

W1127 252/00 RMB-K1

NEW SOUTH WALES STATE CORONER'S COURT

STATE CORONER: J ABERNETHY

TUESDAY 25 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 A Colefax for Mr Lew Carter

Mr N Hunt for Mr Richard Purcell

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PART HEARD

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CORONER: I note your appearance, Mr Hunt.

<LEWIS JOHN CARTER(9.31AM)

SWORN AND EXAMINED

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HILL: Q. Mr Carter, would you give the Inquest your full name?

A. Yes, it's Lewis John Carter.

Q. And your address, professional address will be fine?

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A. It's the same address, it's 3/13 Dumaresq Road Rose Bay.

Q. Your occupation?

A. I'm a self-employed buyer in the motor industry.

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Q. You've made two statements in this matter, one 27 January 1999 which was about a month after the race and the other one I think was made - I'll just get the date on that, the other one on 27 March 2000, is that right?

A. That is correct sir.

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Q. Do you have copies of those with you?

A. I have.

Q. What I intend to do is go through the first statement and then we'll go on to the second statement, alright?

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A. Yes sir.

Q. There is one other question that's arisen yesterday actually, that in 1998 for the race a technician from Telstra was asked to go aboard the Young Endeavour. Do you know anything about that?

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A. At what stage of the race sir?

Q. Prior to the race to go on, do you know anything at all about this?

A. A technician from Telstra?

Q. From Telstra.

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A. I find that incorrect.

Q. As far as you were concerned, there was certainly not going to be any other--

A. No, I actually have nothing to do with the installing of the radios at all. The radios are installed by qualified people obviously prior to the race and that is under the direction of the Cruising Yacht Club of Australia.

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Q. So as far as you were concerned, the 1998 race was to be yourself and who?

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A. I have two other people that participate with me that have done so for the last ten years, a Mr and Mrs Audrey Brown.

Q. You were asked to actually take over as the radio operator in 1998 for the radio relay vessel, is that right?

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A. That is correct sir.

Q. Can I ask you what qualifications you had?

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A. On the radio side or navigation side or--

Q. Navigation and radio side.

A. I suppose I should go back to my earlier stages.

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Q. Certainly.

A. I was in the surf clubs for many years and throughout those years I made very good friends with various people and four or five of the chaps within the surf club and myself decided wisely or unwisely to buy a yacht and sail around the world. Prior to that we had no yachting experience, that was possibly in around about '66. I was dispatched to - from - I was in the surf club in Surfers Paradise, Queensland, I was dispatched to Sydney where we bought a yacht. I did a navigation course here in Sydney and we proceeded after about 12 months to take off to do our world circuit and we didn't make the world circuit but we did get as far as Hawaii after about three or four very illustrious years I might add with young people at that time. On returning to Sydney in approximately '71, '72 I joined the Cruising Yacht Club of Australia and participated as - in a navigational capacity on various yachts up until the 1988 Hobart that I - when I took over the radio relay side of it.

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Q. The Young Endeavour in 1998, that was to be the radio relay vessel?

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A. That is correct sir.

Q. It's called a relay vessel but relay to who or from whom?

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A. We come under the sail training ship Young Endeavour which was the gift from the British government for the bicentenary, was under the command of Lieutenant Commander

Neil Galletly and I think there was 12 other Naval personnel on board, along with 18 youth crew. I joined the ship along with my two compatriots in a role that's classified as Telstra Control. It is a completely separate entity on account of the radio situation. The Young Endeavour has his own communication facilities and Telstra Control, which was us, which is located in the officers' mess downstairs, has separate radios and in one instance a separate channel for communication purposes.

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Q. But it's called a radio relay vessel. What I'm trying to find out is who is it that you're relaying things to and from whom? That's really what I'm after.

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A. Okay. My role is entirely as a communicator between the yachts who communicate with us and we in turn communicate with the various - the CYC, the Royal Yacht Club Tasmania. We make contact with the limited coast stations up and down the coast, Sydney radio.

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Q. So basically then am I correct in assuming that your position, your role, is to relay instructions or messages from the race control centre to the fleet?

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A. That is correct.

Q. And then you take things back from the fleet and in turn you pass them on to the race control centre?

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A. That is correct. I do not make decisions, I am under the auspice of the race management.

Q. So it's the relay process and not a control process?

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A. Correct.

Q. That you're - so Telstra Control is somewhat a little bit of a misnomer because you don't control anything, you are simply the conduit between the fleet and the race control?

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A. That is correct sir.

Q. So that's fine, that's what I wanted to find out. You say that on the day and I'm at page 4 of your first statement, if I can refer to it as the first statement, you had about three knots of southerly current. You see there that's the end of the answer to question 16, good following wind, we estimated that we were in about three knots of southerly current. Were you told that by someone?

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A. No doubt it would have been confirmed sir by someone. I knew where we - they've actually got here that the tape wasn't exactly right, it says I think it's around 100 miles. Montague Island is actually 160 miles south of Sydney, so I did the sums with the amount of - we were a lot further south than normal and three knots would be a very acceptable figure.

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Q. Just to make sure, at page 5 at answer to question 19 you talk about an HF and a VHF facility. What did you actually have as the radio relay vessel?

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A. We've got two radios below. We've got a HF facility which is a long range facility and we have a VHF facility

which is for basically line of sight.

Q. They're the only two radios--

A. They're the only two radios we - yes, on the radio side, yes. I was just going to sort of elaborate a little bit further. 5

Q. Certainly.

A. Located - I sit at a table actually, it's the officer's mess. I sit like so with the communication directly in front of me, the HF facility. The VHF facility I have Mrs Brown sitting alongside me on my starboard, on my right hand and there's a VHF facility which is the short range which is located about there, still within range of me being able to take the mouthpiece and located on my port, on my left side is Michael Brown and he has within reach a mobile phone that is permanently attached to a bulkhead. It belongs to the Young Endeavour. 10 15

Q. So that mobile phone was not exclusively for your use? 20

A. That's right.

Q. But it was there?

A. It was - I would say that throughout the duration of the race we would have probably commanded it 95 per cent of the time. 25

Q. Recording facilities, what sort of recording facilities did you have?

A. As I've said in the - I'll bring it up now, we have what I consider is now an inadequate recording facility which I have put in my statement. It's only a hand held type facility with a tape duration of approximately I think it's 45 minutes which we locate near the - it's located about here, so that Michael Brown whose facility it is, he is able to change the tapes and we get the signal from the HF facility which is nearly adjoining it. 30 35

Q. I want to clarify something. You said that you now consider that to be an inadequate facility. I think you've always thought of it as an inadequate facility? 40

A. That is correct sir.

Q. Because you complained long before this? 45

A. Correct.

Q. You complained about - well first of all, where did that recording facility come from?

A. It's a facility that's owned by Michael Brown, my assistant. 50

Q. You had asked someone about a recording facility?

A. Correct.

Q. Who had you asked? 55

A. I think Michael Brown actually who's more of a pencil type person than myself, he actually wrote to the Cruising Yacht Club over a period of a couple of years I think and

asked that the facility should be upgraded to I think he described it as a 24 hour type facility that we would place on the desk so that the whole of the race could be recorded from whoa to go.

Q. Did he get any answer, do you know?

A. We didn't get any favourable answers obviously because we have continued with the same facility. We are a little bit in defence, we are a little bit limited with room and it was explained that the 24 hour type facility which they say is possibly the same size as that bag and certainly it would have been - we would have been stretched for room, but I still think we should have had it.

Q. Did you speak to anyone about this?

A. Yes, I spoke to Peter Bush and Phil Thompson.

Q. What did they say? First of all, what did Mr Bush say?

A. I can't remember the conversation sir but probably the result is we haven't got it.

Q. What about Mr Thompson?

A. I'd say the same.

Q. So the reality is you brought this to their attention?

A. I certainly brought to their attention. It was something that we - it was something that the Browns and myself felt that we should have, that it was another aid. Going back a few years, we were in a situation where a yacht was calling for what they call redress, where he went to the assistance of another yacht, and where we logged it. The situation - the protest situation which came up in Hobart, it would have been advantageous not only for the competitor but also for us and the protest committee to have had that facility to decide on the outcome of the protest.

Q. You'd also need it for safety purposes, wouldn't you, so that you could replay anything that you weren't sure about, if there was a distress call?

A. I'd agree with that.

Q. The reality is you were so moved about this, you and the Browns, that you supplied your own?

A. That is correct.

Q. I see at page 8 on the day itself you had to change the HF radio? See that? We had an HF radio that we had on board which had problems with it?

A. That is correct.

Q. What were the problems?

A. We joined the ship at 0800 on the Boxing Day morning and the Young Endeavour as the commander said the other day is located adjoining Harry's Cafe de Wheels in Rushcutters Bay - in Garden Island, Woolloomooloo and the reception always in this particular area is very susceptible. As soon as I joined the ship I turn the radios on, more to warm them up than anything, usually have a cup of coffee and discuss just

things in general, say hullo to everyone and meet the youth crew. I did attempt at that stage to make communication purposes with Penta Comstat which is a limited coast station, commercial station that is located - at that stage was located in the Gosford area with no success. I did try another couple of yachts that I knew would have been on the radio early, also with no success. I at that stage was concerned but I hoped probably is the word that it was only on account of the CBD where we were, the positioning where we were and that when we proceeded to sea that the matter would be resolved. However, we proceed - we leave the dock at 1100 and we proceed to a mark that they call the Zulu mark which is located approximately a mile and a half east of South Head, which is a rounding mark for the yachts before they proceed south. When I got out to the Zulu mark I was trying the radio throughout the - going up the harbour and also when we got offshore and with very limited success for what I consider now a good enough reception area. I would have no doubt logged my feelings. We then proceeded south after the race had commenced and the yachts proceeded south around the rounding mark. I still continued to monitor the radio and try and establish better contact but I wasn't having any luck. I then spoke to the commander and we did have obviously his facility in the bridge, another HF radio, but that would have meant that if I went on to that radio we would not have the continuous facility of the 2182 which is a distress frequency. I would then have to have gone onto the 4483 as per the radio instructions.

Q. The Young Endeavour must keep a constant watch on that facility--

A. That is correct.

Q. --on its HF because it's a distress - and he's required to do that by law, isn't he?

A. He is, yes. I then spoke to the commander and my thoughts were that the radio should be replaced. I rang the technician that had installed the radio in Sydney, who lives in Sutherland, for the Melbourne people it's a suburb towards - it's south of Sydney, 20 miles south of Sydney say. The next available port that I felt that we could go into was at Wollongong and as luck happened we also had the facilities of the Nemesis, the water police, which was to follow us to Eden under the command of my learned friend over there. We made contact with the water police, I made contact with Ted McNally who was the technician in Sutherland. I pleaded with him to get another radio, to get it down to Wollongong. I then spoke to Wollongong Coastal Patrol and told them the predicament that we were in and they--

Q. They got ..(not transcribable)..

A. So I married the three up and the next thing they - the technician came out via the Nemesis. We replaced the radio, dispatched the technician back on shore, proceeded south.

Q. There was a problem with it the year before as well,

wasn't there?

A. We had trouble with the - one of the fuses was - one of the fuses blew.

Q. How did you feel with just one HF set and one VHF set? 5

A. Basically we have got two on the ship which is - which should be sufficient. We still have got the facility in the event of all things break down so to speak, we still have got the facility of the Young Endeavour. It's certainly not the ideal situation. 10

Q. The master of the Young Endeavour has to keep that lookout--

A. That is correct. 15

Q. --he can't allow you to use that?

A. It would have made things very awkward but we're used to awkward things at sea and I'm sure that we would have got by but I'm not saying for one moment that it would not be preferable to have an additional set. 20

Q. Did you ever mention that to anyone prior to this, about an extra radio set?

A. Not that I can remember. 25

Q. Were you in the 1999--

A. Yes I was sir.

Q. You were on the radio?

A. Yes I was. 30

Q. What's the situation now? How many radio sets--

A. We have two radios now.

Q. Two what? 35

A. We have two HF facilities which are brand new, which are marvellous, and we have the one VHF facility.

Q. Okay, so you have the spare. What about operators?

A. Not skiting but we - it was suggested via a safety committee that professional people should be put on board which I don't disagree with. I have not got professional background in radio, I only have a limited type radio licence, I'm licensed by the Australian Communication Authority, which is probably how most of the competitors are also licensed, most of the navigators et cetera. We had a professional - you don't only need a professional person, you need a professional person that has seagoing qualities, navigational experience, yachting experience and being able to get on with everyone in there. So it's a-- 40 45 50

Q. So bearing in mind you need those qualities, what did they give you?

A. They supplied me with a - and I'm not detracting from the person, she was a lovely person but unfortunately yes, a professional person fully trained. Actually I've been told by a Mr Collinson who was here the other day, she was trained and she is currently a - I'm not sure whether she's 55

in charge but she is certainly domiciled at the Sydney radio which is located now in Brisbane. But she's not a seagoing sort of a woman, which--

- Q. She hadn't been to sea, had she? 5
A. I'd have my doubts.
- Q. She was seasick?
A. She was. 10
- Q. How did that affect her ability to cope, in your opinion?
A. I think anyone at sea that's seasick is never to their full capacity. 15
- Q. Do you think that might have been an oversight in the people who supplied that particular person with you, that they should have basically supplied a sailor?
A. It was suggested that we have a professional person, that was in the - I think that's been suggested even by Mr Collinson, he suggests professional people. But we need a professional person that has got the qualities that I mentioned. We also need a professional person that is prepared to give up his time, his Christmas Eve, his Christmas Day and race to Hobart. 20 25
- Q. You're not suggesting for one moment are you that there aren't professional wireless operators who go to sea? I think we've had them since about 1906 on vessels.
A. I'm not suggesting that at all sir. I'm just saying they're very hard to find. 30
- Q. Going back to - who else was there on the 1999 race?
A. Audrey and Michael Brown again. 35
- Q. You had the skeds?
A. The skeds, yes.
- Q. And the first sked was when?
A. The first sked is at 2205 on the evening of the 26th. 40
- Q. Was there some sort of call during the afternoon?
A. I think I'm wrong there, it's 2005 is the first sked, it's different to the preceding - the following skeds. 45
- Q. What about between the start of the race and 2000 hours?
A. There's no sked.
- Q. No tuning call or anything like that?
A. No, the tuning call is at - well, the first sked would be at 2003, the first three minutes of the - we have what they call a silence period and that's the reason that the sked starts at 2003 for a tuning call. The operators tune their antennas at 2003, in that 2003 to 2005 period. 50
- Q. I'll deal more with these silence periods but there's a period I think every hour isn't there?
A. Every hour and every half hour. 55

- Q. What's supposed to happen?
A. It's on the hour for three minutes past the hour and on the half hour for three minutes past the half hour.
- Q. What's supposed to happen? 5
A. What we do, we observe silence. There's no radio - there should be no radio communications unless it relates to a securite pan pan or a distress situation.
- Q. Just so that I understand this properly. Every hour you will listen for three minutes, you being Telstra Control? 10
A. No, incorrect.
- Q. What then?
A. Because I'm on - this is on distress frequencies but we do observe what they call an etiquette on the 4483 as well but I don't observe that every hour. I do observe it in the sked time. 15
- Q. These silence periods, when are they supposed to take place? 20
A. Let's say at 1300, it goes from 1300 to 1303.
- Q. Alright, three minutes.
A. And from 1330 to 1333, on the distress frequencies. 25
- Q. Which is that?
A. 2182, 4125, 6215.
- Q. Which one would you be doing it on? 30
A. I don't hear it because I am downstairs on 4483. The bridge would observe that on 2182 on their radio. So there's two separate radios.
- Q. I want to know about - I'm not interested at this point in time with anything to do with the bridge of the Young Endeavour. 35
A. Okay.
- Q. I want to know what Telstra Control does on the hour? 40
A. On the hour?
- Q. Yes. This listening.
A. We listen continuously on 4483. 45
- Q. Perhaps I'll come back a bit. You were talking about the silence periods?
A. Correct.
- Q. On 4125 kilohertz? 50
A. Correct.
- Q. When do you observe those? What do you do?
A. I may have misled you. We're only talking about Telstra Control, correct. I am down below with the radio that is tuned to 4483 only, which is the race frequency. I am under no maritime law to observe a silence period on that channel. 55

Q. Who will be on that silence period at 1 o'clock or 12 o'clock?

A. The bridge.

Q. The radio instructions and this is at paragraph 26 of your second statement and you say I note that paragraph 41.3 of the radio instructions makes reference to silence periods. Who's supposed to be listening during those silence periods as far as you're concerned? Is the fleet listening?

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A. Is the fleet listening?

Q. Yes.

A. No. The fleet - when I say - I'd better clarify that. Some may be listening. I am not aware of the yachts that may be listening in at that silence period.

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Q. You say my understanding of these periods is that on each hour and each half hour a three minute period of silence is observed?

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A. Correct.

Q. The only exception to that silence is for distress transmissions. However, it should be noted that HF frequency prescribed for the silence periods 4125 kilohertz was not monitored by Telstra Control because the radio instructions required continuous monitoring of HF 4483?

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A. That is correct.

Q. So do I take it then that between skeds there is no way of contacting the vessels in the fleet?

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A. There are very few and I think I might have said it in that - certainly if you wish to continue in the - probably in the interview, I find myself having been on both sides of the fence, I find that it is not - I feel that yachts in my opinion should have the HF facility on 24 hours. The reason having as I say done the navigation side on yachts, the reasons normally that the radios are turned off in between skeds is (1) to save battery power and (2) to - you can hear the chatter of the radio, so someone trying to get to sleep down below, it does disturb their sleep pattern. I personally don't think that it warrants turning the radio off, that's my personal opinion.

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Q. But in essence are you saying that there was no way of contacting the fleet between each sked?

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A. There would be possibly - I don't know the percentage, there may be I'd say maybe 5 per cent of the fleet may still leave their radios on continuously. There are some of the old hands probably more people that are in a cruising type boat that would - that are not as concerned with winning the race as opposed to getting to Hobart, there would be a reasonable chance that some of these yachts would have their radios on continuously.

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Q. Let me put it this way then. Between 2000 and 2200 hours on the first day, the 26th, that's when you had the first sked, is that right?

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A. 2005, yes.

Q. 2005 to whenever it finished and I think it took about how long to run through the sked?

A. The early sked, I'd probably do the sked, I've trained myself to do three boats a minute. So you're looking - I think it was 115 boats. It's probably with traffic and everything on that first day and weather, I would say that it'd probably take an hour, hour 20 or something like that.

Q. So say you finished at about - you're well and truly finished by 2330, half past 11 that night?

A. Yes, well and truly.

Q. Your next sked is at what, 3 o'clock?

A. 0305, yes.

Q. The next morning?

A. On the 27th.

Q. Are you telling the Inquest that there was no way you could contact - there was no provision for contacting the fleet between 2300 hours, that's 11.30pm on the 26th and the start of the next sked which was at 0305 hours on the 27th?

