

SENIOR CONSTABLE UPSTON

Q1 This is an electronically recorded interview between Senior Constable David Upston of the New South Wales Water Police in Sydney and Andrew Machin on Wednesday, the 21st of the 4th, '99 at the Melbourne Water Police, St Kilda. Andrew, and also seated directly opposite me is Senior Constable, Detective Senior Constable Gray of the Bega Detectives' Office, New South Wales Police. Andrew, for the purpose of the record, would you like to please state your full name?

A Andrew Stuart Machin.

Q2 Your date of birth?

A 8th August, 1950.

Q3 And your address?

A 12 Latham Street, East Bentley, 3165.

Q4 And your occupation?

A I'm an engineer in Department of Defence, D.S.T.O. Aeronautical and Maritime Research Laboratories.

Q5 And D.S.T.O. stands for?

A For Defence Science and Technology Organisation.

Q6 O.K. As I have already explained to you, Detective Senior Constable Gray and myself are making inquiries into the Sydney to Hobart Yacht Race and we've been speaking to people either directly or indirectly involved in the race of 1998. And what brings us to talk to you is that we are led to believe that you are, or were a previous Commodore and Race Director of the Victorian Ocean Racing Club. Is that correct?

A Yes. I was Commodore last year and the year before and I've directed a fair number of their ocean races.

Q7 O.K. and as Race Director, what does that entail, what do, what are your duties as Race Director?

A Essentially seeing the race through from writing the Notice of Race until completion of the race and distribution of the results. Race, Notices of Race are formal documents asking for entries to the race and laying out the conditions of entry, starting times, divisions, things like that. When someone gets one of those and decides to enter the race he fills out the entry form which obviously has his boat name, his name and a number of details which allow us to make an assessment of its handicap if it's a performance boat or let us know if it's entering under a measurement system. And from there we can direct to the owner or the entrant the remaining paperwork they have to fill out before we let them enter the race.

Q8 Now there's, I understand there's various measurement systems for ocean racing?

A Yes. The International Measurement System, in fact, I.M.S, the International Measurement System is the internationally recognised measurement system. It took over from I.O.R. about 7 or 8 years ago and is now, somewhat regrettably I think, reaching the end of its useful life. Here in Victoria we don't have that many competitive I.M.S. boats any more because the newer boats are so much more competitive that the older boats

don't bother competing, but most of the Victorian ocean racing fleet has had an I.M.S. certificate some time at least in the past. The other measurement system, or semi-measurement system that we use locally, is something called Australian Measurement System which was developed here in Victoria really to rate the Victorian fleet and is fairly successful in that respect. We also run races under arbitrary division where from experience with the boats and from their past history we can assign them a handicap.

Q9 O.K. Now as a, a Race Director and vessels entered in an I.M.S. category, with the different categories of race there's a Cat 0, 1, 2 and 3 assigned to a particular race.

A 4, 5 and 6.

Q10 And so on.

A Yeah.

Q11 What's the majority of your ocean races?

A All our ocean races, with the exception of one, are Cat 2. The one exception is a Cat 3 race which goes from Portsea and into Western Port and for that race we have several times in the past delayed it or not run it because we thought weather conditions were a bit dubious for Cat 3 boats.

Q12 O.K. So, in fact, you postpone that race for, for that?

A at times - - -

Q13 Or what, what are the procedures that you would do if you thought that something was dubious, the weather conditions or the sea conditions?

A Right. O.K. Let's, like, let's forget about race categories at the moment.

Q14 Yes.

A If in, the, the main consideration for postponing a race at a Victorian ocean race is conditions in the rip.

Q15 Yes.

A Conditions in the rip can become untenable for yachts. Wind conditions outside are sailable, very unpleasant, but sailable.

Q16 Mmm.

