

SENIOR CONSTABLE UPSTON

Q1 This is an electronic record of interview between Senior Constable David Upston of the New South Wales Water Police, on Thursday, the 3rd of June, '99, at 27 Macquarie Place, Sydney, and Iain Moray. The time on my watch is now 10.24am. Iain, the purpose of the interview, as I explained to you earlier, I am conducting an investigation into the 1998 Sydney to Hobart Yacht Race, where the, unfortunately, subsequently six deaths, or six persons lost their lives, and the coroner has instructed me to speak to people, either directly or indirectly involved in the race, and I understand that you, that you are the owner of the yacht, Siena, is that correct?

A There are three owners of the boat. I'm one of them.

Q2 Yeah.

A And I was, for the Sydney to Hobart Yacht Race in 1998, I was the nominated skipper.

Q3 O.K. For the purpose of the interview, could you please state your full name?

A Iain Andrew Gordon Moray, it's spelt M-O-R-A-Y, but I pronounce it Murray.

Q4 And your date of birth?

A 27/10/47.

Q5 And your address?

A 15 Kardinia Road, Mosman, Sydney.

Q6 And your occupation?

A I'm a banker.

Q7 O.K. Could, for the purpose, would you please explain your sailing experiences?

A Yes. I'm 51 years of age. I first went sailing on Sydney Harbour when I was 6. For many years I sailed skiffs and keel boats on Sydney Harbour. I commenced my ocean racing career in 1979 with the Sydney to Hobart Yacht Race. I have done six Sydney to Hobart Yacht Races. I have done two China Sea races from Hong Kong to Manila, and I've also done Admirals Cup races in the United Kingdom in 1977.

Q8 O.K. Could you describe Siena for me, please?

A Siena is an Australian-build fibreglass yacht, constructed 17 years ago. It's a North Shore 38, it's 38 feet long. It's a slip rig with obviously an engine and we went with a crew of seven people.

Q9 O.K. And that crew, you supplied the CYCA with a list of names of the crew?

A Yes, I did.

Q10 And was any alteration made to that list prior to you sailing into, into the race?

A There was a late change which was recorded by the CYC, one of my nominated crew members broke his hand in New Zealand and had to be replaced about three weeks before the race.

Q11 O.K. Were any of the crew paid-members?

A No, all amateurs.

Q12 O.K. Right. We'll start now with the, the commencement of the race on the 26th of December, at 1

o'clock, and you said out of the heads and headed south.

A Correct.

Q13 Was there any problems associated with the start of the race?

A We were nearly cleaned up at the starting line by the maxi, Nokia. We were able to get out of his way just in time. He then proceeded to crash into, amongst others, Sword of Orion, I think, but we did not touch any other boat and we kept clear of all other yachts and marks and making our way to the sea mark off the heads.

Q14 Right. And as far as you're aware, that's not subject to any protest?

A Not that I'm aware of, no.

Q15 O.K. I understand that you prepared a survey and documentation attached to that survey for the CYCA?

A That's correct.

Q16 O.K. Do you have a copy of that - - -

A Yes, I do and I would like to give you this copy for your records.

Q17 O.K. And at any time you can refer to this as you see fit. Right. We'll, we'll go ahead now until December 27th when you were sailing down the coast, and you were off an area perhaps east of Eden, where you experienced weather conditions.

A Correct.

Q18 Would you like to explain the situation there?

A Yes. We enjoyed a great nor'-easter which built to about 40 knots till midnight on the 26th. We had heard a forecast of two fronts coming through from south-west and, with my experience, I believed that soon after midnight, the first front would hit us, so I wanted the spinnaker taken down and the number 3 headsail put up and two reefs and the main. Half an hour later, a sou'-wester came through and hit us 35, 40 knots. The forecast for that had been 25 to 35 and we thought, well, that's O.K, the boat was well under control and sailing nicely and we came to daylight. Those conditions in fact abated. We put up some more sail and then later in the day, the weather conditions got substantially worse.

Q19 O.K. And then what happened?

A By midday, the, the wind strength had built to in the order of 55, 60 knots. I had ordered the mainsail to be heavily reefed and the number 4 jib was up. Come the 2 o'clock sked on Sunday afternoon, the 27th, which being on a small boat, we don't have weather fax, we have no other means of getting our information other than through the radio, and in all the years I've been to Hobart, I've always relied on the, the race authorities to provide an accurate weather forecast and at 2 o'clock, 14.00 hours, they were saying the weather forecast was 45 to 55 knots. I looked at the wind speed dial which was a brand new piece of equipment on my boat. At that time it was showing 75 knots. Just

prior to this, I had taken down all of the racing sails and I called for the storm jib to be put up. This was put up and we were making 7 to 8 knots on a heading of about 150 degrees in mid-afternoon of the, of the Sunday.