A. I think in '98 and I'd have to verify, I'm sure in '98 that they - that it was compulsory to have your VHF facility on 24 hours.

Q. So there was a method you think and that was the VHF?

A. It was a VHF which has been proven in this Court that the range can range from a couple of hundred yards up to 30 or 40 miles.

Q. What I'm trying to find out is you as the relay vessel and someone in race control wanted to get an urgent message to the whole fleet, say at 1 o'clock, 0100 hours on the 27th, by radio, they wanted to get an urgent message?

A. On the night of the 27th?

Q. Yes.

CORONER: Q. The afternoon of the 27th. The morning of the 27th.

HILL: Q. The morning of the 27th.

A. 0100?

Q. Yes, how would one do that? Just have to wait till they come up on the sked?

A. You'd have to wait till the - to be 100 per cent sure or nearly 100 per cent sure, you would have to wait till 0305 to make sure - that way - I mean you would get limited yachts via your VHF facility. You certainly would not be in a position to be able to communicate with the whole of the fleet.

Q. So if someone contacted you from race control and said Lew, it's urgent, this is 1 o'clock in the morning.

A. Yes.

Q. I want you to get this to the whole of the fleet, I want you to say everyone go into Eden, you're telling the Inquest that you couldn't do that until they all came up on the sked, is that the reality? 5

A. That is correct.

Q. That is the reality of it?

A. Yes, that's correct. 10

Q. What were the shift rosters that you'd worked out with the Browns?

A. Something that was easily broken but - I've actually got one that - rather than - is it permissible to-- 15

Q. Yes, yes.

A. The original one that was suggested was two hours on and four hours off and what I tried to do, the person that was off, we what they call hot bunk, there's not a lot of accommodation on the Young Endeavour, so we actually - the bed's never cold, put it that way. We swap, you know, like one - I come off to come onto watch, Michael Brown will go and he'll get into my bunk, which is located where the young lady is there, it's just a little-- 20 25

Q. It ensures that the other one--

CORONER: Q. It's off the wardroom is it? 30

HILL: Q. --has got up to do their duty because you go to bed in the same bed?

A. Exactly. The person that then comes on say goes in charge of the HF facility, the other person I have sleep alongside, on the settee alongside. At sked times or in any period where I consider there is a distress situation I insist that all three personnel are in attendance, or as in last year four people in attendance. 35

Q. I take it that when you went onto the Young Endeavour on the 26th at about 8 o'clock in the morning you'd got up at about 6 that morning, is that-- 40

A. I'm an early riser, yes, probably 0500.

Q. Did you get any sleep in between going on board the Young Endeavour and say the second sked at 0300 hours on the 27th? 45

A. The sailing day you mean on the--

Q. Mm. 50

A. I probably would have had - no, we were busy through the day because we were getting the radio in from - we had to put the radio on which was - which I think we put on approximately - it was - Wollongong's about 45 miles south, so we would have done that in about say five hours, 1300 we would have been down there 1800. I probably may have got a little bit of rest after the 200 sked on that evening and prior to the 0305 on the 27th. 55

Q. You did the sked at 2000 hours on the 26th?

A. Yes.

Q. You did the sked at 0300 hours on the 27th?

A. Correct.

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Q. After that, between the 0300 hours sked on the 27th and the 1400 sked on the 27th did you get any sleep at all during that period?

A. Between the--

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Q. The 0300 hour sked on the 27th, this is the Sunday morning when it starts--

A. Yes, righto.

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Q. --to roughen up a bit and the 2 o'clock sked, did you manage to get any sleep during that period?

A. And the 1405? Yes, I would have, yes. I would say that I would have completed the 0305 sked, which at that stage let's say a couple of hours, 0505, I think brekkie's about 0700, so I probably - usually I sort of hang around, have brekkie and then go and get into my bunk. So I probably had a sleep between 0800 and I would think about 1130, probably two or three hours in that period prior to lunch.

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Q. You fill out or someone fills out the radio log?

A. Correct.

Q. That's that document there. Now, as I understand it, it's filled out from notation pads that you take?

A. Correct.

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Q. Or the Browns take or whoever and you write down the messages and then later they're transferred into the log, is that how it works?

A. Basically whoever is in charge so to speak if you'd like to put it that way or whoever is using the HF facility is sitting here with the HF facility and you've got a clock in front of you, a little alarm type clock, and as the message comes through you put it on a what you consider - what we call a rough log and I think you said the same. You put the time, the positioning - the time, the yacht, whatever message that comes through along with the position and that in the earlier stages where it's quieter Mrs Brown, Audrey Brown is sitting there. As you basically - I mean there's usually about two or three entries per page. As I take - they're numbered, you'll note that they're numbered there?

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Q. Yes.

A. Nothing is thrown out. As the page is - I hand that to Audrey Brown and she in turn records that in what we call the radio log, which is that one, the other one.

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Q. And that is usually completed within I think within a couple of hours at most?

A. That'd be maximum, yes.

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Q. You've told us that - and I think you say in your

statement about you didn't have the full facilities that you would have liked, that's at page 20. You see that question 98, the answer to that, the tapes were brought weren't - we didn't have a 24 hour tape, we didn't have the full facilities that we would have liked. Now, you say facilities. Are you talking more than just the tapes? Or are you talking radio sets or anything else?

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A. I'm talking about the tapes.

Q. Just the tapes?

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A. Yes. I think everything else - yes, it's a system that we've worked over 10 years now so it works fairly efficiently.

Q. You certainly didn't feel that that was satisfactory, is that right?

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A. That's correct.

Q. What is interesting is that you've seen the volume 8 which is the tape, the transcript of the tapes, have you seen that at all? I want to show you one. Perhaps--

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A. Is that the - my transcript, the - for the duration of the--

CORONER: Race.

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HILL: Q. Yes, the duration of the race.

A. Yes, I have that sir.

Q. There's a comment from Sword of Orion?

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A. Yes.

Q. About the weather. Can you help me with this? It's not the one that's - it's at 0300 hours on the 27th and all it says is a comment about the weather. I'll try and get that for you and I'll come back to it.

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A. If you can give me the page I might be able to help you. 0300 on the 27th?

Q. Yes. It's quite alright, look, I'll come back to that because--

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A. I actually haven't - the notations I have are in that - at that time, maybe yours should be the same, is at 0203 on the 27th there's an ETA ..(not transcribable).. at Batemans Bay at 0500 and then I've got Young Endeavour - I've got the coordinates of Young Endeavour and then I've got the next notation which is later than the period you're suggesting is at 0358 which is bay rescue and the coordinates of it.

45

Q. Perhaps if I might approach. It's tape 2 I'm sorry. I just want to show you this. There's nothing lead up to this and it's tape 2 page 17 and what it says is voice 100 which is Sword of Orion--

50

A. Uh hmm.

55

Q. --and it gives a position and then there's voice 3 and I think that might be you?

A. Voice 3 is me, yes.

Q. Sword of Orion and you give the position and re your comments on weather, that article by Ken Batt in the Offshore is worth reading. Sword of Orion, Sydney, Sydney, are you there.

A. Yes.

5

Q. What I'm trying to find out is--

A. You'll find this information in the sked sheets, so we've got separate - and I'm sure that you should have them there and I know my friend Mr Colefax has them, they're the sked sheets. This, what you're quoting now, is when I am actually taking the sked. I can't remember - I can remember something about it, Sword of Orion were talking about the weather, not about adverse weather, and I alerted him to an article that was in, as it says here, in the Offshore which is a magazine that's published by the CYC.

10

15

Q. But what I'm trying to find out is where was Sword of Orion talking about that, what were they saying, where is that recorded?

20

A. Maybe there's a notation on the sked sheet. See, that sked sheet relates to all of these position reports.

Q. I'll just show you this document here.

A. Yes. That's why it wouldn't be on these sheets, because while - when I'm doing the sked, which is this, I'm not doing this.

25

Q. But what I'm trying to bring to you is that I can't find anything that refers to a conversation that Sword of Orion has had in the transcript over the radio about the weather that brings you to say this, you understand?

30

A. I do.

Q. The sked sheet for 0305 hours gives the position of Sword of Orion but there's no--

35

A. Nothing to - about that.

Q. --Nothing to do with the weather and what I'm trying to find out is what it was that Sword of Orion was talking about with regards to the weather at 0300 hours that prompts you to tell them they should read Ken Batt's article, you understand?

40

A. I do.

45

Q. I can't find the original source anywhere.

A. No, I agree with you. It's a comment that you would not find in these because at that stage I would only be using this.

50

Q. But what I'm trying to find out is where you would have overheard that and how, because there's nothing in the transcripts of the radio messages?

A. The only way I could have, as you understand, would have been via the radio.

55

Q. Alright, so I take it then there are some portions of the radio messages which have not been recorded? Is that

correct?

A. How far back did you go?

Q. From the very beginning but we can't find anything that prompts this comment of yours. 5

A. Righto.

Q. It's alright, we can come back to it.

A. If you just keep it aside, I'll try and-- 10

Q. Yes, sure.

A. --try and think of - I actually do remember commenting and that wasn't directed only at Sword of Orion, it was directed at the fleet, there's some good articles that have been written relevant to the race and so my comments would have not been only directed to Sword of Orion, even though I addressed him but it would have been addressed to the fleet as well. 15

Q. Moving on from that, or rather going back, you knew that a storm warning had been issued? 20

A. That is correct.

Q. You got that how?

A. I got that via - I'd better clarify this. My position is to do with skeds anything relevant to the skeds in that situation. My compatriot Michael Brown not only gets the weather but he also reads the weather. It's a system that we've worked and worked successfully. He receives the weather approximately 30 minutes prior, we try and keep the weather reports as current as possible and the weather reports are dispatched to us via satcom Charlie from I think Sydney radio, from Sydney met, they're dispatched to the Young Endeavour and whoever's upstairs on the bridge hands us down a printed form. 25 30 35

Q. What did Sword - what did a storm warning mean to you?

A. To me personally?

Q. Yes, yes. 40

A. Well, I alerted everyone that we'd be on watch for quite a period of time, that's probably my relationship. You know, I relate things to our workload.

Q. So what did it mean? 45

A. Well, a storm warning is the maximum that is recorded in the southern hemisphere, or certainly down in the south of Brisbane or an area south of there I would think.

Q. If I could show you this document here which are the - if I can refer to it as the rough log? 50

A. Yes.

Q. I want to take you to first of all page 26 of that. You'll see there that the first one there is 0538 and it's on the 27th, so this is the Sunday morning? 55

A. Yes.

- Q. That appears to be a vessel, is it, M Wines is it? What does that--
- A. That'd be ABN which is ABN AMRO I would - there's a good example for you sir that - of the difference in handwriting which denotes to me who's on watch. 5
- Q. Okay, who's that?
- A. That's Michael Brown.
- Q. What's the vessel's name? 10
- A. I would expect that to be - there was a vessel in the race called ABN AMRO and to me that looks like it's ABN which would be the abbreviation of--
- Q. No, I'm at 0538, see the time? 15
- A. 0538. That's Magleri Wines, M Wines.
- Q. And it's requesting a weather update, advised only had 0213 report. So that's all you had at that stage?
- A. Yes, that's-- 20
- Q. And then at 0545 requested CYC?
- A. Correct.
- Q. What does that say? Mark, is it? 25
- A. Mark is one of the chaps that is--
- Q. Mark Robinson?
- A. Mark Robinson, correct. 30
- Q. To get a weather update for fleet?
- A. Correct.
- Q. So that's what Brown requested?
- A. Yes. 35
- Q. At quarter to 6 in the morning of the 27th, the Sunday morning?
- A. Correct. I'm only going on-- 40
- Q. No, that's just the log.
- A. Yes.
- Q. I'm not saying that you were present.
- A. No, I-- 45
- Q. I'm saying that's what's written there.
- A. That would have been a period where I was sleeping no doubt. 50
- Q. At 0550 CYC advised - what does that say?
- A. Advised met - I would expect that to be that the next met report was at 1300.
- Q. Okay. So to the request for an update, the CYC comes back, advised met weather 1300?
- A. Correct. That's what it appears to me anyhow. 55

Q. And then at 0555 advised Magleri - is it Magleri?
A. Magleri Wines, yes.

Q. Wines, check - now, P76, 78 Offshore, what's that mean?

A. I would probably - and there's a classic example for you, if you look at page 76 and 78 of Offshore, you would probably find an article that is written relevant to the weather, so I would - reading that myself, I would expect that Magleri Wines was looking for some type update on the weather, we advised him that the - the CYC advised us, Michael Brown, that the next met 1 was at 1300 but we advised Magleri Wines that he should consult Offshore and nominated the pages with probably the view to listening in to the weather that may have been broadcast via one of the limited coast stations or Sydney radio.

Q. Over the next - I want you then to go to page 31 and it's again on the 27th and it's at 10.26 and you'll see there it says wind - is that from Team Jaguar? It seems to have Team Jaguar written at the top. It says wind--

A. That's - I'd say that's written by Audrey Brown actually looking at the writing. I interpret that, that at 10.26 - do you want me to--

Q. Yes.

A. At 10.26 Team Jaguar advised which was later than the sked so the text comes into it now, at 10.26 Team Jaguar which was at 3750 15007, they had winds west 30 to 40 knots, I read that as south, rough seas and the message they did not come up on the sked radio - they did not come up on the skeds, they have radio problems, they have water around but all okay. Now asked for weather update, advised and they - and we obviously advised them an update of the weather that we had via the Navy, which also received weather.

Q. What I want to ask you about is that race control centre in Hobart had a facsimile that morning at about 0600 hours, that is the 27th, with all the stations, all the weather stations, including one from Wilsons Promontory at 71 knots. Were you ever advised of that?

A. The easy way to answer that sir is you would find in - we are very methodical in what we accumulate and the weather reports - whatever weather reports we received via wherever, they come in a printed form and you would have them there. I haven't got them, you would have them there. They were requisitioned from myself at the Iron Pot, which is the start of the Derwent River, by the water police, by Hobart water police.

Q. You do not recall--

A. So to answer your question, whatever we received would be in that weather--

Q. If it's not there?

A. We didn't receive it.

Q. So you were not informed by race control centre, certainly not from Hobart you can recall that at about 0600

hours on the morning of the 27th Wilsons Promontory were getting 71 knots? You certainly don't recall anything like that?

A. At 0600?

5

Q. About that time? I'm not saying you received it then, I'm saying that that's when the facsimile, according to Mr Honeysett, was received. You didn't recall--

A. If it's not there, we didn't receive it.

10

Q. I want you then to go to page 33 of the rough log. Now, that time there appears to be pencilled over a bit. You see it looks to be 12.35?

A. That's correct.

15

Q. It might have been 12.30?

A. I'd say it's 12.35.

Q. Someone's pencilled over the number that was there originally, is that right? Or have they simply emphasised the number that was there to make it clearer, do you know?

20

A. I would probably interpret that as 12.30.

Q. Okay, well 12.30, 12.35, it's five minutes.

A. It's a few minutes either way. It appears in biro 12.30 and then Mr Brown has pencilled over it 12.35 and the yacht in question is Rager.

25

Q. I'm sorry, I should have taken you to something on page 31, if you would go back there. I notice that at 10.35 the vessel Tartan was seeking shelter in Eden, not retiring, ETA, estimated time of arrival 1530 hours?

30

A. That's correct.

Q. So she's seeking shelter and I presume that's from the weather?

35

A. Well, I'm assuming that because he's not retiring, it means that he's going in and he's looking for--

Q. He's sheltering?

40

A. Sheltering. A wise move.

Q. Going back to 33, page 33, and whether it's at 12.30 or 12.35, it looks to be Rager?

A. It is Rager.

45

Q. I take it that's Doctrel (as said) Rager, is it?

A. Doctel Rager, yes.

Q. Doctel.

50

A. Doc--

Q. We'll call it Rager.

A. Yes, Rager.

55

Q. Okay, now it's given a position by the looks has it?

A. That's correct.

Q. It's got underneath and it's underlined severe weather and it looks 50, 60 to 70?

A. Correct.

Q. What? What would you interpret that? 5

A. I'd interpret that as 50 to 60 to 70 knots. I'd actually interpret that 50 to 60 and gusting to 70. That's not my writing but that's how I would interpret it.

Q. It appears at the same time or immediately after Secret Mens Business? 10

A. Correct.

Q. They also give a position and they say severe weather, is that how you read that? 15

A. Yes I do. You can see the top one on Rager where there is - there's actually what I consider a mistake there, he's got 158 11.7, 158 is a hell of a long way east and Rager wouldn't have - the correct one there I would think would be 150 dash 11 and Secret Mens Business, this is how I interpret it, heard Rager speak about the weather. You'll see that Rager - Secret Mens Business is at 3747, Rager's at 3737, so there's 10 miles, Secret Mens is 10 miles further south and he's at - Rager's at 150 11 and Secret Mens is at 150 23, that's approximately eight miles further to the east. So what they're trying to do is to give us a pattern of the weather in that area that they are receiving. 20 25

Q. So Secret Mens Business has got severe weather?

A. Yes. 30

Q. And then it appears to be 12.50 Wild One advised them severe weather, is it?

A. Yes. 35

Q. What I want to ask you is this. Isn't it rather unusual for vessels and in particular Rager to be reporting the weather they're getting? 40

A. It's unusual but there is a - in the sailing instructions yachts that - there is what they - I'm trying to think of the term, but there is a - in the event of severe weather, it is the responsibility - this is not by the book but it's the responsibility of the yacht to inform CYC or Telstra Control of the severity of the weather with a view to - as a safety factor. 45

Q. What in your understanding, what safety factor? There must be a purpose for them--

A. There is. 50

Q. For such a rule that they report this?

A. That's correct.

Q. Does it go on to someone, does it?

A. They want the fleet to know and which brings up my dissatisfaction so to speak with the yachts not being - in defence of Mr Brown, that wasn't - I know that there's been a criticism that that was not broadcast to the fleet. The 55

reason that it--

Q. Who has criticised that?

A. I'm sure that I've read it.

5

CORONER: Q. We've got evidence that most of the fleet wouldn't have been listening.

A. Exactly.

HILL: Q. There was no method for him to do that?

10

A. No. The only yachts unfortunately that would have been listening would have been--

Q. The ones that were broadcasting?

A. Yes, exactly.

15

CORONER: Q. And a few others probably?

A. Yes.

Q. With ..(not transcribable).. radio?

20

A. Yes, it reinforces what Mr Hill was trying to, you know. I feel that it should be a necessity, because if all the yachts were operating on that 4483 channel, they would have heard the severity of the weather in that location.

25

HILL: Q. Certainly at 10.35 Tartan had decided that it was going to go into Eden that morning?

A. That's correct.

Q. To shelter?

30

A. Correct. He's at 3658, so he's nearly 40 miles north.

Q. If we go over to page 34, you'll see there that it's 1318 by the looks, Terra Firma via Jubilation. So do I take it then that there certainly people listening because we've got one here from a yacht presumably called Terra Firma, aptly named, and via Jubilation. Is that how to read that message?