A All our races are timed to start at slack water in the, the rip which gives them the best conditions available. All our races have a go, no go decision. Most of our races, there's no, there's no problem or anything. You, you can talk to the radio relay vessel and they'll say they're happy with that, and it goes from there. But a final decision has got to be made by either a committee member on the, on one of the vessels or a Race Director or Flag Officer in telephone contact. If the weather is dubious we'd like to be there and, in fact, over the last 10 years we've delayed start of the Melbourne to Hobart Race twice because of very bad conditions in the rip. The last time, of course, was 1998 when we delayed it a day and the previous one I

think was about 1992 when we, again we delayed it for a day.

Q17 It's basically, though, the conditions at the rip that you postpone the race?

A Yes.

Q18 And not outside or in the boat?

A That's right, conditions of the rip. They're, they're the, the gateway for us or the, the no go, no go gauge. If, if conditions outside are very bad they're going to be worse at the rip.

Q19 Yeah. Yeah. So it hasn't been the case where you've postponed the race due to conditions that may have occurred when all the fleet have cleared the rip, the rip?

A No, except on one Category 3 race a few years, about 3 years ago, which was the race from the Portsea round to Western Port, when the weather forecasts were such that the conditions and the rip were all right, I decided not to run it because it was a Category 3 race and Category 3, we did have, yeah, Category 3 boats are not compelled to be as well equipped as for Category 2 and Category 1.

Q20 We, we'll go back to categories shortly, but whilst we're on this what, what gives, gives you the, the discretion to, to class a race as far as the category is concerned taking into account I.M.S. regulations?

A Right. Categories of race come from the A.Y.F. Blue Book and the safety regulations at the back and they have a set of guidelines and we, yes.

Q21 I'll show you a book - - -

A Yes. I've just been given the book and - - -

Q21 - - - of Australian Yachting Federation Racing Rules of Sailing.

A Yes, and in the back of that there's the safety regulations and somewhere in that there's a set of recommendations as to how you should rate the categories by race. Yes, here we are, Section 2, 2.1, Categories of Events.

Q22 And that, that's basically sets out - - -

A Well, it sets out, it says Categories 0 to 4 are intended for offshore racing. Category 0 which is not used in Australian racing, Category 1 which is used I think only by the Sydney-Hobart Race, I think only the Sydney-Hobart Race, and Category 2 which is what all our offshore races have been with the exception of the Portsea-Western Port Race.

Q23 All right. I'll just have a look at the book for the moment. It says, A Category 2 race which is, say, your, you class a Sydney, correction, a Melbourne to Hobart or Melbourne to Devonport as a Category 2 race.

A Yes.

Q24 Which under the I.M.S. rules, now let's get back onto the I.M.S. rules at the moment, must have a stability index of 110 degrees.

A Yes.

Q25 Is that correct?

A Yes.

Q26 O.K. With your Category 2 race it says here in the rules, Races of extended duration are long and not far removed from the shore or in a large, or in large unprotected bays or lakes where a high degree of a self sufficiency is required of the boats. Why would you class a Melbourne to Hobart - - -

A Hobart.

Q26 - - - or a Melbourne to Devonport a Category 2 race?

A All right. Well, they're, they're of somewhat extended duration and indeed they're, in all cases they're relatively close to shorelines. The

Q27 Just let me stop you stop you there.

A Yeah.

Q28 Where are they relatively close to shorelines?

A Melbourne-Devonport is 170 odd miles so at no stage are they more than 80 odd miles from the shore and, in fact, for the Melbourne-Hobart which run closer to King Island there would be no time when they are even as far as that offshore.

Q29 You've, you've sailed in Bass Strait - - -

A Yes.

Q29 - - - a lot yourself?

A Well, I have, yes.

Q30 Yeah. One of the most treacherous areas in Australia, would you not think?

A It has that reputation, but I couldn't, no, I, I would have thought that the corner around where all the Sydney-Hobart boats got into trouble was more treacherous because - - -

Q31 Yeah.

A - - - of the, the meeting of the, the south-flowing current there.

Q32 But it has been the case where the, the Bass Strait is an extremeness, is a notorious area for, for strong winds, high seas, rough conditions?

A Indeed.

Q33 O.K. Let's get onto Category 1 where it says, Races of long distance and well offshore, and it goes on basically the same as Category 2 but we look at the well offshore.