Q20 All right.

A At this stage, by the way, we were about 30 miles into Bass Strait.

Q21 O.K. You, were the weather conditions that you were experiencing similar to that that was being forecast?

A Nothing like it.

Q22 O.K. So you were saying that the, the winds and wave conditions, could you just sort of expand on that a little bit more?

A Yes. The, at the peak of it, we experienced what's called white-out conditions, which is when the tops blow off the waves. The waves at this stage were taller than my mast, my mast is 60 feet high, and the waves were breaking, that being the nature of the conditions in the Bass Strait. Bass Strait is something like one-fifth of the depth of the water either side of it, and, because of the south-bound current meeting the south-westerly gale, the seas were breaking, there were rogue waves coming from all sorts of angles. It wasn't a consistent sea, and you had to be extremely alert and watch every single wave. I believe, under the conditions, the rig I had up of a storm jib was correct. I don't believe in heaving-to

on extreme conditions, I believe you must maintain manoeuvrability, particularly when sailing up those waves. You've got to have something to get you over the other side to avoid launching yourself, which is usually what causes problems. In the '86 Hobart, I was on a maxi and we broke 12 ribs on the boats and had to pump 24 hours a day, simply because of the fact that you launch yourself in to midair and you've got to have control when you go over those waves.

Q23 Were you helming at the time?

A I was helming and then, we were all extremely tired because there'd been a lot of sickness on the boat, and that's seasickness from the extreme conditions, and we were rotating the helm in between myself and my co-owner, John ..... and another helmsman, Keith Wood. These were conditions where I would only have very experienced people on the helm.

Q24 O.K. And the seas you're saying were nothing like expected from the weather bureau's - - -

A No, no - - -

Q25 Or from the information you were receiving from the Telstra Control?

A Well, in fact they hadn't given us accurate forecasts of the wave conditions expected, it was really the wind that we were worried about and we were told 45 to 55 knots, and we've got ample record of that.

Q26 O.K. Had you - - -

A The maximum wind speed we recorded on the boat at this

time, by the way, was 86 knots.

Q27 Now, that's the maximum speed. Are you saying, what was the length of time you observed that wind to be blowing for?

A 86 knots?

Q28 Yes.

A There was a patch for about 15 minutes when it was over 80 knots. The rest of the time, it was between 70 and 80 knots.

Q29 Right. And that 70 and 80 knots were constant winds  
- - -

A Yes.

Q29 - - - for long periods of time.

A Long periods of time.

Q30 What would you say would be long periods of time?

A This built, I would say we were at 70 to 80 knots from about 1 o'clock in the afternoon till, certainly into the night, you know, several hours.

Q31 O.K. And what type of wind instruments do you have?

A Navman.

Q32 Navman.

A N-A-V-M-A-N, it's a New Zealand brand launched on the Australian market in the last 12 to 18 months.

Q33 O.K. And were they calibrated at all?

A Yes.

Q34 And what were they calibrated for?

A The, I don't calibrate them myself, but we have - - -

Q35 Yes.

A - - - we had the Navman boss on board just before the race, who did the calibrations.

Q36 So they're calibrated for their accuracy?

A Correct.

Q37 Do they have a plus or minus factor in them at all that you know of?

A I think there is, but it's minor.

Q38 O.K. O.K.

A These people make for Motorola, so it's pretty accurate gear.

Q39 O.K.

A And it was brand new.

Q40 Right. And they were brand new?

A Mm.

Q41 O.K.

A Although the boat's 17 years old, we had a brand new mast put in, in the last 12 months prior to the race, which unusually for a North Shore 38, had twin swept-back spreaders and a diamond on the top. That's relevant for when we got rolled over.

Q42 O.K. All right. And then what happened?

A At about just after 3 o'clock on the Sunday, my navigator, Tim Evans, reported that over there radio he'd picked up a Mayday signal from a yacht called VC Offshore Stand Aside, and he also reported that nobody else had responded to this Mayday, and he asked me whether we would be able to attend to the Mayday.

Q43 Yes.

A I, I said, "Well, what is their position?", and their position was very close to us, and then I asked him what, Tim's a solicitor, I asked him, "What are the laws of the sea for these circumstances?". He replied that we're obliged to attend unless one of, or either of two things prevails. One, the yacht is in, in danger itself, or two, any of the crew are in mortal danger. And I, he asked me those two questions, I replied that neither was the circumstance in our case, and he said, "Well, we have a legal obligation to attend", and I said, "Yes, I agree". And so, having discussed it with the crew, we were all unanimous that we'd go and rescue these blokes.

