

DETECTIVE SENIOR CONSTABLE GRAY

Q1 This is an electronically recorded interview between Detective Senior Constable Stewart Gray and Mr Phil Thompson at the Cruising Yacht Club of Australia, in Rushcutters Bay, on Tuesday, the 20th of October, 1999. Also present and seated directly opposite me is Senior Constable David Upston from the New South Wales Water Police. The time on my watch is now 10.11am. For the purpose of the record, Phil, could you please state your full name?

A Phillip Ernest Thompson.

Q2 And your date of birth?

A 15th of August, 1954.

Q3 And your current address?

A 43 Benelong Road, Cremorne.

Q4 And your occupation?

A Sailing Manager of the Cruising Yacht Club of Australia.

Q5 O.K. As I already explained to you on previous occasions and today, as you're aware, Senior Constable Upston and myself are making inquiries in relation to the 1998 Sydney to Hobart Yacht Race. And you recall that we interviewed you in fact in Hobart, on the 1st of January, 1998?

A Yes.

Q6 And as a result of an accumulation of information over the last 10 months, it brings us today to speak to you in relation to other, other components of the race and

other details of the race. So if I could just start by, if you could just explain your sailing background?

A My sailing background is that I've been involved in water sports virtually all my life. I took up yachting really after late in, fairly late in my early 20's, got involved in serious racing in Sydney in the late 70's. Have competed in 15 Sydney to Hobart races on a whole variety of boats, sailed in overseas regattas in Hawaii, England etc. and tried to mount a Whitbread round the world challenge to .....

Q7 O.K. Now what was your position at the Cruising Yacht Club last year, 1998?

A Sailing manager, which virtually means that I'm in charge of all the externals of the club, the marinas, the yard and slipway and of course all the sailing activities of the club.

Q8 So you were an employee of the C.Y.C. in that capacity?

A Yes.

Q9 And you drew a wage as a result of that?

A Yes.

Q10 O.K. How long have you been in that position for, as sailing manager?

A Sailing manager, I took over in '95.

Q11 Right. And what skills do you possess to actually have that position, apart from sailing experience?

A For the, as sailing manager - - -

Q12 Obviously there'd been a variety of skills, you, you're sailing experience, you .....

A Sail, yeah, sailing experience, administration. The unfortunate part about the whole sailing administration until relatively recently, there has been no formal qualifications - - -

Q13 Right.

A - - - that you've been able to undertake.

Q14 O.K.

A I've actually, they've had two batches, Mark did the first of the I.S.F. race management courses in January, and I've just completed the last one, intake, that was in October. So I'll either be, when they finally get all the results, I'll either be what's called a state, but most likely a national race officer. And this is all a result of the push with the Olympics to make the race officials actually accredited - - -

Q15 Right.

A - - - with some form of formal training as such.

Q16 O.K. Now last year, what number of staff did you have under your control as manager?

A I had Mark Robinson and Andrea Holt as direct day to day employees of the sailing office. You only want the ones relating - - -

Q17 Mmm.

A - - - to the - - -

Q18 Yeah.

A And then we had a person in the information shed, plus we had whole variety of then volunteers.

Q19 O.K. Now who is the sailing committee responsible to, so far as in the club?

A The sailing committee is responsible to the board.

Q20 O.K. Now is it the case that some months prior to the Sydney to Hobart Yacht Race, a race committee is formed?

A The race committee is formed, but you've, I should just backtrack a bit. What happens in, I.S.F. put out a guideline as to how they feel that races should be run. Now you can either set by that guideline or you can do your own derivative from that. What we do at the club is because the City to Hobart is such an important and big event and that it needs so much resources, that and virtually until the day of the race the sailing committee as such does all the pre-planning and organisation for the race.

Q21 Right.

A And the race committee literally takes over on the day of the race and runs, or implements the race.

Q22 Right. O.K. So they are formed, the race committee is in fact formed, formed on the 26th of December - - -

A It's formed - - -

Q22 - - - .....

A - - - some time - - -

Q23 Before?

A Yeah. But, but it's, it's actual official duties virtually take over on the 26th of - - -

Q24 Right.

A - - - December.

Q25 O.K. Now are you able to tell me who was on the 1998 race committee?

A Yes.

Q26 Would you be able to tell me?

A Hans Sommer, as Vice Commodore and chairman of the sailing committee, is chairman of that committee.

Q27 Yeah.

A Myself.

Q28 Yeah.

A Mark Robinson.

Q29 Yeah.

A Bruce Rolleo, general manager. And in Tasmania we have David Boys and their Commodore, which was, sorry, their ..... Batonak.

Q30 Right. Now what position did you hold on that race committee?

A I am race director.

Q31 O.K. Now what is a race director?

A O.K. The race director is realistically responsible for the day to day management of the race, implementing the policies and guidelines of whatever, in our case, whatever our board decide, so I'm responsible for implementing those policies.

Q32 O.K. Now who is in fact the race committee responsible to?

A The race committee is responsible to the sailing committee - - -

Q33 Right.

A - - - which will then go back to the board.

Q34 To the board. So it's fair to say then, as being race director and sailing manager you wear - - -

A Yeah.

Q34 - - - two hats - - -

A Yes.

Q34 - - - so to speak, with those - - -

A .....

Q34 - - - two committees?

A Yes.

Q35 O.K. And can you take me through a typical procedure for sending applications and entry, and invitations to yachts, in simplistic form?

A Very simplistic forms, we, we have a database of people that have, have competed in the race before.

Q36 Right.

A And then we also have expressions of interests where people ring up and say, can I be put on the mailing list, and it's almost as simple as that.

Q37 O.K.

A We send it to boats that have either been before, or expressed an interest to go.

Q38 O.K. Now that, you, you initially send out an, an invitation form to these boats?

A It's called an application.

Q39 Right.

A And that application is that they need to then, it, it's really a, virtually a technical document in that it is their, it's very difficult to refuse entry to a boat. You've got to actually tell them why, but by sending out a, an application for entry, is if they don't meet the initial requirements - - -

Q40 Yeah.

A - - - then they don't get an entry form so you, you haven't, you technically haven't refused their entry so it's a legalistic - - -

Q41 Right.