A Mmm.

Q34 Being 80 miles halfway point between Melbourne-Devonport, wouldn't you think that's well offshore?

A (NO AUDIBLE REPLY)

Q35 It's just your interpretation - - -

A Yes. Yes.

Q35 - - - that I'm trying to get.

A It's my interpretation, yes.

Q36 But you class - - -

A Yes.

Q36 - - - the race - - -

A Yes.

Q36 - - - and I'm trying to determine that.

A Between New Zealand and Australia you're well offshore, you're 500 miles offshore and relative to that an 80 mile length distance which, in fact, for most yachts is still actually, if you're really keen, within mobile phone range of contact.

Q37 But - - -

A I would class that as not necessarily - - -

Q38 Mmm.

A - - - far offshore.

Q39 But you can be within 5 miles of the coast and still within mobile phone range or, or you can be within 300 miles off the coast and be within radio range.

A Indeed.

Q40 What I'm trying to determine is, is where and how you determine to classify these races, but, and it's purely just my interpretation and trying to get a grip of, of where you class them is that my belief, and this is just my belief again and where I'd like you to determine me wrong, is that long distances and well offshore and 140, 100 and how far, 140 miles, no there's a correction, 160 miles.

A Between Melbourne and Devonport.

Q41 Yeah.

A Yes.

Q42 That's a considerable distance.

A But they're, at no stage can they be more than 60, 80 miles off, offshore.

Q43 Mmm.

A In fact, you'll probably find that at no stage could they be really more than about 70 miles offshore.

Q44 Mmm. O.K. But it's - - -

A That may be, yeah.

Q45 O.K. It's a classification but then we look at, we look at the stability indexes of those vessels being 110 degrees.

A Yes.

Q46 O.K.

A There's, I might point out that those, of course, are static stability indexes.

Q47 Explain that?

A Where they're pulled over in a static situation with no wave action or wind action and with no sails up so it's a measure of stability for certain.

Q48 Yes.

A But in actual sea conditions a further index of stability which is important which is not measured is, in fact, their dynamic index of stability which is concerned with the moment of inertia of the boat and which is to a certain extent an indicator of how it resists being rolled over in, by water rather than by, just by wind pressure.

Q49 All right. Are you aware of a factor of, of inversion as far as the stability indexes are concerned?

A No.

Q50 Well, would it, would you be surprised for me to say that the lower the stability index the longer the

vessel will take to turn back again to its upright position? Could be, could an - - -

A In a static, in a static situation, yes, I believe you, I'm not sure about a real situation, sorry, I'm, a situation with waves.

Q51 Yeah.

A I'm, I'm inclined to believe you're right, but I wouldn't - - -

Q52 O.K.

A - - - be absolutely sure.

Q53 All right.

A If I can suggest someone to talk to about dynamic stuff it's John Green, who's the Australian Chief Measurer.

Q54 O.K. We're certainly going to look into that anyway - - -

A Mmm.

Q54 - - - and that's one of the factors that I thought you may be aware of and the difference that we are aware of in time between 110 and 115 degrees, which is also the difference between a Category 2 - - -

A Cat 2 and 1.

Q54 - - - and Cat 1 for an I.M.S. boat and is, can be considerable in time frame.

A Mmm.

Q55 O.K.

A Though I would think that most Cat, sorry, most I.M.S. boats would be built to Cat 1 these days.

Q56 Yes, but it doesn't stop them from being altered - - -

A No.

Q56 - - - to bring themselves into a Cat 2 race either.

A No, of course not.

Q57 Yeah, and of course we'll also just clarify that under I.M.S. it's also, the vessel is built to also a structural condition as well, not just a stability index.

A I'm not, I'm not sure about that any more, I know that there used to be A.B.S. but the A.B.S. declined to continue certifying boats and I'm not sure at the moment what boats are built to. I know it's, it's of concern generally - - -

Q58 Mmm.

A - - - around the place that's there's no obvious standard for boat building.

