that became known as Business Post Naiad?

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A. Correct, yes, yes.

Q. It was formerly called Swuzzle Bubble and I can't remember the number?

A. Swuzzle Bubble 6.

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Q. You sailed on Swuzzle Bubble 6?

A. I delivered the boat to New Zealand from Sydney after the - must have been the 1987 race I think and I also delivered it from - raced it from Hobart to Sydney in the bicentennial race in January of 1988 with--

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Q. And did - I'm terribly sorry, I didn't mean--

A. With my family on board, all my children, six children.

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Q. You had your six kids on board?

A. Yes.

Q. How old was your youngest?

A. Nine.

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Q. Is it safe for his Worship to assume that you consequently had no doubts about the seaworthiness of the yacht that became known as Naiad?

A. No, at that time I think I mentioned that in the first interview that it was a yacht that was characteristic of the yachts that were designed - race yachts that were designed towards the end of the IOR rule, international offshore rule, and that - the criticism I have of that is that they simply weren't good boats. Not a - well, if you don't hold them upright they just won't sail fast and all the kids wanted to sleep on the low side because it was more comfortable, so the boat just was slow. But they were also not as stable as one would like to go ocean racing in, you know. It got to the stage - and in this criticism it is of the offshore racing council itself, whereas it was a rule that drove boats to be like that.

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Q. But there's no question otherwise than it was within the international rules?

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A. Certainly, certainly.

Q. It was a legitimate ocean racer?

A. Yes, yes.

Q. And you obviously didn't feel unsafe on it?

A. No, no.

5

Q. And had no doubts about its seaworthiness?

A. No, no.

Q. You were asked some questions about your views on the yachts that got into trouble - I withdraw that. You're aware aren't you of course that the yachts that did get into trouble can't be characterised as light yachts of the Farr 40 type?

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A. Yes. Well, as I read in the review, there was no evidence to suggest that one type of boat was any better or worse off than any other type of boat, which doesn't really surprise me.

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Q. His Worship's heard from Mr Dovell to that effect. You were asked some questions in your first interview about the effect to your mind as an experienced mariner of confronting a storm and then turning around in the storm, do you recall that?

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A. Yes, yes. Well I mean all boats are different. Some of them - on that particular boat, on the way back to New Zealand, it was blowing 50 odd knots I think and quite big following seas and I think we only had a storm jib and trisail on and it just picked up on a wave and it surfed down the front of the wave at probably 18 or 19 knots, which was very quick for a thing like that. That I found was starting to get dangerous and I had an inexperienced crew on board and we took the storm trisail off and just ran with a storm jib, just to keep the boat tracking straight. But it was probably a very nervous night you might say, because those boats did tend to - like I say were not particularly brilliant sea boats. On the other hand, another type of boat might be very safe going downwind.

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Q. I think you told the police that you'd heard that every boat that was badly managed was actually heading back?

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A. In most cases modern yachts are - they go so quickly, they accelerate very fast down the face of waves and once they're going too fast they're more likely to roll over, whereas if you can hold them just off the wind, you know, going into the wind, maybe 45 degrees apparent, they're more controllable.

45

Q. Indeed they're vulnerable to the weather stern on, aren't they?

A. Yes, that's what I mean, going downhill rather than going to windward.

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Q. You told the police that - I'm reading from page 8, the answer to question 33, if they kept going, I think if all the boats had kept going, there'd have been less damage. I'm sorry, that's the question of you and you said yeah, yeah. Is that--

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A. Yes.

Q. That accords with your view, yes.

A. The same thing.

Q. You were asked also by the police in that interview, page 9, question 44, about your familiarity with Naiad and about Farr 40s as a class and whether you had a view about their limit of positive stability. Do you recall that? 5

A. I think I said from memory that they would have all been around that, around 112, 113 degrees. 10

Q. Yes, that's right. And as an experienced yachts administrator, that's what you--

A. Yeah, that's what I would have expected to see.

Q. That's what you'd expect to see. And it would be any reasonable for any yacht administrator to expect to see a Farr 40 coming in at about that-- 15

A. There were quite a lot around and they're all around there. 20

Q. You don't place much store do you on LPS angles when it comes to the actual reality of being out of sea? Is that fair comment?

