

W1128 253/00 RMB-C1

NEW SOUTH WALES STATE CORONER'S COURT

STATE CORONER: J ABERNETHY

WEDNESDAY 26 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

Mr P Stitz for Ms M Gray

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PART HEARD

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<COLIN BETTS

RESWORN, EXAMINATION CONTINUED

HUNT: I think we were requesting for the CD to be played,
is that possible?

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CORONER: Yes it is.

HUNT: I think if we could just start with that.

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CORONER: It's coming now.

CD PLAYED

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HUNT: Q. Colin, have you got a copy of the transcript of -
typed up manuscript?

A. I think so, yes.

Q. If I could just take you to page 33, just what we've
heard.

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A. Page which, Norman?

Q. Page 33, tape 4. This is the transcript of the radio
tape.

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A. Yes.

Q. Found that? Okay. You just heard before - right at the
bottom is V64 which is the Margaret Rintoul and that's where
you come in. Just immediately prior to that you heard on
the tape, on the CD, the Trust Bank giving its position.
Did you recall hearing that on the afternoon of the 27th,
the Trust Bank Hummingbird retiring?

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A. I can't be sure that I recollect that.

Q. You can't recollect whether you heard that immediately before you came in or not?

A. No, there was traffic there but exactly what the traffic was I can't remember. 5

Q. You can no longer recall, okay. If I can just take you then to where you come in, you've got - part of it is inaudible and then you start talking about force winds here and the visibility is extremely bad but standby officer on board saw - did see a flare. There's nothing there or on the next page is there with respect to the time at which the sighting had been made, just doesn't come through on the transcript, is that correct? 10 15

A. That's correct.

Q. Two-thirds of the way down the page Lew Carter who is V3 comments about having ten things going on at the same time. He says that he'll log that and he'll come back to you Margaret Rintoul, Margaret Rintoul. Did he ever come back to you? Did you ever speak to Lew Carter later on during that afternoon? 20

HILL: I'm objecting because there are two questions there. One is, did he ever come back to you, which he can't answer, because he switched the radio off and the other one is, did you ever speak to him. So there's one or the other. 25

HUNT: I'll rephrase the question. 30

Q. Did you have any further contact with Lew Carter before you turned the radio off on that afternoon?

A. No. 35

Q. How long did you leave the radio on after that conversation?

A. At least 30 minutes.

Q. And you heard nothing and therefore you turned it off? 40

A. Yes.

Q. We heard yesterday some questions were put to you about your record of interview of 10 February '99 about a comment that you - you didn't actually tell Lew Carter at any time that Richard had said that you weren't going to render assistance, is that correct? You didn't tell Lew Carter that? 45

A. No. 50

Q. Did you assume that it spoke for itself that you weren't rendering assistance, because if you were you would have told him, is that a fair assumption?

A. Yes. 55

Q. In preparation for this hearing, have you heard that radio CD tape before?

A. Yes.

Q. Did you listen to that? Did you also read this transcript?

A. Yes.

Q. To refresh your memory as to what had occurred? Was it during that process that you came to the conclusion that as well as advising Lew Carter of the flare and the time at which it was sighted and the bearing 090 and a half mile that you'd also told him about a dismasted yacht?

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A. Yes, because there's very little of my conversation on that tape that's recorded.

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Q. And of course when you gave the record of interview to the police in February you hadn't had the advantage of listening to that CD or reading this transcript because they weren't available, is that--

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A. That's correct.

Q. But you did - you have told us I think and perhaps I'll just go over it briefly that Richard did tell you to tell them that - to tell Telstra that we - Margaret Rintoul II could not render assistance? Do you recall that Richard Purcell told you, called that out to you from the cockpit?

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A. Yes.

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Q. How long after you got through was it before Richard Purcell came down from up on the deck to below decks, do you recall when he came off his watch?

A. He'd have been on watch and been on deck till 2100 hours or later, so it would be two hours.

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Q. Did you speak to him during that two hours?

A. No, after I turned the radio on I put my head down for an hour to get some rest because I was due on deck at 9 o'clock.

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Q. When he came down from the deck did he ask you whether you'd got through to Telstra?

A. He probably did. We'd have had a conversation about what the situation was at the present time and what had transpired.

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Q. Can you recall whether or not you told him that you'd got through?

A. I can't remember an exact conversation but I'm sure I would have, or he'd have asked me and I'd have confirmed it.

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Q. But right now you can't recall it but--

A. I can't--

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Q. --your understanding is that he was advised at that time?

A. Yes.

Q. So would it be fair to say that until he came down he wouldn't have known at what time you'd got through to Telstra, he just wasn't aware that you had delayed while you were waiting for the Kingara Team Jaguar situation to

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stabilise?

A. He wouldn't have been aware of the time possibly. I might have spoken to him through the companionway in that intervening period but would have been talking more about the situation on deck rather than anything else.

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Q. Do you recall yesterday some questions were put to you about whether or not there'd been a discussion between you and Richard about whether or not he had made the right decision. Could that discussion have taken place when he came down off the deck? Would it be possible that he talked to you then about whether or not he'd made the right decision?

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A. Quite likely. I can't remember exactly what we talked about but there was certainly any time of interchange of watches an exchange of ideas or up to date of what's happened both on deck and tactically, so we would have had a conversation for several minutes probably but I can't remember all the details.

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Q. You can't remember the details, but you certainly do recall that when he came down you had a conversation with him?

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A. That happens always at change of watches, yes.

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Q. If I can just now take you to your record of interview of 10 February. Have you got a copy of that with you?

A. Yes, I have.

Q. I want to take you to question 91 which on my copy is at page 19, question 91.

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A. Yes.

Q. In question 91 you say that you think that in retrospect he did make the right decision and I think you told the Court yesterday that you agree that that was the right decision in the circumstances?

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A. Yes.

Q. Could you just briefly tell us, at the bottom of that page you talk about that you couldn't have tacked and you had to run away and gybe but running back downwind would have made us more vulnerable to get rolled down. Can you just elaborate on that. Your concern was if you turned around the boat itself might get rolled in those conditions, is that correct?

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A. That is correct. The only time I've been in conditions as bad as that was I referred to yesterday a voyage from Tonga to Sydney where I was this side - 100 miles west of Lord Howe Island in similar conditions to that. Through a series of mishaps I had to - had a very special night, we blew out a mainsail and broke a mizzen boom and I had to turn and run to Brisbane rather than carry on to Sydney in those conditions, I was in 65 knots of wind, I had been for 12 hours and Sydney radio told me those conditions would continue for another 24 hours. We turned, we set a trisail and a staysail and started running to Brisbane but I got an extremely bad - I was on deck on my own at the time, it was

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the next morning, daylight, and I got an extremely bad wave which rolled us down and I went out through the lifelines. That's the worst experience I've had at sea. I thought I was in complete control, I'd been steering the boat in those conditions for an hour without any problems but I got this particularly bad wave and if one of the stand by guys in the saloon hadn't got on deck as soon as he did, I was over the side and the speed of the boat, I could easily have drowned before I got back on board.

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Q. Right, so you've had this experience--

A. That was the worst experience I've had at sea but it was turning away to run downwind rather than continue on the way we were going and I think we were - that was our consideration that we were much safer in Margaret Rintoul to keep sailing to windward. If we'd tried to tack, we may not have got through the tack in those seas. So the only way to get round was to gybe, which would have been extremely dangerous. And that was the basis of Richard's decision. But I would have made that same decision I feel.

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Q. You would have made the same decision if it had been your decision to make?

A. Yes, only because of my past experience. That was the most dangerous situation I'd ever been in.

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Q. I think you've said in your record of interview that you were at the time heading 60 degrees to the wind, is that correct?

A. That was the most comfortable angle to sail the boat safely, yes.

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Q. Is it fair to say then that whilst you were heading south 60 degrees to the wind, you felt reasonably secure as you were heading towards Hobart? I mean it was dangerous, you were in survival mode, but did you feel that that was the safest option?

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A. Yes, with a storm jib we had enough boat speed to be able to steer the boat and that was the safest angle to attack the seas.

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Q. What would have happened if you'd have lost that boat speed in those conditions, what could have happened?

A. We would still have had water - the broken water on tops of waves coming over the boat but we could have without that boat speed got more beam on to the wind and been again more vulnerable to be rolled down.

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Q. I think in your record of interview, if I can take you to question 38, on my copy it's on page 8, you've just told us that if it had been your decision to make you would have made the same decision that Richard made. At question 38 you say however that ultimately on the safety of the boat that, and I take it you mean the decision, comes down to only one man. Only one man can make that decision when the safety decision has to be made, that's the skipper. So in other words it wasn't your decision to make, it was Richard Purcell's decision, is that what you say?

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CORONER: That's common ground, Mr Hunt.

HUNT: Sorry?

CORONER: It's common ground. Move on. 5

HUNT: I don't think I've got anything further.

HILL: Q. Mr Betts, as I understand your evidence, what you were saying is that Mr Purcell told you to pass on to Telstra Control that it was a dismasted yacht at a particular position, is that correct? 10

A. Yes.

Q. Is that what you're saying? 15

A. Yes.

Q. And that you passed the message on to Telstra Control, that is to Mr Lew Carter, that it was a dismasted yacht at a particular position with red flares, is that right? 20

A. Yes.

Q. And the transcript doesn't record accurately what you passed on, is that right?

A. That's correct, most of it's missing on that tape. 25

Q. And Mr Carter didn't write down the essential parts, that it was a dismasted yacht, that right? That's what you said?

A. That's correct. 30

Q. It's very important, you understand that if Mr Purcell - he hasn't said it in his statement but if Mr Purcell says I told Colin Betts to pass on to Telstra Control that there was a dismasted yacht at this position with red flares, then it comes down to you, you understand that quite clearly? 35

A. Yes.

Q. And if you didn't pass that message on to Mr Carter, then you would be at fault, you understand that, don't you? 40

A. Yes.

Q. Now I'm going to in re-examination ask you those questions again but I'm not going to ask you now because I want you to think very seriously about what I'm going to say. The cassette recordings on the Young Endeavour seem to have breaks in them, you're aware of that, aren't you? 45

A. Yes.

Q. You were aware of that because I brought it up yesterday morning while you sat in that public gallery, correct? 50

A. That's correct.

Q. You didn't know before then, did you, that there were breaks in that tape? 55

A. No, I--

Q. It's come to this Inquest's attention that the messages

between Telstra Control and the fleet were also recorded elsewhere. We will be listening to that tape tonight and it's much clearer, so your messages will be on there. So bear that in mind and then we will recall you.

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HILL: Nothing further, Mr Coroner.

<WITNESS STOOD DOWN

<RICHARD GORDON PURCELL(10.05AM)
SWORN AND EXAMINED

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HILL: Q. Could you give the Inquest your full name?

A. Richard Gordon Purcell.

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

A. Rear 92A Spit Road Mosman.

Q. And your occupation?

A. Builder.

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Q. You gave two statements to the police in this Inquest, one on 29 January 1999 and one on 3 November 1999. Do you have copies of those?

A. I have.

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Q. Is there anything in the first statement which you gave to the police approximately four weeks after the Hobart race, is there anything in that statement you want to add to or detract to or anything like that? Anything you want to alter? Any mistakes? Or would you rather we go through it and then if there is something you want to make us aware of, you can tell us then?

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A. Having previously heard the last witness, I just want to say this about the statements. I'll say this particularly about the first statement. The first statement was given to Detective Stuart Upston and--

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Q. Stuart Grey and--

A. David Upston and Stuart Grey at the CYC in a very casual atmosphere. The line of questioning was very shallow. The questioning was not of any great depth, I did most of the talking as you can see when you read the statement. I gave it openly and honestly. So if some detail is missing or is out of context I would not expect it to be read out of context or taken out of context. If I think it's being taken out of context by you I'll tell you.

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Q. That's fine. So were you serious when you gave this statement?

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A. I knew how serious the interview was.

Q. It was a very serious interview because you knew didn't you what you had been accused of by others?

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A. Correct.

Q. And it's probably the most heinous thing that one can

accuse a sailor of, isn't it?

A. Correct.

Q. Abandoning others who were in need?

A. Correct.

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Q. You understand what mayday means?

A. Correct.

Q. And it's taken from the French and it means help me, doesn't it?

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A. Correct.

Q. So with that in mind you gave that interview, is that right?

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A. I gave the interview to assist the police in their investigations into the death of six men.

Q. And you were bearing in mind these accusations that had been made against you? You knew they'd been made against you?

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A. No.

Q. You didn't know?

A. I gave my interview to help the police, to tell the police my side of the story as to what happened in Bass Strait during the race but in particular during the afternoon of the 27th.

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Q. And you had in mind what had been alleged against you?

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A. Yes and that's evident in the interview.

Q. Yes. I just want to--

A. But not in particular, Mr Hill.

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Q. Sorry?

A. Not in particular at the commencement of the interview, it was towards the end of the interview that we came upon that subject.

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Q. But you knew that you would be asked questions about that subject?

A. I wasn't sure, in fact I think if you read my statement I raised it.

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Q. You raised it?

A. I can't be sure about that but perhaps it was raised by either Mr Upston or Mr Grey, I can't remember.

Q. Perhaps we'll just go through the statement.

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A. Uh hmm.

Q. You proceeded down the coast I think at a - fairly fast and there was a current running with you about four knots? This is at page 5 of your statement.

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A. That's what I have said, yes.

Q. And that is correct? As far as you're concerned?

A. As far as I was concerned at the time I made the statement and I still stand by it. I heard Colin yesterday say that it was more like three plus but--

Q. Yes, alright, you thought it was about four knots and I don't think anyone's going to cavil with whether it was three, four or four and a half or five. Now, at page 7 to 9 of your statement deals with the incident with the Sword of Orion, okay. To get the question--

A. Sorry, which one are you looking at? Are you looking at 3 November?

Q. Yes, I'm one of those people who start at the beginning and move through to the end.

CORONER: No, no, you might have different - I think this has been copied off the disk and the pages don't line up, I think that's what's--

HILL: I see, alright.

Q. What I'm going to ask you to do is go to page - sorry, question 21.

CORONER: Yes, do it by questions.

HILL: Q. Can you find that?

CORONER: The very long answer, Mr Purcell.

HUNT: Twenty one starts on page 4 of your copy.

CORONER: Question 21.

HUNT: Does it start on page 4?

WITNESS: Correct, I've got 21.

HILL: Q. Have you got 21? Right. Now, the question was can you just sort of give me a summary of your race, your view of the race from the time you left Sydney to the time you got to Hobart as far as weather and conditions.

A. Uh hmm.

Q. Right? As far as weather and conditions?

A. Uh hmm.

Q. Your answer begins okay, we started the race very ordinarily. We had a plan and we stuck to our plan.

A. Uh hmm.

Q. And it goes on from there and it goes for over the next page, over the next page, over the next page, this is all your answer, the answer to the as far as weather and conditions and you say - it's the bottom of page 7 of mine, we had a chemist on board who helped a couple of us. Have you got that? It's one part of your answer.

A. I remember--

Q. Gave us - no, I want you to look at your answer. We had a chemist on board--

CORONER: Take your time, just try to find it.

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HILL: Q. --who helped a couple of us.

CORONER: It's not easy.

A. Mm. I haven't found it but go on.

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HUNT: Top of page 8.

CORONER: Thanks, Mr Hunt.

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HILL: Q. We had a chemist on board who helped a couple of us, have you got that?

A. Yes.

Q. Gave us the right drugs, although we knew what to take but he had a little brew of his own, he gave me some of that and he gave the forward hand some of it, I think the only ..(not transcribable).. we had was the fact we didn't have an engine going to the Sword of Orion incident at about 6.30 or I thought 6.30. Now, you were asked a question about as far as weather and conditions were concerned. It's you that brings up the Sword of Orion?

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A. Thought it was.

Q. You say Colin Betts now tells me it was more like quarter to 7 on the 27th. I was in the cockpit looking to leeward, Bill Riley who was - who you're going to interview soon was steering the yacht and Dave Wiggin who hadn't done a Hobart before was sitting in the cockpit on the leeward side facing myself. I sighted - I sighted a hand held orange flare and it's hard to tell how far he was down, this boat, but without the flare I wouldn't have sighted him because he blended in so well with the water. The water was sort of whitish, bluish with a lot of veins running through it, because the speed of the wind and I reckon I had that yacht in my sight for about five seconds and the flare - the flare went out. I then said to Bill I've sighted a yacht down below. What you're talking about is down below your vessel?

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A. Yes.

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Q. I asked Dave Wiggin who was sitting in the cockpit with me to find a torch. He found a torch and I stood up and I flashed a torch back in the general area I thought the yacht was in. What sort of torch was it? A large one or sort of--

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A. Yes, it's a high powered hand held torch that we use for working around the cockpit and the deck at night time.

Q. I then yelled out to Col. Now, you're talking about Col Betts?

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A. Yes.

Q. Who was in his bunk to get a fix on where we were. Then I sighted a yacht, a yacht to leeward of us and I said - he asked me what sort of yacht it was. So you actually told him you'd sighted a yacht?

A. Yes.

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Q. No question about that?

A. No question.

Q. I said I thought it was a Farr 37, it was laying at an angle, it was trying to lay head to wind but it couldn't. It also had drogues out the front of the boat. So I take it you could see that?

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A. I'm assuming that in the tense that I've put - I've put that to the interview, on the basis that the boat was lying at an angle that would suggest to me that it had drogues out the front of it.

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Q. You go on to say I think it must have had drogues because otherwise he would have been facing - his stern would have been facing us.

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A. Correct.

Q. So that's why you think that?

A. Mm.

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Q. I could see men on the deck in the cockpit, how many I can't remember. I can remember the person with the flare. So you could see someone with a hand held flare?

A. Correct.

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Q. Col got on the radio but with dramas that were happening I think at the time with Team Jaguar I'm not sure whether Winston Churchill was involved we couldn't get through. He didn't make the report until about 5 past 7 of our then position and by then - by our then position you're talking about when the flare went off, is that right?

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A. Correct.

Q. Our position at--

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A. Sorry, sorry, no, it's when I sighted the flare, not when it went off.

Q. When you sighted it, that's what I mean, I'm sorry, yes, when you sighted the flare. Our position at 6.45 is what he tells me. He gave our position then. I estimate that the yacht that I sighted was 500 metres to leeward of me. I did say to Col when he got through to advise Telstra that we could not render assistance, that we didn't have a motor and I felt that it was too dangerous to make an attempt to turn the boat in those conditions. Now, I'm going to take you back to that line there, I did say to Col when he got through. That can either be in the past tense or future tense, what were you saying there?