Q59 Right. Well, just for your information we've spoken to a number of boat manufacturers and naval architects and they still build boats to the A.B.S. which is the American Bureau - - -

A Of Shipping.

Q59 - - - of shipping strengths certifications - - -

A Mmm. Good.

Q59 - - - and scantling certifications.

A Yes, but there's no requirement - - -

Q60 There's no, no. There's no - - -

A - - - for them to certify that any more, yes.

Q61 Exactly. O.K. Well, now let's go back to the race categories and, and how they, they fit you and also in

-
particular your vetting for a Category 2 race with in particular again to I.M.S. certification. How do you go about getting that information and what do you do with it?

A Well, we get copies of their certificates and check their stability ratings, so that is a tick or no tick situation straight off and personally I'm not particularly worried about I.M.S. boats or boats which have had fairly recent I.M.S. certificates because we can look back on that. The majority of racing in Victoria is done by performance, under performance handicapping and there are no defined requirements for stability there. We have to rely on, on what they've done in the past and what their measurements have been in the past and also on race history.

Q62 O.K. And what do you do as far as the I.M.S. certificates and, and any other certification? Do you do certain information, what do you do with it, you vet it and if it doesn't comply - - -

A Yes, they can't enter.

Q63 They can't enter the race?

A Mmm. But of course we have to rely on the fact that the owners are giving us the I.M.S. certificate which is relevant to their boat at the time.

Q64 Yes, but you check it personally as a Race Director?

A Not necessarily me personally, but we, it's ticked off either in the office or by the Race Director, yes.

Q65 So somebody checks it?

A Yeah.

Q66 O.K. Were you involved as a Race Director in the 1998 Melbourne to Devonport Race?

A No.

Q67 That was somebody else?

A That was John Duffin.

Q68 John Duffin. O.K. Did, were you involved in the race committee at all in that particular race?

A Not on the race subcommittee, no.

Q69 And you had, had you had anything to do with that race at all?

A I read the Notice of Race and the entry form and stuff like that, yeah.

Q70 And in the Notice to Race you mentioned that that is a Category 2 race?

A Yes.

Q71 And that vessels must comply in the I.M.S. category of 110 degrees?

A They must comply with the requirements of Category 2 which for an I.M.S. boat - - -

Q72 Yes.

A - - - is whatever the stability is, 110, yeah.

Q73 Would you be surprised if I said to you that a vessel entered that race with an I.M.S. rating of 110 degrees?

A 110?

Q74 Less than 110?

A The 1998 Sydney, sorry, Melbourne-Devonport? I don't know, I, I had nothing to do with arranging that race

- - -

Q75 Mmm. But would you be surprised if that was the case?

A If it, if it entered at the time this category it shouldn't have, it shouldn't have been allowed to.

Q76 And, in fact, that person would be notified and, and told they're not going to enter the race if that was the case?

A Well, they should have been.

Q77 Yeah.

A Which boat are you talking about?

Q78 Well, I'm just hypothetically - - -

A Oh, right, hypothetically, yes.

Q79 But if - - -

A I'm just, in fact, trying to recall whether there was, in fact, any I.M.S. division in - - -

Q80 O.K.

A - - - that, that race.

Q81 Yeah. Yeah.

A You can check with our office.

Q82 Mmm.

DETECTIVE SENIOR CONSTABLE GRAY

Q83 Andrew, in relation to, you mentioned the rips and there was occasion to cancel - - -

A Delay.

Q83 - - - or delay a race. Do you, apart from a sort of a discretionary right to do that, do you also or are you aware of Rule 32 in the Blue Book?

A Read it to me and I'll tell you.

-

Q84 Well, I won't read it to you, I'll just show it to you and you have a quick look at it, just, just there.

A Yes, of course, that's concerned with shortening or abandoning after the start.

Q85 Mmm.

A And I would tell you that that's a race that can be applied to round the buoys racing or racing within a restricted - - -

Q86 Right.

A - - - geographical area, but is very, very difficult. I mean, it can be done but it would be very, very difficult to, to do properly - - -

Q87 Mmm.