A - - - way of going around it. What it is, is that, in that initial period, is that they must satisfy some basic requirements.

Q42 Right.

A I.e. size, speed - - -

Q43 Yes.

A - - - .... experience etc.

Q44 Certainly. Now after that's been satisfied, in their initial application form, is there any formal - - -

A They then get formally sent an entry form.

Q45 O.K. And that form consists of, what, for example?

A They get an entry form, and with it they would then get information about the marinas and safeties or anything that's unusual to the race, we have changed.

Q46 Right.

A For example this year, because we've changed the radio certificate and we've introduced new safety, additional

safety equipment, there's forms that they can then take to their radio, radio installer and say, I want this form filled out.

Q47 Right.

A So, so they, they get that, so whatever we need that is unique to our race, they get that with the entry form.

Q48 Right. Now at what stage do they send the fee to you?

A With, when they send the entry back.

Q49 Right. And that fee varies from what, \$1,000.00 to \$1400.00 or - - -

A Oh - - -

Q49 - - - a range of fees.

A - - - yeah, basically unsponsored boats pay 750. Fully sponsored boats pay about \$2,000.00.

Q50 Right. O.K. And that money is paid into where?

A Into, it goes into the, we have a separate set of P and L's - - -

Q51 Right.

A - - - and it just goes into a club account and that goes as, gets listed as race entry fees.

Q52 O.K. Now where are the application forms sent to?

A The applications are sent to the sailing office.

Q53 Right. Anybody in particular?

A Well, they're sent virtually to the, well, they're sent to me - - -

Q54 Right.

A - - - basically.

Q55 So, so they - - -



A Yeah.

Q55 - - - are ordinarily addressed to Phil Thompson - - -

A Yeah.

Q55 - - - sailing manager?

A Yeah.

Q56 O.K. Now when that document arrives at the sailing office and, and is brought to your attention, what procedure do you adopt then?

A O.K. It's, we have a, a stamp which we, we put on it, which we have a vetting committee, which sign off on the, on the applications to make sure everything's O.K. We have a file, so we would file the information, and we would go through each of the individuals to check what information they have supplied, and if there's anything short.

Q57 O.K. And those forms are then placed into a cabinet, or into a - - -

A Well, we keep it on a, on a shelf with - - -

Q58 Sydney to Hobart - - -

A Yeah.

Q58 - - - documents?

A Yeah. Sydney to Hobart applications on the front.

Q59 Just incidentally, do you have a, or are you able to put your hands on a copy of the application form for the Business Post Naiad?

A Yes.

Q60 Would we be able to grab that?

A Yes.

Q61 At some stage?

A Yes.

Q62 O.K.

A We would then go through it and yeah, the usual thing is they don't send half the stuff, so we then send them a letter saying, you know, we thank you for the application, but you haven't sent - - -

Q63 Right.

A - - - well, for example, you know, they, they mightn't have sent their stability data - - -

Q64 Yeah.

A - - - they mightn't have sent a photograph of the boat.

Q65 Right.

A ..... A.B.S, so we then have to go back and get it and it doesn't actually gets processed as such until we have all the documentation then we can go, go through with three people and they say, O.K. they pass, fail or whatever.

Q66 Right. O.K. So there exist, there existed last year a system whereby there was a follow-up on, on particular entrants, where there were short fallings so far - - -

A Oh, yeah.

Q66 - - - as the applications were concerned?

A Yeah.

Q67 And - - -

A Out of the applications, 50 per cent would fall short.

Q68 Right. So then, it's the responsibility of yourself or your, your staff to ensure that there's some sort of follow-up - - -

A Yes.

Q68 - - - carried out? Now is that discussed between you and your staff, or is it something that you do yourself?

A No, it's discussed.

Q69 O.K.

A As to, you know, if it's a formal, if it's a letter I'll do the letter. If it's something that either one of us knows, knows the person and it's something simple - - -

Q70 Yeah.

A - - - we'll ring them up and say, look, we need a photograph, you know, as a classic thing - - -

Q71 Right.

A - - - we need a photo, please whack a photograph in the mail - - -

Q72 Right.

A - - - or they'll say, contact X photographer and get it.

Q73 Right. Is it fair to say that the documents which would have arrived at the sailing office last year, so far as Sydney to Hobart applications, would have been seen or viewed by either Mark Robinson, Andrea - - -

A Yes.

Q73 - - - or yourself?

A Yes.

Q74 Is there anybody else in that office or, who would have business to, to view those forms?

A Initially?

Q75 Yes.

A Not initially until they were then, we requested people . . . . to get the approval - - -

Q76 Yeah.

A - - - to then go to the next stage, others had to then see them.

Q77 O.K. And what's that stage?

A Well, that's the stage of when we would get everything together - - -

Q78 Yes.

A - - - we would then go to Hans or Roger Hickman, or, I think, John Messenger did some - - -

Q79 Right.

A - - - being people that we considered, you know, have a good, good knowledge. And they would say, here's all the documentation and we'd say, where's your crew experience? And they'd look down and say, O.K. he's got X, Y, Z. Where's the stability data? They go X right, bang, that's O.K. then. They would initial it, and we'd say fine.

Q80 So therefore that was basically a, a quality control situation at the final phase of entry?

A Well, not at the final phase.

Q81 Right.

A This is very much at the initial stage - - -

Q82 Right.

A - - - to get, to get - - -

Q83 Just .... moment. Just, we'll just suspend this interview for a short time while we just have a look at this noise. It's 10.23am.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q84 Interview between Detective Gray and Mr Thompson is recommenced. The time on my watch is 10.33am. I think we were just talking about this secondary type - - -

A Yeah.

Q84 - - - experience, sailing committee that looks at the forms initially?

A Yes.

Q85 O.K. So they look at the forms, is that correct?

A Yes.

Q86 And they assess crew experience - - -

A Experience and stability.

Q87 Stability. O.K. Now the forms that go to these people are they completed forms, like - - -

A Yes.

Q87 - - - everything's there?

A Yeah.

Q88 O.K. What happens to the forms or the entries where not all the paperwork is there at that stage?

A Nothing. They just remain in limbo til we get everything.