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A. I'll just take you through what happened to me in the afternoon of the 27th and you'll get a picture of when I said what and how I said it and when I said it. I was lying in the cockpit, what I thought was originally about 6.30. I

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wasn't feeling particularly well. I was able to lie in the cockpit because we'd made a decision to put a sail bag in the cockpit to prevent water entering our cockpit. Fortunately Norman didn't bring any photographs. However, the cockpit can hold a large volume of water and we were getting belted by tonnes of water and so much so that we were having trouble containing it from going down below. I was lying in the cockpit and I had Dave Wiggin opposite me under the dodger and I had Bill Riley steering the boat. I was concerned because we were coming into twilight - we were in twilight and we were coming into darkness and I was worried about who was going to steer the boat that night and with all due respects to my crew, I knew in the back of my mind there's probably only going to be two guys could handle that boat at night time, safely. As I was peering down through the lifelines, watching these seas race from underneath the boat and away from us, I spotted a hand held flare. That hand held flare was the last thing I thought I'd ever see in the ocean but it was there. And then I looked again and it was the outline of a vessel dismasted and I thought shit, a dismasted yacht. It wouldn't have been one or two seconds from seeing it that I said to Dave Wiggin quick, find me a torch. I suppose within 10 seconds Dave found the torch and I didn't do - and I wasn't in the position that Colin Betts said I was in yesterday, I was lying down. I then stood up with the torch and turned it on and flashed it back in the general direction of the boat. I had him in my sights for five seconds, five seconds only. I then said to Bill, who was battling away, steering the best he could steer the boat in those mountainous seas that you saw yesterday on the film, and Mr Stanley I might say that is true footage from the 1998 Sydney to Hobart.

Q. Well just - never mind the statements, just continue on.

A. I'm sorry. I asked Bill could he see a boat to leeward, and with all due respects to Bill, and I can understand why he didn't take longer than the couple of seconds he took to glance down, said no. I believe I then said through the glocked(?) up companionway, I yelled out to Colin to take a fix on where we were, that I'd sighted a flare and a dismasted yacht. I then sat down and began to wonder what I was going to do. I turned to Bill and I asked Bill what are we going to do, Billy?

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Q. Who's Bill?

A. Bill Riley, sitting in the back of the room there. I said what are we going to do Bill, and Bill says - well Bill says after about five, six seconds--

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Q. Just a moment, before you say anything.

HILL: Would you take Mr Riley outside.

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Q. Can you tell us what Mr Riley said?

A. I said Bill, what are we going to do? And he didn't give me an answer straight away, it was three or four seconds later. He said you're the skipper, it's your call. So I then sat down, knowing I didn't have a lot of time to make my mind up as to what I was going to do, and I went through all my options. I went through the actions I would have to perform in turning the vessel, which included getting men from down below in their safety gear, onto the deck to turn the vessel. Whether I would be - whether I would be attempting to tack the boat, which means taking up through the seas, or run the boat away, which means run before them and gybe the boat, I wasn't sure at the time. But I - if I was going to go back to them I had to do one of two things. I thought about what I could do if I did go back to them. I also thought I wonder whether I could find them. By the time I got the men on deck and turned and went back to them, I would be three - I could be three mile up the track somewhere from them, and to find them may - to me was probably going to be like looking for a needle in a haystack in those conditions.

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Q. Have you finished?

A. No, I'm thinking.

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Q. Are you thinking? Well just one moment. You'd already - you'd have a fix on their position?

A. Yes, we do.

Q. Col Betts had that?

A. Correct.

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Q. If you were going to come back you could have fired flares, white flares?

A. Correct.

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Q. You could see a red flare at 500 yards?

A. I'm not sure about that. In those sea conditions I

think you had more chance of seeing a hand held flare than you would a rocket flare.

Q. You saw a hand held flare?

A. Yes, correct.

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Q. At 500 yards?

A. Approximately that distance.

Q. Approximately that distance. All right, go on.

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A. I think after four or five minutes I made my mind up that I was going to hold course, and I yelled out to Colin when you get through to Telstra Control tell them because of the conditions we are not rendering assistance, or words to that effect.

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Q. What I want to know is all the things that you've said to Betts to radio through because that's important, and you know why it's important. You've heard what I've just said?

A. Yes.

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Q. Well you tell us what you told him to radio through, bearing in mind that as you've put it, it was your call, you're the Master of that vessel. Tell us what you told him to do.

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A. After making the decision that we were not going to turn the vessel, I yelled out to Colin when you get through to Telstra Control, tell them that we are not rendering assistance because it's too dangerous.

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Q. What about the other information you'd already given him? Position, what you wanted him to convey.

A. Well initially all I said to Colin was that I'd sighted a flare, a dismasted boat, to take a fix on where we were and to contact Telstra. That was - it was as simple, as basic as that.

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Q. So what did you expect from your signaller, Mr Betts?

A. I knew Colin would do that.

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Q. Do what?

A. What I told him to do, which was get on the - get a fix on where we were and get on to Telstra.

Q. And tell them what?

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A. And tell them that we weren't rendering assistance.

Q. No, that comes second. I'm trying to find out what it is that you first want him to pass to Telstra Control.

A. Well there's two instructions to Colin.

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Q. The first one I'm after.

A. I - initially I say Col, are you there, and Colin answers me and I say Colin, I've just seen a flare, a dismasted vessel, take a fix on where we are. Then say five minutes later I've made my mind up about what I am going to do. I then say to Colin, Col when you get through to Telstra, tell Telstra because of the conditions it is too

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dangerous to render assistance, words to that effect.

Q. So you expected him to pass on what about the sighting?
A. Well of course I did, he's my navigator. He's an extremely experienced navigator, Mr Hill. He's an extremely experienced yachtsmen and I know--

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Q. Mr Purcell.
A. Yes?

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Q. Did you hear the question I asked you?
A. Yes.

Q. Then would you answer it?
A. I have.

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Q. Well I'll ask it again and I will keep asking it. Now listen. What was it that you expected him to pass on to Telstra Control in regards to the yacht and the flare?
A. Exactly what I asked him to do.

20

Q. Well what was it that you asked him to do?
A. I thought I'd answered that.

Q. Well no, you've said take a fix, I've got a dismasted vessel with a flare.
A. Yes.

25

Q. What is it that you want him to pass on to Telstra Control? It's all I'm asking you.
A. At that point there?

30

Q. Yeah.
A. Well I don't tell Colin to do anything until I've made my mind up about what we're going to do. It's in the second statement to Colin that I say when you get through to Telstra, tell Telstra that we're not rendering assistance, that it's too dangerous, and that's what I would have thought Colin did and I believe he did do that.

35

Q. Well look, we seem to be at cross-purposes. I can understand you telling him tell them we can't render assistance, but there's got to be a first part to what you expected him to send, that is, about the other vessel. That's what I'm trying to find out what you thought he was going to say.
A. Sorry, okay. Stage 1.

40

Q. Yeah.
A. Got a yacht, no mast, flare, take a fix Col. They were my instructions to him. My next instructions are Col, when you get through.

50

Q. Do I assume from that what you're trying to say is that you expected him to contact Telstra Control and tell them that you had sighted a dismasted yacht with a red flare? Is that what you expected him to pass on?
A. I'm not sure whether it was - the word red was used

55

because it was an orange flare, but that's what I expected him to tell them.

Q. Fine, that's all you have to tell us, it's what you expected him to do. And that's what you expected him to do, and then you made an addition to that. You said tell them also presumably that we can't render assistance, or words to that effect. Is that right?

A. Correct.

Q. And that's what you expected him to pass on to Telstra Control?

A. Correct.

Q. Then if you could go to question 25. It appears to be simply a continuation, and I want to direct you for the first page of that question 25 to the second page, and halfway through you say "I'm convinced I did not know it was Sword." You've got the words to that effect there?

A. Yes, yes.

Q. And "it didn't matter what boat it was. I didn't know the condition of Sword. I didn't know whether they were sinking or what their problems were." Okay?

A. Correct.

Q. "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 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." Even though it's spelt no I think it should be know, is that right, in there?

A. I think so.

Q. "But I said am I making the right call, and he said you're making the right call." Now do I take it - well you tell us when that conversation took place.

A. That conversation took place some time after making the decision because--

Q. Well I think that's self-evident isn't it?

A. Some time, I'm talking a few hours after I made that decision.

Q. A few hours after?

A. Mm. It's not worded that way in there but it was some time after. I know I asked - I believe I asked Bill Riley, or Bill Riley may have said to me it's the right call and he said that very shortly after I made the decision, but I believe I went down off watch and said to Colin have I made the right decision? It's come out there as though I've said it within a very short time of having made that decision.

Q. But my friend who appears on your behalf, Mr Hunt, was questioning Mr Betts and he was putting it to him that you had come down and this conversation had taken place more or less about the same time as the radio.

A. No, no, no.

HUNT: No, Mr Hill. What I put to Mr Betts was that when Richard came down after his watch.

HILL: I see.

Q. So you didn't actually seek Mr Betts' counsel on what you were doing. Is that what you say?

A. Correct.

Q. He's the most experienced person on the boat?

A. Correct.

Q. And you saw fit not to ask him?

A. Correct.

Q. Why?

A. Because having previously asked - having previously asked Bill Riley what I should do, because I was looking for some guidance, Bill said it's your call, you're the skipper. I thought well okay, I'll have to make the decision, so I made the decision based on that.

Q. Even though you had Betts?

A. Correct, correct.

Q. Just there while you were communicating?

A. Correct.

Q. You didn't ask him?

A. Correct.

Q. He's the most senior person on the vessel?

A. Correct. I made a command decision, Mr Hill, a very difficult decision, one that I hope I don't have to make again, but I had to make it and I made it.

Q. Because of the rough seas, the state of the seas?

A. Because of the conditions we were in.

Q. What about the dismasted yacht? Do you think that might have been in pretty severe conditions too?

A. It was.

Q. You had two radios?

A. Correct.

Q. They were both working?

A. HF was turned on. VHF wasn't.

Q. But you know that VHF is used for channel 16 don't you?

A. Correct.

Q. What's channel 16 for?

A. It's a distress frequency.

Q. What's a red flare mean or an orange flare?

A. Distress.

Q. You know the capabilities of VHF? It's line of sight isn't it?

A. Correct.

Q. You didn't know what yacht it was?

A. Correct.

Q. You didn't know if they had a hand held VHF set, did you?

A. Correct.

Q. You didn't give any order to switch on the VHF and go to channel 16, did you?

A. Correct.

Q. You knew that Telstra Control were going to get back to you, didn't you?

A. No, I didn't, I didn't know what was happening down below. I was in - I was in the cockpit. I was - I was watching everything that was happening at the helm and around the boat. What Colin was doing down below, Colin was doing. I had full faith in Colin Betts. I was running - I was running the boat from the cockpit and Colin was doing his radio work, navigational work.

Q. Well you never had enough faith in him to ask his advice.

A. That's not correct.

Q. Well you didn't ask him until a couple of hours later.

A. Correct.

Q. You didn't know what was going on down below with Colin Betts. That's what you've said?

A. That's correct.

Q. You are the Master of that vessel?

A. That's correct.

Q. You have just made a decision that must have been agonising, to say the least, to leave a dismasted yacht not knowing what the condition of its crew or indeed the vessel was, and you don't know what's happening down below in your radio room?

A. That's correct. Mr Hill, we were - we were - we were battling for our lives at that particular time.

Q. That's not what you said when you got off the vessel when you got into Hobart, was it? We'll play the video of your report, okay?

A. Okay.

Q. Let's listen to it, because what you say is the race was easy. Just have a look at it.

VIDEO TAPE SHOWN

Q. We are talking about the same race in those two things

aren't we? You know, the questions I've asked you here and that video, the same race?

A. We are, Mr Hill.

Q. Well what is that? 5

A. A bit of fantasy.

Q. You've been in seaways three times bigger? 10

A. Fantasy.

Q. You're a Master of a vessel and you tell me that that is fantasy? 10

A. Course it is.

Q. Look, the reality of this - incidentally, you went on to win your race in your division, didn't you? 15

A. Correct.

Q. In there you say you got on with the race. 20

A. Correct.

Q. You were racing your vessel throughout. There's no question about that?

A. Mr Hill, we were not racing the vessel for over 12 hours. We were in full survival mode. I was down to a storm jib, we were not racing the boat. 25

Q. But you've been in seaways--

A. We were nursing the boat through those conditions. 30

Q. You've been in seaways three times bigger than that.

A. Well that was fantasy. I'm going back to 1979 as a young fellow at 27 doing a delivery across Bass Strait and we got clobbered by a storm typical of the one we were in in 1998, and I was absolutely petrified. 35

Q. Well let's just understand this. Whether or not--

A. I'm just - it's unfortunate that I made that interview, very unfortunate, but we don't hear the question either about what was put to me and why I answered it that way. 40

Q. What was it?

A. But I believe - pardon?

Q. What was the question? 45

A. I don't know what the question was.

Q. Well look, the reality is this. When you'd made your decision to continue on, you made no attempt to contact that vessel that was dismasted, did you? 50

A. I personally didn't, no.

Q. And you gave no order that an attempt be made to contact the vessel, did you?

A. No, I didn't. 55

Q. And you had a VHF set and you knew that channel 16 is the channel were people speak on when they're in distress?

- A. That's correct, but the vessel was without a rig and perhaps at the time I thought that contact via VHF 16 wouldn't have worked. But I wasn't thinking about radio. I was not thinking about the radio. I have to - I'm being open with you. I left that job to Colin Betts. 5
- Q. But you are the Master of the vessel.
A. Correct.
- Q. You are the one who makes the decisions. That's correct isn't it? 10
A. I make most of the decisions, yes.
- Q. Well you made the decision for Betts to contact Telstra Control. You told him to do it. 15
A. Correct.
- Q. You had taken, if you like - or you were in command of the situation. That was the situation you had and the first thing you did was order Betts to communicate with Telstra Control? 20
A. Correct.
- Q. And you made the decision because you told them it's my call. That's the reality. 25
A. Correct. I was reminded of that fact by Bill Riley.
- Q. Don't you think you had a responsibility to try and make contact with that other vessel?
A. Yes, I do. 30
- Q. But you didn't. You didn't even attempt it.
A. The other vessel was dismasted and I had full faith in Colin Betts in operating the radio and navigating the boat. 35
- Q. You told Colin Betts to take a fix where you were?
A. Yes.
- Q. He did that. He obeyed your instruction?
A. Yes. 40
- Q. You told him to contact Telstra Control. He did that, he obeyed your instruction. Do you think perhaps he might have been waiting for instructions from the Master of the vessel? 45
A. I don't know.
- Q. But isn't it your responsibility to know as the Master of the vessel?
A. Yes. 50
- Q. You've made a decision, and as you've told us earlier, from which people will look at you because it is the most heinous crime that a sailor can in fact commit.
A. What is that? 55
- Q. Leaving a distressed vessel.
A. Mr Hill, I agree with you, but, but I was in a life

threatening situation. I had myself and 10 men.

Q. I'm not disputing that.

A. And I made the decision based on their lives as well as the lives of those that were aboard the stricken vessel. 5

Q. Exactly.

A. A tough call. I don't want to make it again.

Q. I have no doubt whatsoever about that. What I'm asking you is that you didn't try to make contact with the stricken vessel and you tell us you expected Betts to do that? 10

A. Yes.

Q. But you were in command. 15

A. Yes.

Q. Did you know that Betts switched off the radio, the HF radio? 20

A. No.

Q. Well what do you think he was doing?

HUNT: Your Worship, I don't know how he can answer that. There's no direction to that question at all. 25

HILL: I press it.

CORONER: I'll allow it. 30

HILL: Q. What do you think he was doing down there?

A. Making contact with Telstra Control.

Q. Well did you ask him what was happening? 35

A. I don't believe I did. I was steering the boat Mr Hill from 7 o'clock in the evening and to my recollection till 10.30, whereby I was - I was spuming (as said) green bile to the point where I lost my balance and was asked to be taken off the helm, because I had decided earlier in the evening that I was going to steer the boat as long as I could steer it and then hopefully Colin was going to take over. So I had my - I had - I can tell you I had my hands full. 40

Q. You had 10 men aboard your vessel? 45

A. Correct.

Q. What were they doing?

A. They were off watch, secure down below except for the other two that was in the cockpit with me. 50

Q. You were steering the vessel from 7 o'clock till half past 10 did you say?

A. Yes.

Q. That's three and a half hours. 55

A. Correct.

Q. Is that when you went downstairs and spoke to Betts?

A. It is.

Q. So it wasn't two hours later, it was three and a half hours later?

A. Yes.

5

Q. So the conversation when you decide to consult Betts, the most experienced person on your yacht, was three and a half hours later?

A. Correct.

10

Q. Did you ask him what was happening in between time? What had Telstra control said?

A. I don't believe I did.

15

Q. When did you find out that he had turned the radio off?

A. When I was down below off watch.

Q. Three and a half hours later?

A. Correct.

20

Q. What did you say to that?

A. I went off watch violently seasick, so I didn't say anything to anybody. I got in the rack and I stayed there till my watch.

25

Q. Well you did say something to someone. You said something to Betts.

A. Apart from saying to Colin did you get through and Colin said yes, and I recall saying to Colin do you think I've made the right decision. And outside that I got into the bunk and got some rest.

30

Q. And do you think that what you did with regards to the communications about that stricken vessel was the right thing for a Master of a vessel to do? I'm not talking about not turning around.

35

A. No.

Q. I'm talking about trying to communicate with the other vessel. Do you think that was the right thing for a Master of a vessel to do?

40

A. Under the circumstances Mr Hill, I left the operation of the radio to the licensed operator, Colin Betts. It was his job and I delegated that job to him because I believed him to be responsible, experienced and capable in carrying out my instructions and anything else that he may think of doing.

45

Q. What about you?

50

A. Well I've already answered that haven't I?

Q. So do you think - I'll ask the question again. Do you think that what you did in regards the communications was the correct thing for a Master of a vessel to do, to leave it to a subordinate?

55

A. I suppose it would depend what the subordinate did and how he did it.

Q. You're a builder by profession?

A. Yeah.

Q. You have a foreman?

A. Correct.

5

Q. You have them on site, they have a site diary?

A. Correct.

Q. And you ask them to report to you at the end of each week how the work is going, don't you?
(No verbal reply)

10

Q. Don't you?

A. You could do.

15

Q. Well have you got building projects going where you don't ask what's happening?

A. I look, but I understand your point.

20

Q. And you didn't ask Betts for three and a half hours what was happening?

A. No, I didn't.

Q. Knowing that there was back there a dismasted yacht with people in the cockpit with a hand held distress flare saying help me?

25

A. Correct.

HILL: I've nothing further.

30

STANLEY: We have no questions, your Worship.

WEBER: I have no questions, your Worship.

35

COLEFAX: Q. Mr Purcell, you gave some evidence at the beginning of your questions to Mr Hill concerning the interview that the police conducted with you on 29 January 1999. Remember that general question and answer?