Q44 O.K. Are you aware of rule 4, correct me if I'm wrong, as far as the AYF sailing regulations are concerned, about rendering assistance?

A Just remind me, will you?

Q45 Well, it basically states that in, under the sailing rules and regulations of the AYF, and I believe it's rule 4, that when participating in a yacht race that your obligations as far as that rule is concerned, is to render assistance?

A Well, I'm obviously aware of that generally.

Q46 Yes.

A And that's always been my practice throughout my sailing career, is to help anybody in distress.

Q47 But from the discussions on the boat with your nav officer and yourselves and the rest of the crew, you

felt that there was a legal obligation outside the racing rules, to attend and render assistance?

A Yeah.

Q48 O.K. And then what happened?

A We, because of the wave sizes, it was impossible to see any distance. When I say any distance, I mean 100 metres or something, you couldn't see that far simply because there's always walls of water coming at you. However, when we got to the approximate position of the boat in distress, we saw a helicopter in the sky who acted as a, as a beacon, and my navigation officer, Tim Evans, had constant radio communication with the, this was the ABC helicopter, piloted by Gary Tyeshurst who I knew from earlier races, and he, he brought us in, did a fantastic job, and we then came across and passed within 50 metres of VC Offshore Stand Aside. On the first pass, we advised that we were switching on our engine to improve our navigation and our manoeuvrability in these conditions, and when we passed them, we noticed that many people were in the cockpit, their mast was, was missing and there was a huge gash in the cabin roof, and that they were taking water into the boat.

Q49 O.K. And then?

A And then because this was the first Mayday, apparently, that went out that afternoon, it was not known whether any rescue helicopters could actually get to the scene from the mainland, and if they got there, whether,

because of the sea conditions, whether they could in fact do anything about it. We noticed that there was a life raft inflated, hanging off the stern, and the proposal was that we would render assistance by taking them off the boat via the life raft so that we wouldn't have the circumstance where the two boats collided, which would obviously put us in peril. But I felt confident enough that we could manoeuvre Siena close enough to the life raft to either pick them off there, or take them out of the water one at a time. There were, I understand, 12 of them on that boat. Our seven, we would have been obviously very crowded on Siena, but it seemed that we were the only boat in the area and at this stage there was no rescue helicopter in sight.

Q50 O.K. So, you then sailed around Siena for a period of time?

A We were in Siena, we were - - -

Q51 Correct, Stand Aside.

A We then sailed, beam-on to the waves. At this stage, Stand Aside is being pushed back by the waves and the wind. He had no engine, he had no mast, so there was nothing he could do, he was helpless, and being continually swamped. And we had to keep close to him because we didn't know at what time we would be required to pick them off. If we got too far away, we would lose sight of them. The afternoon was wearing on and we were then in a beam attitude to the prevailing

seas. We adopted that, that status for about an hour.

Q52 O.K. And as a result of a manoeuvre, is it the case that one of your crew members, in fact your navigator, was injured?

A Yes. Whilst sailing close to them, and spinning around on the waves and coming back and spinning around again, we were hit by a rogue wave. I didn't see it myself, Keith was on the helm, he just screamed out, "Wave", we had the washboards in, so his scream over the conditions couldn't be heard down below where there were three crew. The guys on deck all just, as usual procedure, just, we were all, safety harnesses on, but hang on to a winch or whatever you can get your arm around, and this huge amount of water came over the boat. We got rolled, the mast went in the water, and, and then fortunately, the boat came up. The mast was intact, which meant that we still had our communications gear working. All four heads were still on the boat, and we were, we were very lucky. But the mast I mentioned earlier on, had twin spreaders and a diamond on the top, without question that diamond saved the rig, and bear in mind we did have a headsail up, stormsail up at the time, storm jib. So we were very lucky that we didn't lose the stick. But it was touch and go. A while later, when we removed the washboards and tidied up the deck, I asked below whether everybody was all right and I was told that Tim had been injured, and had crashed into the stove. He'd been talking to

the ABC helicopter at the time, getting further instructions about the rescue, and didn't hear the call, "Wave", and was thrown from one side of the cabin to the other, and broke three ribs and punctured his lung. He was then in, I could see, in a very bad way. We had to lay him down in a bunk. We didn't have hard drugs on board, all we could do was give him, you know, Panadol and pain killers, and I then appointed Steve to, my other owner, Steve Brendal, to take over the radio duties and, and take over the navigator's role.

Q53 O.K.