A - - - in an ocean race and if I can get to the race that you're obviously worried about, the '98 Hobart. When that weather came through you, I would expect that you would find that the leading boats and trailing boats were probably at least 150 nautical miles apart - - -

Q88 Mmm.

A - - - that the worst weather was in a fairly localised area - - -

Q89 Mmm.

A - - - and to force boats to abandon the race may have taken them back through - - -

Q90 Mmm.

A - - - bad weather to get to a port.

Q91 O.K. Let me pose this to you, if one hour after a race started which you were in control of, this is putting away the, no, putting aside the Sydney to Hobart, if one hour after a race that you were in control of started and you received a storm warning one hour after the race started, what would be your views on that?

A This a very hypothetical question.

Q92 Hypothetical question - - -

A Um - - -

Q92 - - - knowing what a storm is?

A Yes. The, we only have limited times for contacting boats. We have radio schedules approximately three, perhaps four a day. There would be no chance of contacting, reliably contacting the whole fleet prior to a radio schedule which would probably be 4 to 5 hours after the start.

Q93 Right.

A Once they're started I would have to say that, you know, they have access to the weather information - - -

Q94 Yeah.

A - - - through Melbourne radio or one of the coastal radio stations. They would have to use their own discretion. Even an hour after the race I would not know - - -

Q95 Mmm.

A - - - what the situation of those boats spread over 15 miles of sea would be.

Q96 Now another hypothetical question or, or sort of an option here would be, would you consider informing yachts that they should take shelter for a period of time?

A (NO AUDIBLE REPLY)

Q97 As a Race Organiser?

A As a Race Organiser I would consider, they should be informed of the situation.

Q98 Yes.

A Again they should, they should know that it is their responsibility. You could perhaps tell them where shelter was, but, you know, they would have to make those decisions. To get to the nearest shelter might be a bad way to go - - -

Q99 Yeah.

A - - - you know, it's traditionally in the old days of sailing it was, Get offshore, not, Get on to shore.

Q100 Yeah. Yeah. O.K. That's fine. In relation to boats that don't comply for various reasons how were they informed? Was that informed, are they informed verbally or, or in written form or are they - - -

A This, this is with I.M.S?

Q101 Yeah, with I.M.S.

A They'd be rung up.

Q102 Right.

A And say, You can't enter this race - - -

Q103 Right.

A - - - because of.

Q104 Right.

A Under I.M.S. they might be allowed to enter in PH, in PHD.

Q105 Yeah.

A Depending again on the history of, of that boat and that skipper in similar races.

Q106 O.K. That's fine.

SENIOR CONSTABLE UPSTON

Q107 Anything further, anything you'd like to add?

A Yes. This is sort of burbling a bit.

Q108 Yes, certainly.

A But you spoke to Bruce Taylor and he gave you, probably he gave you a copy of the newsletter in which he - - -

Q109 Yeah.

A - - - wrote an article and he says in there that the new boats are very strong and I believe him. I think the new boats are really quite strong.

Q110 Yeah.

A What worries me is these boats become secondhand and thirdhand, they're certainly highly stressed, they're, they take skill to sail well and it's the problem of older boats and secondhand and thirdhand owners and crew which I think is more of a long term problem really than the, than whether the boat complies with the, nominally complies with the I.M.S. stability rating. I think that structural integrity of boats is something we should be investigating, but I'm not quite sure how we're going to do it - - -

Q111

Mmm.

A

- - - 'cause it's obviously pretty expensive. We had a case in 1995 of a race to Burnie, actually I'll digress. I've been on the committee of ocean racing for 10 years. In that time we've had no particular problems with races. We've had problems with returns from races. In about 1989 or perhaps 1990 one yacht had disappeared on the return trip from Devonport and bits of it were found at, something in the order of five or six people disappeared, dead. In 1995 we had a case where a race to Burnie went off perfectly well, but there was a strong, well, it was a south-easterly gale on the return trip and Burnie is not particularly good in winds with an easterly component so everybody came back. And we had a boat then which was a secondhand boat which had previously belonged to a very competent skipper and had been very well sailed, and that boat was rolled twice, had problems, one person was not exactly drowned but ended up, you know, permanently affected, and that boat actually had structural problems, structural keel problems which I think did not contribute to the accident that it had, but which undoubtedly would have contributed to an accident if the boat hadn't had an accident then.