35

A. That's - yes, that's how. That's what they call a relay. I interpret that that at 1318 Jubilation rang me - rang Telstra Control and said that Terra Firma and gave me his coordinates and that he was recording 60 knots at 280, the position of Jubilation and coordinates are underneath it.

40

Q. At 1329 Secret Mens Business was heading for Eden and--

45

A. Excuse me sir, this doesn't necessarily mean that they were listening. They can turn their radio on to give me a message, so it doesn't necessarily mean that the yachts were listening continuously.

50

Q. I take that point. Now at 1329 Secret Mens Business, they're heading for Eden?

A. Correct.

55

Q. They will decide later on retirement?

A. Correct.

Q. I think that at page 32 - at page 32, I know I'm going back, Innkeeper, they've retired. Was there anything on that, why they retired?

A. I'd have to have a look at - we have a retired list. There would be - they inform us of retirement because we keep an eye on them until - you can see there that I've asked for an ETA, which is an estimated time of arrival which he gives me at 1300.

5

Q. If you go back to page 34 and as I've said at 1329 Secret Mens Business, they're heading for Eden?

10

A. Correct.

Q. Over at page 35, I take it that's Magleri Wines--

A. Correct.

15

Q. --at 1331, in Bermagui--

A. Correct.

Q. --assessing damage?

A. Correct.

20

Q. At 1332, Wild Old planning to shelter in Eden?

A. Correct.

25

Q. At 1334, Henry Kendall sheltering in Eden?

A. Correct.

Q. Over the page at 36 at 1335 Sea Jay, ETA Eden for shelter?

A. Correct.

30

Q. 1336, She's Apples seeking shelter in Eden?

A. Correct.

35

Q. Now, 1338 it appears Wild One seeking advice. What advice were they seeking, do you know? If you don't know--

A. I'd possibly interpret that as--

Q. If you don't know--

A. Look, I don't know so I'd better say I don't know.

40

Q. No, that's fine, I just--

A. Yes.

45

Q. And then over the page at 37, 1346 Indian Pacific seeking shelter in Eden, not retiring?

A. Correct.

Q. It would appear that in that initial call by Doctel Rager through till 1346, that's just before the 2 o'clock sked, there's a lot of people going into Eden for shelter?

A. Correct.

50

Q. What was race control centre doing during that period to you? Were they passing messages to you? What was happening?

A. If there had have been any messages received they would

55

have been logged.

Q. There aren't anything logged, do I take it that you received nothing from race control centre during that period where these vessels are going to Eden?

5

A. Sir, I can only go on--

Q. No, I understand that.

A. --on my log and there's no notations in my log, so I would assume that there was limited conversations between Hobart race control and Telstra Control.

10

CORONER: Q. No conversations.

A. No, that's correct.

15

HILL: Q. So essentially you were it?

A. I'm sorry?

Q. You were it, there was nothing coming down the line for you to pass on to anyone?

20

A. No.

Q. And you would know that they would be listening to all this at race control in Hobart and indeed in Sydney, to your knowledge?

25

A. To my knowledge, yes.

Q. I'm going to move to the 2 o'clock sked. It's during that sked that Sword of Orion, and this is at page 22 of your statement, Sword of Orion came through and I've listened to the tapes and it's answer to question 111, they were experiencing winds in excess of 70 knots and I think 78 was mentioned.

30

A. Uh hmm.

35

Q. It may well be that what they're saying between 70 and 80. It's very difficult to know but anyway there's an 8 in there, they've got this.

A. This is my record of interview and bearing in mind this was taken at a latter stage, so I'm - my memory is not 100 per cent.

40

Q. I'm not worried whether it's--

A. And the figure was--

45

Q. --whether it's 70 to 80 or whether it was 70 to 78, it's not--

A. I think that 78 was the figure. I probably put 70 in as a bit of a stopgap.

50

Q. It's partway through that sked is it that the instruction comes from race control for you to read the rule that it's up to each--

A. No, if you read a little bit further, I correct myself. If you look at page 24 with the answer and I advise the fleet at 1650--

55

Q. 1655.

A. Reading this I find earlier in the interview without the advantages of my records, which were then handed to me by Detective Grey, I was then able to correct myself and in actual fact the skipper's responsibility was read to them at 1655, which was past the sked time. Or maybe at the end of the sked because it would have been a longer sked.

5

Q. That's the point that I find - I think the sked was finished by about 3.30?

A. Uh hmm.

10

Q. This isn't broadcast until 5 minutes to 5 and bearing in mind that you've told us that most of the fleet would not be listening in between skeds, isn't it somewhat closing the door after the horse has bolted?

15

A. I wait for direction, I don't make decisions myself. The severity of that decision is such that I would not do it on my own.

Q. No.

20

A. So I am assuming now that the direction was given to me at a later stage. However, I think and I don't know whether it's there, I did ask the yachts providing they had sufficient battery power that there were no problems that it would have been advisable, it is not as per the race instructions, to keep their radios on. It wasn't an order, which I can't do.

25

Q. Do I take it then the first solid - or rather the first instruction you get from race control about what's happening out there is when you are told to read to the fleet the message? You see, I can't find anything that's logged prior to just before them telling you, that's race control, to read this particular message at 1655. It almost appears as if race control have done nothing until that particular point. That's what I'm trying to clarify.

30

35

A. I have not got - as you can see there's nothing there. Now there may have been - now that direction would have come obviously via - we had a mobile phone facility and that's where the direction actually came as to reading out the skipper's responsibility.

40

Q. Can I assume that as soon as you had got that--

A. Yes.

45

Q. --that message to read that out, you would have passed that on immediately to the fleet?

A. I would have, yes.

Q. I think in fact in the middle of it, the way the transcript goes is Telstra Control, Coastal Patrol Eden, they're calling you, we've got a gale warning which I will broadcast to the fleet now, if that's alright with you, over. And voice 3, you say yes, that is affirmative Coastguard Eden, I was just going to pass something on else onto all the fleet, firstly I would like to draw attention to all yachts competing in the Telstra Sydney Hobart Yacht Race, page 2 of your sailing instructions, paragraph 7. All

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those taking part in CYCA races do so at their own risk and responsibility. The CYCA is not responsible of a yacht whose entry is accepted or the sufficiency or adequacy of its equipment. The CYCA is not responsible for any damage or injury either ashore or at sea either to persons or yachts which might result from participating in the club's races. The decision to race a boat is solely the responsibility - it's solely the responsibility for deciding whether or not to start or continue racing, I ask all skippers before proceeding into Bass Strait or wherever you're proceeding to give it your utmost consideration as to what you are doing and talk about it with the crew. No problem to call in to Eden and perhaps take off again tomorrow. And then you go on to Eden Coastal Patrol.

A. Correct. 15

Q. Prior to that, nothing from race--

A. Nothing from race management, certainly you have nothing there, no. I was trying to - a lot of the words as you can see there are probably words from my heart and I was trying to reinforce the severity of the situation and I think I may have even said it there, there's a Hobart race every year, don't be frightened to seek shelter and be it you retire or not but we'll see you next year. 20

Q. You've sailed in yachts? 25

A. Yes.

Q. And you know what the weather's like? 30

A. Yes.

Q. You could get an overall view prior to the 1400 sked of what the weather was like out there, because you were getting it from all directions from yachts? 35

A. Correct.

Q. I'm going to suggest to you that in your opinion such a warning should have been issued before the 2 o'clock sked or immediately before it so that everyone would have known. 40

A. You're forgetting that we did receive - we would have received via these people, the Weather Bureau, a weather report which was an update which would have been read at that 1405 sked. That would have come in and you'd have it there, it would have come in approximately 1330 hours. So what we were - what we would have been trying to do would have been at that 1405 sked alerting the fleet as to the severity of the winds and as you can see, the winds were actually stronger than the forecasted winds and they were relayed to not only myself but all of the yachts that were listening in via the yacht Sword of Orion, which was then also reinforced by the yacht Yendys and they were in the - in similar coordinates. 45

Q. Are you aware that it's said that the weather - the wind at Wilsons Promontory has to be read down a bit? 55

A. I wasn't aware of that, no.

Q. You weren't aware of that?

A. No.

Q. Would it have made any difference to you had you been told to pass onto the fleet some time early in the morning, that is about 7am, that at Wilsons Promontory they were experiencing 71 knots of wind? 5

A. In defence of the organisation, the sailors have got a lot to - what's the word, they have the facilities of all these coastal stations that they can listen in to and there's an extensive list that is compiled at a great lot of - and a lot of experience has gone into it, it's a very, very comprehensive list of the times, the stations, the facilities that can be employed by the sailors. 10

Q. I understand that. 15

A. They should not - and it was stressed at the briefing on the day of 24 December, do not rely entirely on the Telstra Control for - to relay the weather, employ the services of all the other channels that you have been advised to do so. 20

Q. Look, I understand that perfectly but you've got people like Magleri Wines requesting a weather update at 0538. You see, people were relying on Telstra Control-- 25

A. I agree with you. 25

Q. --to relay and I've asked you a very simple question. 25

A. Yes. 25

Q. Do you think if you had received-- 30

A. Me personally? 30

Q. Yes, you personally, that Wilsons Promontory - that that may have aided the fleet to make decisions about retirement and things like that? 35

A. What I'm suggesting is that the fleet should have heard that. If you have a competent navigator skipper on board a yacht, they are listening in nearly - particularly as the weather worsens, the - a competent navigator would be listening in to any available source of weather that they could receive. No doubt about that. 40

Q. At page 25 it's about the Sword of Orion. Now I understand that you understood that there were difficulties with the Sword of Orion and that came to you through another yacht and that was the Yendys, is that how you recall that? 45

A. I'd go on what you've got there but I could look it up but no. 45

Q. I'm not worried but you think - it wasn't direct with the Sword of Orion? 50

A. No, it wasn't direct, no. I did have contact with Sword of Orion earlier where he actually - he'd - he was heading November - north seeking shelter and I think he said at that stage he wasn't retiring and he did actually offer assistance to me for any of the yachts that he was passing in his voyage north. 55

Q. And then I think at page 27 you've got a message about

the Business Post Naiad had rolled over?

A. Correct.

Q. And that came via another vessel as well?

A. That was via Yendys, yes.

5

Q. I'll deal with the Margaret Rintoul. I notice that in the log the message that you got in regards to the Margaret Rintoul was that they had seen flares. According to the log, it's at 1920, so that's when you say it was received, is it? The message? Have you got the rough log?

10

A. It's transferred from that so it's--

Q. Do you have it in the rough log?

A. Yes.

15

Q. What does that say?

A. It's probably page - these pages may be a little bit different to yours.

20

Q. That's alright.

A. Page 51 I think.

Q. Yes and what's it say?

A. My interpretation at 1920 Margaret Rintoul was at 3815 15022 and that at 1845 hours a red flare was sighted.

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Q. Now that matches the transcript as well, if you'd go to the transcript.

A. That's on page - sheet 19.

30

Q. That's the one that says--

A. That's basically the message that - I mean it would have come in via the HF, it would have been written down in the rough log, at a latter period it would have been transferred into the ship's radio log.

35

Q. Have you listened to the tapes prior to that message being received?

A. I've never heard the tapes. They were requisitioned by me at the - as I said earlier, the Iron Pot.

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Q. Moving on from the Margaret Rintoul, you were asked about a mayday from the Business Post Naiad and you said you weren't aware of a mayday, is that--

45

A. I was aware of a mayday that was relayed to me via Yendys, I did not hear the mayday personally.

Q. Were you told that that was being taken over by someone else?

50

A. As luck happens sir for all parties, when the message was being relayed to myself via Yendys Michael Brown was on the mobile phone and it's in the text there, Michael Brown was on the mobile phone talking to the Royal Yacht Club of Tasmania and alerted them to the mayday situation and we have - you have there a record of the message being received via - from AMSA.

55

Q. What I'm going to suggest to you and I don't mean it in any way other than it was a relief to have Business Post Naiad being taken care of by someone else, because there was so much going on, on that net?

A. No, that's a little bit incorrect. It's certainly a relief to - but it is not my position to - I have not got plotting facilities, I mean it's a fairly - I can do it, I have done it in previous races where I have been in charge of search and rescues, whatever, at sea, but in these races I am only a communicator so I'm only passing on what I hear. 5
10

Q. Certainly. So to have it if you like in the hands of the proper authorities--

A. Is a godsend. 15

Q. It was a godsend because then because of the fact that the net was congested in the sense of there were a lot of things going on and you had a lot of things to do, is that how you saw it?

A. I suppose that's a fair interpretation, yes. 20

Q. There's nothing--

A. No, I know that, I know there's no--

Q. --to your discredit in that, that's simply a reality of life. 25

A. It was great to think that as the mayday was being relayed to me, that at the same time the message was getting to AMSA, so they had it fairly simultaneous. I actually never heard - I even went so far as, and it's in there, to request a confirmation of the mayday from Business Post Naiad via Yendys and unfortunately that was not received from Yendys. So we never actually got a confirmation but we assumed and the message was certainly passed on of our assumption. 30
35

Q. I'm going to move on to Team Jaguar.

A. Uh hmm.

Q. You've heard the criticism that you spent too much time with Team Jaguar and I want to find out about this and I think that this is important because at page 33 I think you say that you felt that there was a bit of a panic and this is in answer to question 187, advised Eden Coastal Patrol of their predicament, that I felt there were a bit of a panic on personally on Team Jaguar. 40
45

A. I'm sorry, that's in the?

Q. It's in your statement at page 33, the first statement, question 187 and you'll see the answer to that and you felt there was a bit of a panic on personally on Team Jaguar, that's what you said? 50

A. Correct.

Q. What made you think there was a bit of panic on? 55

A. Bearing in mind I wasn't out in that - you know, I mean there's a yacht that had been rolled over, dismasted, motorless, communications was at a - so probably there would

have been a little bit of panic if I had been out there as well. But I could sense that on the communication side that because they firstly had wrongly activated an EIPRB which is a distress situation and they say themselves that they weren't in a distress situation. So I mean they gave me the opinion that they were in a distress situation by activating an EIPRB when in actual fact they say a little bit later on that they were - I think your Worship they actually say they were uncomfortable.

5

Q. At page 34 you point out that Moira Elizabeth, and that's the vessel that's going to come and aid Team Jaguar?

10

A. Uh hmm.

Q. That was having trouble with its HF facility?

15

A. Correct.

Q. Who was aboard Team Jaguar and I'm not overly interested in the fact that one of them was a director of the CYC, there were some young people aboard it as well, weren't there?

20

A. I didn't know it actually at the time, you know I haven't got a crew list of the people that are on board the yacht and in reality it really doesn't mean a lot to me, other than at times I look at basically the number of - I look at a particular yacht. If I'm looking for a yacht that I'd like to help stand by another yacht or in a search and rescue, I would pick a yacht with skilled personnel on board. And that's probably the only time that I would utilise that. In this particular instance it really was immaterial, a yacht was in trouble in my opinion so I went - I went to its assistance.

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30

Q. What was the situation as far as you were concerned with the communications aboard the Team Jaguar and the Moira Elizabeth? What was your understanding?

35

A. I know my barrister said not to - I have - I have actually--

Q. Yes, they always tell you things like that but don't you worry about it--

40

A. No, it's just--

Q. --you just worry about--

45

CORONER: We'll look after you.

A. If I may just give you that and - the situation was, I'll explain it, I'm sorry Mr Colefax but it's a bit hard for me to--

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HILL: Q. That's alright.

A. I have a vessel called Team Jaguar that has a HF facility that is only operative on 4483, one channel, the other channels had been - they had problems with them.

55

Q. Okay, that's what they told you?

A. Yes. And in the statement he says the same. I then -

his VHF, I'm talking - we'll go down Team Jaguar. Team Jaguar has a HF with a facility for 4483, which is the race frequency that I am tuned to. His VHF facility is receiving but not transmitting, so basically it's RS. His mobile phone is not operating. We go through the - my list here and I come to Moira Elizabeth. Moira Elizabeth informs me, I've got all the facts, that he is on 4483, which is the race channel which is the one I asked him to go onto on account of Team Jaguar, it's the only one he's got. He is having faulty and inconsistent transmissions and in actual fact the only time that Moira Elizabeth - no, I'll come to that after. Then we - his VHF is inconsistent and it was rarely used. His mobile was the major means of communication with Telstra Control. So now we've got Moira Elizabeth able to talk to myself or Telstra Control via the mobile phone, it's the only means that was successful. I have Team Jaguar that is on 4483 and I'm also on 4483, so the only means of communication - the correct procedure if radios were working would have been to put Team Jaguar and Moira Elizabeth on a working frequency, 2524, and then they could look after themselves but that was not possible.

Q. So on effect you became the only conduit between the two?

A. We got the flack. But by copping the flack we were also very successful in establishing a pick up between Moira Elizabeth and Team Jaguar and Team Jaguar was successfully - along with 18 or 20 people successfully towed to Eden with no loss of life.

Q. So do I take it what you're saying is that there was no other way of communication between those two vessels other than through you and it just so happened it was on the race frequency?

A. That is correct.

Q. And therefore you simply had no choice?

A. There was - I would so the same again under the same circumstances. There's nothing that we could have done. There was criticism that at the sked time that he came in at the sked. Throughout that sked there was no distress situations, so it wasn't as though I was not observing a distress situation to - but I mean you're looking at about 0350 in the morning, it's pitch black and there's bloody big seas out there, I've got Moira Elizabeth and Team Jaguar and they're trying to hook up, they're trying to actually float a line between the two vessels and they ask if they could break into my transmission on the - this stage was the only period where they were able to communicate on the 4483 together via myself. So I didn't even hesitate, I gave them permission to - and if you look at the - and I did it with Mr Colefax last night, it was probably only a matter of minutes where our sked was interrupted.

Q. Do you think bearing in mind that you as the radio operator of the main race frequency where you have got all those other yachts, that there may have been benefit if aboard Team Jaguar they had a simple hand held VHF radio

other than their main VHF radio, so that they would have been able to communicate on VHF channel 16?

A. Any radio, anything at all, any additional safety factors and I'm sure his Worship, this is one of the reasons for this inquiry, any additional means of safety--

5

Q. For instance if they'd been able to--

A. --we would welcome.

Q. If they could have communicated on VHF with your VHF set then the main race frequency wouldn't have been - had that additional burden on it?

10

A. Correct.

Q. That's the reality? -

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A. Correct.

Q. The mayday of the Winston Churchill, I want to deal with this in particular and I want to--

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HILL: Your Worship, if we could have a 10 minute, 15 minute break, then I can speak to Mr Carter because I want him to go through some other documentation.

CORONER: Okay.

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HILL: We're still on schedule though perhaps if we have only three-quarters of an hour for lunch and perhaps if we could go till 4.30 as well.

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SHORT ADJOURNMENT

<LEWIS JOHN CARTER
ON FORMER OATH, EXAMINATION CONTINUED

35

HILL: Q. Sir, just before the break I was asking you about the mayday from the Winston Churchill, as to how it was received by Telstra Control.