A. When you say I don't place - not quite, not quite as much as a theorist might. 25

Q. I'm sorry, did I interrupt you?

A. No, I was just going on to say there's a vast difference between testing a model in a tank and having the real thing out in a real ocean. 30

Q. Is it your view that what's far more important is the size of the wave that hits you?

A. Without a doubt. 35

Q. And if it's big enough it'll roll you, correct?

A. Yes. Big enough and at the right angle.

Q. Yes, size and angle. And similarly, when you want to get righted again, it's a question of the size and the angle of the righting wave? 40

A. Yeah, yeah.

Q. And you're at the mercy--

A. You know, it surprised me and I think I mentioned it in there that it surprised me that the boat did stay up, that and another boat did stay upside down for as long as they did in that sort of seaway. I find that quite astonishing. 45

Q. Sorry, I missed that answer. 50

A. I didn't - I was surprised that any boat stayed upside down for five minutes. In fact I think my answer was that 30 seconds would feel like five minutes.

Q. I think in fairness to you it was put to you page 8, question 33, "and then it rolled a second time and remained inverted for some four to six minutes according to the crewmen on that boat. Does that surprise you?" to which 55

you're recorded as saying "yeah, very much so. I'd be surprised if it remained inverted for more than 20 or 30 seconds," and then it was said "right," and then you said "at most." Then question 40, page 9, "from your experience what would be indicative of it being kept over for that period of time?" and your answer was "just the motion of the sea and probably a lot of water in it at that stage, and once you like get a lot of water inside--" and then I'm jumping over into the next question, "all the stability curves and everything change quite dramatically." 5
A. Yes. Not just water, I mean it was sails, gear, everything. Everything's landed on the roof. 10

Q. And then at the foot of that page it was put - you said in an answer as you've said to his Worship that you do - all these Farr 40s are in the 110 to 115 range. The police officer said "right, okay" and you said "I really don't believe that really has a great deal to do with it quite frankly. The limit of positive stability is purely a measure of how fast the boat will right or whether it will right or continue to roll, and when you're talking about being out in the ocean, wind and waves like that, it's not quite the same thing as a stability curve in flat water." 20
The police officer said "yeah" and you said "it's quite meaningless." That is your view isn't it? 25
A. Yes, it is.

Q. So I take it it would be your view as an experienced yachting administrator that the administrative error in the sailing office which allowed the IMS certificate for Naiad to slip through the cracks, if I can use that expression, was of no practical consequence to the events which-- 30
A. No, I don't believe so. I don't believe so. I mean it was definitely a clerical error and, you know, it did slip through and I don't think anyone denied it or it's been acknowledged. But my personal view is that it-- 35

Q. Had nothing to do with the tragedy?
A. --played no part whatsoever in people dying. 40

Q. You were asked some questions by the police on the first occasion concerning grandfathering. Do you recall that?
A. Yes.

Q. Do you agree with the proposition that if you apply the international standards strictly, that the Hobart race isn't a category 1 race? 45
A. Borderline, borderline. The definition of category 1 and category 2 I think rely - I haven't got it in front of me, I think it relies a fair bit on the availability of rescue and the type of water you sail in. For example, if you go most of the way up Queensland they can define their races category 4 because they're in enclosed waters, they're inside the Great Barrier Reef, but that's you know, it's pushing the limit a little bit. It's not quite the same as being in a harbour but, you know, that's the definition, enclosed waters. Now you know, the whole Queensland coast is enclosed waters and I think the Brisbane to Gladstone 50 55

race, which is a category 2 now I think, used to be category 3 and they put upgrades in there. But it was a category 3 race with just extra equipment, with a liferaft having to be carried, so--

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Q. Would you agree that to characterise the Hobart as a category 1 race is to provide a conservative classification to it?

A. Yes. You certainly wouldn't go to category zero, but I would leave it at category 1 if I had that choice.

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Q. And I think you told the police in your first interview that you didn't have any problem with grandfathering?

A. None whatsoever.

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Q. Would you like to elaborate on that and put reasons why?

A. Well simply for what's been stated before. I mean boats that have been to Hobart six and seven and eight times, it's very difficult to turn around and say to these people you know, we've got a new rule now and your boat's no longer safe. You're not only telling them they can't go, you're saying your boat is no longer safe to go because the Offshore Racing Council has put this recommendation in. And in fact I was very much in favour of the grandfathering when it was first discussed. I did an analysis of the boats that had intended to go to Hobart back in '92 or whenever that recommendation from the ORC came into force, and I think it was something like 20 per cent of the fleet would not have been allowed to go, and you know, these are regular starters, they've been going for years. In fact I think there were a couple of boats that had actually won the race that fitted into that.