A. Yes.

40

Q. And I think you described the atmosphere in which you were questioned as being a casual atmosphere. Remember using that expression this morning?

A. Yes.

45

Q. By that may his Worship understand it to be that the police were not conducting the interview in any form of threatening or intimidating fashion?

A. Correct.

50

Q. They were putting you at your ease, weren't they?

A. Very much so.

Q. So that the interview process was in fact facilitated by the informal non-threatening way in which the officers conducted the interview. Would you agree with that?

55

A. Yes.

Q. And it would have made anybody participating in such an interview more able to concentrate on the facts rather than worrying about threats from the police. You'd agree with that wouldn't you?

A. Generally yes.

5

Q. As far from your discussions with Mr Betts, he similarly had a relaxed interview with the police didn't he?

A. I believe so. I wasn't at Colin's interview.

10

Q. In answer to some questions from Mr Hill you said that you weren't thinking about the radio, that you left that job to Mr Betts. Do you remember saying that twice to Mr Hill?

A. No, but if you say I did.

15

Q. But it is the fact that you involved yourself in the radio operations, isn't it Mr Purcell, because you in fact instructed Mr Betts to contact Telstra Control, didn't you?

A. They were my instructions to Colin, yes.

20

Q. So you did intrude yourself into the radio operations. That's correct isn't it?

A. No, communications, not operations.

Q. You intruded yourself into the radio operations process didn't you, because you instructed Mr Betts to make a particular call?

A. Yes.

25

Q. There was nothing to prevent you similarly instructing Mr Betts to use the VHF to contact the stricken vessel. That's correct isn't it?

A. Can you ask that question again?

30

Q. There was nothing to prevent you similarly instructing Mr Betts to operate the VHF radio, was there?

A. If I had have thought of the need to ask Colin that question or direct Colin to that action, I would have, but the fact of the matter is in all the years that I have skippered a vessel in yacht races, except for deliveries which I've always been on at the conclusion of the event, I have never been involved with navigation or the radio operation of my vessel. I have always relied upon the expertise of either the likes of Richard Hammond or Colin Betts, and therefore my line of thinking is a little bit different to those that sit at nav tables and navigate and operate radios.

35

40

45

Q. Nevertheless Mr Purcell, you did take it upon yourself to issue a specific instruction to Mr Betts to contact Telstra Control, didn't you?

A. Yes.

50

Q. I repeat my question. There was nothing to prevent you giving an instruction to Mr Betts to use the VHF16 to contact the stricken vessel, was there?

A. At the time I didn't know what - I didn't know what frequency or what radio Colin would have been using. I

55

assumed at the time it would have been VHF. I would assume now and I now know that he was on VHF - he was on HF.

Q. You now know and you knew then that you both had a VHF radio facility, didn't you?

5

A. Yes.

Q. I won't ask the question a fifth time, Mr Purcell. You clearly don't want to answer it. Were you present in Court yesterday?

10

A. Yes.

Q. And did you hear the evidence given by Mr Betts?

A. Yes.

15

Q. Do you recall that I asked him some questions concerning the entry in the Telstra Control radio log on sheet 19 when Mr Carter recorded the information he received from Mr Betts?

A. Yes, I do.

20

Q. Do you remember yesterday that it was Mr Betts' contention that in addition to the material which Mr Carter recorded on that sheet being part of exhibit 24A, he, Mr Betts, also informed Mr Carter that the boat had been dismantled, the observed boat was dismantled?

25

A. Correct.

Q. Do you remember the line of questioning in general terms about that subject matter, or do you recall that there were questions about that?

30

A. Yes.

Q. You're aware are you not Mr Purcell, that sheet 19 of the radio log records at 19:20 hours on 27 December 1998 the message from the Margaret Rintoul concerning the red flare?

35

A. Yes.

Q. You in fact have seen the log?

A. Course I have.

40

Q. And you saw that log some considerable time ago for the first time, didn't you?

A. I saw that log on 26 May 1999.

45

Q. Thank you. So that the fact that the log did not refer to a dismantled vessel has been known to you since 26 May 1999?

A. Correct.

Q. You contend do you not that the absence of that is of significance?

A. Would you ask that question again?

Q. I'll put it another way. If a boat sending a red flare is also dismasted, the fact that that boat is dismasted would be of additional significance to rescue authorities, would you agree with that proposition?

A. A red flare, an orange flare means one thing, that somebody is in distress.

Q. Yes and the cause of the distress can be from a variety of sources?

A. Correct.

Q. One of the sources is that the boat is dismasted?

A. Perhaps.

Q. Wouldn't you think that the rescue authorities, knowing that a boat had issued a red flare, would also wish to know whether - what the source of the problem was, the source of the distress?

A. Yes.

Q. And wouldn't you have thought that the rescue authorities would have wished to know that the boat sending the flare had been dismasted?

A. Yes.

Q. If the message had been sent as Mr Betts said it was, namely with the inclusion of the dismasted material or information, the omission from the radio log of that piece of information would be of significance to rescue authorities, would you agree?

A. I would have thought so and that's why Colin Betts was waiting at the end of his transmission for half an hour for the Telstra Control vessel to come back to him and he heard nothing more.

Q. Indeed if that information about the yacht being dismasted had not been sent, it would reflect upon the competence and skill of Mr Betts, wouldn't it?

A. Would you repeat that again?

Q. If the transmission sent by Mr Betts did not include the information about the yacht being dismasted, that fact would reflect upon the competence of Mr Betts, would it not?

A. It may. However, it would reflect on Colin not doing what I asked him to do but whether it would reflect on his total competence I'm not sure.

Q. You've already agreed haven't you Mr Purcell that the information concerning whether or not the boat was dismasted was something that would have been of significance to rescue authorities? Haven't you agreed with that proposition only a few minutes ago?

A. Correct.

Q. And of course it's the purpose of the navigator to efficiently and competently transmit information over the radio, isn't it?

A. Correct.

5

Q. If the information had not been sent an adverse reflection - there would not only be an adverse reflection on Mr Betts but also by implication upon you as the skipper, would you agree with that?

A. Yes, I would.

10

Q. It's therefore in your interests to persuade the Coroner in the context of this inquest that the transmission concerning the dismasted yacht was sent?

A. Would you say that again please?

15

Q. It's therefore in your interests to persuade the Coroner that the transmission which was sent included information about the yacht being dismasted?

A. I'm here to honestly answer the questions that are put to me, not to persuade anybody but to give the answer as I know it.

20

Q. Did you obtain a copy of Mr Betts' record of interview with the police that he gave on 10 February 1999?

A. Yes, I've seen a copy.

25

Q. When did you first see it?

A. Twelve months ago, longer. The transcript? I'm not sure when I got the transcript but I - I think - I think I may have listened to the tape, I can't remember. I know I've read the transcript.

30

Q. The transcript of Mr Betts' record of interview with the police?

A. Correct.

35

Q. You've heard the questions yesterday that I put to Mr Betts to the effect that in the record of interview he did not expressly say that he told Mr Carter that the observed yacht had been dismasted?

40

A. Yes. I also heard Mr Betts say that the form of the interview was casual--

Q. Unthreatening?

A. Unthreatening.

45

Q. And in a way likely to elicit all relevant information?

A. Yes.

50

Q. You've been concerned for some time haven't you that the impression - by the impression created by that record of interview, namely that Mr Betts had not communicated to Mr Carter the fact that the yacht was dismasted?

A. No I haven't.

55

Q. You agree do you not that the record of interview with Mr Betts gives the clear impression that that particular

piece of information was not conveyed by him to Mr Carter in that radio transmission?

A. No I'm not. If you read Colin Betts' interview in full and knowing the man Colin Betts then I know what Colin is saying in his interview is that he told Telstra Control, that he was reporting a flare and a dismasted yacht.

5

Q. You actually never heard the transmission did you?

A. No I didn't. I'll be interested to hear it.

10

Q. For some time now you've been aware I want to suggest that Mr Betts would have given evidence to this inquest that the transmission he made included information about the yacht being dismasted? You knew his evidence would be to that effect, didn't you?

15

A. Yes. When I heard it.

Q. But you knew it, that he was going to give that evidence before yesterday didn't you, because you had discussed it with him?

20

A. No I hadn't.

Q. You had not discussed with Mr Betts at any time the substance of the record of interview with the police, do you say that?

25

A. I've had very little discussion with Colin Betts about 1998 Sydney to Hobart.

Q. Were you in Court yesterday and did you hear Mr Betts say that he had had discussions at your home--

30

A. Yes.

Q. --about the record of interview? Did you hear that?

A. Did he say about the record of interview?

35

Q. Did you hear his evidence?

A. He's been to my house.

Q. Discussing the events of the 1998 race?

A. Well if you say so I would have heard it.

40

Q. Did you hear Mr Betts say that on oath yesterday?

A. On oath what? I just answered your question.

Q. You've been aware for some months I want to suggest Mr Purcell that Mr Betts yesterday was going to give evidence to the effect that the transmission he made to Telstra Control included information that the observed yacht was dismasted?

45

A. I've known for 18 months that if Colin got asked the question that he would say that he reported a flare and a dismasted yacht. There was nothing to discuss. What's there to discuss about it? The fact of the matter is it's a fact.

50

Q. And you're aware aren't you that in his record of interview Mr Betts does not expressly say that he told Lew Carter that the boat observed had been dismasted? You're

55

aware of that, aren't you?

A. I read Colin's interview and find out - and find that Colin does say that in his interview.

Q. I read to you part of question 89 of - have you got Mr Betts' record of interview there? 5

A. Yes I have.

Q. Could you please turn to question 89.

A. I haven't got - this isn't - what page are you on? 10

Q. We'll be working off different page numbers Mr Purcell, that's why I've given you the question number.

A. There's no questions on this one. 15

COLEFAX: I'm grateful to Mr Hunt, just see if he's got question 89 there.

Q. Have you found question 89? 20

A. Yes.

Q. Have you read that question and answer before?

A. Yes I have.

Q. It says does it not I spoke to Lew Carter who was on the radio. I said Lew, it's Colin Betts on Margaret Rintoul II. 25

A. What question number are you on?

Q. Eighty nine. 30

CORONER: Towards the end of the question.

A. Yeah, okay, go.

COLEFAX: Q. Have you got it? 35

A. Mm.

Q. Lew, it's Colin Betts on Margaret Rintoul II, 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 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 think that was the end of our conversation. You see that? 40

A. I see that. 45

Q. No reference at all to the yacht being dismasted, you see that?

A. Yes. 50

Q. I want to suggest to you that you were concerned that Mr Betts had not told the police that he had in addition told Lew Carter that the boat was dismasted?

A. Somewhere else in here, in his interview, where he actually says it. 55

HUNT: I think it's question 90.

WITNESS: Where is it?

HUNT: Question 90 of the interview.

CORONER: Q. What he says is you told him you had seen a
dismasted yacht. 5

A. Yes.

Q. He says nothing about communicating it to--
A. Telstra Control. 10

Q. --Telstra Control.

A. Yes.

COLEFAX: Q. The only part of the record of interview I
want to suggest to you Mr Purcell where Mr Betts sets out
chapter and verse what he told Lew Carter is the answer to
question 89 and I suggest to you that you were concerned
that Mr Betts' record of interview had not contained the
information that we've been discussing, namely that the boat
had been dismasted. That was of concern to you I want to
suggest. 15 20

A. It wasn't a concern to us.

Q. You're aware aren't you Mr Purcell that parties to this
inquest have had the opportunity of putting material before
the Coroner through counsel assisting? 25

A. Yes.

Q. You know that if only because Mr Carter himself did
precisely just that? You know that, don't you? 30

A. Yes.

Q. In fact, he prepared a statement which you saw before
the Easter adjournment of this inquest? 35

A. Yes.

Q. And you had the capacity to bring any deficiency or
omission in the material you wanted to put before this
inquest to the Coroner in advance of any particular hearing? 40

A. Yes.

Q. You've taken Mr Betts to see your solicitor, Mr Hunt,
haven't you? 45

A. Yes.

Q. Would you agree that the first time there was any
evidence or any suggestion that Mr Betts expressly told
Mr Carter that the observed yacht was dismasted was
yesterday afternoon? 50

A. Say that again?

Q. Would you agree that the first time that this inquest
has been told either on oath or in a document that the
transmission from Mr Betts to Mr Carter included the
asserted fact that the boat was dismasted was yesterday? 55

A. We've been writing to the Coroner, the CYC, for over
12 months about it.

COLEFAX: I defer to my learned friend Mr Hill.

HILL: I'm sorry, did Mr Purcell say he'd been writing about that?

5

CORONER: Mm. No, I think he said he's been writing to the Coroner and the CYC, not necessarily about that assertion.

COLEFAX: I thought that was his precise answer was to that question.

10

WITNESS: Let me finish it. And the contents of those letters has been vast.

COLEFAX: Q. Is in that vast material an assertion by you in express terms that Mr Betts told Mr Carter in that transmission that the boat was dismantled?

15

A. Yes, I - well, I think so, without looking at it all.

Q. Will you be able to find such correspondence?

20

A. I think so.

COLEFAX: Good. I call - no, I don't think I can.

HILL: May I suggest this, Mr Coroner, it's 20 past, if there are such letters I certainly don't know of any, perhaps we can take the morning tea and we can have a search for them.

25

CORONER: I've had a few communications with Mr Hunt but not on this issue.

30

HUNT: Perhaps if I could assist. I suspect that the communications Richard's referring to are the communications that I've had with you.

35

CORONER: It's a very specific question, it's a very specific issue.

HUNT: Yes but my recollection is that no question about the dismantled yacht appears in the correspondence.

40

CORONER: No, you haven't written to me about that, have you?

45

HUNT: Sorry?

CORONER: You haven't written to me about that?

HUNT: No, that's--

50

CORONER: Or to anyone else?

HUNT: That's what I'm just saying.

55

CORONER: That's the best you'll do.

HUNT: I'm content with that.

COLEFAX: Q. You now know don't you Mr Purcell that there is no correspondence between your solicitors and this inquest on that particular issue, you've heard that exchange?

A. Yes.

5

Q. You did not instruct your lawyers at any time to write to this inquest clearing up that aspect of Mr Betts' statement did you?

A. Did I instruct my lawyers?

10

Q. I'm suggesting you did not instruct your lawyers at any time to write to the Coroner or to counsel assisting or to contact the police to draw that omission in Mr Betts' statement to their attention.

15

A. No.

Q. And indeed so far as you know your lawyer did not suggest to Mr Betts that he should bring that omission to the attention of the Coroner, counsel assisting or the police?

20

A. Not to my knowledge.

Q. And indeed you were aware yesterday that Mr Betts would be giving evidence - that you and Mr Betts would be giving evidence after Mr Carter's evidence was completed?

25

A. Correct.

Q. Do you remember yesterday when Mr Betts was asked some questions by me that there were very long pauses in his answers?

30

A. There were.

Q. In those pauses he looked in your direction, didn't he?

A. I don't know, I've got bad eyesight Mr Collinson (as said).

35

Q. You were wearing your glasses yesterday weren't you?

A. I am and I can't see the eyes of the people in the back. In fact-

40

Q. During those pauses when Mr Betts was looking in your direction, you variously shook and nodded your head so as to suggest the answer to the question, didn't you?

A. I take offence at that Mr Collinson. Were you looking--

45

Q. Colefax is my name, not Collinson.

A. Colefax--

Q. I don't know about taking offence, how about answering the question?

50

A. I take offence - well I am, I take offence.

Q. Do you deny it?

A. The answer is no. Did you see me do that, Mr Colefax?

55

Q. It's my job to ask the questions Mr Purcell. Is there some particular reason why you did not bring to the

Coroner's attention before yesterday that aspect of Mr Betts' evidence concerning the error or the omission which you say surrounds sheet 19 of exhibit 24A?

A. Ask that question again.

5

Q. Is there some particular reason why before yesterday you did not through yourself, your lawyers or Mr Betts bring to the attention of the Coroner the error that you say is on this sheet, namely the failure of Mr Carter to record the fact about the dismasted yacht?

10

A. Norman? Sorry.

HUNT: I don't know that Mr Purcell says it's an error. It's Mr Betts has given evidence about the dismasted yacht.

15

CORONER: The omission. Rephrase it.

HUNT: Omission, yes.

CORONER: The omission from the sheet of that data.

20

COLEFAX: Q. Subject to the change of the word error to omission, is there a particular reason why the Coroner, counsel assisting, the police or Mr Carter were not advised in advance of the substance of that evidence?

25

A. I believe I have brought it to the attention of the police.

Q. When?

A. Months ago.

30

Q. Which officer?

A. Either David Upston or Stewart Grey. I've sent a lot of faxes to both of them.

35

Q. Concerning the omission on this sheet, is that what you're saying?

A. Well I know I've discussed it with them.

Q. Discussed it? To be quite clear, are you saying you have discussed the omission on this sheet with the two police officers you've just named who are sitting in Court? Or is this more fantasy?

40

A. Look, unless I had my files here and I've got - it's that high, I retract that.

45

Q. So is there some particular reason that you did not forewarn the Coroner, counsel assisting, the police or Mr Carter of that fact?

A. No.

50

Q. You don't have a grudge against Mr Carter do you Mr Purcell?

A. Why would I have a grudge against Lew Carter?

55

Q. You have read the statement he provided to the Coroner haven't you?

A. I have. Surprised by it but I don't hold a grudge

against Lew Carter and he knows that.

Q. You know don't you that he asserts--

A. I took Lew Carter sailing some years ago for the first time in three or four years, didn't I Lew? And I've been friendly with Lew ever since. 5

Q. Are you aware that he suggests that on 2 January 1999 he had a conversation with you in Hobart?

A. Repeat the question again? 10

Q. You're aware from the statement that was served on you or given to your lawyers that Mr Carter gives a version of a conversation that took place in Hobart on 2 January 1999?

A. I had two conversations with Lew Carter in Hobart. One was on 1 January and-- 15

Q. No, I'm just going to interrupt you Mr Purcell because I want you to answer the question I'm asking you rather than make a speech. You're aware aren't you that Mr Carter has given a version of a conversation which occurred he says on 2 January 1999 in his statement? 20

A. Yes.

Q. And in it he says that you came up to him and his wife and Mr and Mrs Brown and said to them - said to him in their presence I suppose you heard about the little dust-up last night, Sword of Orion alleges we didn't go to their assistance. I didn't see them. By the way, do you keep records of incoming transmissions on your radio, to which Mr Carter said yes. To which he says - you said can I see them. 25 30

HUNT: Your Worship, none of this was put to Mr Carter by Mr Colefax or by Mr Hill. 35

CORONER: No, at that stage I couldn't see the need but in view of the way the examination of this has gone I can now.

HUNT: Yes but-- 40

CORONER: It's a matter of weight.