A Tim, at this stage, was badly injured.

Q54 Right. Were you being apprised of the situation as far as the weather was concerned, prior to getting into that, that heavy weather?

A We'd had a report, listening to the sked at 2 o'clock, that one of the yachts, Sword of Orion, had said that there were winds of between 70 and 80 knots ahead of us, so we knew that it was at least as bad ahead as it was where we were. They weren't far in front of us 'cause I think by that stage, they'd made a decision to turn around and, being a bigger, faster boat, they were coming back towards us, so we were on, in a very similar position to them. We didn't know from further down the race course, what the conditions were. There was no information at all what was going on ahead of us, and given that this was a south-westerly gale coming, that that information would have been handy.

Q55 All right. Just on that, if you would have known that the weather conditions were going to be as such, what would, would have your reactions been to that, that, those conditions?

A I'd never have been out there.

Q56 So you, you would have retired, or you would - - -

A Absolutely.

Q57 Yeah.

A Absolutely.

Q58 Yeah. O.K.

A All of the blokes on my boat are married, bar one, and they've all got children, and on top of that I had the deputy governor of the Reserve Bank on board, Dr Grenville, and the only reason his wife had let him come in this race, it was his first race, was 'cause I was the skipper. So, he's got a young daughter and there's no way I'd put these blokes' lives at risk.

Q59 O.K. And then, then what happened after you found that you had an injured crew member?

A We were advised by the ABC helicopter that a rescue helicopter was there, was, was minutes away, and we asked to, if we could be relieved for, from attending at this rescue, given that we had a seriously injured crewman on board. They advised that we would be permitted to leave the scene, and we advised that we were then having to make full speed back towards Eden to try and get this bloke to hospital.

Q60 O.K. And then you've continued on. You left the

scene?

A Yes. We would have left the scene, unlike the report from the CYC which is inaccurate in this particular matter, we left the scene at about 16.30 hours and then because our navigation equipment was knocked out by the roll, we got a compass bearing from the ABC helicopter and we steered course which we thought would get us fairly close to Eden, of about 280 or something like that, and we had the motor on, and I was very concerned now, because I'd told Tim, "I don't want to go back because I'll then have the waves behind me", and this is the worst possible aspect to present a boat in these conditions. I wanted to keep going south, just to ride out the storm, but it was a long way, it was another 400 miles, you know, to Hobart, and I said to Tim, "Well, what shall I do?", I mean, I said, "You're the best judge of the pain you're in".

Q61 M'mm.

A And he said, "Just mate, get me to land as fast as possible, I've got to get to hospital".

Q62 M'mm

A And so I said, "Well, it involves a risk of having the waves behind us". He said, "Mate, just get me to hospital", so.

Q63 Yeah.

A We then had the waves behind us and steered a course. We had the engine on to try and help us in our manoeuvres and then later in the night, the engine

stopped. It turned out that, that the breathe-up tank, breather outlet for the diesel fuel tank which is on the port side of the boat, that boat having been constantly in a gunnel-down, the water had forced its way into the diesel fuel tank and now we had contaminated fuel. The engine then stopped so we have, we had from about midnight, we had no engine, and people were hallucinating, everyone was extremely tired and we couldn't make a westing, is the bottom line, and so I then gave an order to alter course due north, and to try and run before the storm. And then in the morning, dawn, the breeze, the wind had abated to about 40 knots or so, and then throughout the morning, the, it continued to lighten till finally at about 11.00am, we sighted the water tank off Bermagui and we radioed to coast guard and then sent out a fishing boat which towed us into Bermagui at midday on the 28th, and I took Tim ashore, ordered an ambulance for him, went with him in the ambulance to Moruya Hospital which was some 70 miles, 70 kilometres north, and then at 4 o'clock they operated on Tim for a punctured lung. By this time he'd lost 60 per cent of the use of his lung, pneumonia'd set in, and the doctor said it was just extremely fortunate he got in here. We'd been offered a helicopter to try and take him off, but I gave instructions that wouldn't happen because the only rescue apparatus they had was a sling, and that would have cut right across, that would have killed him.

Q64 M'mm

A So, the only way we could get him to hospital was keep him flat - - -

Q65 Mm.

A - - - and obviously there were a lot of other incidents going on at the time, taking up considerable resources, so we felt we could get there under our own steam, and we did.

Q66 O.K. All right. And then you later on returned to the, to the yacht and then - - -

A No. I gave instructions to, not knowing what Tim's condition was and being far from, far from his family or anything else, I gave instructions to the crew to, (a) get the motor mended, I arranged for a mechanic to come to the boat in Bermagui and try and get the motor fixed, the crew were to remain with the boat till the motor was fixed, and then (b), bring the boat back to Sydney when the motor was repaired. In the meantime, I would accompany Tim to the hospital, and make arrangements for him to be transferred back to Sydney.