Q89 O.K. So eventually the paperwork flows in, the initial forms are married up with the forms which come in - - -

A Yeah.

Q89 - - - and are they then sent to this committee again, is that correct?

A Well, they, they, basically they come in, in the general duties of the club, and they'll go, they'll say, have you got any more complete entries, and I'll go, yes, and they'll sign it and another one will come in and go back so - - -

Q90 Right. O.K. Now I'll just show you a couple of letters here, just to, to demonstrate the fact when, when boats are missing particular entry forms, or particular forms with the entry form - - -

A Yeah.

Q90 - - - letters are in fact sent out to those participants - - -

A Yeah.

Q90 - - - potential participants. Is that, is that correct?

A Yes.

Q91 O.K. And I'll show you a, a letter here from, signed from Hans Sommer.

A Yes.

Q92 Chairman, race committee.

A Yes.

Q93 And that indicates an acceptance for the boat Nokia?

A Yes.

Q94 It's dated 4th of December, '98.

A Yes.

Q95 And if you have a look at that, those letters you'll see that there is something which has enabled, well has, has sparked Mr Sommer to contact this particular boat, to get something in order. If you have a look at that.

A Yeah, obviously wouldn't, didn't have an up, most up to date, I'm actually just looking at that.

Q96 Right. So the usual response from the club is to send a letter - - -

A Yeah.

Q96 - - - and get that paperwork in order? That's - - -

A Mmm.

Q96 - - - is that correct?

A Yes.

Q97 O.K.

A Like it's not normally as detailed as that. This was a late application - - -

Q98 Right.

A - - - so that's why it was - - -

Q99 O.K. And I'll show you another letter, which is in fact dated 9 December - - -

A Yeah.

Q99 - - - and your - - -

A Yeah.

Q99 - - - name appears on the bottom?

A Yeah.

Q100 That's in relation to the boat Bobsled?

A Yeah.

Q101 And a late entry - - -

A Yeah.

Q101 - - - situation?

A Yeah.

Q102 O.K. And discusses all the requirements?

A Yeah.

Q103 O.K. And if a situation exists where, where a number of forms don't exist, like an I.M.S. certificate or a safety inspection certificate, would it ordinarily be your responsibility to send correspondence to that person to have that - - -

A Mmm. Or ring - - -

Q103 - - - information?

A - - - or ring them up.

Q104 Or ring them up?

A Whatever the - - -

Q105 Whatever the case may be?

A Yeah.

Q106 O.K. And in fact do you recall just offhand, how many boats you sort of had to chase up prior to the closing date, offhand?

A Oh, 80 per cent.

Q107 80 per cent?



A            Yeah, in the lead-up to the - - -

Q108        Closing date?

A            Yeah.

Q109        And what was the closing date last year, do you recall  
            - - -

A            Oh, it's - - -

Q109        - - - offhand?

A            No, I couldn't recall offhand.

Q110        O.K.

A            It'd be on here. They had to have it in by, these  
            applications had to be in by the 2nd of November, so I  
            would assume that, going by, that's the 1st of  
            November, somewhere around the 27th of November.

Q111        Right. O.K.

A            And if they .... anything after that, they hit a late  
            entry fee ....

Q112        O.K. Now the form that I have here in front of me, is  
            an application for entry for the 1998 Telstra Sydney to  
            Hobart Yacht Race, and it's a form in relation to the  
            Business Post Naiad.

A            Yes.

Q113        Do you agree with that?

A            Yes.

Q114        And there's a stamp on it received 29th of September -  
            - -

A            Yeah.

Q114        - - - '98?

A            Yeah.

Q115 And there are a, there are two initials on that - - -  
A Yes.  
Q115 - - - entry form in the top right hand corner?  
A Mmm.  
Q116 Now the initial here is - - -  
A Mine.  
Q117 Which is P T?  
A Yes.  
Q118 And the initial G C, it appears to be?  
A It does, but I, I just asked Christina whose it was,  
'cause I, I don't know offhand whose that is.  
Q119 O.K.  
A But it would be one of the directors.  
Q120 One of the directors?  
A Well, one, one of the people assigned to do the  
vetting.  
Q121 Oh, O.K.  
A So, but I can't - - -  
Q122 O.K.  
A - - - I can't tell you which, which one it is - - -  
Q123 That's all right.  
A - - - of them.  
Q124 There's a cross, yellow or, or greenish cross in the  
top left hand corner of this application form.  
A That'd be from, that's, I just did that saying I'd just  
sent the entry.  
Q125 Right. O.K. You see also on this form that the boat  
is ticked into the I.M.S. - - -

A Yes.

Q125 - - - category?

A Yes.

Q126 And attached is an I.M.S. certificate?

A Yes, just there.

Q127 Yeah. And a photo attached, and advertising category -  
- -

A Yeah.

Q127 - - - information? Now in fact the certificate which  
was, which accompanied this application form, was for  
the boat, Business Post Naiad, and up the top here it  
says, not valid after the 30th of June, 1998?

A Yes.

Q128 So he sent in an expired - - -

A Yes.

Q128 - - - I.M.S. certificate?

A Yeah.

Q129 Now what procedures did you adopt on receipt of this  
particular entry, in this form?

A Well, we would obviously have checked off the  
stabilities and - - -

Q130 Right.

A - - - because he is a previous, been in a previous time  
- - -

Q131 Right.

A - - - he's allowed to go with a stability over 110.

Q132 Yeah.

A We would then check his crew list, which would be, be here.

Q133 Yeah.

A See what a crew experience it has.

Q134 Yeah.

A We would then've, O.K. it's got something about, about his photograph, so assuming that we got the photograph, we would then process this and send him out an application once it'd been, gone through the vetting, once it had the signatures on it.

Q135 O.K. So the final vetting phase would've been done by those three members that you mentioned previous?

A Obviously two.

Q136 Two?

A In this case, yeah.

Q137 O.K. Now so far as the expired I.M.S. certificate - -  
-

A Yes.

Q137 - - - is, was it the case that you forwarded correspondence in relation to that to the owner, about it being expired?

A We would have rang him up and said, obviously before you can race - - -

Q138 Yes.

A - - - you will need a valid certificate.

Q139 Right. Do you recall who made that phone call?