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Q. You indicated at the commencement of your evidence that you'd sailed all over the world basically.

A. Mm hmm, mm hmm.

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Q. Have you sailed in blue water events all over the world?

A. Racing, only racing - well to Noumea and to Suva I've raced and to Lord Howe Island, I've raced in Hawaii, but most of the others were delivery voyages.

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Q. You describe yourself as a self-employed professional yachting administrator, is that right?

A. Mm hmm.

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Q. And you have been a yachting administrator for some considerable period of time, haven't you?

A. Well full time since I started at the CYC in '88.

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Q. In your time as an administrator, have you taken time to keep up to date with the way blue water events are administered in other parts of the world?

A. In what way? Well I follow most events to see--

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Q. But when you were involved in the Hobart, did you compare and contrast it with other major yacht races from an administrative point of view?

A. Yeah, indeed, indeed. I mean I - you know, I've got correspondence with people in South Africa, in England. I've spoken on the phone to Allan Green several times, he's appearing here. Yeah, most certainly, you know, I kept up with all that.

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Q. In your period, say up to 1994 and from that experience, how would you rate the management and administration of the Sydney to Hobart in international terms?

A. I'd say it's always been - well you're putting me in a corner here. If you're asking me if I thought it was better when I was there, the answer's yes, I'd be silly to say no, but overall I think the Sydney Hobart race is managed as well as any - as well as any regatta anywhere in the world and in fact, I think you heard it from Tony Mooney, that the CYC has been at the forefront in a lot of safety issues. Much of the Offshore Racing Council special regulations are drawn verbatim from what used to be called the CYC special regulations many years ago, before my time.

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Q. So when you answer in relation to administration, and that's what I asked you, should his Worship take it that you also intend to convey that the safety standards and the standards generally of the Hobart race in your time were up to world standard?

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A. Yes, no - without a doubt.

Q. Up to or exceeded world standard?

A. I would say exceeded most world standards. Even in a regatta like the Kenwood Cup they don't do safety inspections at all, safety equipment inspections. You've just got to get the guy from the boat alongside you to - you know, you sign to say that you have all this equipment on board and give it to the guy next door to witness the signature, and that's acceptable there. That's certainly not acceptable here, I don't think in any club.

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Q. And you might have an understandable view about the hands-on administration of the sailing office in your period and the current period--

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A. Yeah, yeah.

Q. --but when one steps back and looks at the standards of the Sydney to Hobart yacht race in 1998, would your view still obtain in 1998?

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A. On safety, yes. On general, other issues, no, but they probably don't affect the Court anyway.

Q. But on questions of safety and--

A. Yeah, on safety I don't believe there's been any - I don't think there's been any slackening at all.

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Q. Just one more topic and it is to some extent going back to something that we've discussed earlier. Would there be yachts out in the open sea hundreds and hundreds of miles from shore at the moment who would be sailing with LPS angles of less than 100?

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A. Hundreds, hundreds. Every multi-hull out there, every

multi-hull has a positive stability less than 90 degrees, it goes upside down, doesn't stay there for a minute or five minutes, it stays there forever.

Q. But because we are only concerned here with mono-hull vessels, there'd be plenty of mono-hull vessels out there in the open sea which would - it's to your expectation which would be-- 5

A. Yes. There's actually some quite well-known cruising designs have an LPS that wouldn't let them below 110. They wouldn't get in the Hobart race. I can bring one in particular to mind in the 1994 race. My predecessor in the sailing office, he came along with his boat, had it measured IMS and it was 108 degrees and we said sorry, you can't get in with that. It might have been more than that but he had to be 115 because it hadn't been before. We said you don't meet the eligibility so he went off and had it measured IOR. It did meet the eligibility. Different system. But there are certainly yachts around. I mean I know of several that have sailed from here - sailed to here from overseas that once they've been measured you would wonder how they didn't fall over. 10 15 20

WEBER: Thanks, Mr Brenac. 25

HILL: One or two questions do arise. 25

Q. You were asked or rather you answered if you are asking me if the race was better managed when I was there the answer's yes. 30

A. Yes.

Q. What was it you had to manage?

A. Like I say, not so much in the safety - in the safety part of it because - it's more in the calculating and reporting et cetera of the results. That's where I find - you know, find fault now that wasn't there before. 35

Q. Well are you aware that in the '98 race, the one we're discussing, a vessel called the Gundy Grey sailed with a liferaft capacity of eight and nine crew on board? 40