Q67 O.K. You mentioned earlier about, you were nearly rolled over, or you were rolled.

A We were rolled, yeah.

Q68 What, what degree of roll do you feel that you experienced?

A Well, as I say, I didn't see it, but I felt it. Gary Tyeshurst who was the ABC helicopter pilot, he saw it, but apparently didn't get it on footage.

Q69 No.

A He saw the mast go in the water - - -

Q70 M'mm.

A - - - so I think we did about 110, 120, something like that. Certainly the stick went in the water.

Q71 Yeah.

A But, you know, I obviously couldn't see anything at the time.

Q72 Yeah. What category of race did you enter? Under what division?

A PHS.

Q73 Under PHS.

A Mm.

Q74 And is, or does Siena have a stability rating?

A Yes.

Q75 And do you know what that stability rating is?

A No, but it was adequate for the, for the, for the race.

Q76 All right. Is there a certificate that you're aware of?

A Years ago, before I owned the boat, it was in the 1983, 1984 Hobarts - - -

Q77 M'mm.

A - - - and a certificate was issued then which was then submitted to the CYC. We did a, a PHS measurement check in November of last year which was necessary to qualify for the race.

Q78 And you've got no worries at all that the vessel filled all the requirements of the race?

A Absolutely. I mean, there were several other North Shore 38s in the race and, you know, they'd all qualified for the, for the race.

Q79 O.K. You mentioned also earlier about seasickness with the crew. Do you feel that that affected the basic running of the, the vessel throughout the race?

A We'd, a number of us had taken Sturgeron which is not sold in this country, but we imported it from UK and I've always taken that drug, it's the drug that the astronauts take, and generally speaking that's terrific, that works in conditions up to, you know, 60, 70 knots without a problem. For the first day, however, some of our blokes were weak, which, and in particular in those hard-running conditions, I had been on the helm for quite a long time. We, my partner and I wouldn't give anybody else the helm, for the simple reason that one broach, basically, and you're gone, so we were pushing hard, no question about that. And we had covered 250 nautical miles in 23 hours, something incredible.

Q80 Mm.

A North Shore's never done those sort of distances before. But as the conditions got worse, the seasickness, you know, affected some people more than others. It particularly affected me. And I was feeling quite weak towards nightfall on the 27th.

Q81 Do you feel that the seasickness hampered your decisions on, on the events?

A If I hadn't been so sick, I, I would have probably been a bit, been a bit more pro-active, but in the scheme of things, it wouldn't have changed anything to do with the rescue, no.

Q82 Right. Do you feel that your life or the danger of, or the lives of your crew and vessel were, were at risk at any time whilst you were standing by the Stand Aside?

A Absolutely.

Q83 And did you feel that you wanted to make any other decisions, apart from starting out that particular time?

A I didn't want to be there.

Q84 Yeah.

A I didn't want to be there. But it seemed to me I didn't have any choice. I, I had to stand by these blokes because they were, they were going down.

Q85 Yeah.

A And I know that the boat was in danger and, as it turned out, it was in, you know, considerable danger. But, you know, we had a chance of, of, of getting out of it, they didn't have any.

Q86 Right. All right. Is there anything now that you would like to add, apart from what we've spoken about, surrounding the events and, and possibly that you feel would assist me in the, in the investigation - - -

A Mm.

Q86 - - - for the coroner?

A Yeah. Well, there was a documentary made by the ABC

back in March, which I participated in. I was very sceptical about going in this documentary, but my position is that I wanted to do everything I could to try and make this event safer in the future. I consider it totally unacceptable that six people have died, and although I'm not in the habit of talking to the media, I decided to, to participate in that documentary, which I thought was an excellent documentary. The, the whole question of when do you stop racing and when do you start saving lives, or protect lives, for me is the critical things. Having been a keel boat racer on Sydney Harbour, my club, the Royal Sydney Yacht Squadron, will not start keel boat races in over 25 knots of breeze, you're probably aware of that. I feel that ocean racing, when you get to conditions such as 60 knots, this is no longer racing. This is survival. And I am very critical that the organising authorities did not become more pro-active when it was abundantly clear that the conditions were so extreme that lives were in great danger. I particularly allude to the complete absence of using any other forecasting service; the failure to relay to us the wind readings from Wilsons Promontory which were some way to the west of us, which is the new weather coming, which recorded over 90 knots; and the failure of the race authorities to notify me, as the skipper, through the, through the radio that events such as the Melbourne to Hobart race had been start-delayed because

of the conditions described by the organising yacht club down there as suicidal. I am particularly upset that this information wasn't given to our fleet. I regard the CYC's minimalist policy of passing on information as, under those extreme conditions, as nothing short, quite frankly, of negligent, and I feel that lives would have been saved if more of that information had been passed to us, to allow us to defend ourselves.