A I couldn't tell you.

Q140 Did you make that phone call?

A I, I would have - - -

Q141 .....

A I would have thought so, but I can't say - - -

Q142 Right. O.K.

A - - - with 100 per cent accuracy that, you know, I spoke to this gentleman numerous times about a whole variety of things, you know, when he was going to bring his boat up and - - -

Q143 Right.

A - - - you know, the, but, you know, would've, we would've told him that obviously without a valid certificate we can't get a disc, so therefore he cannot race.

Q144 Right. O.K. So in this case, and probably along with other boats, these two forms here were placed where?

A In the application for entry folder.

Q145 Right. And until such time as they, as the new certificate was issued to you - - -

A Yes.

Q145 - - - would they be married up again and checked, ordinarily?

A Well, yes.

Q146 O.K. So are you aware that a new certificate or, or that Business Post Naiad was in fact re-measured?

A No, no. Not at the time - - -

Q147 Not at the time.

A Are we talking about now or - - -

Q148 Then?

A No.

Q149 O.K. Well, are you aware of the procedure so far as the issue of a new certificate, I.M.S. certificate?

A Was I aware of the procedures they had to follow?

Q150 Yeah. Yeah. Are you aware of what happens if a certificate expires?

A Yes.

Q151 Are you, are you able to relate those to me?

A The owner fills out, from what my understanding is, the owner fills out a, a form, which is supplied by the A.Y.F. basically stating that he hasn't made any changes - - -

Q152 Yeah.

A - - - and that on that, after that declaration he is then issued with a new certificate.

Q153 Right. Are you aware of a re-measuring process of the boat, under the I.M.S. rules?

A That it can be done?

Q154 Yes.

A Yes.

Q155 O.K. If I was to tell you that this boat was in fact re-measured due to an expired certificate, and due to the fact that there had been some alterations, would that surprise you? Does that, does that sound like a normal procedure to you?

A Oh, it's, it is a normal procedure - - -

Q156 Right.

A - - - the mere fact that we didn't know about it is unusual.

Q157 Yeah. That's right.

A Yeah.

Q158 But certainly in your position you would be waiting for a new certificate, regardless of how that was obtained  
- - -

A Yes.

Q158 - - - whether the boat was measured or weighed or whatever?

A Yes.

Q159 You would be, in your position, waiting for an updated certificate - - -

A Yes.

Q159 - - - to allow this boat to in fact - - -

A Yes.

Q159 - - - to enter? Or any other boat?

A Yes.

Q160 O.K. Now did you in fact know that a certificate, a new certificate had been issued by the, by the Australian Yachting Federation?

A At the time of the race?

Q161 Prior to the race?

A Yes.

Q162 O.K. Did you at any stage receive that certificate at the C.Y.C.A. in the sailing office, that you're aware of?

A That I'm aware of? No, only in that it was there, but I didn't, wasn't aware that, how it arrived.

Q163 O.K. If I was to say to you that that certificate would've been forwarded to the manager or, or your, you personally in an envelope from the A.Y.F. would you say that could possibly be the case?

A (NO AUDIBLE REPLY)

Q164 Or you agree it wouldn't be sent as an I.M.S. certificate, unaddressed?

A Mmm.

Q165 Do you know what I'm saying to you?

A Yeah.

Q166 So at some stage the certificate would have arrived at the C.Y.C.A. under sealed envelope, with somebody's name on an envelope?

A It wouldn't have been addressed to us.

Q167 It wouldn't have been addressed to you?

A No. Often certificates for our boat get sent by the A.Y.F. they're addressed to the owners - - -

Q168 Right.

A - - - who then have to sign them before they become valid - - -

Q169 O.K.

A - - - so they're not addressed to us.

Q170 So where would the owner send his certificate?

A Once he got it?

Q171 Yes.

A He would then give it to us.



Q172 O.K. And he would send that by mail if that was the most - - -

A Oh - - -

Q172 - - - convenient way to do it?

A - - - well how - - -

Q173 Or, or by hand?

A By hand, would drop - - -

Q174 O.K.

A - - - it in.

Q175 O.K. Well, are you aware of how that certificate arrived at the C.Y.C.A?

A No.

Q176 O.K. At any stage did you contact Mr Tony Mooney, from the Australian Yachting Federation in relation to the expiry of the initial certificate, which was forwarded by the, by the Business Post Naiad entry?

A No.

Q177 O.K. Did, at any stage did he contact you in relation to a change in the stability index of that vessel?

A No.

Q178 O.K. When you initially received this entry form, what observations did you make in relation to that particular certificate?

A Obviously the first thing we always go to is we check the stability, and we then, then, if it's over 115, obviously, that's right, in this case it was 115, but we went back through our records, and his previous name was Swuzzle Bubble Five, and it met the grand .....

criteria so that it had to be over then 110, so we then go back and checked if it was over 110.

Q179        Yeah.

A            Then note that it had expired.

Q180        Yeah.

A            And would've spoken to, like, you know, I can only, again I am not - - -

Q181        Yeah.

A            - - - can't give you a definite, but you know, would've contacted the owner and said, you know, obviously you'll need a valid one.

Q182        Right. O.K.

A            And, at, you know, I can say at no stage did anybody from the boat ever suggest that they were having the boat re-measured or anything like that - - -

Q183        Right.

A            - - - which is usually unusual, because most, I'd say, well I can't say in all cases because it happened in this case, but the usual thing is I am putting in a certificate on X date, because I am having new sails done, or I am changing, I haven't finalised my crew weight or - - -

Q184        Right.

A            - - - those types of scenarios.

Q185        Have you been in a situation where a boat in previous times has said, well, we're taking some lead out and we've got to get the boat re-measured?

A            Yes.

Q186 Right. O.K. Well, I can tell you this was the case as far as this boat was concerned. They had made some alterations to the boat itself.

A Yeah.

Q187 So it would be reasonable to expect they'd get the boat re-measured?

A Yes.

Q188 Now you mentioned Swuzzle Bubble Five, do you mean Swuzzle Bubble Six?

A Sorry, Six, yeah - - -

Q189 O.K.

A Yes.

Q190 That's fine. O.K. Now are you aware if the certificate actually arrived at the C.Y.C.A. prior to the race?