A. You weren't asking me about the mayday, you were asking me about a situation--

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Q. Sorry, not the mayday, the sked.

A. The 1405 sked.

Q. Yes.

45

A. My interpretation of that Mr Hill is that the yacht - from the sked sheets, it's an alphabetical list and in the event that a - in this case I called Winston Churchill and it appears to me that Winston Churchill himself did not come up directly with me but a yacht called Adrenalin heard the coordinates of Winston Churchill and in fact relayed them to me, which I put on the sked sheet that you have there. I also then make a notation alongside the coordinates of Winston Churchill as to the yacht that relayed the message to me.

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55

Q. What I'm trying to find out is whether in fact Adrenalin heard a radio message from the Winston Churchill or in fact

it was a sighting. Are you able to help us with that?

A. Yes I am.

Q. And what was it?

A. My opinion would be for sure that he heard the actual position because I recorded the coordinates as opposed to a notation that would have been that Winston Churchill was say half a mile to windward or - which is what I would have put on the - and then I would have then if he said that he's half a mile astern, I would have made that notation and at a little later stage for the race purposes I would have come up with a DR position myself and put it into the coordinates so that I could pass that on to race management for handicap purposes.

Q. The mayday of the Winston Churchill, how did you come to hear about that?

A. I heard that via the bridge of the Young Endeavour.

Q. What was told to you?

A. What was told to me was that they had received a mayday from Winston Churchill. We were listening - they received it via a VHF facility, VHF 16 which is the distress channel. They heard it and we got a fairly close obvious relationship between the pair of us and I don't know whether it was sung out to us. It was - and you'll probably see there's a slight time difference between - I think my notation is at 1721 I think that I had a mayday situation relayed to me from Young Endeavour. I didn't personally hear the--

Q. The mayday.

A. --the mayday myself, no.

Q. These mobile phone calls that you had between I think Sam Hughes wasn't it?

A. Correct.

Q. And you, was that--

A. Not only Sam Hughes.

Q. Who else?

A. I would have had conversations with Mr Thompson, Howard Elliott, possibly Bidy(?) Badenach who was one of the race management team in Hobart.

Q. Were they logged?

A. I kept them as short as possible.

CORONER: Q. Were they logged?

HILL: Q. Were they logged?

A. Were they logged? No, I'm sorry, no.

Q. My accent, I'm sorry.

A. No.

Q. You didn't log them anywhere or anything like that?

CORONER: Q. For example, the call asking you to broadcast to the fleet?

A. No, that wasn't logged, no.

HILL: Q. At page 60 of your first statement you make certain recommendations, what you think should be done. Radios should be on during the race et cetera. I'm going to suggest a further recommendation that's been put forward by the Navy people that have given evidence and that is that there should be extra personnel so you could have two set watches. What do you think about that?

A. I think any competent hands are always very welcome.

Q. I want to go then to your new statement and I think that in fact I've covered most of the things in there already. However, there's one particular point that I wish to take you to and that is at page 7 and it's paragraph 40. You see there you say on 2 January 1999 in company with my--

HUNT: Is this relevant? How could this be relevant and of interest to this inquiry?

CORONER: I wouldn't want to be accused of bias, simple as that, Mr Hunt. If that's glossed over, the CYCA will say to me you're biased, that's the fear. And I'm not.

HUNT: Your Worship they could only put that to you if it was a matter that related to the inquiry.

CORONER: Alright. Are you going to cross-examine on it, Mr Weber, on that issue?

WEBER: No your Worship.

CORONER: You're both content to leave things as they are?

WEBER: Yes, your Worship.

CORONER: I've raised it in open Court, it's been raised, I've done what I believe is necessary to avoid any apprehension on anyone's part of bias, that's why it's raised. Mr Hill and I discussed it a moment ago and we purely raised it so that I could not be accused of that. If you don't want it raised and you don't want it raised, it's in the record, it'll stay as it is. Are you happy with that, Mr Hill?

HILL: Yes, I'm more than happy with that.

Q. Could you have a look at this document if you would. You'll see there that these are - it's a record from the Royal Yacht Club of Tasmania to you. It's a record of telephone calls, and there was one there at 1.47pm for one minute eight seconds, another one at--

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CORONER: Sorry, what was that?

HILL: Q. These are a record of telephone calls from the Royal Yacht Club of Tasmania and notably the important ones are on the 27/12/98, at 1.47pm there was a call there that lasted one minute eight seconds, and then the next one to you is at 5.48pm and for 27 seconds. Those three. Can you see the three there, the one at 5.49pm for one minute 36 seconds?

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A. At 1.47?

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Q. There's one there at 1.47 that lasts one minute and eight seconds. Do you recall who that was from?

A. So that's 13:47 and that--

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Q. It would appear that if you gave that broadcast to the fleet at 16:55, then the call that came to you from the Royal Yacht Club of Tasmania at 5.49pm, which is just before the 16:55, a minute, would contain that message what to do. I'm just wondering about the other two. There was one just before it for 27 seconds and then nothing until back until 1.47pm.

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OBJECTION (WEBER). INCORRECT PROPOSITION. QUESTION WITHDRAWN IF INCORRECT.

30

CORONER: Q. Let's get it simple. Can you recollect what the 1.47pm call, who it was from and what it was about?

A. 13:47?

35

Q. Yeah.

A. My recollection doesn't go back that far.

COLEFAX: I didn't quite hear that answer.

40

CORONER: My recollection doesn't go back that far.

HILL: Q. You can't recall what these were about?

A. No, I can assure you I can't. You could possibly marry that up a little if you wanted to with your log because you could come up with the times, what happened at 13:47 or thereabouts.

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CORONER: Yes, that's true. We might have a look at that.

50

HILL: There's nothing further.

A. I was not the only one either on the mobile phone or this communication, so I mean that could have come to other parties other than - you know, I'm not the only one on the ship so to speak.

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STANLEY: Q. Mr Carter, are you able to recall when it was that you first became aware that a storm warning had been issued on the day of the race, the 26th?

A. Not precisely, sir. I think in general - I didn't actually see the - I - as I explained to Mr Hill, I don't - we try and have just a small - not a division, but Mr Brown looks after the weather and I look after say the communications side of it. The only - it would have been just in conversation that the weather was going to worsen, but I didn't actually read the Weather Bureau report as such.

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Q. But you understand that that Weather Bureau report that would have been received by you would have come from Lieutenant Commander Galletly?

A. That's affirmative.

15

Q. Sorry?

A. That's yes, correct.

20

Q. But that's how it would have come to you?

A. Yes, it comes - there's a facility - there's a Satcom Charlie set that is located up on the bridge which is probably from here to the door away, and the walk down and as soon as anything comes in particularly relevant to weather, it is brought down below and given to Mr Brown.

25

Q. So can we take it that all of the Weather Bureau reports, forecasts during the race that came to the Young Endeavour would have been in turn handed on to you or your team?

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A. Yes.

Q. At the 8pm sked on the 26th, in fact first of all you or one of the Browns first read out the priority storm warning verbatim from the report?

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A. Correct.

Q. And then following that you read out the high seas weather warning--

40

A. Mm hmm.

Q. --that had been issued at 3.15 on that day, and then after getting all the details from the yachts the special race forecast was read out?

45

A. Correct.

Q. And that was the forecast that had been issued at 14:50 on Boxing Day, on the 26th?

A. I'll take your word for it.

50

Q. Are you able to recall whether during that afternoon you had conversations with anyone at race control?

A. Relevant to the weather?

55

Q. Well first of all any conversations at all. Were you in regular contact with anyone at race control during that afternoon of the 26th?

A. Probably not.

Q. Are you able to recall whether you had any discussion with anybody at race control about the weather during that afternoon and prior to the 8pm sked being given? 5

A. Certainly not that I can recall.

Q. You indicated that in your view it was a - this is on the Sunday at I think about 2 o'clock, in your opinion it would have been a wise move for them to have sought shelter. Was that a view that you held then or is that a view that you express now only? 10

A. I think that - I think that's prudent seamanship for the people that sought shelter. 15

Q. But was that a view you held at the time because of your understanding of the conditions both from what you were experiencing yourself and also what you knew from the various forecasts? 20

A. It's certainly weather that I would prefer not to sail in and as a navigator if the skipper said to me we're going into Eden, I can assure you I'd be quite happy about it.

Q. I take it it was your understanding at all times that the race committee would be listening to the skeds as they were given by you? 25

A. Yes, the - it's - I think that the race committee, as Mr Collinson said the other day, they have a committee in Hobart that is listening continuously to the skeds, so much so that prior to the skeds I personally make a call to Sydney radio to make sure that there's no mistakes in transmission. I actually have a hook-up via Sydney radio with Hobart race control. 30

Q. It's your understanding that the system requires the race committee to monitor the skeds, is that so? 35

A. Yes, yeah.

Q. And clearly, and I think it follows from what you've already said, it certainly was not your role to make any decision as to the conduct of the race or its continuance? 40

A. I'm not a decision maker, no.

STANLEY: Thank you, Mr Carter. 45

HUNT: Q. Mr Carter, in terms of the radio tape and the procedure in the Telstra control room, you've already told the Court that you've got two radios, a VHF tuned to 16 frequency and an HF on 4483. The scribble pads that you prepare are prepared from messages received on either of those frequencies, is that correct? 50

A. Correct.

Q. And also I think you've already told us that in some cases that you get information relayed to you from the bridge, for instance, the Winston Churchill mayday? 55

A. Yeah, that's also logged.

Q. Yes, and you log that on?

A. Yeah, we log that.

Q. When you write down on those scribble sheets or on the draft log, the initial log, at the time, what you record there, am I right in saying, is a very brief note of matters that you regard as important? 5

A. Doesn't necessarily have to be important. Anything is recorded.

Q. But there would be an awful lot of transmissions received that are simply not recorded? 10

A. No, that's incorrect.

Q. So most of the transmissions that are received are recorded? 15

A. Anything that comes over the - it's an automatic sort of a thing, so if you don't mind me saying it's - you've - the - it comes - the message comes over yacht calls in. I have a pen in one hand and I just record, it's just sort of a natural sort of a thing to record whatever the message is that they gave me. 20

Q. Can I take you then - have you got a copy of sheet 19 of the Sydney to Hobart radio log? 25

A. Yes.

Q. That starts I think with an entry at 18:25?

A. That's correct.

Q. And concludes as a entry at 19:20? 30

A. Correct.

Q. Just roughly, without being exhaustive on that, would you agree with me that there's probably on that whole page about 100 words? Would that be a fair enough estimate? 35

A. Roughly, yes. Well not words, there's a lot of - there's a lot of--

Q. Yeah, words and numbers. 40

A. And numbers, yeah.

Q. And those numbers are of the times received.

A. They're the-- 45

Q. And the positions of those messages--

A. Correct.

Q. And those notations are really a shorthand notation of the message received for recording purposes? 50

A. Correct.

Q. Do you have a copy of the transcript of tape 4?

A. Yes sir. 55

Q. I'm just not sure, I think I may have a slightly earlier formatted version, but I was wanting to take you to page 14 of tape 4 and on my page 14 there's an entry there at 18:30.

A. Well on the transcript there's no notation of times, so you would have on the - you would have to--

Q. Well perhaps if I could show you a copy which is the same as mine, it might stop some confusing. There may be a formatting - there's a reference to at 18:30 on the transcript at page 14. 5

CORONER: Yes, about at point 3? 10

HUNT: On my page it's at the bottom of page 14.

WITNESS: On the bottom of my - tape 4, page 14 is Victor 104. 15

CORONER: Yes, that's what I have.

A. Confirming that, but we have a - have this vessel Patsy to organise that. 20

Q. Right, now look up that page to about a third of the way down, V1 at 18:30 spoke to Sam. See that?

A. Yes sir.

Q. Right, that's what Mr Hunt is talking about I think. 25

HUNT: Yes.

Q. Then has someone given you a copy - it might just make it easier for this purpose if we had a copy of the same format that I-- 30

CORONER: That's one in front of you, Mr Carter, the one on the - no, the other one. 35

WITNESS: This one?

CORONER: You get that at page 14, tape 4.

HUNT: Q. Then I just want to take you over on the copy that I've just given you to page 33, and at the bottom of my copy of page 33 there's a record of transmission received from B64 which is the Margaret Rintoul II. You can see that? 40

A. I can. 45

Q. So would you agree with me that from the time of 18:30 which appears on page 14 of my copy, and page 33, obviously there are 19 pages of recorded - transcripts of recordings of messages received? 50

A. In numerical numbers?

Q. Yes.

A. Well on your one, yes.

Q. Fourteen to 33, yes, on my copy there's 19 pages. 55

A. Yeah okay.

Q. Would you just look at an average page on that, I just happen to have chosen 18, and on my calculation there's approximately 160 words on each page.

A. I'm sure you've done this.

5

Q. If we accept that, and we've got some 19 pages, we've actually got something like 3,000 words which are recorded on the transcript which is reduced in fact to the radio log to something we've suggested is in the order of 100 words. Would you agree with that? In other words, quite clearly when you look at the transcript the radio log records only a small portion of the traffic that's received?

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A. It records what - there's a notation. If you look at the rough log there's a - you haven't got a notation of times and it's quite evident if you look at the rough log, the time factor is what I am interested in.

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Q. I appreciate that.

A. I--

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Q. I'm simply trying to - I understand fully that in the circumstances of operating the Telstra Control you simply take down the times, the positions and a shorthand notation of what the message is that you've received. I'm not putting anything--

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A. No, I can understand your point. I take down - the main things that I take down are for safety purposes and the safety purposes in my opinion firstly are the time and the location of that vessel, so in the event of a problem I can then relay to the appropriate authorities the known position of that vessel at that time, yes.

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Q. I appreciate that. But again I'm just coming back to the simple point is that this fulfils your requirement for those purposes.

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A. Yes.

Q. But naturally you, and it is quite naturally, that you only record those messages that you feel will be important for that purpose. You do not endeavour, and it would be impractical for you to endeavour to record all the traffic that's received?

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A. If it's - put it this way. I would certainly record a distress situation.

45

Q. Yes, I appreciate that, I appreciate all that.

A. And I would record the percentage of things that are said to me, but bearing in mind I mean a man speaks quicker than what I can write, so I write - the main thing that I try to get out is where he is.

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Q. I've got no problem with any of that, I understand that. I'm just wanting to make it clear, and I think you now agree with me, and I've got no criticism of the fact that you do this, but this is what you do and it's a practical thing to do, you just take down a simple shorthand note and what appears on this log in no way reflects the totality of the traffic that you've actually received in the Telstra Control

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room?

A. I'd agree.

Q. I think Mr Hill put to you earlier in relation to the tape 2 and information, I think it was at the sked in the afternoon of the 27th, with the message to the fleet in relaying the Sword of Orion advice about the wind strengths, that some of that message didn't appear in the tape. Do you recall Mr Hill putting that to you, that he couldn't find it in the transcript?

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HILL: No, I put a different thing entirely, that's incorrect.

CORONER: He put to him that he couldn't find a lead-up conversation that led this witness to broadcast that he might find Mr Batt's article handy.

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WITNESS: That's reference the - what Mr Hill queried me on was the Winston Churchill situation.

20

HUNT: Q. I'll move on. I did understand that there'd been suggestion everything wasn't necessarily recorded.

A. No.

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Q. Well perhaps if I can take you to the very first entry on 18:25 on sheet 19, Jack Guy. I understand that Jack Guy goes under code name for the purpose of the transcript of V52. Now I've had a look at the transcript and certainly invite you to. Prior to all of the transcript and indeed prior to page 14 which I showed you, the 18:30 reference, down to 18:25, and again there's a reference on page 16 to Kingura mayday which is logged here at 18:30, I can't find anything in this transcript which relates to that recorded message, 18:25 Jack Guy. Could that have been received from the bridge or from another source?

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A. No, no, that was - that would have been received via HF 4483.

Q. Is that in your - that's in your scribble sheet, is it on that?

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A. Yes it is, sir.

Q. The point that I'm trying to make, and there are other examples here. Again I've looked at your entry at 18:45 for Hi Flyer and again in the transcript, and that's V54 - V45, I apologise - I can't find any reference to that in the actual transcript, typed transcript from the radio tape.

45

A. Haven't heard the tape sir so I couldn't honestly say. The tapes were taken as I said before at the - they were requisitioned by the police at the Iron Pot in Hobart and I have not heard - these other figures that you have there are things that I would be more reliant on than the tapes.

50

Q. But would you accept then that perhaps for the purpose of these proceedings at the moment, so we don't have to get lost into asking to listen to a copy of the tapes, that these transcripts are probably a reasonable transcription of

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what's on the tapes? In other words, that you would accept that these would reasonably accurately portray what--

A. I feel sure that there would be some parts that I would have here that would not be on the transcript. See these are done instantaneously. I mean they're - I've got a clock in front of me and as I look at the clock, 18:25 Jack Guy, and I write down his position. Five minutes later - now I don't know what conversation - there may have been some conversation is what you're trying to get at. There may have been additional conversation, I agree, between 18:25 and 18:30. I'm not saying that - Jack Guy he might have said how you going, Lew, so there might have been additional time.

Q. No, what I'm actually saying there is that when you read the transcript, and indeed I've listened to the tape, I can't hear on the transcript or on - read on the transcript or hear on the tape the reference to Jack Guy. In other words, I suppose I am simply suggesting that the tape does not necessarily record all the messages that you actually received. There are discrepancies between what appears on the radio log--

A. I'm not--

Q. --and what can be found in the tape.

A. That's why I'm saying to you sir that I am more reliant on what I write than the tape recorded message, if that's what you're trying to get at.

Q. The point I'm simply trying to put is that it may well be - would you agree that it may well be that the transcript does not disclose some of these entries. Clearly you received the message because you've written it on your scribble pad.

A. True.

Q. And if there was a discrepancy between the two you would accept that you'd actually heard it?

A. I'd accept what is written because not only have I written it, I have two other lots of ears that are listening in at the same time to make sure that what I write is correct. We double - you know, we're double checking all the time to make sure that we don't have irregularities.

Q. The next thing I'd like to take you to is a question relating to the order in which the entries appear on that radio log. If you go back to page 33 of my copy of the transcript, tape 4.