Q87 O.K. You mentioned earlier about an incorrect reporting in the CYC, CYCA's committee documents in regards to your vessel. Would you like to expand on that?

A Yes. I received this report yesterday. I haven't read it comprehensively, but I note on page, pages 121, 122 and 123, that the race report speaks of the conditions of VC Offshore Stand Aside, describing abandonment ..... and in what is both an inaccuracy in that they fail to mention that Siena was on station for an hour, at considerable peril to it and its crew, they fail completely to mentioned that we were there, and indeed rendered assistance. They also say the yacht was abandoned at 15.30 hours which is, which is clearly wrong. When we left the scene at 16.30 hours, the boat was still afloat. I haven't had a chance to study much more of it, but I'm particularly, I find it offensive that, that they have failed to acknowledge the, the work that we did, and I regard the report as flawed at

least in that respect. I also regard the, there appear to be other problems with the report, such as, as I understand it, a complete breakdown in the, in the chain of command onshore. I was horrified to learn that, basically, after I left Sydney heads, nobody at the CYC was in a command position. Nobody was taking decisions to do anything about issuing warnings about the extreme conditions, which would have given the sailors out on the sea a chance to save themselves. This, this attitude that it's every skipper's decision whether to keep, you know, racing or not, that's fine, I go along with that, but if you don't give me information, I want to know why you're not giving it to me, because I would make a good decision if you give me good information; I'll make a bad decision if you give me bad information. And I got bad information.

Q88 O.K. Have you ever acted in the capacity of, of race director or, or any form of capacity in a, in a race director's situation, or - - -

A I initiated - - -

Q88 - - - starting races?

A I initiated 18 years ago, something called the, the, the Dragon Into Port Regatta Series, which is a series that's conducted from the Royal Sydney Yacht Squadron, the Royal Hong Kong Yacht Club, the Royal Vancouver Yacht Club and the Osaka Yacht Club, and every two years we have races in each of those ports which is basically harbour racing. I have been deeply involved

in organising yacht races.

Q89 O.K. And how do you feel that the CYCA has conducted themselves in organising this event for this particular year?

A Um - - -

Q90 As far as the race director is concerned, or the race committee?

A Yes. Well, you've mentioned someone there called the race director who spoke at the briefing we went to on the 24th of December. From that day to this, that person seems to have disappeared off the face of the earth. I assumed that, because someone was called a race director, he would have responsibilities and duties similar to that of a, select another sporting event, let's say a cricket match, or a tennis match, where you'd have a tournament director who, for example, at the Australian Open, if bad weather was coming, he'd give the instruction that the roof would be closed, so he'd, he'd take some pro-active responsibility about ensuring, (a), that the, either the race or the event could continue or that (b), the participants would be protected. It seems to me that nobody was in that command position, nobody took onshore responsibility for assisting the fleet while it was at sea in these horrendous conditions.

Q91 O.K. And how do you feel about the situation with the Young Endeavour and the reporting from the Young Endeavour, and their role that they took?

A I personally feel that they were far too minimalist in their approach. For example, as you read in my report, they at one stage said over the radio, "Skippers are reminded of item 7.4 in the sailing instructions". You just said to me a little while ago, "Are you aware of AYC rule 4?". I had to ask you what that rule 4 was. They didn't specifically say that it was every skipper's responsibility to determine whether to continue racing or not. They just said, "We remind you of item 7.4".

Q92 Right.

A That was just typical of this minimalist approach, this gung-ho attitude where people really just don't seem to care enough about other people. Whilst on that particular subject, I've got to get something off my chest. To this very - - -

Q93 O.K. Well, for the, the time on my watch is now 11.05am. The interview is now concluded, or suspended, for a tape change.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

SENIOR CONSTABLE UPSTON

Q94 Right. The time on my watch is now 11.07am. The interview between Upston and Moray is continued. Right. Just prior to the tape change, Iain, we were going through something, you were just about to say that was something bothering you. Would you like to continue on?