HUNT: --an opportunity now of testing Mr Carter's statement. 45

CORONER: You've had your opportunity. You actually didn't want this raised, you asked me not to, you both agreed not to. I'm not in the club, Mr Hunt, I'm out of the club. Fine, if you both consent to it not being asked of Mr Carter, I went along with that. You assured me that there would be no problem with bias. I'm not in your club. As far as I'm concerned, it is raised validly now in the context of the examination of this witness. I will allow it. Sit down please. 50 55

WEBER: Your Worship, might I just say something?

CORONER: Yes.

WEBER: I'm part of no club with Mr Hunt.

CORONER: No.

5

WEBER: My client is part of no club with Mr--

CORONER: Good. That's excellent, thanks for that, Mr Weber. Now, would you sit down please. I will allow the question.

10

COLEFAX: Q. You were aware before you gave your evidence today of that version of the conversation which Mr Carter gave to the Coroner and your lawyers before Easter this year?

15

A. Correct. Or thereabouts.

Q. In which he asserts your first version to him anyway of the Sword of Orion incident was that you didn't see them?

20

A. Incorrect.

Q. You may say it's incorrect but you know it is something that Mr Carter said occurred?

A. Yes.

25

Q. Do you have - is your evidence concerning this document some attempt therefore to repay Mr Carter--

A. Absolutely not.

30

Q. --for his comments about you?

A. Absolutely not.

Q. You're offended by them, aren't you?

A. Initially I was, yes.

35

<WITNESS STOOD DOWN

SHORT ADJOURNMENT

40

<RICHARD PURCELL

CORONER: Mr Hunt, before you start I've got no issue with the - I think at the end of the day I'll have no issue with the decision not to go to the boat's assistance. I've had a lot of evidence about the conditions and whilst Mr Purcell may have been fantasising at Hobart I think I can take it as read that the conditions and the condition of his boat, if the engine was not operating, and his advice was that he couldn't go to its assistance, I'll accept that. The issues are rather the transmission and the text of it between Mr Carter and Mr Betts, anything that passed between Mr Purcell and Mr Betts and the issue of whether Mr Carter was ever told that Rintoul wasn't going to go to anyone's assistance. Those are the real issues. Anything else?

45

50

55

HILL: Communications, why they didn't try to communicate with--

CORONER: Yes and the issue of whether and why they didn't try to communicate with the distressed yacht. Those are the issues and so anything to do with the state of the seas and the substantive decision the skipper made, the witness made, not to go to the boat's assistance, you needn't take time up with that. Don't forget it's factual I think that Mr Charles went overboard some hours before. 5

HUNT: Yes, I appreciate that. 10

Q. Perhaps I could just Richard take you straight to this issue that you were questioned about before the break in relation to the dismasted yacht and whether or not that advice was given to Lew Carter. Perhaps you might just be able to assist me here a little bit. Would you agree with me that if there was a red flare there'd be a fair assumption that that would come from a boat? Is that a fair assumption in those circumstances if someone was advised there'd been a sighting of a red flare in the Sydney to Hobart in 1998 that it was coming from a boat in distress? Isn't a red flare a distress signal? 15 20

A. Correct.

Q. It would come from a boat, isn't that--
A. Correct. 25

Q. If there's a red flare, is it a fair assumption that there's crew on board?
A. Correct. 30

Q. There has to be someone there who set off the flare?
A. Correct.

Q. So therefore in your mind from your perspective is there any big difference between a message which says a red flare bearing 090 half mile and a message that also includes information about a dismasted yacht, from your perspective? Is that a big issue that it doesn't have dismasted yacht?
A. Correct. 35 40

Q. So it's not a big issue?
A. It's not a big issue.

Q. Has this ever been a concern - particular concern to you that the words dismasted yacht weren't in - on the radio log sheet 19? You know the entry about Margaret Rintoul II on sheet 19? Has it ever been a big concern to you that those words, dismasted yacht, didn't appear there?
A. I wondered why they weren't. 45 50

Q. Yes but was it a worry to you?
A. No.

Q. In fact, my friend Mr Colefax made some suggestions about advice you'd received from your legal advisers. Am I right in thinking that you actually had a conversation with me and Mr Shand of counsel to the effect that we didn't know what all the fuss was being made about the dismasted yacht 55

because I think to quote Mr Shand in his colourful language where the hell would the flare have come from if it didn't come from a yacht?

A. Correct.

5

Q. So the suggestions that have been put to you here about - the questions as to whether or not you instructed your lawyers to advise the police or the Coroner about what you saw as an omission in the paperwork and I think you told us all that you didn't give any such instructions?

10

A. Correct.

Q. Is that because you and your legal advisers from your perspective just didn't think that was particularly important?

15

A. Correct.

Q. Am I right in suggesting that you did give us instructions to advise the Coroner and the police and Mr Hill of a lot of other factors to do with the radio?

20

A. Correct.

Q. Including what we saw as incorrect timings in relation to this sheet, things out of order?

25

A. Correct.

Q. And items that we could hear on the tapes that weren't included on this?

30

A. Correct.

Q. And items that we could find in this radio log that we couldn't find in the tape?

A. Correct.

Q. You thought all those things were important but you didn't think from your perspective that whether or not the words dismasted yacht came through was particularly important at all?

35

A. Correct.

Q. Mr Colefax put to you that you were aware that Mr Betts would give evidence that he had also advised about a dismasted yacht and you've said that you were aware of that, but again did you think it mattered particularly whether he gave evidence in that regard or not?

40

A. Correct. I knew he would.

45

Q. Yes but did it worry you if he didn't?

A. No.

50

Q. Perhaps I can now just take you back to the events of the 27th. I have in mind what the Coroner has just put to me. I think in terms of the issues the Coroner wanted addressed, the actual conditions on that boat become relevant. I think - what time did the engine fail, can you recall? It was on the day of the 2th.

55

A. It was the morning of the 27th.

Q. I think we heard Col Betts say that you spent some time trying to fix that engine?

A. On two occasions I tried to fix it and spent two hours on each occasion.

5

Q. Were there fumes around when you were down trying to fix that engine?

A. The smell of the bilge, the engine hadn't been run for a few hours so no fumes but head down in a bilge and - not easy.

10

Q. In a rough sea?

A. Not easy.

Q. If we can just come through then to your coming up onto watch. Perhaps I'll just go back a little bit before that. You're now aware aren't you that in the '99 sailing instructions that there is a warning that you can't go into Bass Strait, a requirement you can't go into Bass Strait without an engine?

15

A. Correct.

20

Q. But that wasn't in place in 1998?

A. No.

25

Q. When did the seas and the weather conditions start to get bad on the 27th in Bass Strait when you were on MR11?

A. The wind grew to intensity from about 1400 hours onwards. The seas - the seas began to appear as monster waves at about 4 o'clock.

30

Q. How long before they abated?

A. Early in the morning of the 28th, I forget the time.

Q. You told the Court earlier that you went into survival mode. What time did you go into survival mode?

35

A. About 3 o'clock, 1500 hours, the afternoon of the 27th.

Q. What do you call survival mode? Just describe to us what the situation was?

40

A. Survival mode is where you prepare your boat for the oncoming wind and the sea conditions that you are anticipating and they include going to a sail plan, in this instance of a storm jib and preparing the rest of the boat in terms of removing all loose equipment from the decks and securing all halyards.

45

Q. And what about the hatchway down into the--

A. Including putting the hatches in place and locking the boat up.

Q. What do you do about people up on deck in that situation? Where do you put the people, the crew, in a survival mode? 5

A. Well in our case we had everyone down below except for the steerer and two other crew within the cockpit. 10

Q. So as many people as possible are down below?

A. Yes.

Q. And that's ..(not transcribable)..

A. Yes. 15

Q. When did you actually come out of what you describe as survival mode? When did you recommence racing?

A. We came out of survival mode when we had daylight on the 28th at approximately 05:00 hours and we commenced racing. 20
And I say racing, we changed our sail plan configuration from the storm jib to a number 5 and three reefs and the main I think at about 10 or 11 o'clock of the morning of the 28th. 25

Q. Your storm jib, is that the smallest sail that you have?

A. Yes.

Q. So you couldn't have been going any slower than that? It wouldn't be possible without an engine. What else could you have done without an engine in those conditions? You need some momentum? 30

A. Correct.

Q. So you used the storm jib on the front of the boat, is that correct? 35

A. The storm jib on my vessel is carried on an inner forestay which is set back approximately eight feet from the bow, and to go any slower would mean I would remove the storm jib and go bare poled, which is not advisable because momentum is my only defence to attacking the monstrous seas that we were in, and if I lose my velocity my momentum's affected, and if I don't have the correct momentum I lose steerage control. 40

Q. And then what might be the consequences of that? 45

A. The boat's placed in a precarious position with the momentum of the waves and it could be rolled.

Q. And that could endanger the lives of your crew? 50

A. Correct.

Q. So what do you say to the allegations and the claims that have been put to you here, that you were continuing racing on the afternoon of 27 December? 55

A. I refute that, refute it.

Q. If I can just take you to the time or the afternoon

then, I think you've told us that by 3 o'clock you were in survival mode. Who was steering the boat around about that time? Who was on the helm?

A. Dick Norman.

Q. Did you have any cause to be concerned about how Dick Norman was handling the conditions?

A. Yes, I did.

Q. Can you tell us about that?

A. I came off my watch, I was downstairs getting changed, and Dick had been driving the boat for three-quarters of an hour and he was panicking, panicking to the point where I said to Colin Betts you'll need to go and have a talk to Dick, otherwise I'll have to take him off the helm. Words to that effect. Because there's no doubt Dick Norman was panicking and he was driving the boat and it was--

Q. Did Colin Betts go and assist him?

A. Colin Betts put his wet weather gear on and took over the helm and relaxed Dick.

Q. If I can just take you to your record of interview of 29 January - have you got a copy there? - on page 11.

A. Mm hmm.

Q. Down the bottom of page 11, when you say you had a couple of crew members who were concerned, one of them that you're thinking of is Dick Norman. Is that correct?

A. That's correct.

Q. And then you go on to say there that "I had to show them I was leading this boat the best way to lead it and I couldn't, I was concerned myself." So you were concerned in those conditions?

A. I was extremely concerned.

Q. What do you mean by concerned? Is that a euphemism for being frightened?

A. Yes.

Q. But you didn't want to show your crew about how concerned you were in those conditions?

A. No, I didn't. I've been there myself before and been petrified.

Q. When you say before, when was that?

A. 1979.

Q. And they were similar conditions?

A. Well I thought worse at the time.

Q. You thought they were even worse than what you experienced. So you thought then that you found yourself back in a similar situation you did in 1979?

A. Yes.

Q. And that concerned, or correctly to say this, it

frightened you?

A. Yes.

Q. How fearful were you that something disastrous might happen to Margaret Rintoul II? 5

A. I was concerned that if we were to get a knockdown and rolled, then we could lose the vessel.

Q. I think you've said in your record of interview that whilst you were concerned, you were quietly confident that if you could proceed as you were then everything would be all right, proceed in survival mode heading towards Hobart that everything would be okay? 10

A. I knew that if I didn't make any rash silly decisions and I kept doing what I was doing, I should probably come out of the storm. 15

Q. What would you have felt about turning around?

A. It was just - it was not an option. 20

Q. Because it would just be too dangerous?

A. It was life threatening.

Q. What do you feel might have happened if you'd lost momentum in that condition, for instance, if your storm sail had blown out? 25

A. Well I would have been bare poling and I would have been left - I would have been left to the mercy of the sea.

Q. And what sort of things could have happened in that situation? 30

A. I could have been rolled.

Q. Because you've already told us that you need the momentum? 35

A. To keep control of the vessel and the direction of the vessel.

Q. If I can now take you back to a time when you came up on deck and I think that was at about 6.15, 18:15, would that be about right? 40

A. Yes.

Q. Who was on the helm at that time when you came up? 45

A. Bill Riley.

Q. What were the conditions like at that time, the sea conditions?

A. Probably the worst conditions that we were to experience during the storm. 50

Q. Did you have occasion to say anything to Bill Riley before you came up to join him?

A. I asked Bill to do his best not to drop the vessel off the waves. We'd dropped off a couple of big waves and I thought if we keep doing that the boat will founder, and in a gentlemanly way, the best way I could say it at the time, probably take him off the helm. 55

- Q. How many other helmsmen did you have on? You've already told us about Dick Norman and his being knocked down a couple of times and he was concerned and had to be relieved at one stage. Who else did you have on the boat that could-- 5
- A. Well we had Sven Runow but he'd become violently seasick and to his credit, unknowing to me, he'd gone to Colin and asked Colin to take his shift in steering the boat, and he did the right thing in fact. I don't think I would have let him steer the boat anyway because I knew he didn't have the experience in those conditions. 10
- Q. And in fact he said that to you?
- A. Yeah, he said it. 15
- Q. You were saying he was violently ill. How ill was he?
- A. Well he was spewing green bile so he was pretty sick.
- Q. And would that mean that - would you tend to be weakened in that-- 20
- A. Well you're very weak and you're very disorientated and you don't have the skills to drive a yacht in those conditions because you lose sense of direction.
- Q. In your record of statement you say that you were seasick yourself. 25
- A. Mm.
- Q. I think you say that you don't usually get seasick?
- A. No. 30
- Q. Have you got any view as to why you got seasick in this occasion?
- A. Well it was a very rough sea and I was under a lot of stress. I had made a decision not to render assistance to another vessel. I had the-- 35
- Q. I think you were seasick before were you not?
- A. Well I was but I was - I was - I was handling it. It wasn't until I'd been steering for quite a few hours that I'd become so violently ill I was spuming (as said) at the wheel. 40
- Q. But when you came up, and you've told us that you were actually concerned although you were keeping that concern from your crew because you thought it wouldn't be good for morale to let them know how frightened you really were about the conditions-- 45
- A. Mm hmm.
- Q. --but do you think that contributed to you getting seasick because you've said you were seasick actually when you came up onto your watch. 50
- A. Probably did.
- Q. You've told the Court in very detailed terms about where you were and how you came to see the flare when you did go up on deck. 55

A. Mm.

Q. You were the only person that saw it, the only person that saw that flare?

A. On our vessel?

5

Q. Yes.

A. Yes.

Q. So that if you hadn't told everybody else on that boat that you'd seen it and given the directions that you did give, no one else on that boat would have known of the sighting?

10

A. Correct.

15

Q. Then if I can just come to page 9, question 21 of your record of interview.

A. Yes.

Q. Is it a fair summary of what appears on that page to say that the commands that you gave, if you like, or the communication you had with Mr Betts was first a command to get a fix, for him to get a fix?

20

A. Yes.

25

Q. And that you advised him that you'd sighted the yacht?

A. Yes.

Q. Thought it was a Farr 37?

A. Yes.

30

Q. It was laying at an angle?

A. I don't know whether I said that to Col at the time.

Q. Did you talk to him about how you assumed that there was drogues?

35

A. No.

Q. Do you recall whether you actually said to him, I don't think it appears in here, did you say to him that it was a dismasted yacht?

40

A. Yes.

Q. You told him to advise Telstra that you couldn't render assistance?

45

A. Correct.

Q. This happened after you had sat and pondered for some time as to what you should do in the circumstances?

A. Correct, correct.

50

Q. Did you also use the words here at the bottom about it was too dangerous? Did you say that to Col or not?
(No verbal reply)

55

Q. If you can't recall, it doesn't matter.

A. Yes. I think that was the reason that we weren't going to render assistance and for Colin to tell them that.

Q. When we're talking about you having a conversation with Col, I think you said earlier that you had to yell?

A. It was extremely hard to hear each other in the cockpit. It was extremely noisy down below.

5

Q. Why is it noisy down below?

A. Well she was creaking and we were getting sandblasted by the - by the spume that was being blown off the tops of the waves against the hull.

10

Q. So up on deck the wind's howling is it?

A. She's pretty heavy.

Q. So you had to yell in a very loud voice?

A. Extremely.

15

Q. And so it's not a question of having a conversation with someone down below when you're upstairs?

A. No.

20

Q. So you just shouted very short sentences?

A. Yes, yes.

Q. Was there much water coming over the boat at that stage?

A. Tonnes of water, tonnes of water.

25

Q. What was--

A. Broken water and green water.

Q. What was the visibility like?

A. It was very hard to see. It was very hard to see because you were just continually getting covered in spray.

30

Q. It was put to you earlier I think by Mr Colefax that you could have given Col a direction to try and contact the boat that you'd seen on VHF, but you've already given evidence that you didn't do that.

A. Correct.

35

Q. But I mean the simple reality is it could have been a direction that you could have given but it's not one that you did give, and you gave an explanation to the Court earlier as to why that because you left the responsibility to Mr Betts. Is that correct?

A. Correct.

40

Q. You also I think gave us some evidence that you knew it was a dismasted yacht, and what was your own view about the likelihood - or now that you've had time to consider it, the likelihood of being able to contact a dismasted yacht on VHF in those conditions?

A. I didn't think we'd have any chance at all of contacting them on VHF.

50

Q. The--

A. 4483, yes.

55

CORONER: Q. But that's the point. Did it cross your mind

at the time?

A. No, it didn't.

HUNT: Q. Do you think that that feeling may have influenced you in any way, in other words, it's very hard to sort of recollect, but if you'd seen a yacht with a mast it may have occurred to you that that's what you should do? 5

A. Probably.

Q. Another matter that Mr Colefax raised with you was about a conversation you had with Mr Carter in Hobart. 10

A. Yes.

Q. I think the day following the race, and I think you told him that you had a couple of conversations with Mr Carter? 15

A. I did.

Q. But before you spoke to Mr Carter I think you had had a confrontation with Mr Watson on the dock or outside a hotel? 20

A. Outside a hotel.

Q. Was that before you spoke to Mr Carter?

A. Correct.

Q. During that conversation did you say to Mr Watson that you had seen a yacht? 25

A. Yes.

Q. I think the Court has actually heard Mr Watson's evidence that you did say that to him. 30

A. I didn't know what yacht I'd seen. By the time--

Q. By the time of speaking to Mr Watson?

A. By the time of talking to Mr Watson I realised it was the Sword of Orion. 35

Q. So it would have been - having spoken to Mr Watson and having advised him that you'd seen a yacht, it wouldn't have made a lot of sense to approach Mr Carter and deny that you'd seen a yacht, would it? 40

A. Don't think so.

Q. You were asking him if you could get access to the tapes. Well why were you asking him that?

A. I wanted to be sure that we had made contact with Telstra Control and that - and that my sighting had been received and recorded for the purposes of their rescue. 45

Q. And dealt with, yes.

A. And dealt with, yeah. 50

Q. Taking you back out onto the - into Bass Strait, when you came down, I think you said it was 10.30 that you came down from your watch?