A. Yes sir.

Q. You see there's a reference at 108, the third from the top of the page, to Trust Bank Hummingbird?

A. I do, B108 yeah.

Q. And then there's a conversation that's gone on in relation to them retiring?

A. Correct.

- Q. Which goes down almost to the bottom of that page?
A. Correct.
- Q. And then at the bottom of the page there's contact from V64 which is the Margaret Rintoul II? 5
A. Correct.
- Q. If I take you back to the radio log--
A. The rough log or the radio log? 10
- Q. No, the actual radio log, and indeed I'm happy for you to check it against your rough log as well.
A. Have you got a copy of the rough log?
- Q. No I don't, I think it's exhibit 24B is it not. 15
A. The originals?
- Q. Yes.
A. Right. I only have - I have a photostatted copy that the Court did for me. 20
- Q. The proposition I want to put to you is this, that the transcript discloses that the communication from Trust Bank retiring to Eden was received prior to the advice from Margaret Rintoul regarding the sighting of the flare, and that can be found by looking at page 33. 25
A. Yeah, 19 - that - well if you put down 19:10 there--
- Q. Which is Trust Bank--
A. Trust Bank, that'll give you an indication of the time factor that it took for that message and to the 19:20, the Margaret Rintoul. In between that - so if we go to - righto, there's a great example. If we go to the start of the Trust Bank situation which was at 19:10 and then to Margaret Rintoul you'll see how long it takes for the 10 minutes. Is that what you're getting at? 30 35
- Q. No.
A. Okay. 40
- Q. The point is that when I look at the transcript and when I listen to the tape, Margaret Rintoul comes in immediately after the advice from Trust Bank that it's retiring, immediately after. There's no delay, in fact he almost comes in over the top and part of what he says is inaudible, which is shown by the little dotted lines that first occur there. So the point that I'm putting to you is that Margaret Rintoul II has been recorded at 19:20. However, when I look at the tape it was actually - and I listen to the tape - look at the transcript and listen to the tape, he actually came in immediately following the Trust Bank advice. 45 50
A. Well that's different to my interpretation sir, and my interpretation would - that I have Trust Bank at 19:10. Now at 19 - and then we go to 19:15 which is Business Post. 55
- Q. Yes, well perhaps - and it's Team Jag isn't it?
A. And then I go to Team Jag and then I go to Rintoul.

Q. Well perhaps again if I can take you to Team Jag on this transcript. If you go to page 35, you can see at the top of page 35 a reference to Team Jaguar and the advice with respect to VHF72.

A. Yeah, that was Gary Ticehurst on ABC chopper that was advising me. You'll see the notation there at 19:15 Team Jag try 72. That's a VHF frequency.

5

Q. Yes. And here if we look at the radio log, at 19:15 hours it's shown Team Jag, Moira Elizabeth, VHF72.

10

A. The same time, correct. Well on the transcript - what I'm saying sir is that I would be more guided by - I mean I would be more guided by what I write at that time than by the transcript, if that's what you're trying to infer.

15

Q. Well the transcript--

A. I mean I couldn't write something prior. I mean it's fairly quick what you're doing. I couldn't write something at 19:15 that related back to 19:10, for argument's sake. I mean I write it in timed order. Would you agree with that?

20

Q. Well I understand that you attempted to do that, but what I'm trying to reconcile--

A. Well what I'm trying sir is don't take complete notice of the transcript.

25

Q. Well it's very difficult I would have thought not to. I've listened to the tape and if need be, and if this Court wishes to, we can have Mr Carter listen to the tape.

30

CORONER: I see the point you're making.

HUNT: We can all listen to the tape.

CORONER: The transcript seems to - as Mr Hunt says, if you're following the transcript of the spoken word, it appears that Rintoul's actually cutting off the end of a message to do with Hummingbird. If you look at page 33--

35

HUNT: I'm not forgetting that, your Worship.

40

CORONER: So if that shows that, surely that must be the order of the messages and they've been logged wrongly. They must be, surely.

45

HUNT: That's the point that I make, your Worship.

CORONER: I know it is.

Q. You see, the transcript is the spoken word going on seriatim. Now if you've got one yacht coming in and actually cutting off the end of a message of another yacht so the first few words of its message doesn't even get on the transcript--

50

A. No, so I wouldn't have taken that.

55

Q. Surely--

A. I mean some yachts come in, if they--

Q. Yes, but the point I'm making is that if the transcript follows - it's just the spoken word as it occurs.

A. Right.

Q. And you've clearly got - the transcript shows Hummingbird's message and then Margaret Rintoul's message. Surely it must mean that your order of messages in your notes are out of order. It's not a criticism, it's just a--
A. No, well your Honour, I have actually got Trust Bank prior to Margaret Rintoul.

HUNT: Q. We understand that, but Team Jaguar--

CORONER: Q. But you have got Team Jaguar and another one I think in between them.

A. No, no, I've got Team Jaguar prior to Rintoul.

OBJECTION (COLEFAX). UNFAIR QUESTION, CONTAINS MISLEADING ASSUMPTION.

<WITNESS STOOD DOWN

LEGAL ARGUMENT ON OBJECTION.

CORONER: It does show the need for a comprehensive recording system of everything that goes on a Telstra Control, doesn't it?

HUNT: Yes, it does indeed.

CORONER: Doesn't it, Mr Weber?

WEBER: It appears to, your Worship.

CORONER: I think so.

<LEWIS JOHN CARTER(12.40PM)

HUNT: Q. On taking you again to page 33 on my copy of the transcript and over onto page 34, and looking the wording at the bottom of sheet 19, would you agree that what appears on the transcript on pages 33 and 34 - or perhaps to make it very simple, that on the transcript the co-ordinate of 38 15 150 and 22 doesn't appear to have been recorded?
(No verbal reply)

Q. Nor the time of 18:45?

A. That sort of reinforces what I was saying, sir. I do believe more in what I write, yes, than - you see discrepancies in this--

Q. Yes, clearly you've received information.

A. Yeah, I'm not disputing that at all. What I am stressing is that what I write is what I am more convinced of than a tape that I've never heard.

Q. You'll also notice there that at that same instance that the flare was reported there was a communication

instantaneously. You see the reference, if you wish to bring back your transcript, on 34 and it relates to Sam, we haven't heard anything from Zeus II.

A. Sam refers to Sam Hughes, Safety Sam from AMSA, and it appears V1 is Michael Brown, who was my compatriot on the port hand, was talking to Sam Hughes at that stage and reported the sighting of a flare via Margaret Rintoul.

5

Q. Who reported that, Sam Brown?

10

CORONER: Sam Hughes.

A. Sam Hughes. Sam Hughes's stable--

CORONER: Of AMSA.

15

A. --at that stage I'm assuming was either Hobart race control or - I would say that he'd be at Hobart race control, listening or talking to Michael Brown is my compatriot via a mobile phone, and while I was taking the message he also was relaying it via the same--

20

Q. Sam Hughes in Hobart?

A. Yes, correct.

25

Q. I appreciate that.

A. I mean that's only going by the transcript that you see as the--

Q. In your record of interview, I think it's 27 January, you referred, and I think you referred to it earlier in front of Mr Hill so I probably don't - in answer to a question from Mr Hill, and I don't probably have to take you to it, but you referred to the fact that you had received advice about Sword of Orion being in difficulties and you couldn't quite recall where you received that from.

30

35

A. Sir, you must realise that this interview was conducted at a latter stage and - not that the police were holding anything back from me, but I did not have the facilities of these logs and everything, rough log.

40

Q. I appreciate that.

A. So some of the things I'm sure would now have been proven to be maybe marginally incorrect.

45

CORONER: Page 25.

HUNT: Q. I think it's at page 27 there's question 125--

A. Relates to - at the top of the page is Q139, yes.

50

Q. I've got on my copy again, there may be a formatting problem. Look at question 125 is the simplest.

CORONER: Page 25, Mr Carter.

A. I've got that on page 25. Is that--

55

HUNT: Q. Yes, that's what I'm referring to.

A. Righto.

Q. So what I'm asking you is, am I right in understanding that you recall receiving advice from Sword of Orion was in difficulties, and you believed I think in answer to question 126, probably from another yacht but you don't have a clear recollection at that stage, and you speculated it may be Yendys. And I'm just wondering whether have you got any idea of the time that you did learn of Sword of Orion being in difficulties through another yacht?

5

A. Yes, I have.

10

Q. When was that?

A. Well we could go back to the log and we'd soon work that out.

15

Q. I'm just trying to pinpoint the time--

A. I see.

Q. --when you got that understanding.

20

COLEFAX: ..(not transcribable).. retiring. It's at sheet 16, the entry for 16:44, your Worship. I'm not sure if that is the entry but--

25

CORONER: Sheet 16.

COLEFAX: Not retiring.

WITNESS: That what Mr Colefax is speaking about now was the last time that I personally heard what happened.

30

HUNT: Q. Yes, I understand that and they advised by the radio?

A. Correct. They actually rang and they said they weren't retiring. They were heading north and it was sort of - from memory it was a bit of a - a bit of a - whether they were retiring or not, but I mean they were certainly getting--

35

Q. Yes, they'd kept their options open I think.

A. I'd agree with that.

40

Q. But this message that you're referring to on question 125, 126 is not about that is it? You're talking about advice from another yacht.

45

CORONER: Of Sword of Orion being in trouble.

A. The fact that they're retiring wasn't really a message about them being in difficulties.

A. Sorry, I--

50

Q. No, not a problem.

A. Excuse me, Mr Colefax, what page is that where it says about the - he's heading north?

55

COLEFAX: Sheet 16, Mr Hunt.

A. See you'll see a reference to - on sheet 2 at 23:22 Sydney radio were enquiring re Sword of Orion and it says that Bacardi says - and then I have a relay from a yacht called Bacardi and it says that a chopper is in company with SOA, which is Sword of Orion.

5

HUNT: Q. So can you take us to it again? This is sheet 22?

A. If you look at sheet 22, at the third-last entry at the bottom of the page, 23:22.

10

Q. Yeah.

A. And Sydney radio are enquiring re Sword of Orion and I have a call, a relay we call it, and Bacardi says that a chopper is in company with SOA.

15

Q. That's from Sydney radio that you heard--

A. Sydney radio is a land based at Brisbane and obviously it's following up maybe a mayday situation that I didn't hear anyhow.

20

Q. And you're relating that to the answers you gave in that record of interview about - from another yacht?

A. I'm sorry?

25

Q. Well in question 125 and 126 you're referring to being advised by another yacht. Is this Bacardi advising you or is it Sydney radio advising you at--

A. No, Sydney radio is land based and it wouldn't be aware of it but it - Sydney radio is enquiring as to the health of Sword of Orion, and Bacardi, which is another yacht in the race at that time, comes in and says to me that Sword of Orion has a chopper in company.

30

CORONER: Q. So that's the reference that you're making in that statement?

35

A. That's how I interpret it, yes, at 23:22 on the evening of the 27th I would think.

HUNT: Q. Can I take you then - thank you for that. Can I take you back on my copy of this transcript back to page 16.

40

A. I'll just confirm that for you. If you look at the notation prior to that at 23:21 it confirms what I was just saying. You'll see that it's Bacardi that is above that notation.

45

Q. I can see that, I understand what you put to us.

A. Yeah right. I'm sorry, you said to go back?

Q. Back to page 16 when you're ready.

50

CORONER: Tab 4.

HUNT: Q. On my copy of the transcript.

A. Page 16 in your one?

55

Q. Yes. At the top of the page is V3, Roger to that?

A. Yes, that's correct.

Q. Down the bottom, in the last third or the last quarter--
A. V52.

Q. --mayday from Kingura.
A. Correct. 5

Q. V57 is Kingura?
A. Mm hmm.

Q. And then if we go over on - just flicking through these 10
pages over onto page 17 you're still dealing with this man
overboard situation?
A. Correct.

Q. Team Jaguar I think came in to assist in trying to co- 15
ordinate?
A. Team Jaguar we believe was in the vicinity of, but Team
Jaguar was immobile, a dismasted yacht, so he obviously
couldn't offer the assistance that we were requiring. 20

Q. Yes, I appreciate that, but you actually attempt to 20
contact them, and see on page 18 of my copy?
A. I think you'll find that Safety Sam in Canberra
suggested that. So they've got the advantages of a plot
that I have not got. A plot, you know, they've got where 25
the actual yachts are, so they would be in a lot more
stronger position to ascertain where boats were than what I
am.

Q. And then if I can just take you through pages 18 and 19 30
and 20 and again 21, you're actually dealing and assisting -
and over on 22 - dealing with the - 24. In fact you played
quite a central role in helping co-ordinate the helicopter
to the rescue of John Campbell, and I think you also spoke
to Chutzpah at one stage was in the vicinity? 35
A. That's right.

Q. And it took some time, is that - I mean the transcript
here's showing it took some time to do that. 40
A. When you look at the pages it looks a lot of pages, but
I can assure you you get through that pretty smartly. We
don't talk for too long. I think a person speaks about 120
words a minute, so I don't know how many - did you say
there's 160 on a page? 45

Q. Yes.
A. I suggest each page is probably less than two minutes.

Q. I'm always intrigued about speech, people claim they can
speak. Perhaps it's my country background but my secretary 50
tells me I talk at 83 words per minute which is about as
fast as he can type.

A. I think I've got a terrible Aussie accent and I think I
speak a lot quicker, I've been told in the past, than 80
words a minute. 55

Q. But in any event, without getting sort of bogged into
all those sorts of details, the actuality is that I think

that the 18:30s when you're alerted to the mayday and I believe, and I think this Court's already heard evidence, that John Campbell was rescued at 19:10?

A. Mm hmm.

5

Q. And that between the time you were alerted to the situation and his rescue, Telstra Control was actively involved in this mayday situation involving the possibility of the loss of someone's life?

A. Correct.

10

Q. And you had a continuing role, and if I may say so I think it was carried out extraordinarily well.

A. Thank you, sir.

15

Q. And has led to a miraculous rescue.

A. It was a wonderful rescue.

Q. And so what I'm simply trying to say, and the reason I'm putting that to you, is that in your statement in paragraph 38 you actually made an indication in referring to the radio log that there was perhaps only about two minutes difference between the entry of 18:30 and Zeus, and so that you've dealt with a mayday situation in two minutes. I'm putting to you that in fact the record shows, and I think you've just confirmed it, that you were involved in that mayday situation with John Campbell and Kingura for at least half an hour and perhaps even 40 minutes with his rescue, because you were co-ordinating the 'copter, you were talking to Chutzpah, you were talking to Team Jaguar.

20

25

30

A. No, no, no, I wasn't co-ordinating the chopper.

Q. Well you were certainly carrying out a lot of communication with Kingura itself?

A. The - yeah, Kingura.

35

Q. And attempting to contact Team Jaguar, and you did in fact I think contact Chutzpah?

A. Mm hmm.

40

Q. At the top of page 28 you contacted Chutzpah.

A. Chutzpah was at 19:01, so there's 31 minutes there which is what you're--

Q. Yes, that's my point.

A. Righto.

45

Q. You were involved in - quite rightly, and as I said, admirably.

A. Between the start of Kingura mayday situation which was at 18:30 hours and the Chutzpah as you just said, there's a total of 31 minutes in broken conversation. I mean you don't talk repeatedly I might add.

50

Q. All I'm just simply trying to establish, and I think you've already got the point and you've agreed that you were involved throughout that period of time dealing with a life threatening situation in extreme.

55

A. Correct.

CORONER: Q. You said about 30 minutes?

A. Yes, exactly.

5

HUNT: I've got nothing further to make on that point, your
Worship.

Q. I think you were in Court last week when Mr Collinson
gave evidence?

10

A. I was, yes.

Q. And I think that he said that the protocol or the
etiquette on the radio is that mayday takes precedence. Do
you agree with Mr Collinson's--

15

A. Wholeheartedly, yes, for a distress situation.

Q. Yes.

A. Yes.

20

Q. Certainly precedence in terms of the radio traffic.
You've also I think talked to Mr Hill, and it's obviously a
matter of some concern, that common practice for competitors
in the Sydney to Hobart yacht race to turn their radios off
between skeds.

25

A. Correct. The majority.

Q. And I think you've said that there are two reasons for
that. One is so that yachts that are actually racing so
that people can get rest and not be interrupted by the
chatter of the radio?

30

A. Correct.

Q. And the other one is to conserve their battery power?

A. Correct.

35

Q. Would you agree with me that if you didn't actually have
an engine so you couldn't recharge your batteries or have
any other means to recharge your batteries, that it would be
even more reasonable to keep your radio turned off? Does
that follow from what you put to me about conserving battery
power?

40

A. The - I'm not a technical person on the drain of
batteries. The amount of battery drain is more when you're
transmitting as opposed to when you're receiving.

45

Q. I think in 5, if I can just take you just for a minute,
I think it's just a simple logical point and there's a long
day to go yet. We don't need to belabour it. It follows
doesn't it that if you say that the reason that people do it
is to conserve battery power, if there's ever a reason to
not have it on to conserve battery power it would be if you
didn't have an engine, any other means to recharge?

50

CORONER: The engine had broken down.

55

A. Yeah, if your engine's broken down, if you were trying
to--

HUNT: Q. And you couldn't recharge your battery.

A. If you couldn't charge your battery, yes. And that's another factor that Mr Hill brought up your Worship re the availability of a VHF facility which is independent of that battery - the radio that you're talking about. 5

CORONER: Yes.

HUNT: I've got nothing further. 10

WEBER: Q. Mr Carter, Mr Stanley who appears for the Weather Bureau asked you some questions about whether you recall any communication with race control on the afternoon of Boxing Day 1998. Do you recall that question? 15

A. I'm sorry? 15

Q. Mr Stanley to my right, who appears for the Weather Bureau, asked you whether you recalled having any communication on the afternoon of Boxing Day 1998 with race control. Do you recall being asked that? 20

A. Yes I do, yeah. 20

Q. And I think your answer was that as you sit here now you don't recall such communication? 25

A. No, that's correct. 25

Q. You also gave evidence this morning that it became evident not long out of Sydney that you were having troubles with your radio. Do you recall that? 30

A. Correct. 30

Q. And that required you to put into Wollongong to have the radio replaced? 35

A. Correct. 35

Q. Do you recall that about 18:00 hours on Boxing Day you spoke to Phil Thompson who enquired of you as to whether your radio problems had been overcome? 40

A. I probably haven't got it logged, but yes, I do remember it. 40

Q. And do you recall that he said something - as well as enquiring about whether your radio problems had been overcome, he said something to the effect of you must be moving well down the coast and that you were in for a front on the south coast coming from the west and that you should be in nice and close. Do you recall something to that effect being said? 45

A. I can't remember the text of the conversation I must admit, but I did have conversations with Mr Thompson on various occasions. I have and I do rely a lot on - this is 18 months ago so it's - you know, my memory's not-- 50

Q. You can't - other than the fact that you recall speaking to Thompson about confirming that your radio had been repaired or replaced-- 55

A. Right, for sure.

Q. --you can't recall--

A. Yeah, there was quite a concern because we had a sked coming up at 20:05, so the high priority for Telstra Control was to make sure that the HF facility was operative prior to the 20:05 sked, high priority.

5

WEBER: Thanks, Mr Carter.

COLEFAX: Q. Mr Carter, you've read the transcript of the tape recordings haven't you?

10

A. Yes.

Q. You have read the transcript of the tape recordings?

A. Yes, I have.

15

Q. And would you agree that the transcript that you've read records not only transmissions over the radio but also conversation on the mobile phone and general conversation within the Telstra Control area?

A. Correct.

20

COLEFAX: Thank you, that's my questions, your Worship.

CORONER: Yes, that's a good point.