A Me, personally? No.

Q191 No. Are you aware if any of your staff are aware if that certificate arrived at the C.Y.C.A. prior to the race?

A I can't, I, I can, oh, I can presume but I can't - - -

Q192 O.K. So what systems did you have in place to ensure that a re-check was done of, of all vessels so far as documents that were missing, prior to the start of the race?

A I'd rather not comment on that.

Q193 Sorry?

A I'd rather not comment on that.

Q194 O.K. Well, are you able to tell me if a system existed?

A Again, I, I don't really want to talk about it.

Q195 O.K. Can you just, just talk up a little bit?

A Sorry. Yes - - -

Q196 You're right.

A - - - I don't want, I don't want to say.

Q197 O.K. Certainly. Is that advice that you've received?

A No.

Q198 That, that's your own - - -

A Yeah.

Q199 O.K. So at any stage, I'll ask you one more time, at any stage did you see the updated certificate from the Business Post Naiad?

A No.

Q200 O.K. Are you able to tell me why not?

A No.

Q201 O.K. Do you receive a, I, I'll start again. Is there a briefing prior to the start of the race in which names of boats are mentioned in, in the public arena, so far as the competitors are concerned, about a shortfall in documents?

A Yes.

Q202 O.K. Was that the case last year, that - - -

A Yes.

Q202 - - - that briefing occurred? Are you able to tell me what date that would've been?

A On the date of the briefing, 24th.

Q203 24th, O.K. And can you take me through that procedure?  
What, what happens there so far as boats haven't  
complied, or don't have paperwork at entry?

A Boats - - -

Q204 What do you do?

A The, their name gets read out at the briefing, and they  
have until midday to comply or they're out.

Q205 O.K. Who, who compiles that list?

A I basically compile it, and then have the, virtually  
get the chairman of the race committee, being Hans  
Sommer, to verify that this is the case.

Q206 O.K. Are you able to tell me why the Business Post  
Naiad wasn't mentioned on that list?

A No. I don't know, you know, as, as, I guess as far as,  
yeah, I can't.

Q207 O.K. Is it fair to say that prior to that list being  
handed to Hans Sommer, or someone in his stead, that  
you conduct a final check of all the entries - - -

A We go off - - -

Q207 - - - ordinarily?

A - - - off the board - - -

Q208 Right.

A - - - that, you know, all these items have been filed.

Q209 Right. Are you aware, well do you recall if the  
Business Post Naiad was in fact on that white board?

A Yes, it was.

Q210 O.K. And can you give me a breakdown of exactly what's  
on that white board? Is it - - -

A Oh, well - - -

Q210 - - - boat - - -

A - - - boat, boat name, what handicap category they're going in, safety, radio certificate, spot checks - - -

Q211 I.M.S. certificate?

A I.M.S. certificate, all that sort of stuff.

Q212 And when those documents are complete for those boats on that list, on that board they get a, a tick?

A They get green. Yeah, they get a tick and then when they're complete they get greened out.

Q213 O.K. And how long is that board kept for?

A It's actually done on a, on butcher's paper, so it's kept.

Q214 O.K. Did you, or do you recall any, would you still have those documents?

A Yeah. Yeah.

Q215 O.K. Would we be able to have a look at those documents after?

A No, Christie's getting them, they've been archived.

Q216 O.K.

A But they're coming back, 'cause you've asked for a whole lot, all the - - -

Q217 Yeah.

A - - - so those ..... things we don't ..... up - - -

Q218 O.K.

A - - - so we've got to get back.

SENIOR CONSTABLE UPSTON

Q219 Phil, can you just keep your voice up - - -

A Sorry, sorry, yeah.

Q219 - - - for the purpose of the - - -

A Yeah.

DETECTIVE SENIOR CONSTABLE GRAY

Q220 O.K. So do you recall offhand, sorry. Who administers that board?

A The sailing office - - -

Q221 Right.

A - - - and, and the safety, David Lawson, doing the safeties.

Q222 Right.

A He does all the safety side of it.

Q223 O.K. So do you recall on the day prior to the race, or the day of the briefing, did in fact a red line or whatever, were you aware if a red line was put through the Naiad - - -

A All - - -

Q223 - - - as being complete?

A All, all I can assume if, that if, if Business Post Naiad or any other boat wasn't run, wasn't read out, that then the paperwork was, was complete as far as we're concerned.

Q224 So that indicates that somebody within the sailing office had received the certificate?

A Yes.

Q225 O.K. Certainly if it wasn't mentioned on that list on - - -

A Yeah.

Q225 - - - the briefing, certainly it would have been indicated on the board that the Naiad had met the criteria, and therefore there'll be no need to mention that boat - - -

A Yes.

Q225 - - - at the briefing? So that indicates that at some stage this new certificate has been received and viewed, or seen by somebody? Do you agree with that?

A (NO AUDIBLE REPLY)

Q226 Well, it's a possibility?

A Yes, possible, yeah.

Q227 O.K. Now is it the case that prior to the race a set of e-mails are forwarded to the sailing office, I presume, from the Australian Yachting Federation, and these e-mails consist of up-to-date stability details on every vessel?

A No.

Q228 That's not the case?

A It's not the case.

Q229 Well, I've been informed by the Australian Yachting Federation that documents, an e-mail document was forwarded to this club on or about the 25th of December, 1998, and that document, that e-mail consisted of all of the boats that were in, that were racing, and some of the data on those, on, on those boats consisted of stability indexes, as updated by the Australian Yachting Federation, as a final document.



A All that I'm aware of is we get a, a disc from the A.Y.F. which - - -

Q230 Yeah.

A - - - has that basic information on it, that matrix, which is then plugged into the, into the computer. You can't view a document as such - - -

Q231 O.K.

A - - - on it.

Q232 Well, this matrix that you're indicating here - - -

A Yeah, is a speed matrix.

Q233 Right. And what, when you plug it into a computer, what does it do, sorry?

A Basically it works out the handicap. If you plug in the boat's time it takes to cover the distance - - -

Q234 Right.

A - - - plus the weather conditions, it works out basically, works out a winner, first, second and third.

Q235 Right. Does that cover stability as well?

A No.