A. Thereabouts. 55

Q. You actually asked to be taken off the helm did you?

A. Yes.

- Q. You spent some three hours or more on the helm?
A. Approximately.
- Q. Wouldn't that be a very long time in those conditions?
It would be a longer than normal-- 5
A. We normally do an hour on, an hour off watches.
- Q. You were on for over three hours?
A. From memory, yes. 10
- Q. What time did you actually take over the helm?
A. Just after 19:00 hours.
- Q. Why did you take over at that time?
A. Well Bill was tired and he needed a break, and I wanted 15
to steer the boat because I felt responsible for the boat.
- Q. Did you feel that you were the most capable of steering
it in those conditions?
A. I felt that I was one of the most capable. 20
- Q. Well who else did you have? Bill was tired, Dick Norman
had been knocked down a couple of times. How old's
Mr Norman?
A. Sixty-seven. 25
- Q. He'd been knocked down a couple of times. Sven Runow
was ill and advised you that--
A. I had Colin Betts. I've been with Col coming back from
Lord Howe when we got into a sou'west gale and there was 30
only the two of us steering it, and we had 50 knots of 18
hours, 20 hours, and it was really the first time I'd been
with Bettsie in tough conditions and I admired the way he
handled the boat, so I knew he could handle it. 35
- Q. So at this stage it's really down to you and Col?
A. If there was a choice, yes.
- Q. Between you and Col.
A. Yes. 40
- Q. And Col's already been on and then he comes up and
relieves you afterwards?
A. I don't know who relieved me. 45
- Q. You can't recall?
A. No.
- Q. I think he gave evidence that he wanted some rest
because he was on again after you came off. 50
A. I don't know.
- Q. When it's was put to from the comfort of this Court room
about why you didn't think of this, why you didn't think of
that, is that a fair way to assess it? Aren't you actually 55
out there fighting for the survival of your boat, you're
seasick, you've had to make a tough decision.
A. Mm.

Q. Would you describe that as the toughest decision you've ever had to make, the decision you made not to render assistance, to turn around to render assistance?

A. In yachting terms?

5

Q. Yes.

A. Yes.

Q. Or in human terms. It was a pretty big decision wasn't it?

10

A. Probably one of the biggest decisions I'd made, yes.

Q. And you've made that decision because of your very real concern for the safety of your own crew?

A. Correct. I had 11 men in a very precarious dangerous position, all of whom are married - I say all of them, except for I think two, most of them having had - given children, and I don't know I'd only had their lives to worry about but I had the lives of those that were on shore.

15

Q. And it was that that weighed upon your mind and led you to make the decision that you did?

20

A. Correct.

Q. And then, I think to quote you, you then got on with it, and getting on with it is not what people have suggested is getting on with the racing.

25

A. Correct, correct.

Q. It's getting on with keeping the boat in one piece and your crew in one piece, that correct?

30

A. Correct, correct.

Q. What do you think of the suggestion then that in these conditions when you've assumed the helm, you're seasick, you've really got only one other helmsman that you felt was appropriate to put on in those conditions, and it's put to you that you should have as well as doing all that checked with your navigator as to whether he got through? Am I right in thinking you had other more pressing things on your mind at that time having made the decision that--

35

40

A. Well I obviously had a lot of pressing things on my mind.

Q. How do you react to the criticism as I've put from the comfort of this Court room about why didn't you do this, why didn't you do that? Is it a realistic way to examine your conduct from this perspective?

45

A. It's normal.

Q. What's normal?

50

A. The attitudes. I mean I've copped - I've copped criticism from the day I started the yacht and made that decision to right now.

Q. In giving Colin the direction that you did to get through to Telstra, was your aim to alert the world so that a rescue could start?

55

A. Obviously.

Q. So in terms of your decision, the first decision that you had to make was whether you could turn and assist them physically, and I think it's been accepted that you did that by all - that you did that because of your concern for the safety of your crew and the boat, and having made that the next thing that you thought was appropriate was to alert the world to what you'd seen? 5

A. Correct. 10

Q. And you've actually told Colin Betts to tell the world that you couldn't render assistance?

A. Correct. 15

Q. So there's no concept at all in your mind of trying to hide that fact from the world that you were not going to render assistance?

A. Of course. 20

Q. Because you were telling the world--

A. Of course. 20

Q. --what you'd seen and you were telling the world that you couldn't render assistance? 25

A. Yes.

Q. And therefore it wouldn't make much sense for you to be down in Hobart trying to deny that you'd seen the yacht?

A. Correct. 30

Q. And you knew, or you hoped and believed, that what Colin had said would be recorded on the tapes in the radio relay vessel?

A. Yes. 35

Q. Because you went and asked for them.

A. Yes. 35

Q. So you knew they existed? 40

A. I went and asked Rod Badenach at the Royal Yacht Club of Tasmania on the afternoon of the 31st when the boat got towed around then, did he have any records. He gave me the same answer that Lew Carter gave me. 45

Q. Colin Betts gave some evidence that the wind conditions during the 27th remained fairly constant from about 2 o'clock onwards. Was that your observation as well?

A. Correct. 50

Q. What did you observe the wind speeds to be from your instruments, can you recall?

A. The speed of the wind didn't reach 60 knots on the instruments. The advice of Colin and Dick Norman was that they felt it was in the range of 60 to 70 knots of wind. 55

Q. There were gusts of winds above the average?

A. Yes.

Q. Would your instruments record those gusts?

A. I would have thought so but the highest reading we saw was 58 knots.

Q. The size of the seas from 3 o'clock I think when you said you went into survival mode to the time you came off watch at 10.30, did they ever abate? Did the seas ever get smaller during that period?

A. No, no.

Q. And when you sighted that yacht the seas were as bad as you experienced, would that be correct, when you sighted the flare on the dismasted yacht?

A. I felt the height of the storm was in a period between 5 and 10 o'clock, that was its worst. We were in what we call survival mode for eight, nine, ten hours, but I felt the peak of the storm was in that period between 5 o'clock in the afternoon and 10 or 11 o'clock that night.

Q. When you came down from your watch, this is you think at about 10.30, did you ask Col whether he'd got through to the Telstra radio relay vessel?

A. I believe I did.

Q. Do you recall him answering? Did he tell you a time or--

A. No. Colin said that he had but it took some time to get through because of the traffic.

Q. At that time did you discuss your decision with Col?

A. I believe I did.

Q. What do you think you said to him?

CORONER: That's all out, it's all out.

HUNT: I think that's probably all in relation to those issues.

CORONER: Q. Just a couple of questions. Did you have any standing instructions relating to when the HF radio should be on and off for that race?

A. Only the sailing instructions.

Q. And what are they? What were they, to what effect were they?

A. That the communication between the vessel and Telstra Control was on HF4483.

Q. So it was entirely up to you when you - apart from the skeds, when the radio was on or off?

A. I believe so.

Q. Was there a practice on Margaret Rintoul?

A. No, there wasn't, there wasn't a practice of leaving the radio on. When the skeds were completed and the weather was finished with and Telstra Control had completed their transmissions, we would turn the radio off.

Q. Turn it off. Why was that?

A. Well normally it's to give some peace and quiet down below, and in this case it was done because we didn't have an engine and we were conserving power.

5

Q. What about the VHF radio? Were there any instructions or procedures that related to it?

A. Not to my knowledge.

Q. Was it used?

10

A. Well in the sailing instructions we are to use VHF when we enter I think the Derwent River at the Iron Pot to call the finishing box so they can get ready to take a time on us crossing the finish line.

15

Q. Did you know anything about the fact that the engines were going to - the engines might - you might have a problem with the engine before the race?

A. No.

20

Q. No one ever warned you that there was some problem with the engines, a mechanic or anyone like that?

A. I knew that cylinder number 4 wasn't perfect, I knew that.

25

Q. Did you receive any advice from a mechanic about sailing?

A. No.

Q. In light of that poor cylinder?

30

A. No. I made that decision.

CORONER: Anything else, Mr Hill?

HILL: Q. What was wrong with cylinder number 4 of your engine?

35

A. I think the mechanic said that the bore in the cylinder needed servicing.

Q. What was--

40

A. We were blowing - we were blowing smoke.

Q. When were you told this?

A. Before the Hobart. I mean I raced with the mechanic.

45

Q. I'm sorry?

A. I raced with the mechanic.

Q. What was the mechanic's name?

A. Terry Waldron.

50

Q. Terry?

A. Waldron.

Q. Waldron?

55

A. He looks after the motor.

Q. Where's he at?

A. He lives out west somewhere.

Q. Did you take your boat out west for him to see it did you?

A. No, he--

5

Q. How did you--

A. He trades out of Mosman Bay.

Q. Under what name?

A. Terry Waldron.

10

Q. Terry Waldron what?

A. Just Terry Waldron.

15

Q. At Mosman Bay?

A. Yeah.

Q. Anywhere in particular where we could go and find this person?

A. Yes, I'll give you his fax number.

20

Q. Do you have that on you now?

A. I certainly do.

25

CORONER: Q. The only other thing Mr Purcell, was it confirmed that - was it ever confirmed what the problem was with the engine?

A. No, no it wasn't, apart from him saying that he felt - I think he said it was cylinder 4. It might have been cylinder 1.

30

Q. No, after the race.

A. I know what - I know what happened.

35

Q. Tell me what that was.

A. Do you want the number for Terry Waldron?

Q. Yes please, get that first.

A. 018 243 939, and the house, 9625 9644.

40

Q. If you could just tell me what was wrong with the engine?

A. Well it developed what's known as hydraulic lock. For some explainable reason the exhaust outlet which is at the stern of the boat, the exhaust system - or may have been the engine, we don't know - developed a siphoning action and--

45

Q. And sucked water in?

A. And it just kept sucking until we ended up with all the oil out of the engine in the engine pan till the whole - the block - the whole engine chamber was full of water. No oil, it was - the oil had come out of the air intake and had gone down into the engine pan.

50

Q. So the motor seized?

A. She was - we put a new motor in.

55

W1128 253/00 ACS-D2

HILL: Q. Where was this done, the new motor?

A. The boat stayed in Hobart for three months after the event.

Q. Who put the motor in, checked the old one?

A. A bloke called John Robb.

Q. John Robb?

A. Do you want his number?

5

Q. Yes.

A. It's in the other diary, it's in last year's diary. I can get it to you.

10

Q. Does he have a trade name or anything like that?

A. No. There's--

Q. Just a mechanic down there is he?

A. A mechanic.

15

Q. Does he work around the, what's it called, Constitution Dock or--

A. No, no, we got onto John Robb through a bloke called - through a marine surveyor called John Lucas.

20

Q. He's down in Tasmania too?

A. Yes.

Q. I'm sorry, you made a - you commented to Mr Colefax that you couldn't see - you had glasses on, you couldn't see the people up the back of the Court, is that what you said?

25

A. I can't see very well.

Q. You can't see very well with what?

30

A. These glasses need changing, they're not very good. Optically they need upgrading, they're about three years old now, my eyes are getting worse as I get older.

Q. Right, so you've got, what, you have difficulty with long sight?

35

A. Yes. And I've gone into a bifocal situation where I've got to actually go like this now to read so I've got to get to the optometrist and get them fixed up.

40

Q. It's just I'm therefore interested how you saw these people in the cockpit of this vessel that was 500 metres away?

HUNT: If I could just interpose there. I think - my recollection is that--

45

CORONER: Are you going to answer the question for him?

HUNT: No, that he actually said earlier that he couldn't see their eyes. It wasn't that he couldn't see the people.

50

HILL: Q. Their eyes, whatever.

A. Yes. I could see the - I could see people in the cockpit, yes, but more importantly the guy with the hand held flare is the bloke I focused on.

55

Q. The last question I have is this. You said that you

asked Lew Carter about these tapes or records?

A. Yes.

Q. You then went around and spoke to Mr Badenach?

A. Yes I did.

5

Q. What did you say to him?

A. I asked Bidy did he have records or transcripts, I forget the words I would have used, but any records that I could look at to see whether our call to Telstra Control had been received, because there'd been the accusation--

10

CORONER: Q. That you just sailed past?

A. Yes.

15

HILL: Q. And what did he say?

A. No, they were on - they were on the radio relay vessel. I'd have to wait till the boat came in. When I asked Lew Carter the question on 1 January he said no, the coppers have them, they got them before we docked.

20

Q. Hang on a minute, because your answer in the transcript, funnily enough this one records, what you said was he gave you the same answer that Lew Carter gave you.

A. Yes I know. I know I said that.

25

Q. And that Lew Carter's evidence was - or you say the police had them?

A. Bidy Badenach didn't say that to me, he said the records were still on the - the Endeavour didn't dock till the 31st, I don't know when she docked, the 1st, Bidy Badenach said he didn't have the records, that they were still on the Young Endeavour. When I asked Lew for them the following day, Lew said that they'd been taken by the police before they docked.

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<WITNESS RETIRED AND EXCUSED

LUNCHEON ADJOURNMENT

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HILL: Mr Coroner, as was discussed with my learned friends, Mr Green and Mr Bush will in fact give their evidence tomorrow morning. It's important that Mr Bush be heard tomorrow after Mr Green because he has a medical appointment on Friday so he will be going first. This afternoon it's proposed to call Lorraine Gable, Emma Miall et cetera and deal with those that were for Wednesday the 26th.

45

CORONER: That way they won't all have to be relocated.

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HILL: So the first witness I'll call is Lorraine Gable.

COLEFAX: Could I be excused from this afternoon's proceedings, your Worship?

55

CORONER: Yes, Mr Colefax, thanks for your help.

<LORRAINE ANN GABLE(2.01PM)
SWORN AND EXAMINED

HILL: Q. Madam, would you give the Court your full name?

A. Lorraine Ann Gable.

5

Q. And your address?

A. 552 Darling Point Road Darling Point.

Q. And your occupation?

A. Self-employed.

10

Q. Were you working for the Cruising Yacht Club of Australia in December of 1998?

A. Yes.

15

Q. You have made a two page statement dated 18 April 2000?

A. Yes.

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

A. No I don't.

20

HILL: Perhaps if we could supply a copy.

Q. Perhaps if you would just have a look at that and see if that's - now, is that the statement that you made?

A. Yes.

25

Q. Is there anything in there that you want to change or anything like that?

A. No.

30

Q. Or add to?

A. Just for the fact that I was on annual leave from 24 December which I didn't put in the statement.

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Q. I see, so in effect on the morning of the 26th were you anywhere near the CYC?

A. Yes, I was a paying passenger on their spectator boat.

40

Q. What time did you get there?

A. About 10.30.

Q. And then you went straight onto the boat, did you?

A. I checked the function room which I had to set up the room and the food and then I went straight on the spectator boat.

45

Q. I'm not going to go any further with this but you were on annual leave but--

A. Yes, I--

50

q. --you did set up the function room?

A. I checked it, it was already set up.

55

HILL: Alright, I'll leave that at this stage, thank you.

STANLEY: Q. Ms Gable, you were therefore not in the

premises of the yacht club at all after approximately 11am on 26 December?

A. Not until about 2.30 when I came back off the spectator boat.

Q. According to your statement you then went to the marina? 5

A. That's right.

Q. I take it the marina is separate from the office?

A. Yes. 10

Q. You weren't near any phones?

A. No.

Q. And you weren't in the media office after 11 o'clock that morning? 15

A. No.

WEBER: Q. Does it follow from the answer that you gave to Mr Stanley that you spoke to no-one on the telephone on the 26th who identified themselves as being an officer of the Bureau of Meteorology? 20

A. No.

<WITNESS RETIRED AND EXCUSED 25

HILL: I call Emma Miall.

COURT OFFICER: No appearance, your Worship.

WEBER: She was here, your Worship. 30

CORONER: Alright, we'll leave her, go on to the next one.

<KELLY LOUISE FOSTER(2.07PM) 35

SWORN AND EXAMINED

HILL: Q. Madam, would you give the Court your full name?

A. Kelly Louise Foster. 40

Q. And your address?

A. 73 Elanora Road Elanora.

Q. And your occupation?

A. The internal communications manager at Crowe Associates. 45

Q. At?

A. Crowe Associates.

Q. You made a statement in this matter, a two page statement? 50

A. Yes, that's right.

Q. With one annexure?

A. Sorry? 55

Q. With an annexure on it which is a--

A. Yes.

Q. Have you got a copy of that?

A. No, I don't have one with me.

Q. Yes, we've got a copy. If you'd just have a look at that and see if that's the statement.

A. Yes.

5

Q. Is there anything you want to add or take away from that or alter in any way?

A. No, that's--

10

Q. Quite happy with that as it is.

(No verbal reply)

STANLEY: Q. Miss Foster, in the media - working at the media centre on 26 December apart from yourself was Mr Peter Campbell who was the senior person there, was he?

15

A. That's right.

Q. The rest were all female staff?

20

A. Yes.

Q. Do you remember their names?

A. Yes.

25

Q. Who was on that day?

A. Working in the office?

Q. Yes.

A. Amelia Cater, Lisa Smith and Meredith Gray.

30

Q. Your statement indicates that you went out on the water with one of the media boats for the start of the race, you then came back to the media office at 2.30?

A. That's right.

35

Q. How did you arrive at the time 2.30? Was that just a guess or was there any particular reason why you would be aware that it was 2.30?

A. It would have been an approximation.

40

Q. You stayed there for the remainder of the day working in the centre, did you?

A. No.

45

Q. Is that not right?

A. No. We - Amelia and myself were the first to go to Hobart and we basically returned to shore, went into the centre to pick up our bags and then caught a cab to the airport.

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Q. Your statement reads that from 2.30pm until I left to Hobart later that afternoon I was working in the media centre. Is that correct?

A. No, not working.

55

Q. So it's incorrect?

A. Yes.

Q. When you say until later that afternoon, what does that mean?

A. Well, that the plane was later that afternoon.

Q. How long were you in fact in the media centre that afternoon?

5

A. Approximately five minutes or as long as it took to pick up our bags.

Q. Did you do any work at all in the media centre?

10

A. Not that afternoon.

Q. Were you there at 2.42 in the afternoon?

A. I don't remember.

15

Q. You see, at 2.42 there was a phone call made to the media centre, a call from the bureau, 1422 I'm sorry, 2.22. I'm sorry, I withdraw that. There was a call at 2.22, you wouldn't have been there because on your account you would have still been out on the water or coming back in. At 2.42 there was a phone call that lasted for approximately five minutes, just over five minutes, 2.42 to approximately 2.47. Were you there when that phone call was made?

20

A. I don't recall.

25

Q. Do you recall whether there were any phone calls made to the media centre in that five minutes or so that you were there?