25

WITNESS: Yes, it's very hard your Worship when you're sitting there and you've got conversations going on. I know we come under some criticism earlier in the piece. Someone might have come out and asked me did I want a cup of coffee. Well unfortunately that goes onto the transcript, doesn't necessarily go to the HF--

30

CORONER: That's all right, it needs either an understanding of an advice like that or a more sophisticated device I suppose, which is what you are arguing about - or for.

35

WITNESS: I agree.

<WITNESS RETIRED AND EXCUSED

40

HILL: I've got a statement from the police constable who actually looked at the tape recording, and we may be able to get a new version of the transcript where those dashes are because he can hear things that we can't with the special equipment he's got, and I'll get this statement out to everyone. But there are breaks of varying types where for some reason it's been stopped and started. No one knows why but we do know the evidence was that it came off the table more than once.

45

50

CORONER: I think the thing is read the transcript with that in mind and you won't get into strife.

HILL: You bear that in mind, and I'll hand that up. That's all at this stage.

55

SHORT ADJOURNMENT

RESUMPTION

HILL: Mr Coroner, before we call the next witness, I wonder may I tender the rough log that was being used. I notice that the radio log and the other documents, the other rough logs are exhibit 24AB. I wonder if this could become 24C. 5

EXHIBIT #24C ROUGH TELSTRA LOG TENDERED, ADMITTED WITHOUT OBJECTION 10

<COLIN GILBERT BETTS(2.05PM)
SWORN AND EXAMINED

HILL: Q. Would you give the inquest your full name please?
A. Colin Gilbert Betts. 15

Q. And your address, sir? Your personal address will do.
A. 64 Muston Street, Mosman.

Q. And your occupation?
A. Production manager, wholesale timber business. 20

Q. You made a statement in this matter on 10 February 1999?
A. That's correct. 25

Q. Do you have a copy of that with you?
A. Yes.

Q. What I intend to do is take you through that and ask you some questions about it. If you go to pages 2 to 3 of that, I notice down the bottom you talk about a race on board the Margaret Rintoul to Lord Howe Island.
A. Yes, that's correct. 30

Q. You say there that - and I'm looking three lines from the bottom - you were the helmsman. "We won that race and I did - we had some fairly rough weather there. The last half of that race was 45 knots plus and which helped us to win that race because the weather suits the Margaret Rintoul." What, is she a vessel that performs well in rough weather is it?
A. That's correct, yes. 35

Q. How many Sydney to Hobarts had you been on?
A. The 1998 race was my 34th race. 45

Q. How long had you been on the Margaret Rintoul, how many times?
A. That was my first Hobart race. I did the Lord Howe Island race in October prior to that Hobart race. 50

Q. So had you been sailing with Mr Purcell since October or had you sailed before with him?
A. No, that was my first racing with him. 55

Q. The next thing that I want to draw your attention to is at page 5 and down there the answer to question 24, "our charts are still in Hobart because the boat's still there.

We had to pull the engine out down there and it's going back next week." Then you go on to something else, but what I want to ask you about is what was wrong with the engine?

A. We had trouble during the race. The engine filled with water. We had trouble starting it early in the race to charge the batteries. We did manage to get it going, but on the morning, the morning of the 27th I think I'd be correct, we charged the batteries early but later in the day we couldn't start it in the afternoon to charge the batteries again, we couldn't start the engine. And I think Richard and two of the crew spent several hours trying to. But we thought the starter motor had been immersed in water, there was water in the bilge, but we didn't know till we got to Hobart that the engine had filled with water, back siphoned through the exhaust. So from that--

5

10

15

Q. Back siphoned through the what?

A. Through the exhaust pipe.

Q. When did that occur, have you any idea?

A. It happened some time during Sunday morning after we'd charged the batteries on Sunday morning through till early afternoon, as the breeze freshened, there was more angle of heel on the boat. We didn't know at that stage, we'd tried every other conceivable way to start the engine but we didn't know that that was the problem till we got to Hobart. 5 10

Q. What, that--

A. So from Sunday morning we didn't have an engine.

Q. What do you say was wrong with the engine again? 15

A. The engine block filled with water, sea water, which back siphoned through the exhaust pipe.

Q. Through the exhaust pipe? Alright. What was your position on the Margaret Rintoul? What was your job? 20

A. I went to Lord Howe Island as a helmsman and Richard invited me to go as a helmsman to Hobart after the Lord Howe race, assuming that Dick Hammond who navigated for us in the Lord Howe race would be able to do Hobart with us. Dick had unfortunately a prior commitment to sail with Ian Kiernan on Maris, so it was only a matter of weeks before the race, Richard said - asked me would I navigate and would find another helmsman, which I agreed to do. 25

Q. I think at page 11 you say that the winds you experienced there were between - and this is in answer to question 62, were between 60 and 70 knots and that it was the strongest winds that you had seen in a Hobart race, is that right? 30

A. They were the strongest winds that I've raced in in a Hobart race and I could only relate that to similarly bad weather I experienced between Lord Howe Island and Sydney back in 1974, where I was in a sou'west gale 65 knots for 24 hours on a 71 foot cruising boat and the conditions were remarkably similar. Although the highest reading on our Brooks & Gatehouse wind indicator was 58 knots it seemed to me at times it was blowing harder than that. 35 40

Q. That's what you felt?

A. That's what my feeling was, yes. 45

Q. Though the indicator itself did not show that, the wind indicator?

A. It showed 58 knots, I thought at times it was stronger than that. 50

Q. I'm then going to take you to page 16 and this is the answer to question 88. You say that he was just throwing up a bit and you're speaking about Bill Riley I think but he was doing his job and otherwise unconcerned. I put my head down, no, I probably wasn't, I probably was still at the chart table. I was going to try some sleep but I was plotting what had happened in the last four hours. It was 55

at quarter to 7 6 1845, that Richard shouted to me that he'd seen a red flare, only one. The first thing I want to ask you about is what are you saying there with regards to the time, 7, 6, 1845? What time were you - are you talking about approximate or a--

5

A. No, it was 1845, I said quarter to 7, I don't know where the 6 came in.

Q. Alright, that's just a mistake, okay, that's fine.

A. I was explaining that as being 1845, which was the time I'd entered in my log.

10

Q. He said he'd seen a red flare, that's Richard Purcell?

A. That's correct.

15

Q. And he was the skipper of the vessel?

A. He was the skipper of the vessel, he was on watch and he was standing in the cockpit at the time.

Q. You then go on to say he happened to be standing up in the cockpit at the time, Bill Riley was steering the boat. To my knowledge neither - well I'm sure, I know Bill didn't see it and I don't think David did. Who was the David?

20

A. David Wiggin, he was the other crewman on watch but he was sitting in the cockpit, probably with his head under the coach-house--

25

Q. But Richard called to me - I'm sorry? You were saying something else and I cut you off.

A. Only that David Wiggin, the other crew member, was sitting low in the cockpit. Richard was standing up and had considerably more vision than David. Bill Riley was steering the boat, looking at the compass but looking ahead at the waves and would have seen nothing else.

30

Q. But Richard called to me, he said I've seen a red flare, will you call Telstra Control, which is Young Endeavour, and report the time and the position. That's what you were told?

35

A. That's correct.

40

Q. Call Telstra Control and report the time and the position. That's all that was said to you at that stage, is that correct?

A. Initially, yes.

45

Q. And I immediately went and read the GPS to get the position and recorded the time and turned the radio on but there was - I could hear Young Endeavour on the radio but there was a lot of traffic. Do you recall what sort of traffic it was?

50

A. Well, I'll just make a correction to the previous question about the position, the boat. Richard did say he'd seen a dismasted yacht bearing 090, distance approximately half a mile.

55

Q. You remember saying that - him saying that, do you?

A. That's correct, yes.

Q. When did you remember him saying that?

A. Well it may be further on in that statement. This was a fairly relaxed interview and I wasn't sort of dotting the Ts, I was asking - answering the questions in a fairly relaxed manner.

5

Q. This was 10 February of 1999?

A. Yes.

Q. Some five weeks after the event?

A. Yes.

10

Q. And your memory would have been fresher then than it would be today, wouldn't it?

A. Undoubtedly.

15

Q. When you were asked, what you said was that Richard called to me and said I've seen a red flare, will you call Telstra Control and report the time and the position. You say he said more than that?

20

HUNT: Your Worship, if I can just perhaps assist. In question 89, the next page, there's a whole reference to bearing 090, approximately half a mile.

25

HILL: Yes. I'm dealing with this.

Q. On that first initial statement by Mr Purcell, are you saying that he said more than report the time and the position?

30

A. Yes, because he gave me the bearing and the distance and I wrote that in the log at the same time as I took the reading from the GPS. It's in the log book and that was all written at the same moment.

35

Q. You say there was a lot of traffic on the radio, do you recall what the traffic was?

A. The traffic was between Telstra Control and the Kingara and there was a lot of traffic for a long time with Team Jaguar.

40

Q. Then you say they were all sorts of people wanting to talk to them and I said to Richard what are we going to do and that might have been three or four, five minutes later. So you couldn't get through, I take it, and you asked him what are you going to do, is that right?

45

A. That's correct.

Q. And he said we are not going to try and assist and he said that is my - he said in a very loud voice because he had to speak loudly, he was calling to me and I was down below in the boat and the noise of the wind and the water and the boat and he said that is my call and that was sort of - that's definite.

50

A. That's correct.

55

Q. Did he discuss that with you at all?

A. No, he sat in the cockpit for several minutes and

thought of the physical aspects of trying to do that, to turn the boat around. Richard Norman, another one of our crewmen who was off watch, went and spoke to him at the companionway. By that time he'd made the decision that he'd consider it was too dangerous for us to turn the boat around and that's when he said that he'd made that decision and that was his call and that was the end of it. 5

Q. Did he discuss it with you, the decision whether or not to render assistance? 10

A. Not directly.

Q. Didn't he ask you if he was making the right decision? 15

A. He spoke to Bill Riley about that, Bill was steering the boat.

Q. I'm going to read from what Mr Purcell said and this is in Mr Purcell's first statement on 29 January and I'm reading it about point 5, I didn't know the condition of Sword, I didn't know whether they were sinking or what their problems were, I had no idea they had lost a crew member a couple of hours earlier from what I've been told but I made a decision and I said to Colin, you were the Colin that he's talked about, there was no other Colin? 20

A. Yes. 25

Q. Is that correct?

A. That's correct.

Q. Am I making the right decision. And Colin has done 35 Hobarts and these guys know what they're doing, know more than I do but I said am I making the right call and he said you are making the right call, so we got on with it. You see, what he's saying is he's asking you whether he was making the right call, as he's put it, and you said, according to him you are making the right call. What do you say to that? 30 35

A. I don't quite recollect that but I did later say to him that I agreed with him. To me, had I had to make that decision, turning the boat round wasn't an option in those conditions. 40

Q. But what Mr Purcell says is Colin has done 35 Hobarts and these guys know what they're doing, they know more than I do but I said am I making the right call and he said you're making the right call. That appears as if he is asking you whether or not he's correct in doing this, because you have the greater experience, 35 Hobarts, he talks about that and that you tell him you are making the right call. That's a pretty important decision. Do you recall anything about that? 45 50

A. It's a long while ago, Mr Hill. I certainly agreed with his decision.

Q. I think you will agree that's more than simply agreement with a decision, that's asking for advice, am I making the right call and the answer alleged to come from you is you are making the right call. You can't recall that? 55

A. I'm not clear on it, no.

Q. Earlier you thought that you weren't part of that consultative process, that in fact you were simply told that's my decision. You may have agreed with it later on and indeed what you said in February of 1999 was that you were told that that was it, he'd made his decision. As you said there at page 17 he said that is my call and that was sort of definite. 5

A. I guess that's how it happened. 10

Q. Certainly in February of 1999, if you had partaken in a process where that decision was made you would have remembered that, wouldn't you?

A. I should have. 15

Q. Alright, back to page 17 of your statement and after the sentence that is my call and that was sort of - that's definite, Bill Riley shortly after that, he said to him, he said I think you've made the right decision. So that appears if Mr Riley is saying it's the right decision but afterwards, after the decision has been made. Is that how you recall it? 20

A. I think that was from a conversation with Bill Riley afterwards. They were on deck, there was a lot of noise from the wind and the water and to make myself - to converse on deck you almost had to shout. With the leeboards in, if you're on deck you had no hearing or chance of knowing what anybody down below was saying. It was similarly difficult if you were down below to hear any conversation on deck. That's why Richard, when he made that statement, shouted to me because it was the only way he could get his voice through. 25 30

Q. You say anyway, it was 15 minutes, I could have been a few minutes longer, presumably that means it could have been a few minutes longer, but it would have been 15 minutes before I got a chance to break into the traffic and speak to Young Endeavour. That's how you recall it? 35

A. That's correct. 40

Q. That's how you recalled it five weeks after the event?

A. Yes.

Q. But they heard my straight away? 45

A. I got a break without talking over the top of somebody else, obviously.

Q. So you were in and they heard you straight away. And I spoke to Lew Carter who was on the radio. I said Lew, it's Colin Betts on Margaret Rintoul, we have just sighted one red flare, it's bearing 090 from our position approximately half a mile and I gave him the lat and the long. That right? 50

A. That's correct. 55

Q. That doesn't appear quite in those terms on the cassettes but I want--

A. But there is other conversation on the cassettes, words of mine, that aren't in that statement either.

Q. Yes, that's right.

A. Referring to the weather and the visibility.

5

Q. What I want to know is this. If as you say now that earlier conversation that you had with Mr Purcell also said about a dismasted yacht, why didn't you inform Telstra Control that it wasn't just a red flare, that it was a dismasted yacht?

10

A. I think I did.

Q. Go to your statement. I said Lew, it's Colin Betts on Margaret Rintoul, we have just sighted one red flare, it's bearing 090 from our position approximately half a mile, and I gave him the lat and the long. There's nothing about a dismasted yacht there and there's nothing on the transcript about a dismasted yacht.

15

A. But there is other conversation of mine referring to the weather and visibility that's not here either. And there could have been something else on the tape that I could have said to Lew Carter that isn't on the - in the tape.

20

Q. Are you saying now that you said to Telstra Control that there was a dismasted yacht?

25

A. I'm sure I did.

Q. You're sure you did?

A. And one of our crew members who was awake and talking to me at that time would back that up.

30

Q. What's his name?

A. Graeme Purcell.

35

Q. Where does he - Graeme Purcell? Is he in Court?

G PURCELL: I'm right here.

HILL: Good.

40

Q. Anyone else?

A. Maybe Richard Norman, I haven't asked Richard.

Q. Richard?

45

A. Dick Norman, who was the other watchkeeper.

Q. Where does he live?

A. Pardon?

50

Q. Where does he live?

A. In Forestville.

Q. Have you any idea what street he lives in?

A. Not without my diary.

55

Q. Alright, let's go back to what you said five weeks afterwards, that is in your statement. I gave him the lat

and the long and he repeated that to make sure he had it down right and to the best of my knowledge that was - he said thanks for that. I think that was the end of our conversation. I listened for quite a while, there was no more. I didn't volunteer any information as to whether we were going down to see if we could see them and what their problem was. Richard did say he'd seen a dismasted yacht but he couldn't identify it. I listened for quite a while, there was no - I didn't volunteer any information as to whether we were going down to see if we could see them and what their problem was. Why didn't you volunteer any information?

A. It wasn't asked and Lew did say, it's on the tape, that stand by Margaret Rintoul I'll get back to you.

Q. How long have you been sailing yachts?

A. I've been ocean racing since 1955.

Q. Have you ever been a professional sailor?

A. Yes.

Q. You would know then that a dismasted yacht would be in trouble, wouldn't you?

A. Yes.

Q. And you would know that in seas in those conditions when they're firing a red flare they needed help, wouldn't you?

A. Yes.

Q. And yet you didn't volunteer information. Why not?
(No verbal reply)

Q. I'm sorry, I missed your answer.

A. I haven't answered you, Mr Hill.

Q. Hadn't you? Do you have an answer?

A. No, I just assumed that it would be taken that way in lieu of me saying anything else.

Q. You had a VHF radio?

A. There was one on the vessel, yes.

Q. It was working?

A. It was, yes.

Q. What's the purpose of channel 16?

A. It's a distress frequency.

Q. Did you switch on your VHF radio?

A. No, I didn't. I thought initially trying to call Telstra Control that they would be too far away and I didn't think VHF was appropriate and sailing instructions said that all race traffic should be conducted on 4483, both in distress and for other purposes, skeds.

Q. Do you have a radio operator--

A. And I assumed - and I assumed that if the vessel that was dismasted had lost its VHF aerial they should have been

carrying a spare aerial as we did for our high frequency radio and trying to listen on 4483, if they couldn't - even if they couldn't transmit.

Q. The situation is you know that channel 16 is the distress frequency, don't you? 5

A. Yes.

Q. That's on VHF?

A. That's correct. 10

Q. You didn't switch on your VHF radio, did you?

A. I didn't, no.

Q. You didn't try to make contact with that yacht that was within sight of your vessel at all, did you? 15

A. We didn't know who the vessel - who the yacht was but I thought if they had radio they'd be on 4483.

Q. Did you think that perhaps being seamen they may have gone to the VHF channel which is set aside for distress, channel 16, that enter your mind at all? 20

A. I assumed they'd have probably lost their aerial when they lost their mast.

Q. Do you have a radio operator's licence? 25

A. I do.

Q. You know that VHF is light of sight?

A. Yes. 30

Q. And that if you haven't got a radio aerial you can still get communications when you're very close, you know that don't you?

A. I'm not sure, I've scarcely used VHF radio. 35

Q. Going back to your statement, you say there was nothing back from Young Endeavour, this is in answer to question 91, there was nothing back from Young Endeavour as asking us were we going to stand by or asking us to do so and I left the radio on for a while but I didn't hear any more, so I turned the radio off and we carried on. So even the VHF - sorry, the HF radio you turned off? 40

A. Yes.

Q. And you carried on? 45

A. Yes.

Q. Carried on what?

A. Getting on with sailing the boat. I-- 50

Q. Racing to Hobart?

A. We weren't racing, we were in a more a survival mode, we had only a storm jib on. If we'd been racing seriously to make the boat go faster, we'd have set a trisail and put the boat under more pressure. I turned the radio off to conserve power and also to let the guys that were resting try and get some rest. I had to go on deck myself again at 55

9 o'clock because I'd been on deck from 3 o'clock when the previous sked finished until 6 o'clock to help Dick Norman steer the boat, because I had to adopt the role of helmsman in those conditions and I had to go back on deck at 9 o'clock till midnight to steer the boat and at that stage we were faced with maybe another 12 hours during the night till daylight of those conditions. The previous six hours the breeze hadn't been under 50 knots and had it continued that way we were in for quite a stressful night and my job was to be on deck, to play my part steering the boat, and I had to have an hour's rest to prepare myself to go through the rest of that night.

CORONER: Mr Hill, we'll take a short break to get this video fixed, they're here now.

SHORT ADJOURNMENT

HILL: Q. Sir, at any stage were you told by Mr Purcell that he had seen crew on board the dismantled yacht holding hand held flares?