Q112

Mmm.

A

I'll give you a copy of the report we wrote about that if you like.

Q113

Mmm.

A What else?

Q114 Were any other boats, as a, in that particular time where those were rolled and there was all sorts of troubles, did any other boats suffer great damage and, as a result of that?

A Yes. There was several boats which lost rudders mostly as a result of fatigue failures of the rudder stocks. Again that's something that is going to I think show up over time. The concept materials that boats are built of these days are undoubtedly very, very strong but they are prone to impact damage, and if there's one thing that a boat constantly has it's small impacts, you know, sort of wave impacts or people dropping a book over the side and hitting the hull. And I suspect that there may be problems with hulls that way. And the keels these days, of course, are about a foot cord, maybe 6 or 9 foot draught with a large lead mass on the bottom which makes them sail well, but again you've got to get the engineering of the keels into the boats right. And whether it's going to be a problem after 5 years or not we still don't know.

Q115 In light of all the problems that you've had with weather conditions and taking into - - -

A Actually we haven't had that many problems with weather conditions.

Q116 Well, from what we've spoken to in the last 5 minutes I'd, you know - - -

A Well, that's, that's one.

Q117 Yeah.

A That's one race.

Q118 Yeah, but there's been other races where the people, you know, have severe damage in going across the Bass Strait and all that sort of thing. Do you think - - -

A Not too many of ours, thank goodness, but anyway, yeah.

Q119 O.K. All right. Well - - -

A Yeah, by luck

Q119 - - - do you think there is some thought that should be, and it's purely from the Melbourne, the Victorian Ocean Racing Club is concerned - - -

A As far as I'm concerned, not the Victorian Ocean Racing Club.

Q120 Oh, yeah.

A Yeah. Sorry. Yeah.

Q121 O.K. But do you think you should put thought into, in your capacity as a Race Director, upgrading the long distance races to a Category 1 race?

A We are considering it and, in fact, it may, this sort of publicity may force us to, but in all honesty apart from the stability of I.M.S. races, there is not very much effective difference between the two.

Q122 Right.

A I mean, I think the Sydney-Hobart Race in '98 conclusively proved itself to be a Category 2 race because everybody was rescued, you know, it was within reach of support of the shore.

Q123 But not everybody was rescued, six lives were lost.

A Well, six lives were lost, yes, but, sorry, not everybody was rescued, but the fleet was within range of support from the shore.

Q124 And do you base, you know, the whole principle of a, of a yacht race due to that fact, that it's within range?

A No, of course not. You, you should at the absolute avoid as much as possible calling off, from, of outside help because it's, there's only so much help that people will be willing to give in the end.

Q125 Yeah.

A Yeah.

Q126 But it could be the fact that that help might not be there.

A Yes, indeed.

Q127 And it does actually mention that, it actually mentions that you're to be self sufficient in the rules and it doesn't actually mention outside assistance, doesn't it?

A I should, let's have a look at the rule book again, have you got it?

Q128 Yeah, there's a, here, here's one, mate.

A Category, Category 1, Without the expectation of outside assistance, and Category 2, Where a high degree of self sufficiency is required for yachts. So Category 1 says, Without the expectation, Category 2 doesn't mention any expectation at all.

Q129 It's playing words then.

A I'm down to it's playing words.

Q130 Yes. Yeah. No, I agree with you.

A Yeah. I think that's, unless you've got questions - -
-

Q131 Yeah.

A - - - I think that's about all I can usefully say. You can always lead me on, but I can't think of anything else to say.

Q132 No. No. Well, that's, that's, thank you very much for your time. The time on my watch is now 1.00pm. This interview is now concluded.

INTERVIEW CONCLUDED