A. No.

30

Q. You've really got no idea at all?

A. I don't recall, sorry.

Q. All you remember is that you didn't answer any phone?

A. Yes. Sorry, yes.

35

Q. Were you there when a fax was received at the media office at 2.50pm?

A. I don't remember, sorry.

40

Q. You don't remember? So a fax could have arrived and you just can't say one way or the other?

A. That's right.

STANLEY: Your Worship, yesterday I gave to my learned friend Mr Weber a chart which sets out the extracts from telephone records, both from the Bureau of Meteorology, from their records, also confirmed by Telstra records. These are all phone calls made from the Bureau of Meteorology and faxes from the bureau on the 26th to the yacht club or the media centre, starting at 4.49 in the morning and up until 2.51 in the afternoon. The chart indicates the extension number from where the call was made within the offices of the Bureau of Meteorology, it then indicates the type of call, whether it's a fax or a phone call, and if it's a fax whether it's one of the automatic dialling faxes or whether it's one that was manually sent. It then indicates the dialled number and whether it be the media centre, the

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sailing office or general office. It then indicates from the Bureau of Meteorology records the end time of the call and the duration in seconds and the duration time in the bureau's records is from the time the phone is picked up until the time it is actually - the handset is actually replaced. Then the Telstra records indicate the time at which the call is made and the duration time which is the time of the connection of the call, so it's slightly shorter than the time for the bureau's records.

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CORONER: Yes, I understand that.

STANLEY: There was then an explanation of the call. That explanation has been derived from evidence that's been given, either viva voce or from the records that are in evidence before your Worship, or are clear inferences from evidence. It may assist the Court if I could hand a copy up to your Worship, I'll be using it in cross-examination of some of the other witnesses.

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CORONER: No objection? I take it the calls you've referred to with this witness, the 2.42 one and the fax of 2.50, were they sent according to the records to the actual media centre?

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STANLEY: Yes, your Worship. If your Worship looks at the chart, the most relevant calls are number 11, which is from Mr Batt's extension to the CYCA office at 2.22, it lasted 37 seconds according to Telstra records. Then the next relevant one is number 14, which is the call at 2.42 from Mr Gage's extension to the media centre and that lasted just over five minutes or six minutes from handset lifting up to replacement. Then number--

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CORONER: Fifteen.

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STANLEY: --16 and 17 are the faxes sent at 2.50 to the media centre, the faxing of the storm warning. If I can just take your Worship back, number 12 is the phone call made by Mr Gage to AMSA at 2.35, or starting at 2.28 actually according to the Telstra records and that was a six minute call that's been referred to. Then number 13 is the call again from Mr Gage to the Eden Coastal Patrol again which has been confirmed by the evidence. So it's clear from what this witness says in all probability, if she did get in there at 2.30 and was only there for five minutes--

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Q. You would not have been there when the fax was sent or when the phone call was made, you accept that?

A. Yes.

50

CORONER: Do you think we could turn the phone off? One judge I know has a bucket of water outside his courtroom and he orders everyone to put their phones in the water before they come into court. I don't want to have to do that but it's terribly distracting. What was the last bit again, I'm sorry, Mr Stanley?

55

STANLEY: Q. I'm just getting the witness to confirm that if as is obvious I think from the records if it's correct that she was only in the media centre for five minutes or thereabouts from 2.30 on you would not have been there when the calls that I've just referred to, the phone calls and the fax were in fact sent?

5

A. As far as I recall.

STANLEY: Your Worship, perhaps I should tender that.

10

CORONER: Is there any objection?

WEBER: No your Worship, we received it yesterday and we're indebted to my learned friend for providing it. We would be obliged and I just whispered to my learned friend Mr Santamaria if we could see the primary documents from which it's produced, amongst other things for the reason that in some of the police interviews there's a suggestion of a fax being shown to witnesses said to have been sent to the media centre at a certain time. We've never seen that. I'm not in any way critical of anybody by what I'm about to say but your Worship will recall that the evidence was that there was a general storm warning issued at 1414 and then there was the specialist service provided to us at about 1450. We think that perhaps at the time of the interviews the distinction between the two mightn't have been perceived and we're just--

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CORONER: Could be right.

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WEBER: --keen to see the primary documents and to get to the bottom of it.

CORONER: There's no problem with that, Mr Santamaria?

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SANTAMARIA: No.

HILL: I think that what the police actually had was the document that they were given by the Weather Bureau and that's what they were showing as the fax. It wasn't the receipted facsimile, it was the one that was sent. So it's the other end of the wire.

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WEBER: Nothing which I said was meant to be critical of anybody.

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CORONER: No, no, no, no.

HILL: No, it's ambiguous--

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CORONER: Not suggesting that, Mr Weber.

STANLEY: Your Worship, perhaps I can assist. We don't know what the police showed to anybody but if your Worship looks at the chart at number 15 was a fax to the CYCA sailing office, at 2.48, 2.49pm and that was an update of the schedule forecast advising of the storm warning. That's the special forecast which was in fact updated at 1450 on that

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day. That appears in the Bureau of Meteorology's preliminary report and it does make reference to the storm warning current south from Merimbula.

EXHIBIT # 51 CHART OF PHONE CALLS AND FACSIMILES TO THE CYCA TENDERED, ADMITTED WITHOUT OBJECTION 5

NO EXAMINATION (WEBER)

<WITNESS RETIRED AND EXCUSED 10

<EMMA GEORGINA LORNA MIALL(2.20PM)
SWORN AND EXAMINED

HILL: Q. Could you give the Court your full name? 15
A. Emma Georgina Lorna Miall.

Q. And your address? 20
A. 192 Queen Street Woollahra.

Q. And your occupation?
A. Full time student at the University of New South Wales, casual bar attendant at the CYCA.

Q. And you've made a statement in this matter? 25
A. Yes.

Q. A one page statement. Do you have a copy of that?
A. Yes. 30

Q. Is there anything you want to add or take away from that?
A. No.

STANLEY: Q. It is clear from that statement that you were not at the yacht club until about 3pm on 26 December? 35
A. Yes.

Q. Can we take it that you did not telephone the Bureau of Meteorology in Sydney, the offices in Sydney, on the 26th at 4.06 in the afternoon? 40
A. No.

Q. If such a call was made from the general office of the CYCA you know nothing about it? 45
A. Yes.

Q. Do you know the number of the general office of the CYCA, the phone number?
A. Not off the top of my head but on the phone is a list of every extension number in the CYC. 50

HILL: Before my friend asks a question, there is something that I would like to ask and perhaps I should do that first. 55

Q. Paragraph 6 of your statement, it states if someone had called the CYCA bar and had asked to speak with Phil Thompson I would have firstly put that person through to his

extension in the CYCA sailing office and if he did not answer that call then I would have transferred the call to my manager, Paul McTaggart. Was that a policy, you'd put them through and then if you couldn't get an answer you'd go up the line to your manager, Paul McTaggart?

5

A. Yes.

Q. Do you know where Mr McTaggart is in this point in time, just generally?

A. He's usually in his office.

10

Q. He still works for the CYC?

A. Sorry?

Q. He still works for the CYC?

15

A. Yes. But since then his focus is not so much on the bar, he's operations manager but at this stage in 1998 he was bar manager.

Q. You weren't the only bar staff on during that day?

20

A. No.

Q. Mr McTaggart was on, was he? Was he on duty?

A. He was manager.

25

Q. So if a call had come through to the bar and they couldn't raise Mr Thompson, am I right in assuming it would have been transferred to Mr McTaggart?

A. Yes.

30

HILL: The reason your Worship I ask that is there is no statement from Mr McTaggart.

CORONER: No. Wasn't there something said about a female voice?

35

WEBER: Yes, we assumed that we only had to cover the females, your Worship.

CORONER: I think that's right. I think that was my recollection too, Mr Weber. We agree.

40

HILL: Yes, a female voice. I don't know whether anything was alleged to be put through to Mr McTaggart.

45

CORONER: No, we didn't know that. Okay, alright.

WEBER: Q. Miss Miall, have you got your statement before you?

A. Yes.

50

Q. Paragraph 4 of your statement you say that to the best of your recollection you didn't receive a telephone call from anyone at the bureau, do you see that?

A. Yes.

55

Q. Can you say that you definitely did or didn't receive a phone call from a person who identified themselves as being

from the bureau?

A. I did not.

Q. Definitely did not?

A. Did not.

5

<WITNESS RETIRED AND EXCUSED

STITZ: Your Worship, may it please the Court, my name is Stitz, I seek leave to appear on behalf of Miss Gray.

10

CORONER: Leave is granted, Mr Stitz.

<MEREDITH JANE GRAY(2.25PM)
SWORN AND EXAMINED

15

HILL: Q. Would you give the Court your full name?

A. Meredith Jane Gray.

Q. And your address?

A. Unit 5 number 50 Wrights Road Drummoyne.

20

Q. And your occupation?

A. Sports administrator.

25

Q. With who?

A. At the time in '98?

Q. Yes.

A. I was actually employed by the CYC.

30

Q. You made a statement in this matter?

A. Yes I have.

Q. Do you have a copy of that statement?

A. Not with me at the moment.

35

Q. I'll just have one handed up to you. Is that the statement you made?

A. Yes it is.

40

Q. Is there anything you want to add to that?

A. No.

Q. Or take away from it or anything like that?

A. Not at all, no.

45

STANLEY: Q. Miss Gray, you also apparently returned to the yacht club at 2.30pm, to the media centre?

A. Approximately.

50

Q. Was that time suggested to you by anyone at the time you made this statement?

A. No, it's an estimate based on my approximation from recollection.

55

Q. Were you in company with the last witness?

A. Sorry?

Q. Were you in company - in the company of the last witness?

A. I'm not familiar with who the last witness was, I'm sorry.

5

Q. Were you in the company of any other members of the media office staff when you came back?

A. Not in immediate company, no.

Q. Are you fairly confident it was 2.30 that you got back?

A. As I indicated in my statement, approximately, yes, I'm comfortable with approximately 2.30.

10

Q. You in fact were employed on this day, you were working?

A. That's correct.

15

Q. Part of your job was to assist Mr Campbell?

A. That's correct.

Q. Assisting him involved assisting him in putting out press releases?

A. One of the functions, writing media releases, correct.

20

Q. Did you do that on this day?

A. Assistance would have been provided, yes.

25

Q. Are you saying you did assist Mr Campbell in putting out a press release on this afternoon, that's the afternoon of the 26th?

A. From my recollection yes I did provide assistance.

30

Q. What does assistance mean? What do you actually do?

A. To be honest I cannot actually recur (as said).

Q. You can't recall specifically on this day, is it?

A. I can't recall specific details, no.

35

Q. But in general what do you see your task as when you're assisting in the preparation of a press release?

A. It can be down to writing a press release or it can be down to providing verbal input.

40

Q. You remained at the media office did you from 2.30 until when?

A. I cannot recall specific times once again. However I do feel comfortable it would have been mid evening some time.

45

Q. By evening, what sort of time are you suggesting?

A. Mid evening, it could have been 6 o'clock, however I'm not prepared to commit to a specific time because I can't specifically recall.

50

Q. In fact, did you fly to Hobart the following day?

A. On the 27th, yes.

55

Q. So can we take it then between approximately 2.30 and mid evening, around about 6 o'clock, you were in the media centre office?

A. That's correct.

Q. You weren't - didn't leave it?

A. Unless it was for regular media office functions.

5

Q. Was there a fax in the media office?

A. There was.

Q. During the afternoon were any faxes received at all that you can recall?

10

A. Faxes? From?

Q. Were any faxes received from anybody at the media office on that afternoon that you can recall?

A. I really wouldn't know. There possibly could have been but I don't know.

15

Q. So there could have been a fax from the Bureau of Meteorology and you just wouldn't know?

A. Not to my knowledge.

20

Q. What do you mean, not to your knowledge?

A. I didn't personally receive a fax, no, and I'm not aware of anyone else who did receive a fax.

25

Q. Are you suggesting by that that none was received?

A. Sorry, can you--

Q. It's one thing for you to say I just can't remember or another thing to say not to my knowledge. Are you saying you just can't remember whether a fax was received in the office or not?

30

A. Are we talking generally a fax or--

Q. Any fax?

A. Any fax?

35

Q. Any fax.

A. Sorry, can you just repeat your question.

40

Q. Are you able to recall whether any fax was received at the media office on the afternoon when you were there from 2.30 on?

A. I cannot confirm, I cannot deny, it was - it's a year and a half ago, I cannot recall specifics, no.

45

Q. You can't recall, alright. So if there is evidence in fact if we accept that a fax was sent and was received at the media office at 2.50 in the afternoon, you would have been in the office at that time, do you accept, but are you saying that you can't recall seeing or being aware of that fax?

50

A. No.

Q. Do you know in fact that Mr Campbell did release - did put out a press release later that afternoon?

55

A. I can't confirm that specifically, no.

Q. You just don't know?

A. I don't know.

Q. Between 2.30 and when you left the media office what were you in fact doing? What was your job?

5

A. Sorry, can you please repeat.

Q. Between 2.30 and when you left the media office can you tell us what you were doing?

A. Liaising with various media agencies.

10

Q. What does that mean?

A. In person or via telephone.

Q. Liaising for what purpose?

15

A. For media reference, media inquiries.

Q. Did you concern yourself at all with the weather forecasts?

A. Not that I recall, no.

20

Q. I take it you accept that it's usual practice in a situation like this, on this day, for a media release to be made by - press release to be made by those in the media?

A. Common practice, however specific times and details of that media release I can't confirm.

25

Q. You have no recollection of any media release that was sent out that day?

A. There would have been a media release. However specific times no, I'm not aware if it went out at 2.30 or if it went out at 3.30, 4.30.

30

Q. So if a phone call was made to the media office at 2.42 who would have been the person likely to have answered it?

35

A. It could have been one of any of the employees working in the media centre.

Q. Who were they at 2.42? There's yourself?

A. Quite possibly it could have been Peter Campbell, Lisa Ratcliffe, Kelly Foster, Amelia Cater and I think Peter Bush was present at some point on the 26th and 27th.

40

Q. Could it have been Amelia Cater? Was she there in the afternoon at all?

45

A. I cannot recall specifics of who was there, who wasn't there. Common practice--

Q. You see her statement - she's given a statement in which she states that she was not there after 11am. You can't--

50

A. I can't confirm those details.

Q. --confirm or deny that. Was there a system maintained for the collection and retention of faxes that were sent?

A. I cannot specifically recall, however it is commonplace that most faxes were filed.

55

Q. You mean it's commonplace in offices generally but you

can't recall about this office, is that what you're saying?
A. I can't recall a year and a half ago whether or not
faxes were filed, no.

NO EXAMINATION (WEBER)

5

HILL: Q. You say you flew to Hobart the next day. What
time, do you recall?

A. I understand it was afternoon.

10

Q. In the afternoon. Did you go with anyone on the same
flight?

A. No.

Q. Just by yourself?

15

A. That's correct.

Q. Sometime in the afternoon?

A. I think so, yes.

20

Q. You can't recall what time?

A. Specific times of flight, no.

Q. What time did you arrive in Hobart?

A. Late afternoon, early evening but once again I can't
recall the specific flight details.

25

Q. That would have been the 27th?

A. On the 27th.

30

Q. Did you go to the media centre?

A. Yes I did.

Q. What was the atmosphere when you got into the media
centre down in Hobart?

35

A. The atmosphere, sorry? I don't get you.

Q. Yes. Was it - that would have been right in the middle
of the storm when you arrived, when there were distress
signals coming out. What was it like?

40

A. I actually went straight to the media centre and I knew
- I had heard previously that something was happening and
there was - there was an air that something was happening,
however I wasn't aware of what exactly was happening.

45

Q. Where had you heard that something was happening
previously?

A. On the inflight radio coming down to Hobart.

Q. What was it that--

50

A. I think it was a news bulletin that came across.

Q. What was the gist of what was being said?

A. About the conditions and it did make some competitor
references, however I'm not sure of the specific nature,
enough to indicate that something was happening. I think
there might have been reference to somebody who had received
a substantial cut to a finger or something, however just in

55

a general news broadcast that came across. I think it was 2BL radio, ABC radio on the inflight.

Q. And you can't give us any time that you actually got in to Hobart? Just don't recall?

5

A. Just don't recall I'm sorry.

Q. Was it that you didn't travel down there with anyone else on the flight or you just don't recall?

A. No, it was that I don't - I don't recall.

10

Q. You don't recall?

(No verbal reply)

<WITNESS RETIRED AND EXCUSED

15

STITZ: Your Worship, might I be excused?

CORONER: Yes.

20

<BARBARA PRICILLA CARROLL(2.38PM)

SWORN AND EXAMINED

HILL: Q. Would you give the Court your full name please?

A. Barbara Pricilla Carroll.

25

Q. And your address?

A. 1 Coolum Road Vaucluse.

Q. And your occupation?

A. I'm a student and I'm also a paralegal.

30

Q. You worked in the CYCA as a bar assistant on 26 December 1998, is that correct?

A. Yes.

35

Q. You've made a statement in this matter?

A. Yes.

Q. Do you have a copy of that statement?

A. No, sorry, I don't.

40

Q. Now, is that the statement?

A. Yes.

45

Q. Do you wish to add anything to that?

A. No.

Q. Or take anything away?

A. No.

50

STANLEY: Q. Miss Carroll, from your statement it appears you can't remember the time you worked that day, you can't remember who you worked with?

A. No.

55

Q. You can't remember what you did?

A. What do you mean, what I did?

Q. In terms of handling the phone, taking phone calls?

A. I remember taking - I would have taken some, yes.

Q. Would you?

A. Yes.

5

Q. Who from?

A. Usually just people interested in the race and there was a number that you gave them or a website and it was a pretty standard thing.

10

Q. How was it that people got through to the bar? I take it that's where you answered the phone, was it?

A. Yes. Well I can't remember if there was office staff on or not that day but if I took phone calls then probably just the direct line that you find in the white pages.

15

Q. I take it you didn't make any phone call from the general office or from the bar to the Bureau of Meteorology yourself that afternoon?

A. No.

20

Q. At 6 minutes past 4?

A. No, absolutely not.

25

Q. And you don't know who did make that phone call?

A. I don't even know if there was one.

Q. If the records show that there was one made?

A. No, I don't.

30

WEBER: Q. Madam, you say in paragraph 4 that to the best of your recollection you didn't receive a phone call from anyone at the Bureau of Meteorology?

A. Uh hmm.

35

Q. You're a law student and familiar with the concept of the balance of probabilities. On balance, do you say that you did receive a phone call from - it's more likely that you did or you didn't receive a phone call from someone who identified themselves to be an officer of the Weather Bureau?

40

A. I would say in common parlance no, I definitely did not. The reason my wording is that is because just to cover circumstances where, you know, the line could have been crackly and I didn't actually hear the person introduce themselves as such and I wasn't given very good specifics on what, you know, we were supposed to be saying no to, so that's why I said to the best of my recollection. Probably the wording isn't great but I did this in a bit of a hurry.