Q236 So there is nothing that you're aware of that's forwarded here by e-mail, that covers raw data on stability on each boat?

A That's correct.

Q237 O.K.

A I've never, never ever seen - - -

Q238 O.K.

A And I wasn't, we've often, because this is always a bone of contention in that an owner prior to a race can get, have a legal certificate - - -

Q239 Yes.

A - - - issued by the A.Y.F. and they can forward us a, a disc with all this information on it - - -

Q240 Right.

A - - - and we can run a race, but we still don't have a certificate for that particular boat, for that race, and then we will get that, you know, the next day. So that in a lot of, in some cases it's, you know, that, that's, that's, you know, you can't, you can't tell.

Q241 Yeah. Now back to that briefing, which is held on the 24th or thereabouts - - -

A Yeah.

Q241 - - - do you recall the Business Post Naiad vessel being mentioned?

A No, I don't remember it being mentioned.

Q242 O.K.

A Like, I couldn't, I couldn't tell you whether it was or it wasn't - - -

Q243 O.K.

A - - - to tell you the truth.

Q244 But it doesn't spring to mind?

A No.

Q245 O.K.

A In fact I couldn't actually tell you who was or wasn't called.

Q246           Yeah.  Certainly.

A               .....

Q247           Is that documented anywhere so far as the boats that  
                  were named?

A               It should be.

Q248           Right.

A               'Cause, there was, they would have read it off a list.

Q249           Right.  O.K.  Now can I just, so far as the issue of  
                  the new certificate indicates, and I'll just get you to  
                  agree with these figures, I'm not saying that you've -  
                  - -

A               Mmm.

Q249           - - - seen the certificate.

A               Mmm.

Q250           You'll notice that stability index is 102.8 - - -

A               Yeah.

Q250           - - - and the calculated limit of positive stability -  
                  - -

A               Yeah.

Q250           - - - is 104.7?

A               Yeah.

Q251           O.K.  Now this was the new certificate which was issued  
                  in lieu of the expired certificate - - -

A               Yes.

Q251           - - - which was forwarded with the application?

A               Yes.

Q252 Now the two numbers, stability index and limit, calculated limit of positive stability, there is some 2 degrees difference?

A Yeah.

Q253 O.K. What number do the C.Y.C.A. take as being - - -

A Either one, as long as it's over whatever were the determining limit is for the race.

Q254 O.K. So if it was, if it was a situation of 110 degrees, and one number was 108 - - -

A One was 100 and - - -

Q254 - - - and one was 110.5 - - -

A Yeah.

Q254 - - - that would be the - - -

A Yes.

Q254 - - - the upper number would be taken?

A Yes.

Q255 I don't know whether you have any technical knowledge in relation to these numbers, are you able to distinguish what they mean or, so far as the difference in - - -

A I, I know one's a calculated and one's a, an actual stability index.

Q256 O.K.

A That's as far as I know. We, we take it from the guidelines, from what's deemed the Blue book, the racing rules - - -

Q257 Yeah.

A - - - from sailing, which is, they determine that you can use one or the other.

Q258 Certainly. O.K.

A So that's how it's, rather than trying to get into which is the better, 'cause you're always going to get into a problem with an owner, if one makes it and the other one doesn't - - -

Q259 Yeah.

A - - - and you place an arbitrary, just - - -

Q260 Right. So at any, at any stage prior to, I'm not asking you about after, but prior to the 26th of December, 1998, did you see this updated form?

A No.

Q261 And are you aware if any of your staff saw that form?

A No.

Q262 O.K. At what stage did you become aware that this new certificate existed?

A About mid February.

Q263 And how was that brought to your attention?

A I believe Peter Bush from the review committee, asked me about it.

Q264 Right. And what was the basis of that conversation? Do you recall?

A (NO AUDIBLE REPLY)

Q265 Just, just, you know, approximate?

A Just, just generally he said, he said, he said, Are you aware that there's a possibility of a, a boat that raced in the Hobart Race with stability less than what

it should've? And I went, No. And he said, Well, can you check? I said, Certainly, but I said, you know, as far as I'm aware that everybody was right, so I obviously went back and, you can imagine to my - - -

Q266 Yeah. Did he, when you had a conversation with him, did he mention the boat, or did he get you to check every entry?

A No, he just got me to check every entry.

Q267 O.K. And it was the case that you found the Naiad - - -

A Yes.

Q267 - - - situation? Where were these forms when you checked the entries?

A The, this original one is kept with the application - - -

Q268 Yes.

A - - - we keep them together.

Q269 Yeah.

A And that is what's kept in, we have a, a general, for the year, certificate file.

Q270 O.K.

A Which we keep all the currents, because - - -

Q271 Right.

A - - - as, as you know that a lot of boats do change certificates - - -

Q272 Certainly.

A - - - from time to time.

Q273 So obviously when you went through the entry you've located the certificate which - - -

A Yes.

Q273 - - - showed that it expired?

A Yes.

Q274 You went through another folder?

A Yes.

Q275 And you found the certificate which indicated a significant downgrade in the stability index?

A Yes.

Q276 And what folder was the new certificate found in?

A In the certificate, it's got a certificate folder, it's a file, it's called - - -

Q277 O.K.

A - - - I.M.S. .... certificates - - -

Q278 Right.

A - - - which is .... rating certificates.

Q279 So do you agree it's fair to assume that somebody has placed - - -

A Yes.

Q279 - - - the upgraded certificate into that folder?

A Yes.

Q280 It's the case that we don't know who in fact that was?

A That's correct.

Q281 Right. When you found that certificate, you took that to Mr Bush?

A Yes.

Q282 And what was the topic of discussion so far as that was concerned?

A Oh, just, oh, I can only say I was in a state of shock.

Q283 Right. Were you asked by him how, how this occurred?

A I, again, I can only presume I was.

Q284 Right.

A You know, but, I, you know, it's - - -

Q285 Right. O.K. Do you recall what your answer was to that?

A Probably, as I can only give you, is, I don't know.

Q286 Right.

A You know, just, you know, it's - - -

Q287 O.K. That's all right. At any stage of the race was it brought to your attention that the stability of the Naiad had decreased - - -

A No.