A Yeah. The, this is a comment about attitudes of, of certain people involved in the ocean racing fraternity here in Australia. In the case of Siena, we'd done a major refit and I think we'd probably spent close to \$40,000 on the boat, getting it ready for the Hobart, and we had, we were second in our division at the time, and we were just having the ride of our lives. We went to the aid of this vessel, as is our responsibility. We suffered damage to the boat, damage to the crew. We had with withdraw and, to this day, that boat that we rendered assistance to, has never contacted us or thanked us.

Q95 O.K.

A That's, for example, one side of attitudes that prevail. On the one hand, people expect to be helped, but don't, don't actually thank you for it. Then, of course, you get the CYC report that once again fails to mention, you know, what it was that you were involved with. So it leaves you with a, with a feeling that, you know, should I get involved in this sort of thing again, when, when obviously there's some attitudes around which, you know, you wonder, that if you were in peril would, would these people do anything about helping you.

Q96 Mm.

A And I have my doubts about certain people. I see there's some media comment about a boat that was involved, or wasn't involved, in, the Sword of Orion

matter, and it's, it leaves a very nasty taste in my mouth.

Q97 What, what do you feel about, and keeping in mind that the, the inquiry will encompass the Sword of Orion and the Sword of Orion incident, what, what's your feelings on that as far as what you've heard?

A Well, as I said to you before, there are only two reasons why I am excused from rendering assistance, and it galls me to think that I went and put my crew and my boat in considerable risk, and that risk turned out to be a reality of considerable injury, and other people would not adhere to the same standard. If, if they haven't, then I think that's absolutely reprehensible. I am sure that our presence at the rescue scene in those conditions for so long, meant that no lives were lost. And I certainly could never live with myself if I hadn't done that, and it seems to me that there's an element in the fleet that just don't seem to care about other sailors whose sole preoccupation is winning the race and at the end of the day, this is a sporting endeavour not to be confused with a life-or-death endeavour.

Q98 O.K. Do you feel that at any time your life or the life of your crew, were in peril, that you would have abandoned the Stand Aside without being relieved of that duty from another point of view?

A If, if we, after the knock-down, if we had sustained, you know, obviously, substantial damage to the rig or

more damage to individuals or, indeed, a life overboard, well now, it's, I have to make the decision and I would have, I would abandon the rescue and I'd have to look after my crew and my boat first. But, until that point, I, I was on station.

Q99 Right. O.K. Just a number of issues that, that we've raised before, and it's in regards to the racing rules, in particular race, item 7.4 in the race instructions, and as we've previously mentioned, item 4 in the AYP rules and instructions, and rendering assistance and also the, the situation where the responsibility is up with the skipper.

A Mm.

Q100 Do you feel that as a master of the vessel, that you should be conversant with the rules and instructions of the race?

A Yes.

Q101 Right. And you've mentioned you, how scanty the information was, as what they said was for item 7 or 7.4.

A Mm.

Q102 Did you feel that you weren't aware of item 7.4?

A We were, we were all saying, "Has anybody got the rule book? What is item 7.4?".

Q103 Mm.

A And indeed we were saying, "Why would they just say 7.4? Why wouldn't they just tell us what it is?".

Q104 Do you feel that it wasn't explained sufficiently?

A It was not explained sufficiently.

Q105 Right. Were you - - -

A And it was, it was given far too late in the proceedings.

Q106 Yeah.

A That was the other thing.

Q107 Yeah. At, at what time do you believe that that call was given by the Young Endeavour in regards to 7.4?

A It was certainly in the afternoon of the 27th. Maybe it was about 3 o'clock or something like that. When I came back to land, I discovered that the Wilsons Promontory readings had been known for a considerable time beforehand, that the decision to delay the start of the Melbourne to Hobart race was made mid-morning on the 27th. Easily, that information could have been broadcast to the fleet that morning, which would have given us all a chance to get into Eden, or get back to safety. 'Cause, bear in mind that the big boys have gone, you know - - -

Q108 Yes.

A - - - they missed the worst of it. It's the little guys that got the bashing, and they, some of them obviously managed to get out in time. Others who made a southing, as we had quite rapidly, if we'd had a warning, you know, four hours before, we could have been much closer to a coast.

Q109 O.K. As far as the safety equipment on board Siena in regards to harnesses and life jackets - - -

A Mm.

Q109 - - - and the like, your vessel underwent a safety inspection?

A Correct.

Q110 O.K. And that safety inspection was forwarded to the CYC - - -

A Yes.

Q110 - - - prior to the commencement of the race?

A Yes.

Q111 Are you aware of the Australian Standard 2227 as far as safety harnesses are concerned and landings?

A I believe so, yes.

Q112 O.K. Are you aware that all of your harnesses on board comply with that - - -

A Yes.

Q112 - - - 2227?

A Yes.