45

50

Q. You're content that you now--

A. Yes. No, I--

Q. --his Worship now understands what you're cautiously trying to say?

A. Yes.

55

<WITNESS RETIRED AND EXCUSED

HILL: I presume that was the same standard as Briginshaw v Briginshaw.

5

CORONER: Sorry?

HILL: What the High Court said in Briginshaw v Briginshaw, the balance of probabilities that was being applied then, I just assumed.

10

CORONER: Yes, I was thinking more about Shakespeare, Henry VI.

<LISA MICHELLE RATCLIFFE(2.45PM)
SWORN AND EXAMINED

15

HILL: Q. Could you give the Court your full name?

A. Lisa Michelle Ratcliffe.

20

Q. I think that that's your married name?

A. At the time I was Smith.

Q. Your maiden name was Smith?

A. Yes.

25

Q. And you were the Lisa Smith that's been referred to. Your address?

A. Number 3 Moona Road Kirrawee.

30

Q. And your occupation?

A. Public relations officer at the CYC.

Q. You made a statement in this matter?

A. I did.

35

Q. Do you have a copy of that statement?

A. I do.

Q. There's nothing you wish to add to that?

A. No, I'm happy with that.

40

Q. Nothing to take away?

(No verbal reply)

45

STANLEY: Q. Miss Gray, you also returned - I'm sorry, Mrs Ratcliffe, I'm sorry, Mrs Ratcliffe you returned to the media centre after being out on the water according to your statement at approximately 3.30pm?

A. I returned from being out on the water to Darling Harbour at 3.30.

50

Q. Why were you an hour later than the other media people?

A. Because I go out on the Telstra boat.

55

Q. Are you confident it was in fact 3.30?

A. That was the time that the boat was scheduled to dock back at Darling Harbour to drop off the guests.

- Q. So you're confident that you returned there at 3.30?
A. Very confident.
- Q. So clearly you would not have been in the media office at 2.50 when the records indicate a fax was sent? 5
A. Definitely not.
- Q. Were you aware that a fax had been sent?
A. I was not aware. 10
- Q. Are you now aware that a fax had been sent?
A. That's my understanding from your records. 10
- Q. Quite apart from what you've heard from me today, do you believe that a fax must have been sent? 15
A. There would have been a fax sent at some stage because there was a reference to it in a press release that was put out by the media centre at 6 o'clock that evening.
- Q. Exactly. 20
A. How the media centre got that fax I don't know.
- Q. You needn't go on any further, no doubt we'll find that out later. At the date of this incident, what was your position with the yacht club? 25
A. Public relations officer.
- Q. Still the same as you've got now?
A. Uh hmm. 30
- Q. Why was it then that you were in the media office?
A. Because I work as part of the media team for October, November, December every year. 30
- Q. On this day, 26 December, was it part of your job to assist Mr Campbell in drawing up press releases? 35
A. That was - that's one of the duties that's required.
- Q. Were you in Court when Miss Gray gave evidence, Meredith Gray? 40
A. Just then?
- Q. Yes.
A. Yes. 45
- Q. In her statement that has been tendered and which she adhered to she stated that she returned to the media centre at approximately 2.30pm where I provided some assistance in the writing of a media release about the start of the race. Do you recall that? Do you recall her assisting in the drawing up or the preparation of a media release? 50
A. I wasn't there till quarter to 4.
- Q. No but when you were there?
A. A press release would have been written and sent out by the time I got back to the office and who wrote it I wouldn't have known because I wasn't there. 55

Q. So your belief is that the press release would have been written by the time you got back to the office which was what, about quarter to 4 did you say?

A. About quarter to 4 but based on what happened at the start, because generally we get a lot of inquiries what happened at the start, so it would have focused on what happened at the start of the race.

5

Q. You're aware that there was a press release issued that dealt not only with the start of the race but also with the weather report, the weather conditions?

10

A. The 6 o'clock one? Yes, I have a copy of that.

Q. You've got a copy of it, have you?

A. Yes.

15

Q. Do you say that that press release was issued by the time you got back to the office?

A. The one I have was issued at 6 o'clock.

20

Q. Was issued at 6 o'clock. What does that mean in terms of when it was drawn up, prepared?

A. It might have been written at 5.30 and issued at 6 or written at 6 and issued at 6.30.

25

Q. You were there then, weren't you?

A. Yes, I would have been there.

Q. There was yourself, Mr Campbell?

A. Uh hmm.

30

Q. Was he there?

A. Yes.

Q. Anyone else?

A. Meredith was probably there.

35

Q. Meredith Gray, yes. Who was it that was assisting Mr Campbell to draw up that press release?

A. He could have very well done it on his own while we were off doing other things.

40

Q. Was it you?

A. I've read through this press release and there's - I didn't - there's nothing there that I remember saying to him to contribute to that press release.

45

Q. Is this the position, you - as you sit there now, you just don't know whether it was you that assisted Mr Campbell or not, if he was assisted?

50

A. He probably wasn't assisted. He tends to write most of his press releases on his own.

Q. What do you say as to Meredith Gray's statement that she provided some assistance in the writing of a media release?

55

A. She may have well passed on some information about her recollection of what happened at the start, whether there was a particular incident that she'd seen that maybe Peter

hadn't seen.

Q. How many press releases were issued that afternoon, to your knowledge?

A. There would probably - I don't have a copy of it, there probably - there would have been one when we got back to the office based on the start, there was the 6 o'clock one and I would have thought there would have been one later that evening after the 8 o'clock sked.

5

Q. You say you think there would have been one when the others got back to the office but before you got back there, is that what you're saying?

A. Uh hmm.

10

Q. And then there was the one that was issued at 6 o'clock?

A. Yes.

15

Q. Obviously written beforehand?

A. Uh hmm.

20

Q. Can I just take you - you said you've got a copy of that statement, have you?

A. My statement--

25

Q. Of that press release?

A. Yes.

Q. With the press release.

A. Yes.

30

Q. Or the media release as it's called.

A. Uh hmm.

Q. How was it that this came to be, to your knowledge, the existence of this media release?

A. I found it on a disk that I had in my box of disks.

35

Q. Sorry?

A. I had it on a disk.

40

Q. Had you remembered it before you found it on the disk?

A. Not the specific wording of it.

Q. Had you remembered that a press release or media release had been put out that contained reference to the weather forecast put out by the bureau indicating a storm warning on the afternoon of the 26th?

A. I hadn't remembered until I looked at it.

45

Q. It was your view until you found this by accident on the disk that you didn't know a thing about such storm warning, isn't it?

A. My knowledge of the storm warning came from the press release.

50

55

Q. Came from?

A. The press release.

Q. But until you saw the press release by accident?

A. It wouldn't have been by accident, I would have made it my responsibility to read it because I was doing a lot of radio interviews and I had to be up to date with information.

5

Q. So you did know that a storm warning had been issued by the bureau during the afternoon of the 26th?

A. Based on this press release, yes.

10

Q. Forget about the press release for a moment. I thought you were saying that you did know and that you would have known that because you had to - it was part of your job to tell people, is that not so?

A. This is - this would have been my first point of reference for conducting media interviews, radio interviews.

15

Q. How do you think you would have known that a storm warning had been issued on the afternoon of the 26th?

A. After I read the press release.

20

Q. How do you think it got into the press release?

A. I don't know how the information got to the - specifically to the media office, I mean it was available - traditionally weather is available from the sailing office and if we're looking for information we may go and photocopy it from--

25

Q. In your job at the sailing office, with the yacht club, it was your belief up until the time you saw it on your disk that the personnel at the yacht club who were relevant so far as the running of this race was concerned, particularly the race committee, were maintaining that they had not received indication of the storm warning on the afternoon, that's what you believed, did you not?

30

A. Sorry, can you ask me again?

35

Q. Didn't you understand until the time you saw this disk or you found the media release on the disk that the yacht club's position was that the storm warning had not been faxed or indication of it had not been given to the race directors on the afternoon of the 26th?

40

A. I'm sorry, that question's not very clear.

Q. Did you see a fax from the Bureau of Meteorology giving the updated storm warning forecast issued at 2.50?

45

A. No, I did not.

Q. Were you aware that such a fax had been sent?

A. I was not aware.

50

Q. Are you aware now?

A. According to your records it was--

Q. Forget about my records. Are you aware by reference to the media release that in all probability a fax must have been received for that media release to have been prepared?

55

A. I don't know how the information came to the media

centre.

Q. Have you compared the wording of the media release where it deals with the storm warning and the weather conditions with the wording of the forecast, the special race forecast that was in fact issued at 2.50 on that day? 5

A. No, I haven't compared the two.

Q. Did you see Mr Thompson, Phil Thompson, around the precincts of the media centre or the club generally during that afternoon? 10

A. I would have at some stage, we would have come across each other.

Q. I'm sorry? 15

A. We would have come across each other at some stage in the afternoon, I don't remember when.

Q. Can we take it from that that you know or believe that he was there that afternoon? 20

A. I've done three or four of these, I'm just trying to remember which, 18 months ago. The likelihood is that he would have been at the club, he might have gone off and I don't know, the likelihood is he would have been at the CYC in the afternoon. 25

Q. Do you believe he would have been in the media centre?

A. No.

Q. Why not? 30

A. There was no reason for him to be in the media centre, he never has before, unless there's specific updates that we need.

Q. For the whole of the afternoon when you got back did you remain in the media centre or were you out and about also? 35

A. As far as I remember I was in the media centre unless we were ducking out for meals or--

Q. Would you have read this media release at the time that it was prepared or issued? 40

A. Yes.

Q. What did it mean to you that the Weather Bureau had earlier that morning issued a gale warning but in mid afternoon it was - the bureau had upgraded it to a priority storm warning? 45

A. What did it mean to me personally?

Q. Yes. 50

A. I wasn't particularly anxious about it because of the traditional southerly buster that the fleet meets pretty much every Boxing Day.

Q. Can we take it you knew that the storm warning had been issued, there'd been the upgrading? 55

A. I knew there was a southerly buster on the way as happens pretty much every Boxing Day.

- Q. Did you know that the storm warning had been issued?
A. When I read the press release.
- Q. Did that mean anything to you?
A. I wasn't particularly anxious about the storm warning. 5
- Q. Did you speak to Mr Campbell about it?
A. No.
- Q. You're sure about that, are you? 10
A. Uh hmm.
- Q. Did he mention it to you?
A. Not that I recall, no. 15
- Q. As part of your job you said before you were fielding questions from other media people?
A. Uh hmm.
- Q. And the public also? 20
A. No.
- Q. Just media people?
A. Uh hmm. 25
- Q. I take it they were asking you about the weather?
A. There would have been general questions about what's the fleet expecting.
- Q. And about the fact that a storm warning had been now given, there'd been an upgrading from a gale? 30
A. I don't remember being asked specific questions about the upgrading.
- Q. If you'd been asked about the weather that surely would have been something that you'd have been concerned to tell people, isn't it? 35
A. I would have got the information from the press release which is where I based most of my radio interviews. 40
- Q. That media release not only indicates the upgrading of the gale warning to a storm warning but it also indicates that the conditions would involve winds increasing to 45 to 55 knots south of Merimbula. Did that mean anything to you?
A. I knew the fleet was in for a tough time. 45
- Q. Was that because of your knowledge of yachting or was it because that was the general conversation, the general tenor of--
A. My knowledge. 50
- Q. --what everyone was talking about at the time?
A. My knowledge.
- Q. Sorry? 55
A. My knowledge. I knew they were facing - were going to face difficult--

Q. I'm sorry, your knowledge and?

A. They were going - I knew they were going to face some difficult conditions but I wasn't particularly anxious.

Q. You found the media release that was issued at 6 o'clock, what about the one that you believe was issued earlier? Have you got a copy of that?

A. No I don't.

Q. Have you ever looked for it?

A. We looked in the file that - of press releases and it seems it wasn't filed. The first afternoon is traditionally extremely busy with people going to Hobart and it was meant to be filed but it wasn't in the folder.

Q. How do you know it was ever done?

A. Because we always write press releases about the start when we get back--

Q. I'm sorry, you'll have to speak up a little.

A. We always write press releases about the start when we get back off the water.

Q. But you weren't there to do it, were you?

A. No but a press release would have been written.

Q. So you're saying it would have been written?

A. It's likely it would have been written.

Q. But you had a look for it and couldn't find it?

A. Yes, we've looked in the folder.

Q. You say we looked, who was we?

A. I've looked on behalf of myself and also Peter Campbell.

Q. So Mr Campbell also looked, did he?

A. I was - I had the folder and we archived it and when we pulled it out of archives it didn't have a press release from that afternoon, an earlier one.

Q. Surely if you kept this press release if there had been an earlier one sent or issued why wouldn't that have been kept?

A. This was just on a spare disk, we tended to swap disks and have them lying around the office and it just happened that I saved this one on mine.

Q. Just a fluke, was it?

A. Yes.

Q. You don't have a proper system of maintaining all your press releases?

A. We do have a folder that--

Q. The system wasn't maintained on this afternoon?

A. Seems that way.

WEBER: Q. Mrs Ratcliffe, Mr Stanley asked you some

questions about what a storm - whether a storm warning meant anything to you, you recall that, and he asked you some questions about whether westerly winds increasing to 45 to 55 knots meant anything to you, do you recall those questions?

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A. Uh hmm.

Q. Did either of those matters cause you personal concern on the afternoon of Boxing Day 1998?

A. My husband was in the race and I was confident that he knew how to handle those conditions and he was on a boat with crew that knew how to handle those conditions.

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Q. But you thought he was in for a heavy Hobart?

A. I knew he was in for a tough time, mm but I wasn't concerned for his safety.

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<WITNESS RETIRED AND EXCUSED

<PETER CAMPBELL(3.02PM)
SWORN AND EXAMINED

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

A. Peter McKechan(?) Campbell.

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Q. And your address?

A. 65 Boronia Avenue Cheltenham New South Wales.

Q. And your occupation?

A. I'm a yachting journalist.

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Q. I think you were in charge - you were the media director at the CYCA media centre for the Sydney to Hobart Yacht Race in 1998?

A. I was, yes.

35

Q. You have made a statement about this matter?

A. Yes I have.

Q. Do you have a copy of that?

A. I do.

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Q. Is there anything in there that you want to add to or detract from or alter?

A. Only to say that at the CYC the media office and the sailing office are two totally different entities and the question was raised earlier of was Mr Thompson up there. It was very unlikely he would have been, so that they were quite separate offices.

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Q. They're separate, physically separate?

A. Physically separate. I mean I think they were in different--

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Q. Are they on the same floor?

A. No, they weren't.

55

Q. Where was what?

A. The sailing office was on the ground floor, the media centre was on the first floor.

STANLEY: Q. Mr Campbell, you clearly were in Court when all the previous witnesses have given evidence this afternoon?

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A. Yes.

Q. You're aware now that in fact a press release was issued or a media release was issued at 6pm on Boxing Day that contained reference to the upgraded storm warning?

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A. Correct.

Q. And not only that, I suggest to you that if you compare it to the storm warnings that were issued by the bureau it's obvious that the author of that document had the bureau's forecast in front of him as he wrote it?

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A. Yes.

Q. Have you compared the two?

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A. I have.

Q. And do you agree with that?

A. I do.

25

Q. Who was the author of the media release?

A. I was.

Q. On your own?

A. Yes, with some input from some of my staff who were also at the start, mainly were there any incidents, in fact there is a reference to a collision between two boats at the start of the race and that was input from other members of my staff.

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Q. This media release dealt essentially with two aspects, did it not? Firstly the circumstances surrounding the start of the race and then secondly the weather situation that the boats were likely to encounter?

A. Yes.

40

Q. So there were these two facets to it?

A. Correct.

Q. Do you have any recollection at all of a previous media release having been issued that day?

45

A. No, not specifically. I suggested there probably was one when we received the information about the change of forecast but however a lot of my time was taken up during that afternoon in actually briefing the media who were working at the CYC, there is a press centre, working press centre, there as well as the media information office. And I would have briefed them and certainly would have spoken to quite a number of the reporters there. Also we normally get a huge number of phone calls from radio stations, newsagencies who are not necessarily there but needing information.

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55

Q. Perhaps if I could just take you back to the issue I'm directing your attention to. Do you now accept that in all probability the first formal media release issued by you on this day was the one that was issued at 6 o'clock?

A. Yes, I think so. There could have been one earlier but I'm not sure. 5

Q. When was it that you first received the fax from - or information in writing from the Weather Bureau giving the forecast, indication of the upgraded storm warning? 10

A. I can't answer that.

Q. I'm sorry?

A. I cannot answer that, I don't know exactly, the exact time. 15

Q. I'm not asking you to give us the exact time but don't you recall receiving it?

A. I would say it was probably mid afternoon, around about 3ish or something like that. 20

Q. And how did you receive it?

A. I think it would have come by fax. Certainly not by word - by a phone call. 25

Q. In your statement that's been referred to, a statement made by you on 19 April, there is no mention whatever of the fax giving you details of the weather forecast, nor is there any reference whatever to the press release? 25

A. I wasn't asked the questions. 30

Q. How was this statement prepared?

A. By interview.

Q. With whom? 35

A. The solicitors acting for the CYC.

Q. Do you say you were not asked at all about whether you'd received a fax giving you the weather forecast on the afternoon of the 26th? 40

A. No, I was asked about a phone call but not specifically about a fax that I can recall. I may be wrong.

Q. Were you asked about the phone call that was made to the media centre at 2.42pm and lasted for just over five minutes from a senior forecaster of the Weather Bureau? 45

A. Whose name was?

Q. Brett Gage.

A. Never heard of Mr Gage until I read the evidence given to this inquiry. 50

Q. You may not have known his name but did you receive a phone call from someone at the bureau at 2.42pm on the 26th and that call lasted just over five minutes? 55

A. No.

Q. Who else was in the media centre at that time that may

have received that phone call and spoken for as long as five minutes?

A. The only other person there at - what time was it? 2.42? Likely to have been there would--

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Q. 2.48.

A. Miss Meredith Gray.

Q. Sorry, 2.42.

A. Because Miss Meredith Gray I think would have been the only other one there. Two other members of my staff came in, picked up their bags and went off to catch an aeroplane. Miss Smith did not return to the office until half past 3, something like that.

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Q. So essentially you see Meredith Gray as being with you at the relevant times on this day?

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A. Yes.

Q. Do you accept the accuracy of what she put in her statement that she was assisting you in the preparation of the media or press release?

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A. Correct. She was also answering phone calls and things like that.

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Q. When you received the fax at about 3 o'clock as you say that informed you that the bureau had upgraded the gale warning to a storm warning, what did you do about it?

A. Wrote a story about it and then informed the - initially informed the media who were working in the press centre.

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Q. Right, so you initially told all the media that were there?

A. Yes.

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Q. What sort of people are we talking about there?

A. Reporters from the daily newspapers, AAP, Sydney Morning Herald.

Q. Generally the press?

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A. Generally the press, yes.