Q287 - - - to that amount?

A No.

Q288 As far as you were concerned at 13.00 on the 26th/12/1998, all the boats that entered that race were eligible?

A Yes.

Q289 In every respect?

A Yes.

Q290 Was there a vetting setup immediately prior to the race, so far as all applications?

A Prior to the race? (Tape Beeping)



Q291           Yeah, like, you know, prior to the 26th? Not months before, but immediately prior to the race? I'm talking 1 or 2 days before the race. Obviously there was some form of, some form of vetting conducted by yourself or your staff, to provide a list to Hans Sommer, who in turn read that list to the forum, on that particular day, on the 24th? So do you agree that there was some  
- - -

A               Oh, definitely, yes.

Q291           - - - some quality control - - -

A               Yes.

Q291           - - - at that stage?

A               Yes.

Q292           O.K. We'll just suspend the interview for a tape change. The time on my watch is 11.01. The interview is suspended.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q293           Interview between Detective Senior Constable Gray and Mr Phil Thompson is recommenced. The time on my watch is 11.14am. In relation to the, when Mr Bush brought this problem to your attention so far as the stability rating of the Naiad, had the race review committee been established at that stage, are you aware?

A               Oh, yes, it was, yes.

Q294 Did, at any stage in that investigation held by the race review committee, did they interview you formally about the problem with the Naiad?

A No.

Q295 Were you ever approached to be interviewed in relation to that problem?

A No.

Q296 Did you ever ask the race review committee to in fact interview you about - - -

A No.

Q296 - - - what occurred?

A No.

Q297 Why was that? I mean, why didn't they interview you and why didn't you approach them?

A I can't answer on, on their - - -

Q298 Yeah. But for you?

A - - - but, for me, I was, my opinion was that if, that they, anything they wanted they could ask me and I would give them - - -

Q299 Right.

A - - - whatever information I could.

Q300 Do, do you agree that it was certainly significant so far as the, the Naiad was concerned, in its eligibility? Was it pertinent - - -

A Yeah.

Q300 - - - what I'm saying, it was a pertinent point?

A Mmm.

Q301 Now if I could just take you to, have you read the, the race review report?

A Not all of it, but parts of it.

Q302 O.K. I'll draw you to page 54 of that document. Are you aware if any of the other members of the race committee were interviewed formally, by the race review committee?

A I don't know.

Q303 O.K. I'll draw you to page 54, your attention to page 54, and you'll see that it says in, in paragraph 2 here, In 1998 some eight to 10 applicants were asked for more information or asked to provide additional crew with more experience, prior to being sent an entry form.

A Mmm.

Q304 Three applications were referred to the sailing committee, one due to lack of sailing experience of the crew and the other two, Jarkin and Noumea, for - - -

A Right.

Q304 - - - issues relating to eligibility - - -

A Mmm.

Q304 - - - issues relating to eligibility. Was this draft document so far as these eight to 10 applicants, are you able to tell me why the fact that the stability of the Naiad was not mentioned in these eight to 10 boats?

A (NO AUDIBLE REPLY)

Q305 I mean you didn't draft this document, I know that. You, you got no idea?

A No.

Q306 That's fine. Now I'll draw you to page 57. At the bottom paragraph it states, The chairman of the committee was unsure of the precise responsibilities of the committee as a result. Do you, this relates to Hans Sommer, as race chairman of the - - -

A Mmm.

Q306 - - - of the race committee. Can you offer me any sort of explanation as to why he wouldn't be sure of his responsibilities, as race committee - - -

A No.

Q307 It's the case that you're aware of your responsibilities as race - - -

A Yes.

Q307 - - - director?

A Yes.

Q308 And where do you draw your responsibilities from? Are there a set of guidelines within the club, other than I.S.A.F?

A No.

Q309 Right. O.K. Can you just pass that letter please, mate, Hans Sommer. Now this letter I showed you before, from Hans Sommer, which is quite a detailed letter - - -

A Yes.

Q309 - - - in fact there's, one, two, three, four, about 6 paragraphs, and obviously in reading that letter you can see that Mr Sommer has some idea of race

administration, rules and regulations? It's a fairly detailed letter, would you agree with that?

A Yes.

Q310 And it would certainly take someone with some experience and knowledge to compile that letter or to, you know - - -

A That's correct.

Q311 Is it the case that Mr Sommer would compile that letter himself?

A No.

Q312 O.K. Who, who would do that ordinarily?

A I would.

Q313 You would?

A Yes.

Q314 So is it the case in this particular letter that you would write the body of the letter, it would be passed to him, he would read it and sign it?

A Yes.

Q315 O.K. O.K. Now after the gun was fired at 13.00 on the 26th, is that correct?

A Yes.

Q316 What did the race committee do, from then on in?

A Oh, well, the race committee virtually then went into a transition period of moving to Hobart.

Q317 Right.

A We then had two different groups moving down on different, different times so that not everybody was in

the air. And we then went through into, basically, you know, we go into a monitoring phase of the race.

Q318 O.K. Now did members of the race committee fly to Hobart?

A Yes.

Q319 O.K. And at what stage did the committee go to Hobart, on the 26th or 27th?

A Morning of the 27th and afternoon of the 27th.

Q320 Did anybody leave on the 26th?

A No.

Q321 O.K. Can you tell me who left on the morning of the 27th?

A Mark Robinson and myself.

Q322 O.K. And who left on the afternoon of the 27th?

A I, Hans, definitely, but I'm presuming Howard Elliott.

Q323 Right. Did Mr Boys travel with anybody?

A No. I couldn't tell you what the, David and, and Robert Batonak did.

Q324 Now what about Bruce Rowley?

A I presume he was on the afternoon flight as well.

Q325 O.K. At any stage during that flight did the captain of the aircraft lower the altitude so passengers could see the front boats in the race?

A .....

Q326 Your flight I'm talking about?

A Not that I'm aware of.

Q327 O.K. Now at, are you aware that a storm warning was issued at about 14.00 hours on the 26th?

A (NO AUDIBLE REPLY)

Q328 By the Bureau?

A I, I couldn't, I'm unsure.