A. No, he told me initially that he'd only seen one red flare and that he didn't see anything else after that to my knowledge.

Q. When you say he told you initially he had seen one red flare, what else? What else do you recall him telling you that he saw?

CORONER: Initially.

HILL: Q. Initially?

A. That he'd seen a red flare bearing 090, approximately half a mile. He told me he'd seen a dismantled yacht but that could have been some minutes later. But he did give me all that information but at the time he told me he'd seen the flare and asked me to check the position, he did give me the bearing and the approximate distance, because I wrote that in the log, all that, initially at that time.

Q. If he had told you that he had seen crew on deck of the dismantled yacht holding hand held flares, would that have made any difference to you?

A. He didn't tell me that.

Q. No but if he had, would that have made any difference to you?

A. It may have, I wasn't on deck at any time at that period, so I'd be relying on what someone had told me or interpreted.

Q. If he'd said to you that he saw crew on deck with the hand held flares, would that have made any difference to you?

A. In what way?

Q. Would that have given you if you like more idea of the distress that this yacht was in, or would it--

A. It may have, yes.

Q. Or would it have made no difference to you at all and you still would have done what you did?

A. We may have discussed that. 5

Q. You may have discussed it, is that what you just said?

A. Yes, if that's what he told me.

Q. Did he tell you or not? 10

A. No, I've already told you he did not tell me that.

Q. So he didn't say to you I could see men on the deck in the cockpit, I can't remember how many but I remember the one person with the flare? 15

A. I don't recollect that.

Q. He didn't say that to you?

A. I don't remember that at all, no. 20

CORONER: Q. It's a while ago Mr Betts but could he have given you the information about the dismantled yacht after you had made contact with Telstra Control?

A. No, no, it would only have been a matter of a few minutes in the - seven or eight minutes at the most. 25

HILL: Q. That's a fairly important difference isn't it to what appears in the radio log of Mr Carter, a dismantled yacht as opposed to a red flare sighting at a particular place. When you add a dismantled yacht, that's a pretty important piece of information, isn't it? 30

A. Yes.

Q. It's something that one would expect to be written down, not just red flare at such and such, but dismantled yacht firing red flares at such and such? A fairly important thing to put down in a radio log one would think, would you agree? 35

A. Yes.

HILL: I've got nothing further, thank you. 40

CORONER: Have you any questions, Mr Stanley?

STANLEY: Yes your Worship, from the point of view of the Weather Bureau. 45

Q. Mr Betts, you're clearly a very experienced sailor. Can we take it that as at the time of this race you knew the difference between a storm warning and a gale warning? 50

A. Yes, I think the storm warning is the strongest warning that there is.

Q. The strongest warning that there is, is that what you said? 55

A. Yes.

Q. You were aware, were you not, that the Weather Bureau

had forecast a storm warning, they'd upgraded on the day of the race from a gale warning to a storm warning, you were aware of that?

A. On the day of the race?

5

Q. Yes, on the 26th?

A. I don't remember.

Q. Did you listen to the sked at 8pm on the day of the race, the 26th?

10

A. Yes I did.

Q. Did you not hear on three occasions in the course of the sked it being relayed to you from Telstra Control or from the Young Endeavour that a storm warning had been issued?

15

A. Yes, I don't remember them talking about stronger than 50 knot winds, which we weren't concerned about at that stage, we'd sailed in 50 knots winds before and we thought we could handle that.

20

Q. What makes you think it was 50 knot winds?

A. I don't remember when they talked about wind speed talking about winds in excess of 50 knots.

Q. If you'd listened to the sked you'd have heard up to 55 knots but you also would have heard that it was a storm warning and you know that a storm warning is the most severe warning that can be given by the Weather Bureau, is that so?

25

A. That's correct. But we normally rely on the Weather Bureau to talk about wind speed which we expect to experience.

30

Q. If you're told the winds are forecast at 45 to 55, do you take that as meaning that you won't get a wind or a gust above 55?

35

A. You can always get that. No-one can legislate that you won't get more than that but you would expect the average knot to be more than that. That's what I've always understood.

40

Q. Would you expect winds to be from time to time with gusts lasting for short periods of time--

A. Ten knots plus.

Q. So, what, it gets up to 65 plus, 65 plus, perhaps up to 70, you'd expect that?

45

A. Yes and I think that's what we experienced.

Q. Right, so can we say you got exactly what you expected in terms of the weather forecast that you were given?

50

A. If you put it that way, yes.

Q. You mentioned before Mr Ian Kiernan. He had on board his boat a very experience navigator, didn't he, Mr Hammond, the one that was - whose place in effect you took--

55

A. Yes.

Q. --as navigator on board--

A. Margaret Rintoul.

Q. Mr Kiernan, his boat was called what?

A. Canon Maris.

5

Q. He was quoted in the Australian newspaper on 31 December 1998 as saying that any storm warning was a triple A grade warning for sailors. Would you agree with that? A triple A grade warning?

A. I don't know what a triple A grade warning is. A storm warning is a storm warning.

10

Q. Here you now know do you not that that storm warning was given almost 24 hours before the storm in fact occurred and the fleet met it? You know that now, don't you?

A. It wasn't 24 hours ahead.

15

Q. Very close to it.

A. You said the 8 o'clock sked.

20

Q. Yes, the forecast was in fact issued at 2.14pm on Boxing Day.

A. Yes, we didn't hear that till 8 o'clock in the evening.

Q. That's so. Did you not make any attempt to find out the weather conditions or the forecast from any other source prior to the 8pm sked?

A. No.

25

Q. You were content to wait and hear what the sked had to say and then act on the basis of that?

A. That's correct.

30

Q. Your boat had a measuring device to record the wind speeds?

A. Yes, Brooks and Gatehouse instruments.

35

Q. The fact is that the highest speed recorded for wind was about 58 knots?

A. That's correct.

40

Q. Are you aware that on the Young Endeavour the highest wind recorded was some 65 knots?

A. No I'm not.

45

Q. That would be roughly consistent with your recording also, wouldn't it?

A. Yes, I spoke to Carl Crawford the navigator on Ragamuffin Hobart and he told me their highest wind speed recorded was 68 knots and I think they were about 40 miles ahead of us at the centre of that storm.

50

STANLEY: Thank you, Mr Betts.

CORONER: Mr Weber?

55

WEBER: Q. Mr Betts, you've given some evidence about wind speeds in the 1998 Sydney to Hobart. I think it's also your evidence isn't it that the seas were the biggest you'd ever experienced in the Sydney--

A. In the Hobart race.

5

Q. In the Hobart race, yes.

A. Yes.

Q. And that the seas built up very quickly on 27 December, is that your recollection?

10

A. Yes.

Q. Mr Purcell in his statement to police said that he knew that the seas would be big and that you'd been warned about the conditions, and knew that travelling 12 and a half knots across the ground at various times that you had a fast south moving current and he said that it was at times moving at four knots. Is that consistent with your recollection of the current on the 27th?

15

20

A. Well three knots or in excess of three knots.

Q. He said as a consequence of that fast current that he expected that meeting the ebbing tide coming across the Strait that you were going to come in for fairly big seas.

25

A. Yes, well the seas did build up very quickly. We were - at 18:45 we were 52 miles south of Gabo Island. When we were abeam of Gabo Island the sea was quite flat because we'd been reaching down the coast in light airs.

30

Q. But you had an expectation that the combination of a strong southerly current when you met the westerly front would produce big seas, is that right?

A. Yes.

35

Q. But the seas that were actually produced were bigger than you expected?

A. Yes.

Q. And indeed the biggest that you've ever experienced in a Hobart race?

40

A. That's correct.

WEBER: Thank you.

45

COLEFAX: Q. Mr Betts, when you gave the interview to the police on 10 February 1999, that was some five weeks after the race wasn't it?

A. Correct.

50

Q. Before you had that interview with the police, were you informed by them that they wanted to interview you?

A. Yes.

Q. How much warning did you have of the impending interview?

55

A. I can't remember. Maybe a week or - it certainly wasn't any longer.

Q. And it's trite to say that you were aware that the police wanted to interview you in relation to the race because there had been a loss of a number of lives in that race?

A. Yes.

5

Q. Would you keep your voice up for me please, Mr Betts.

A. Yes.

Q. And may his Worship therefore take it that when you participated in this interview with the police, you did so first knowing that the subject matter of that interview was to do with the loss of a number of lives?

10

A. Yes.

Q. And secondly, you'd had a warning of at least one week that the police wanted to interview you?

15

A. That's correct.

Q. So may his Worship take it that the answers you gave to the police on 10 February 1999 were your considered and prepared answers to the enquiries which you expected?

20

A. Well I hadn't done any real preparation. I just went along prepared to truthfully answer the questions they asked me.

25

Q. I want to suggest to you that before you went along you at some stage, at least once, sat down quietly to yourself and thought about all that had happened in the course of that race. Would I be correct in putting that suggestion to you?

30

A. I certainly would have thought of some of it, yes.

Q. This was a race in which a number of men died, Mr Betts. You're aware of that aren't you?

35

A. Yes.

Q. And you were aware of that when you went to see the police, correct?

A. Correct.

40

Q. Have you ever been interviewed by the police before?

A. No.

Q. So this would have been a very serious thing for you to have undertaken. Would that be a correct suggestion?

45

A. Yes.

Q. You didn't treat it lightly or cavalierly did you?

A. I don't think so, no.

50

Q. And when you were interviewed by the police, I want to suggest that you gave them your considered careful answers to the questions that they asked you.

A. Yes.

55

Q. Were you given a copy of the transcript of the record of interview after it was conducted with you?

A. I was.

Q. How longer after the interview were you given that transcript?

A. I think I was given it on the day.

5

Q. Have you ever brought to the attention of the police any error in the record of interview?

A. No.

10

Q. Have you had the advantage, the considerable advantage of conferring with Mr Hunt before today?

A. Yes.

Q. Is he your personal legal adviser?

A. No.

15

Q. Have you got a personal legal adviser?

A. No.

20

Q. When you were asked questions by the police about what it was that Mr Purcell told you which led to your radio transmission to Telstra Control, were you telling the police in February 1999 what your best recollection of the events was?

A. Yes.

25

Q. And it was a recollection which was carefully considered and prepared before the interview, correct?

A. It wasn't prepared before the interview and some of the questions I answered without maybe taking enough time to think about my answers.

30

Q. Well you see in your record of interview with the police, you were specifically asked what it was Mr Purcell told you before you contacted Telstra Control, weren't you?

A. Yes.

35

Q. In that record of interview, which we've never sought to correct or change before today, you told the police that Mr Purcell, Mr Richard Purcell, had only told you that he'd seen a red flare together with a position. That's question 88.

40

HUNT: Your Worship, what's been put to this witness isn't consistent with his record of interview. Question 90 he says Richard did say he'd seen a dismasted yacht.

45

CORONER: Let him cross-examine.

50

HUNT: He corrects himself.

CORONER: Mr Hunt, please, let him cross-examine.

COLEFAX: What the answer to that question your Worship doesn't say is when he was told that.

55

CORONER: I'm allowing the question, Mr Colefax.

COLEFAX: Q. In the answer to the question that the police asked you, you told them that Mr Richard Purcell had told you that he'd seen a red flare and asked you to call Telstra Control and to report the time and the position. Do you remember that as being part of the answer to question 88? 5
A. Yes.

Q. And that was your considered answer when you provided it to them was it not? 10
A. That's correct.

Q. And that answer is consistent with what you read in the transcript, correct? 15
A. Yes.

Q. And that answer is consistent with Mr Carter's log entry. That's correct isn't it?
A. Yes.

Q. You told his Worship today that in addition to what you told the police in the answer to question 88, you also told Mr Carter that the yacht was a dismasted yacht. Remember giving that evidence this afternoon? 20
A. Yes.

Q. I'd like to just refresh - have you got your record of interview in front of you, Mr Betts? And if you do, could you please open it to page 17. I take you to the third last line, that's where you're talking to Mr Carter, and you said according to your record of interview, quote "I gave him the lat and long and he repeated that to make sure he had it down right and to the best of my knowledge that was - he said thanks for that, and I - and - mm, I think that was the end of our conversation." Do you see that? 25
A. Yeah. I've got different numbers obviously to you on the-- 30
35

CORONER: Hang on, you might have a different--

A. But it's all right, I've found it. 40

COLEFAX: Q. Have you got that?

CORONER: Q. Have you got it? 45

COLEFAX: Q. I want to draw your attention to what you next said to the police after having told them that that was the end of the conversation with Mr Carter, that is, giving the lat and the long. You then said to the police "I didn't volunteer any information as to whether we were going down to see if we could see them and what their problem was." I'll repeat it to you. "I didn't volunteer any information as to what their problem was." Do you see those words? 50
A. Yes. 55

Q. And the problem you now tell his Worship is that the boat was dismasted. That was clearly the problem of the boat which Mr Purcell had been talking about. That's

correct isn't it?

A. That is correct, and I was--

Q. And in February 1999 you told the police I didn't
volunteer - that is to Mr Carter - what their problem was. 5
That's what you said, wasn't it?

A. I meant I didn't know what their problem was other than
being dismasted, what state their boat was in. Boats can be
dismasted and float for days.

Q. This boat was dismasted and in condition of very rough
seas having, to your knowledge, fired a distress flare. 10
That's correct isn't it?

A. That's correct.

Q. And I want to suggest to you that what you told the
police in February 1999 was the fact, namely that all you
told Mr Carter was that a red flare had been sighted with a
latitude and a longitude, and that you didn't volunteer the
boat had been dismasted. 15 20

A. On the tape which I have listened to there is other
conversation of my voice describing the weather and the
visibility, which doesn't appear anywhere there either.

Q. Mr Betts, I was asking you, in case you're under any
misapprehension about what I was asking you, about your own
words to the police in February 1999, five weeks after the
accident, which you've never sought previously to correct.
Had you understood that that's what I was asking you about? 25

A. Yes. 30

Q. And reading the transcript of the record of interview,
the only inference a person can draw, I want to suggest to
you, is that you were telling the police in February 1999
that you told Mr Carter only that a flare had been sighted
and the latitude and longitude of the boat. That's a fair
reading of that transcript isn't it? 35

A. It is, yes.

Q. And it is totally consistent with Mr Carter's log book,
isn't it? 40

A. Yes. I don't agree with the time of Mr Carter's log
book but--

Q. I'll come to that in a minute, but so far as the
substance of the transmission is concerned, what I put to
you is consistent with his log book, isn't it? 45

A. That's correct.

Q. You were in Court today weren't you this morning when
Mr Carter was asked some questions? 50

A. Yes.

Q. Were you present with Mr Hunt was asking him questions?

A. Yes. 55

Q. And did you hear that Mr Hunt did not suggest to
Mr Carter that he had failed to record that part of the

transmission from you which you now say related to the
dismasting of the vessel?

HUNT: Your Worship, I don't appear for Mr Betts.

5

CORONER: I know that.

COLEFAX: Q. You heard that he didn't suggest that to him,
didn't you?

A. No.

10

Q. We may be at cross-purposes. Would you agree with me
that Mr Hunt did not suggest to Mr Carter that he had failed
to record information given by you to Mr Carter, namely the
fact that the boat had been dismasted? Didn't ask a
question about that, did he?

15

A. No.

Q. You've told his Worship today that Mr Graeme Purcell was
in the cabin at the time you made the transmission to
Mr Carter. Do you recall telling his Worship that?

20

A. Yes.

Q. That's not something you told the police is it, that he
heard the transmission?

25

A. No.

Q. But you tell his Worship now that Mr Purcell, Mr Graeme
Purcell can confirm that you told Mr Carter that the boat
was dismasted?

30

A. I believe so, yes.

Q. That's because you've discussed it with him, is that
right?

35

A. Yes.

Q. When did you discuss it?

A. Many months ago.

Q. Was that the first time you discussed it?

40

A. I had a lot of discussions about various aspects of that
and I'm not quite sure when we first discussed it.

Q. So you may have had more than one discussion with
Mr Graeme Purcell about that aspect of the evidence which
you gave today?

45

A. Yes.

Q. When was the last occasion that you can recall
discussing with Mr Graeme Purcell that aspect of the
evidence?

50

A. Two, three months ago.

Q. After this inquest commenced its formal taking of
evidence, would that be right, or before?

55

A. I couldn't put an exact date on it I'm afraid.

Q. Have you discussed that aspect of the evidence with

Mr Richard Purcell?

A. Not particularly. He was on deck at the time and wouldn't have heard any of our radio transmission.

Q. No, I want - have you discussed with Mr Richard Purcell the evidence you gave his Worship today, that Mr Graeme Purcell had heard you transmitting to Telstra Control? Have you ever discussed that with Mr Richard Purcell?

A. I probably have, yes.

Q. In the presence of his brother, Mr Graeme Purcell?

A. Not necessarily.

Q. What's your best recollection?

A. Well it could have been at Richard's home.

Q. The question was, have you discussed it in the presence of Mr Graeme Purcell?

(No verbal reply)

Q. Have your discussions with Mr Richard Purcell about what Mr Graeme Purcell heard being conducted in the presence of Mr Graeme Purcell?

A. I don't think so.

Q. You told his Worship that you had logged the time that Mr Richard Purcell shouted to you through the cabin the information concerning the red flare.

A. Yes.

Q. Did you have some timing device near you at the time which enabled you to know what time it was that you'd heard Mr Richard Purcell say that?

A. I had my own watch.

Q. Anything else?

A. No, but my watch I check regularly with time signals and I know to be accurate.

Q. According to your statement to the police on 9 February, you heard Mr Richard Purcell about 18:45 hours. That's page 16. Do you recall that information being given to the police? Question 88.

A. Could you repeat that, which--

Q. Yes, could you turn to question and answer 88 in the record of interview.

A. 88, yes.

Q. Do you see there that you told the police that it was at 18:45 that Mr Richard Purcell shouted something to you concerning a red flare?

A. That's right. At quarter to seven. I don't know where that six came in, I explained before.

Q. Well you may have been intending to say 6.45 and stopped yourself. But forget the six, you see you put 18:45?

A. Right.

Q. In question and answer 89 you say "there were all sorts of people wanting to talk to them, and I said to Richard what are we going to do, and that might have been three or four, five minutes later." So that's about 18:50 is it?
A. 18:50 yes, or 57. 5

Q. Do I take it that you didn't take a log note of that conversation? That's your best recollection isn't it?
A. That's correct, yes. 10

Q. So it might have been longer?
A. Would have been at the most five or six minutes I would think. 10

Q. Now might be six minutes, all right. Then further down that page apparently another 15 minutes elapse and you say "anyway it was 15 minutes, could have been a few minutes longer. It would have been 15 minutes before I got a chance to break into the traffic." Right? So that would make it at least 19:05 on your statement. Do you follow? 15
A. I think I was referring to 15 minutes being from the 18:45. 20

Q. I see. Have you had a chance to look at the Sydney to Hobart radio log, exhibit 24A, that was kept by Mr Carter? 25
A. Only one page of it that has that entry, Margaret Rintoul at the bottom.