Q113 And how many crew did you say were on board?

A Seven.

Q114 And there were seven harnesses made available?

A Correct.

Q115 Are they the property of the owners of the boat, or did any person bring individual harnesses with them?

A All the property of the boat.

Q116 And everyone wore those particular harnesses?

A Correct.

Q117 O.K.

A They're all brand new as well.

Q118 Right. What, what - - -

A Except mine.

Q119 Right. If, they were all brand new, were they all purchased at the same time?

A I believe so.

Q120 Right. Do you know what brand they are?

A Offhand, no.

Q121 No, O.K. All right. Is there anything else now, Iain, that you'd like to add prior to the conclusion of the interview?

A Certainly as regarding the harnesses, I specified that the, the clips on our old harnesses were inadequate and I insisted on each harness having a spring-clip within the G-clip, so, do you know what I'm talking about?

Q122 Yes.

A Yeah, so that they're not just clips like that, but there's a spring in there so that it stops them from being knocked or accidentally opened. I think all harnesses should have those types of clips.

Q123 O.K. From your experiences, have any of these clips or harnesses been released for - - -

A One of my crew members reported that, on another boat he'd been on, they had the old, the other type of clip and - - -

Q124 Yes.

A - - - they had come open. So we made certain for the race that we had all new equipment.

Q125 O.K.

A That complied with that.

Q126 All right. Is there nothing else, now?

A No. I think we've just about covered the, I think we've just about covered it. No, that's it for the time being.

Q127 All right. The time on my watch is now 11.17am. This interview is now concluded.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

SENIOR CONSTABLE UPSTON

Q128 O.K. The time on my watch is now 11.24am. The interview between Upston and Moray is continued. Iain, just at the conclusion of the previous tape, you mentioned that there was something else now that you would like to say, as we were conducting some paperwork, some routine paperwork. Would you like to express your thoughts, please?

A Yes, thanks for that. It's just on the future organisation of the race that I have some comments that I would like to voice. First of all, I believe that an event such as this should have a professional paid director who might, for example, be an ex-naval officer or army commander, someone with experience in making command decisions, and that the budget for the race should be big enough to incorporate this person, with a sufficient team around him to liaise with bodies such as yourselves and the, and the coastal authorities all the way to Hobart. I think that person should be pro-

active and I think he should be able to issue advisory warnings far more often than the current schedules permit which, as you know, are twice a day after the first day. And there should be a listening watch maintained every three or six hours for that purpose. Second of all, I believe that there should be a sea mark laid off Eden on the south coast of New South Wales, which all yachts should have to leave to port. It should be no further than, say, five miles out. That's on the run line anyway, and, and we all try and get in close to the shore, particularly when there's a so'-westerly gale coming through. So, most boats try and get in nearer shore. I think the purpose of that mark would be so that the race can be suspended if necessary. One of the problems with this race is that all the yachts were scattered over the ocean like Brown's cows, and this would at least keep them in close to the coast where you need them close. So that, a better weather forecasting service, specific to the Bass Strait, must be included. It is, after all, one of the worst bits of water in the world, and taking readings from Wilsons Prom and other places should be an essential part of the data that goes in, to really give us a green light to cross the Bass Strait, so that if the conditions are so bad, and we're near the shore, they can suspend the race, take our times when we get to the mark, get into Eden, rest off for 24 hours till it all blows over, and then start us again. I see no

reason why race records and so forth can't still be, you know, conducted under those circumstances. Also, I believe that as far as these boats go, every crew member must have his own personal EPIRB on him at all times. I feel that some of the problems of this race were that guys didn't have EPIRBs, they must have their own strobe light and, indeed, where the wind conditions are over 50 knots, they should be forced to wear life jackets on deck day and night. They should also be double harnessed in conditions over 50 knots. The, the role of storm jibs should not be under, underestimated. I believe that this business of heaving to in these conditions and putting out drogues just puts you at the mercy of these waves, and I think you've got to be pro-active in these conditions. Those are really the only extra comments that I, I wanted to, to bring to your attention. Thank you.

Q129 You also mentioned about the race director of the CYC. Is there anything further you'd like to mention about his role, or -?

A In the past or in the future?

Q130 Well, in the past.

A Um - - -

Q131 Or would you just prefer to leave it at that?

A I, I made some comments earlier on that I felt he became invisible after the start of the race, and if we'd had a more pro-active person in that role, I feel that things wouldn't have got as bad as they did.

Q132 O.K. Is there anything else now you'd like to add?

A That's all.

Q133 O.K. The time on my watch is now 11.29. This interview is now concluded.

INTERVIEW CONCLUDED