A. No, I wasn't aware of that. That was - that used to be allowed but that hasn't been allowed now for some years. I think even going back to my time, may have been the '94 or '95 race, you used to be allowed to carry a raft packed for one more than it was - the number of people in it. In other words, you could pack a - you could have a four man raft packed for five, a six man raft packed for seven or an eight man raft packed for nine, and I think that was stopped from memory. Tony Mooney will be able to tell you, but that was stopped around about '93 or '94. 45 50

Q. You say that you'd expect the Farr 40s to be between 110 and 115?

A. Yes. 55

Q. But naturally you would check the IMS certificate if you had a question--

A. Yes. Well you may have three Farr 40s, four Farr 40s. Three of them are 111 and one's 109, three can go and one can't, and that's a simple fact of life. If they don't meet the eligibility, they just don't go. It's like, you know, not having a lifeline or something.

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Q. Even though you may not from a personal point of view agree with the concept--

A. Certainly.

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Q. --of 110 and 115 being a cut-off, there's no question you would have enforced that?

A. None whatsoever. The rules are the rules.

HILL: I've nothing further.

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<WITNESS RETIRED

CORONER: Give me 10 minutes, I'll talk to the counsel assisting team and see what we can do.

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SHORT ADJOURNMENT

CORONER: I think we can resolve this. The position is this. We've almost kept to this week, we've done pretty well actually. We've got to finish with Commander Galletly and Young, but we've left Monday a vacant day or nearly vacant, and now with Mr Green out there's only Miss Holt for Monday. Of course, Galletly and Young will go over to Monday with Miss Holt. Tuesday hopefully will stay as it is. It's an important because among others it's Mr Carter, who can't wait to get on I'm told. I honestly believe that the Rintoul thing won't take as long. I think the sting's gone out of that, so I expect hopefully we'll finish on Tuesday. If not, maybe one of them will have to go over for some time. It's imperative that Mr Green gets on on the Wednesday and we'll put him on. I'm then prepared to leave Mr Bush until after those other witnesses, but I want Mr Bush and Mr Green near each other and I'll make no bones about it, they're saying how good the yacht club is. I want to test that. That's all. Test it with the BOM, test it with counsel assisting, that's what I'm looking at. So I'd like to get them on early. So unfortunately I can't do any better than that for you, but it shouldn't mean countermanding any witnesses at all at this stage. And I do honestly believe many of these witnesses will be short, very short. Amelia Cater is overseas, she's out, and I believe that the others will be very short. It may end up pushing some of the later witnesses back a little bit, I hope not, but at this stage I propose to leave it that way, Mr Weber.

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WEBER: I'm indebted to your Worship.

CORONER: Is there anything else before we adjourn?

WEBER: No your Worship, not as far as I'm concerned anyway.

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HILL: Except for those annexures to Mr Green's report. You

have to understand - well I'm sure you do, Mr Coroner, we've got to actually look at about half a dozen different topics. It's not a matter of simply sitting down the night before and looking at a witness.

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CORONER: Where are we with the Green report? It's not in evidence yet is it? You've just been handed those reports.

HILL: Yes, we've been handed that with his annexures, but no annexures with it.

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CORONER: Did you give me a copy yet or not? I don't think so.

HILL: No, not yet. We've reserved Sunday morning to deal with Mr Green's statement and there are other statements that we have to deal with.

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WEBER: There are two annexures. The first is a list of some countries, members of the ORC. We can source that domestically.

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CORONER: Mr Hill, the first annexure is a list of ORC countries.

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WEBER: We'll get that today to--

CORONER: There's no worry about that.

WEBER: The second is the crisis management plan which we are trying to get faxed to us today. Mr Harris's expectation is that with a bit of luck it'll be on his desk when he gets back to--

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CORONER: All right, well counsel is working on it on Sunday. If he gives you a fax number would you be able to make sure he gets it?

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WEBER: Certainly, your Worship.

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ADJOURNED PART HEARD TO MONDAY 24 JULY 2000

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CERTIFICATION OF TRANSCRIPT

I, We the undersigned being (a) Sound Reporter(s) do hereby certify that the within transcript is a correct transcript of the depositions sound recorded at the New South Wales Coroner's Court in the matter of in the matter of

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

on Friday 21 July 2000

Dated at GOODSELL BUILDING
this day of July 2000

NAME	PAGES	SIGNATURE
KMB	1-14, 27-40 53-66	RMB
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