Q. And you would have observed that a number of entries have been made on that page, which is sheet 19, for the hour 18:25 to 19:20 on 27 December 1998? Do you see that? 30
You've seen that haven't you?
A. I have seen it, yes.

Q. You saw that the second entry was a Kingura entry concerning a mayday call which had been made? You saw that didn't you, the second one? 35
A. Yes.

Q. You're aware that Mr Carter says in his statement that that mayday situation was - or transmission was begun and ended within two minutes? Are you aware of that? 40
A. Yes, I think I remember that.

Q. And you'd agree that a mayday call would be one of the most serious calls, attention grabbing calls that can come over the radio waves in a race? 45
A. Yes.

Q. Therefore likely to be one of the longest types of calls that will be made as all the information is being conveyed? 50
A. Yes.

Q. You've seen the other entries on the page haven't you?
A. Yes I have, but there was a lot more traffic on 4483 than is recorded there in that time, I'm sure. 55

Q. So you now dispute do you that sheet 19 of exhibit 24A

accurately records the transmissions being received by Telstra Control?

A. I'm quite sure that I spoke to Telstra Control not later than 19:05.

5

Q. Because if one accepts the accuracy of sheet 19, your evidence about the delay in making the call, that being because of the traffic, doesn't add up does it?

A. No, I don't agree with that.

10

Q. See these calls that are recorded on sheet 19 don't constitute the sort of heavy traffic that you've sought to give evidence of, do they?

A. That - they may not, but I've listened to the tapes of that period and there is an enormous amount of traffic. There was a lot of traffic with Team Jaguar which - I knew they were disabled but I didn't know how serious their predicament was.

15

Q. Is your evidence about this great quantity of traffic based upon your listening to the tape recordings?

20

A. No, no, listening to the radio but it's supported by some of what I've heard on the tape.

Q. Are you aware that the tape records not only conversation or transmission over the HF radio but it also records the mobile telephone being used in the mess together with general conversation? Did you know that?

25

A. I wasn't aware of it till I heard it this morning.

30

Q. Just returning to sheet 19 of exhibit 24A, you agree don't you that the entries on that page do not constitute clearly heavy traffic on the radio?

A. The evidence on that page doesn't constitute it, no.

35

COLEFAX: Thank you, Mr Betts.

HUNT: Q. Colin, you've told Mr Hill that you had been in I think 34 Sydney to Hobart yacht races. Can you just tell us how long you've actually been - what your sailing experience is, what's the length of your sailing experience?

40

A. I grew up in - mainly in skiffs and - dinghies and skiffs, and I've been ocean racing since 1955.

Q. Do you hold a Master Grade 4 certificate for vessels under 50 tonnes?

45

A. That's right, in the State of Queensland.

Q. Do you have any other formal qualifications in relation to yacht racing or sailing?

50

A. I've got a Yacht Master Ocean Certificate.

Q. In addition have you been in any other major yacht races over and beyond the Sydney to Hobart yacht race?

A. Yes, I competed in three Admiral's Cups which include the Fastnet race, two Clipper Cups in Hawaii, Bermuda race, Southport races, Mooloolaba races, 12 Montague Island races.

55

Q. Were you ever involved in the America's Cup challenge?

A. The first challenge in 1962 I was a team member on the original Gretel.

Q. What were you doing between 1971 and 1975? 5

A. I took a job working overseas working for the late Dick Dusseldorf. He had a 71-foot yacht built in England which is a cruising boat which I was Master of for four years, which we kept - he kept on the move round the world. I logged 50,000 miles on that vessel under sail. 10

Q. You were in charge of that vessel were you?

A. Yes.

Q. And from 1975 to 1997? 15

A. I had a power boat, 66-foot power boat I was Master of in the Whitsunday area between there and Lizard Island, mother shipping for the game fishing.

Q. So I think in short you're a very, very experienced ocean sailor. Would that be fair comment? 20

A. I would say so.

Q. On the Margaret Rintoul II in 1998, was there anyone else as experienced as you on that boat or would you have been the most experienced? 25

A. I probably would have had the most sea miles.

Q. What about in terms of Sydney to Hobarts?

A. Dick Norman, Richard Norman who's completed his 35th race on Margaret Rintoul that year, 1998. 30

Q. And you aware of many other people that had competed in more Sydney to Hobart yacht races than you have?

A. I beg your pardon? 35

Q. You are aware of any other people who have competed in more Sydney to Hobart yacht races than you and Dick Norman?

A. There'd be 10 or 12, I'm not sure of the exact number. 40

Q. But you'd be equal to the most experienced or amongst the most experienced?

A. I'm not far behind them, yes.

Q. If I can just take you now to the afternoon of 27 45

December. When did you have your first watch on the 27 December? When were you up on deck?

A. Immediately after the 14:05 sked. I went on deck at quarter past three. 50

Q. Was that your watch that particular watch? 50

A. No, the watch was from 2 o'clock, 14:00 hours till 18:00 hours. Dick Norman was the watch captain but he was having difficulty steering the boat. He was concerned about the conditions and as soon as I put my head out, see how he was going after I finished the sked, and he said to me that you'll have to come and steer the boat. He said I need a boat and young Sven's not up to steering in these 55

conditions.

Q. And who's young Sven?

A. Sven Runow(?).

5

Q. Was he one of the helmsmen for--

A. He had been earlier in the race, yeah.

Q. Why wasn't he up just taking his turn at the helm?

A. He was a little off colour at that time, but he also asked me would I go and steer in his place because he didn't feel experienced enough to handle a boat in that weather, which was - would have been right.

10

Q. He didn't have the experience that you and Dick Norman had?

15

A. No, and I could see watching Dick sail the boat, he was very concerned about the - he'd been knocked off the wheel badly twice by breaking waves over the top which he just couldn't hang onto the wheel, pushed him down into the lifelines very heavily.

20

Q. And you mentioned that he was concerned about - and asked you to take over from the helm?

A. Well he needed a break because he'd been steering the boat for an hour and a quarter, which is not easy in those conditions. And when I - after half an hour I'd been steering the boat he felt more relaxed then, he could see that I was feeling comfortable with it.

25

Q. The conditions you found, how would you describe them? This is during that watch. I think you said you were--

30

A. Extremely difficult because there is so much spray in the air driving into your eyes it made the visibility very bad, but you couldn't take your eye - you look at the compass, you look at your heading and your speed and the wind speed, but you've constantly got to watch the waves and that's very difficult. An hour at a time's enough in these conditions to keep your concentration and be able to see. So we shared that steering over the four hour period and later I went on during the night. We were doing three hour watches during the night so we shared the steering between us in that three hours.

35

40

Q. From when you came on at what, I think it was roughly 3 o'clock, the sea conditions were bad. Did they get any worse after that?

45

A. I don't think so. I think Dick Norman experienced two of the worst waves we probably had that afternoon.

50

Q. Did conditions abate? How long before they did abate?

A. It was the early hours of the next morning.

Q. And were the conditions similar from that time when you were on watch till when you came back on watch later that night?

55

A. Through till 10 o'clock, it was 10 o'clock before there was any easing of the wind at all below 50, 54 knots, and by

30 minutes after midnight the breeze had dropped to 30, 32, 35 knots. The sea was still big but not as dangerous.

Q. This is after midnight?

A. Yeah.

5

Q. But before midnight, the winds had been quite constant had they?

A. Right up till 10 o'clock before there was any - show of any easing in the wind strength at all.

10

Q. Are you able to see the wind readings, one when you're below at your navigation table, and two, when you're up in the cockpit?

A. No, all that instrumentation's on deck so you can see the wind speed constantly or whoever else is sitting in the cockpit can see it.

15

Q. So when you're in the cockpit you can see them?

A. Yes.

20

Q. And what about when you're down below?

A. Well the same instrumentation's on the chart table. You've got a variety of functions you can look at. We mainly had ours set on four functions.

25

Q. And so constantly the wind speed you're constantly recording?

A. True wind speed is available for anyone on deck or anybody below to see all the time.

30

Q. And you kept an eye on the wind?

A. Well when you're steering the boat you glance at that as well as the compass.

35

Q. And so from 3 o'clock, just to make it absolutely clear, the winds what, were between about 48 and 50 knots and 58 as recorded, is that correct?

A. Wind speeds I recorded from - midday the wind speed was still in 13 knots. At 13:00 hours the wind was 40 knots and from 14:00 through till 22:00 the breeze - I didn't see any breeze under 50 knots, mostly averaging 54, 55 knots.

40

Q. You came off that particular watch and went below what time? This is the afternoon watch. What time did--

A. By the time I got my gear off and got down below and sort of dried my hair and washed my face, got the salt out of my eyes, it was probably 6.15, 6.20. 5

HUNT: I think there's a video here, I wonder if Mr Betts could be shown a copy of that video?

VIDEO PLAYED 10

STANLEY: Your Worship, I make objections in respect to some of the evidence that's coming or the material that's being led here. (a) It's repetitious and (b) it's hearsay upon hearsay. We don't know how this has been manufactured and made up. 15

CORONER: The purpose is essentially for examination of the witness and I'll let it go on that basis. At the end of the day it'll be a matter for me. Do you have much more? 20

HUNT: No, I'm quite happy for it to be brought to an end.

Q. Colin, you've seen that video. Was that - the conditions, the wave and wind conditions that it displayed, can you - was that in any way similar to what you experienced in-- 25

A. Yes. Except at sea level it seems a little more frightening than from an aerial view. 30

Q. Did you recognise any of the yachts in that video clip?

A. Only Helsal. 35

Q. That's Helsal II, is it?

A. I assume it's-- 40

Q. You understand that to be a video of scenes from the 1998 Sydney to Hobart Yacht Race?

A. I believe so. 45

Q. You believe that's what it is? Okay, so were the conditions that you were facing when you were on your watch between 3 and 6.15 similar to that?

A. Yes indeed. 50

Q. When you went below, did you feel that they abated at any time?

A. I don't think so, I'd experienced the motion of the boat before I went on deck and then again afterwards. 55

Q. So to the best of your knowledge--

A. You could always feel when you had a particularly bad wave.

Q. So from the time that you were on deck and saw the waves and the sea conditions which you've just described as similar to what we were shown, it felt until I think you told us earlier conditions did abate in the early hours of 55

the following morning, from your judgment of the motion of the boat, what you'd experienced before you went on watch it was much the same between 6.15 and midnight on the 27th?

A. Yes, yes. Even after midnight, the next day there was still quite a confused sea but it didn't have that bad break on the top of it as the wind eased.

5

Q. If I can take you then to 1845, you've come down from your watch, you were at the radio navigation table and you hear Richard call out to you, is that correct?

10

A. Yes.

Q. You've given some evidence here earlier on in relation to questions 88 I think and 89 and 90 of your record of interview. Can I just take you first of all to question 89 in your record of interview. In there, this is your record of interview in February '99, you've said that - you've given a version of what you remembered telling Lew Carter at that time. You've said Lew, it's Colin Betts from Margaret Rintoul II, we've just sighted one red flare, it's bearing 090 from our position, approximately half a mile. That information you got, 090 from our position approximately half a mile, where did you get that information from?

15

20

A. From Richard Purcell.

25

Q. If I could just for one moment just take you back to your answer to question 88, the bottom half of that question, you tell the police about what you're recalling of your conversation with Richard, advising you of the flare. You've said I've seen a red flare, will you call Telstra Control and report the time and position. Can you see those words?

30

A. Yes.

Q. I presume that it's at that time that he also told you about a bearing 090 from our position approximately half a mile, is that correct?

35

A. Yes, it was all in the one sentence, for want of a better word.

Q. So that when you were giving your interview to the police you weren't absolutely precise about what you'd heard or what you'd told, is that a fair comment?

40

A. Yes, I think I answered some of the questions without thinking long enough before I gave my answers.

45

Q. Can you just tell me sort of what the atmosphere was when you were being interviewed by the police? Where were you being interviewed?

A. At the Cruising Yacht Club.

50

Q. Right, so you were asked to attend at the Cruising Yacht Club?

A. Yes.

Q. Were you kept waiting long before you were in to the interview?

55

A. Thirty, 40 minutes, I think the police officers had a

previous engagement which held them up.

Q. What did you do during those 30 to 40 minutes?

A. I sat down and had a drink with a couple of old timers there and Peter Bush joined us, I think three of us had a beer there. David Lawson, Dick Beer(?) and Peter Bush and myself.

5

Q. While you were waiting?

A. While we're waiting, then Peter finally said these guys have arrived, I'll take you upstairs, I need to see them myself and we went up to the interview room.

10

Q. You went up with Peter Bush?

A. Yes.

15

Q. Did you have any conversation with Mr Bush while you were going up there?

A. Yes, only going up the stairs which I - it's not in that statement, is it? Where he said to me this is only a Coronial Inquiry he said, if you - any questions you don't wish to answer, you don't have to and I said why would I do that, I'm here to give my account and tell the truth.

20

Q. So when you went to have your interview you were quite happy to cooperate and give open and honest answers to the police?

25

A. Certainly. I was immediately made to feel quite relaxed and comfortable with Stuart and David.

30

Q. So it wasn't - within that whole atmosphere it wasn't quite the sort of nervewracking important event in your life that Mr Colefax tried to paint a little while ago?

A. No, it was quite a relaxed atmosphere.

35

CORONER: That's a change for the coppers, isn't it. Complete opposite.

HUNT: Q. They didn't really press or badger you for answers, did they?

40

A. No, Stuart did most of the questioning. As I said, maybe some of my answers I should have thought a little longer about but I mean it was more like a conversation than a strict question and answer.

45

Q. So some almost 18 months later, what, how do you react to someone suggesting that every word that you spoke there was the totality of your understanding and recall of what had happened? In other words, it was put to you by Mr Colefax that you had given great consideration to your answers to those questions and that in effect he put to you that if you hadn't said something here then you hadn't said it?

50

A. Well, it wasn't quite like that. I've had no reason to re-listen to it or think of it and want to alter anything until today.

55

Q. If I could just take you back to question 88. You've

told - actually, the top of - halfway through question 88 you talk about 1845 being the time that you logged Richard's advice of the sighting. And then back on 89, picking up where we were before, the end of 89 you say Lew, this is what you tell the water police on the - back in February '99, it's Colin Betts from Margaret Rintoul II, we've just sighted one red flare, it's bearing 090 from our position approximately half a mile. Now, you've just said that you got that information from Richard and you forgot to tell the police about that in your answer to question 88. I gave them the lat and long. Did you also give them the time at which you had recorded the sighting? Did you also give Lew the time at which you had recorded the sighting? Did you tell Lew Carter that you had made that sighting at 1845 hours?
(No verbal reply)

Q. Can I take you to radio log sheet 19 perhaps, it might assist. Have you got a copy of that?
A. It's in here somewhere.

CORONER: Here, have this one. Here you are Mr Betts, save you a bit of trouble.

HUNT: Q. The last entry which is the Margaret Rintoul II entry--
A. Yes.

Q. --talks about the Margaret Rintoul 38 15, 50 22 red flare sighted at 1845?
A. Yes.

Q. Do you recall that you told Lew Carter that you'd made that sighting at that position at 1845?
A. Yes.

Q. But that's not--
A. Not much good giving the position without the time.

Q. Sorry?
A. Be not much good giving the position without the time.

Q. No. And that would be standard practice if you were radioing information of that type, nature to a relay vessel, would that be right, that you would give--
A. I would think so.

Q. --the bearing, the time and the distance and you did that?
A. Yes.

Q. When you look at the radio log 19, do you see any words there about bearing 090 from our position approximately one half mile?
A. No.

Q. But your recollection is that you did say that?
A. Most definitely.

Q. And by definition you must have said at 1845 hours or Mr Carter couldn't have written it down for it later to be transcribed onto this radio log, would that be a fair comment?

A. I would say so.

5

Q. So when you spoke to the police in relation to your answers to question 89, you were not endeavouring to remember every single word that you spoke, is that correct?

A. Yes.

10

Q. In fact, you said other words and I think you told Mr Hill that you also talked about a dismantled yacht?

A. I believe I did and I talked about the weather and the visibility, some of which you can hear on that tape.

15

Q. And then if I can just take you to question 90 in that record of interview, you then at the end of that you mention to the water police that you've seen a dismantled yacht, or Richard had told you that he'd seen a dismantled yacht at the bottom of your answer to question 90?

A. Yes, that's correct.

20

Q. And they don't ask you whether you told that to Lew Carter or not at that time? The water police don't question you further about the dismantled yacht?

A. No.

25

Q. So would I be right in thinking that when you get to the end of your answer on question 90 you're sort of recalling Richard did say he'd seen a dismantled yacht, you're bringing something up that you haven't mentioned before? You didn't mention it in your answer to question 88 and you hadn't mentioned it in your answer to question 89 but suddenly you're bringing it up of your own volition because you realised you'd omitted it?

A. That I'd omitted it, that's correct.

30

35

Q. You've given some evidence that when you turned - when Richard gave you the instruction to contact Telstra Control and report the time and the position, you turned on the HF radio?

A. That's correct.

40

Q. Am I right in thinking you turned on the HF radio because that's what the sailing instructions tell you you should do if you want to relay distress information?

A. That's correct. Section 39(2).

45

Q. When you turned that radio on, can you tell us - you've told us that there was a lot of traffic, can you tell us what that traffic was about, what was the subject matter of the radio traffic that you heard?

A. It was traffic about the man overboard on Kingara and a lot of traffic between Telstra Control and Team Jaguar and the trawler and I'd ascertained from that conversation or that traffic that Team Jaguar was dismantled and had no power but I didn't know what other difficulty they were in. And I

50

55

CORONER: We're out of time. First thing in the morning. Is that alright? Have you finished with the witness?

HUNT: No your Worship, no I haven't finished with the witness, no. I had further questions. I was just simply proposing that for two minutes we could listen to that transmission between Hummingbird Trust Bank and when Col Betts comes in.

5

CORONER: I don't think I could set it up today readily, it'll have to be in the morning.

10

HUNT: Okay. I understood it was just a video tape. We have raised it with Mr Hill.

15

HILL: The sun doesn't come up very good on the video tape. That's a disk, it's a computer. Before you go any further--

CORONER: Mr Hunt, I can't set it up today, that's all. Do you want to play that before you continue with your examination of the witness?

20

HUNT: I could continue and come back to that or we could--

CORONER: How long are you going to be?

25

HUNT: Probably I would have thought five to ten minutes.

CORONER: No, let's call it a day. Have you any questions arising?

30

HILL: I've got questions arising, yes.

WITNESS WARNED NOT TO DISCUSS THE CASE

35

<WITNESS STOOD DOWN

HILL: Your Worship, I wonder tomorrow morning if--

CORONER: 9.30, yes.

40

ADJOURNED TO THIS COURT TO WEDNESDAY 27 JULY 2000 PART HEARD

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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 25 July 2000

Dated at GOODSELL BUILDING
this 31st day of July 2000

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