Q. Having told--

A. There would have been some television people probably still there.

45

Q. Having told the press, did you tell anyone else?

A. Not specifically, not that I can recall.

Q. You set about writing your media release that in fact was not issued until 6pm. During that day, did you remain from 3pm on in the media centre?

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A. Most of the time other than being down in the press centre briefing the press on any incidents, any reports. You referred to that press release where I think it talks about a message we got from Brindabella, we also got something from Gary Ticehurst, the helicopter pilot, and that would have been information coming through to us which

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we would then pass on to the press.

Q. Alright, so do you say that much of the time you weren't actually in the media centre office, you were in a different area, a press--

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A. Some of the time, yes, but obviously to sit down and write a fairly lengthy press release I would have been there a considerable time.

Q. Did you get into the sailing club itself, the yacht club itself?

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A. The press centre was - the media centre was in the yacht club.

Q. Upstairs?

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A. Upstairs.

Q. During that afternoon, did you see Phil Thompson?

A. I may have, I may not have. I would think possibly he might have taken a break, he was like myself had been there since - well he'd been there earlier, since about 5 o'clock that morning, so he - but I don't specifically recall seeing him.

20

Q. You don't recall seeing him?

25

A. No.

Q. Did you see any of the race directors that afternoon?

A. I might have passed them in going up and down the stairs or something like that but I certainly didn't have any specific conversation with them.

30

Q. Any talk about the weather?

A. Not that I can recall.

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Q. About the forecast?

A. Not that I can recall.

Q. You'd received a fax telling you that the forecast now had been upgraded to a storm warning?

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A. Correct.

Q. You have had experience as a yachtsman?

A. Yes.

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

A. Yes.

Q. Did you know that a storm warning was the highest and most severe warning that was issued by the Bureau of Meteorology in these waters?

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A. Yes but having read the forecast--

Q. Perhaps if you could just answer my question. You knew that, did you?

55

A. Yes I did.

Q. And you knew that it was a storm warning?

A. I knew it was a storm warning.

Q. You told this to all the assembled press?

A. I gave them copies of the warning. Some of them already had received weather information from outside sources, from Roger Badham who is a noted meteorologist. I know that the Daily Telegraph for example had been talking to Badham that afternoon.

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Q. Of course you only had to listen to the radio, didn't you, to get the forecast?

A. Well that's true.

10

Q. Yes, so was it your understanding that it was essentially general knowledge by late afternoon on that day that a storm warning had been issued by the bureau?

A. I think for those people who had the opportunity to listen to the radio or made the effort to contact weather sources, yes.

15

Q. So anybody that wanted to make the effort of simply making a phone call, they could find out?

A. Yes.

20

Q. Or requesting a fax by the polfax?

A. Yes.

25

Q. If a phone call was made to the media office at 2.42 you say you didn't answer it, the only person that you can suggest that might have would be Miss Meredith Gray?

A. Yes. I mean it may well - I mean this is 18 months ago, I may well have got a call but I think if a person from the bureau had phoned and commented on the severity of the weather and as they did in evidence here earlier in the hearing, then I would have taken immediate notice of that and probably spoken to somebody in the sailing office. But to my certain recollection there was no call giving warnings of dire peril and death at sea.

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Q. There was a storm warning, wasn't there?

A. Yes but that doesn't mean death at sea sir.

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Q. Who is going to advise of deaths at sea? Isn't a storm warning sufficient?

A. There were quotes, evidence given to this Court, as it were coronial, that one of the members of the bureau staff said that he knew men - people were going to die. My view is that had they had this concern and they were retained by the CYC to give them special weather forecasts--

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Q. Yes.

A. Let me finish. They could have easily - if they couldn't contact anybody by phone, if they were that concerned about it, they would have jumped in a car from the bureau and driven down to the CYC--

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Q. It didn't seem--

A. --personally.

Q. It seemed they didn't do too well in contacting the media centre with their five minute phone call and then the fax? 5

A. We got this fax, obviously got the fax.

Q. When did you admit that you'd received the fax?

A. Admit it? 10

Q. When did you first recall that - or were you prepared to admit that you'd received the fax?

A. I never denied that we did receive the fax.

Q. When did you first recall that you had received it? 15

A. I knew we received one.

Q. You knew when you made this statement to the solicitors that you knew was going to be presented to this Court, are you telling his Worship that you then knew that a storm warning had been issued and that you'd received the fax? 20

A. No, I didn't say that, I didn't say that we had received a fax but certainly we got information about a storm warning. It has to have been written in that press release. Now what time we got it, it would have been somewhere between 3 and 5 in the afternoon. 25

Q. When did you first look at the press release that you'd done?

A. I wrote it. 30

Q. When did you look at it over the last say six months? Were you aware of its content?

SPEAKER: Let him answer the question. 35

STANLEY: Q. I'll let you answer that. When did you last see it within the last six months?

SPEAKER: When did he first see it or last see it? 40

A. When I was able to get hold of the files.

STANLEY: Q. At the time you made this statement on 19 April were you aware that in your press release issued at 6pm there was reference to the fax or the weather forecast that had been faxed to you? 45

A. Sorry, rephrase the question.

Q. When you made your statement, were you aware that you had mentioned in your press release about the weather forecast that had been received on this afternoon? 50

A. Yes, I could recall that from memory that I wrote the press release because I was able to--

Q. You've answered my question, you say you could remember it. Why didn't you say it in the statement, that you had received a fax telling you there was a storm warning that 55

afternoon? Why didn't you, Mr Campbell?

A. Nobody asked me. I wasn't aware that I was going to--

Q. That's the best you can do, is it?

A. I wasn't even aware that I was going to be called as a witness here. 5

Q. When did you first become aware that your press release did contain reference to the storm warning having been issued apart from when you wrote it? I mean over the last six months, did you remember before making this statement? 10

A. I had no reason to recall but I did look up my disks and I had a crash on my laptop unfortunately last year which lost a lot of things but I was able to find the press release I put out in the early hours of the next morning about-- 15

Q. I'm asking you about the press release that was issued at 6pm on the 26th. What I'm putting to you is - suggesting to you is that you did not know that that contained reference to the storm warning until after it had been located by Ms Ratcliffe. 20

A. Of course I did, yes. I recall writing that.

Q. Why didn't you then mention it anywhere in this statement? 25

A. May I recall the statement?

Q. You show us where there's mention of the fax or where there's mention of a press release? 30

A. The only question I was asked there was did I receive a phone call from anyone at the Bureau of Meteorology in the afternoon of 26 December and I looked at my log and there was nothing to indicate that I'd spoken to anybody from the bureau. 35

Q. Do you accept Mr Campbell that there is nothing in that statement about a fax, indeed if you look at paragraph 13 you said I do not recall how I became aware of the storm warning on the afternoon of the 26th? 40

A. At that time I didn't, no.

Q. You didn't know then? What--

a. I didn't recall. 45

Q. What's happened since then to make you now believe that you received the fax at about 3pm?

A. Obviously when I saw the press release it would have had to have been received mid afternoon for me to write it in that time, to issue it at 6 o'clock and when I say 6 o'clock it was probably sent out about 5.30. 50

Q. And at no stage anywhere do you mention the press release, do you?

A. Again, there was no reason for mentioning it. 55

Q. Did you tell the solicitor who was taking the statement from you that you had issued a media release?

A. I can't recall.

Q. Have a think about it. Wasn't that long ago.

A. I suppose I did. Perhaps I did, I don't know but I mean I would take that as normal. 5

Q. Yes, you'd be--

A. I mean that's my job to send out press releases.

Q. So can we take it that you certainly would have told him about the press release? 10

A. Not necessarily.

Q. What, so you might have or you mightn't have, is that the best you can do? 15

A. It was not a relevant question at the time. I mean one would assume that the press officer for an event like the Sydney to Hobart release - race would be releasing press releases. 20

Q. What did you see as the relevant question at the time that you made your statement on 19 April?

A. Whether I had received a phone call from the Bureau of Meteorology. 25

Q. Anything else?

A. No, that was the major question. Other than the basic operations of the media centre. 25

WEBER: Q. Mr Campbell, you say that you believed that your statement was directed to the question as to whether you received a phone call from the bureau in the afternoon of Boxing Day 1998, is that right? 30

A. Correct. 35

Q. At the time of preparing the statement, did you have in your mind that you had issued press releases that afternoon?

A. Yes, certainly.

Q. At the time of your statement, that's April 1999, were you aware of the connection between the 6 o'clock press release and what must have been information that you received from the Weather Bureau? 40

A. No. 45

Q. When did you first become aware of the obvious - what you've agreed is the obvious connection between some information received from the Weather Bureau and the 6 o'clock press release?

A. When I got - was able to find a copy of the press release. 50

Q. And doing the best you can, when were you provided with a copy of that?

A. Two weeks ago, less than that. 55

HILL: Q. You said that you released a further press release in the am, 27/12?

A. Correct.

Q. Do you have a copy of that?

A. Yes.

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Q. May I see that?

A. Yes. I have a copy of the press releases that I actually issued at 10 o'clock on the evening of the 26th and the one I issued in the morning.

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HILL: Mr Coroner, can I have five or ten minutes or so to have a look at those?

WITNESS: That's the 10pm and - this one is the 10pm one and I'm just trying to find the other one. There's two actually, one was issued at 4 o'clock am and the other one at 8am, which was actually after I'd flown to Hobart.

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<WITNESS STOOD DOWN

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SHORT ADJOURNMENT

<PETER CAMPBELL

HILL: Mr Coroner, those press releases, perhaps they should go in as exhibits and perhaps if they're all under the one exhibit, the press releases of Mr Campbell.

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EXHIBIT #52 PRESS RELEASES ISSUED BY MR CAMPBELL TENDERED, ADMITTED WITHOUT OBJECTION

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HILL: Whilst we are doing that Mr Coroner, could I tender the report of Dr Paul Luckin and have an exhibit number for that.

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EXHIBIT #53 REPORT OF DR PAUL LUCKIN TENDERED, ADMITTED WITHOUT OBJECTION

STANLEY: Could I ask some questions arising out of the media release and there's one matter that I did not put to the witness earlier that I think I probably should as a matter of fairness.

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CORONER: Yes.

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STANLEY: Q. Mr Campbell, now that we've seen these press releases, there is no doubt is there that the first press release you issued after the start of this race was at 6pm?
A. The first written one possibly, yes.

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Q. There's no doubt about that, is there?

A. Yes there is because as I said I lost all my own records on my laptop with a crash and we searched through, we couldn't locate any others.

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Q. So it's just fortuitous is it that you happened to have the one that was issued at 10am on that day and the one issued at 6pm on that day?

A. I had the 6am and 10am ones earlier, I found those--

Q. If I can just take you to the one issued at 10am, that refers to some information received from Ken Batt of the Bureau of Meteorology, does it not?

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A. Correct.

Q. Ken Batt said that and you go on with what he apparently had told you, is that so?

A. Yes, Ken Batt was out at the CYC on that morning.

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Q. This was issued at 10am and are you suggesting that you saw him before 10am?

A. Quite possibly, yes.

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Q. Or that he telephoned you at 8.39 on that morning, or 8.33 and spoke for a period of five minutes?

A. He could well have.

Q. To the media centre?

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A. Yes. But he was down there on the morning prior to the race.

Q. But he was not there at 8.33 when a phone call was made to the media centre and that phone call lasted five minutes?

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A. Correct.

Q. It would be quite consistent with that's when you obtained this information and put it in your--

A. 10am one, yes.

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Q. --10am press release.

A. We would have also received faxed copied of their forecasts. I think they issued one at 11 o'clock or certainly we issued a press release prior to the start which spoke about the weather. Could I say this sir that--

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Q. Look, if you'd just answer the questions Mr Campbell.

A. You can ask me one. I answered that question.

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Q. I'm just about to ask you, alright?

A. Well, I'd answered the previous one.

Q. What I want to put to you is this. Mr Gage from the Weather Bureau gave evidence and I'm referring to 16 March, page 3 of the transcript, about a phone call that he made to the media centre on the 26th and we know from other evidence that that phone call was in fact made at 2.42, it's the phone call I was talking to you about before. I ask you to accept that this is the position, that he rang and he spoke to a woman at the bureau - at the media centre and he introduced himself and said he was from the Bureau of Meteorology and he then informed her that a storm warning had been issued and he gave her the content of the storm warning. She - he was concerned that she didn't fully understand, fully appreciate, what he was telling her and he asked then could he speak to someone else in the office who would understand, or your manager, and she said there was

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no-one else that he could speak to. He then told her I'm going to fax you a copy of the storm warning, could you please send it out to everyone, you know, that should in your organisation that should get it, pass it on everywhere and he stressed how important it was and she said yes, I'll do that, I'll send - so he then sent the fax and checked that it had been completed. Now, if those are - if that facts - if those facts are true, what would you expect your assistant in the media centre to have done on receipt of that fax, only a minute later? 5

A. Well to advise me when she - certainly when she saw me. 10

Q. And done any more?
A. No. 15

Q. How often do you get a phone call like that from the bureau immediately prior to sending a fax?
A. I didn't get the phone call. 15

Q. How often does your office, does the media centre, get such a call before sending a fax?
A. Very seldom. 20

Q. It's a very, very rare event, isn't it?
A. Correct. 25

Q. And it indicates that the person at the bureau was very concerned and was concerned to ensure that the right person got the information?
A. The media centre is not the right person to receive information on a storm warning. Initially it should go to the sailing office, the race director. The media office deals with the media, the sailing office is in charge of the race. 30

Q. Mr Campbell, there is evidence that in fact it was faxed to the general office, to the CYCA and that there was an attempt made to speak to Mr Thompson but it was unsuccessful, he was unable to be contacted.
A. At that time Mr Thompson probably was still on the water. 35 40

Q. Yes. So in those circumstances your media centre was not a bad option, was it?
A. No, agreed. 45

Q. And you would expect would you not the person who took that phone call to have ensured that it was got to you quickly and that the urgency involved was sufficient to make you act accordingly?
A. It's not my job to - I was not running the race, I was running the media centre. 50

Q. You know Mr Thompson well, don't you?
A. I do. 55

Q. You have a lot of dealings with him?
A. Yes.

Q. It would have been a very easy matter for you to have discussed the matter with him at any time during that afternoon when he returned from the water, wouldn't it?

A. Yes it would have been.

HILL: Q. You wanted to say something?

A. Yes sir. I really can't see the relevance of whether I received a fax and at what time I received a fax on an inquiry of this significance to the wellbeing or an inquest into the death of six yachtsmen and to the findings of his Worship on the--

CORONER: I can tell you.

A. --future of the race.

CORONER: Q. One of the things we're looking at is the organisation of the CYCA officers and the question arises whether there should be personnel in the office on the day of the commencement of the race and thereafter.

A. Yes, there were certainly - if I may answer that sir or comment on that, there were people in the CYC office up till about 11.30 when they had to go out on the water and that is normal practice. At the end of the race they have a lot of buoys to pick up, they have - on the water and probably the starter's boat would not get back till about 3 o'clock in the afternoon. And I think it's quite likely and deservedly that the race director at that time, when there was - he was unaware of any major catastrophe in the foreseeable future, would take a break.

Q. I'm not suggesting - no-one's suggesting the race director should have been in the office, we're talking about personnel, personnel to look after telephones, facsimiles, that type of thing, such as the Weather Bureau is suggesting was sent through.

A. We only received in the media office the normal facsimile of the weather, we did not receive the special forecast, to the best of my knowledge, because in fact the press release is virtually word for word a precis of the forecast issued by the bureau. I don't recall talking to anybody from the bureau, certainly I would have recalled if it was Mr Batt whom I know well and have known for many years. Mr Gage I don't know. And I would not have - but certainly had the severity of the situation been explained to me, then I would have gone looking for someone of senior status in the club, the race director or the chairman of the race committee, the commodore of course was at sea. I certainly would have gone looking for someone there. So bearing in mind that a lot of people don't understand the significance of a storm warning as against a gale warning, probably why that was not emphasised. But certainly we advised all the media and they reported it accordingly and we reported it in the press release. I think probably there was not a press release put out somewhere between 6, I probably started to write it as soon as I got back but interruptions of phone calls and talking to media, briefing media would have meant I had it till about 6 o'clock in the

evening.

HILL: Q. How long have you been running the media centre at the CYCA?

A. On and off certainly for the last 12 years and on and off--

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Q. You would have run it then during the time that Mr Halls was the race director?

A. Correct.

10

Q. You would have known that in the sailing office there was a secretary, I think her name was Elaine?

A. Yes.

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Q. You would know that she stayed in the sailing office when everyone else went out to watch the race commence?

A. I can't remember that--

Q. You can't remember that. What I couldn't help noticing was that all the people who gave statements came here and gave their evidence, left. There was only one person that you say could have received that phone call?

A. One other person.

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Q. Yes, one other person. Who was that again?

A. Miss Gray. Well, that may not be so. I mean the two younger lasses in there, Miss Kelly and Miss Cater, who came in briefly, they may well have taken a phone call--

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Q. You said they only came in and picked up their handbags, didn't you?

A. Yes, picked up their bags. They may have been there for 10 minutes, 15 minutes but it's quite possible.

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Q. Miss Cater wasn't there, according to her statement?

A. No, she wasn't.

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Q. And the other one came in, picked up her handbag and left?

A. Yes.

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Q. And you have firmly said that the person who would have taken it would have either been yourself or Miss Gray?

A. Yes.

45

Q. You didn't take it?

A. Not to my recollection.

Q. Had someone said that to you, that this was a very serious thing, this storm warning, you would have taken that to Phil Thompson and said look, I don't quite understand, there's someone at the bureau, the Weather Bureau, quite agitated, he's faxed this through, you'd better call him up?

A. Yes, I would have done that.

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Q. That's what you would have done, wouldn't you?

A. Yes.

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Q. And the only other person would be at that particular time Miss Gray?

A. Yes, I don't think we had anybody else working there at the time, unless there just happened to be somebody from the club in the office at the time, which is unlikely. 5

Q. And Mr Stitz appeared on behalf of her, you saw that?

A. I did.

Q. You may have these back, the originals, you handed me the press releases. 10

<WITNESS RETIRED AND EXCUSED

HILL: Mr Coroner, I note the time. This evening we're going to listen to that tape as I said, that's been obtained, it's got three and three-quarter hours on it. We think it's the vital time and we will listen to that. Tomorrow morning we start off with Mr Allan Green, then Mr Bush. I apologise for not keeping up with the timetable. 15 20

CORONER: I think we've made up a lot of ground today.

DISCUSSION AS TO FURTHER WITNESSES AND TIME REQUIRED 25

ADJOURNED TO THIS COURT TO THURSDAY 27 JULY 2000 AT 9.30AM 30

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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

Dated at GOODSELL BUILDING
this day of 2000

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