Q329 O.K. I've been informed that at about 14.49, 10 to 3.00, on the 26th of the 12, 1998, a fax was forwarded to the C.Y.C.A. and a phone call shortly thereafter followed, and the contents of that fax I will show you now, is in relation to the weather. You can, I'll pass you that and have a look at that.

A Yes.

Q330 Did, have you ever seen that fax?

A No.

Q331 O.K. Now there's a document here which indicates that the fax was successfully received at the other end, which is a pre, a pre-dialled number, which is 0-2-9-3-6-3-9-7-4-5. Is that number familiar with you?

A Yes, it's into the sailing office.

Q332 That's into the sailing office?

A Yes.

Q333 At approximately 10 to 3.00 on the 26th, who would be in the sailing office? Anybody, ordinarily?

A I wouldn't have thought so, no.

Q334 O.K. So is it the case that that document would arrive there and most likely sit there for the duration of the race?

A No, because we would've all come back that day and, and picked it up - - -

Q335 O.K.

A - - - whatever was sitting in the fax machine.

Q336 So as far as you're aware your, you haven't seen the document?

A No.

Q337 And as far as you're aware none of your staff have seen the document?

A No.

Q338 O.K. What would be, what would have been your response in seeing this document as, as a race director?

A Oh, it is, I would've contacted the Weather Bureau - - -

A Yes.

Q338 - - - because we've got a, we formed a strong personal relationship with the Weather Bureau over the years, and as I had actually said to Ken Batt on the morning of the race, at 10 o'clock, I said, What's the forecast? He said, Oh, well they're, and he, and he said, oh, they're going to get a bit of a front down off Eden. I said, How strong? He said, Oh, 25 to 35. I said, Oh, that's a pretty standard, you know - - -

Q339 Yeah.

A - - - weather for them, they usually get a blow up, and I said, What happens after that? He said, Oh, it will moderate and go around to the west. And I said, Oh well, so it's a pretty standard Hobart race - - -

Q340 Right.



A - - - nothing to worry about? And he said, Yeah, nothing to worry about, and I said, O.K. I'll speak to you - - -

Q341 O.K.

A - - - later on.

Q342 What importance do you, as a race organiser, place on storm warnings, personally?

A Well, personally?

Q343 Yeah.

A Well - - -

Q344 As a sailor?

A - - - you know, they're, you know, they're a very severe warning.

Q345 I mean could you, could you say in layman's term that to sail into a storm warning is to sail into a dangerous situation?

A (NO AUDIBLE REPLY)

Q346 From, from your experience, this is your personal opinion?

A My personal opinion, no.

Q347 O.K.

A I should, I would, you'd have to clarify that by saying, yes, if you've got a boat that you think is capable.

Q348 Yes.

A But given that you're going to sail into 25 to 30 knots, you know, in most of my Sydney Hobart races I

would, would've expected to get or wouldn't have been uncommon to have, register 60 knots - - -

Q349 Right. O.K.

A - - - in a storm conditions.

Q350 O.K. If I was to inform you that the forecasters who sent this particular weather fax out to you, also contacted Aus Sar and also contacted the Royal Volunteer Coastal Patrol in Eden, because they were of the opinion that it could be a - - -

A Yeah.

Q350 - - - an alarmed situation.

A Yes.

Q351 Would that surprise you?

A Yes.

Q352 In so far as, well, you know, why would that surprise you?

A Well, I don't understand why they wouldn't have come directly to me.

Q353 Right.

A Given that I know all these, these people personally - - -

Q354 Yeah.

A - - - I've got a A.M.S.A. representative - - -

Q355 Yeah.

A - - - glued to my shoulder for the entire period of the race.

Q356 Yes.

A I know all the Weather Bureau people personally.

Q357           Yeah.

A               They all have my mobile phone and home phone numbers,  
                  why wouldn't have - - -

Q358           Right. Go on - - -

A               - - - they rung me if there was the slightest  
                  indication of any form of trouble - - -

Q359           Right.

A               - - - you know, and - - -

Q360           And that never occurred?

A               Never occurred.

Q361           O.K. Were you aware at that time, on the 26th of  
                  December last year, this technical formula that the  
                  Weather Bureau have since made public, the 40 per cent?

A               No.

Q362           And the 87 per cent - - -

A               No.

Q362           - - - of waves, and - - -

A               No.

Q362           - - - 40 per cent winds?

A               No.

Q363           Have you ever heard of that formula?

A               No.

Q364           What do you understand as gusts over the wind  
                  strengths?

A               I take gusts, you know, again as something in excess of  
                  the, I take the weather forecast that they give you as  
                  an average - - -

Q365           Yes.

A - - - and a gust is something in excess of that.

Q366 Right.

A And it is something for a short period of time and if it is sustained it becomes a front.

Q367 Right. O.K.

A But I just take it as, you know, increased wind - - -

Q368 Right.

A - - - without really putting a figure on it of a short burst.

Q369 O.K. Now when you arrived in Hobart, which would be on the morning of the 27th - - -

A Yes.

Q369 - - - what was the situation so far as the weather was concerned and, you know, the impending weather that you recall?

A Oh, I, I can't recall - - -

Q370 O.K.

A - - - to tell you the truth .....

Q371 Was there a situation, I believe Sam Hughes from Aus Sar was with race control?

A Yes.

Q372 And I believe there was another person there by the name of Mr Wiley from Aus Sar, the duty - - -

A No.

Q373 No?

A Not in Hobart.

Q374 I'll tell you who that chap was. We've been informed that a gentleman from Aus Sar was also in company with Mr Hughes.

A In Hobart?

Q375 In Hobart. As soon as I find his name I'll, I'll tell you.

A No, as far as I'm aware there was no one.

Q376 That's fine. Well, I believe his name was, his surname was Wiley.

A Anyway, yeah.

Q377 Anyway.

A But as far as I'm aware there was no one, there was no one else there.

Q378 ..... but you obviously met with Sam Hughes?

A All the time.

Q379 O.K.

A We stayed in the same - - -

Q380 O.K.

A - - - next door in the hotel - - -

Q381 Right.

A - - - we didn't go anywhere.

Q382 At any time did you discuss the weather with Mr Hughes  
- - -

A Yes.

Q382 - - - during the race?

A Oh, constantly.

Q383 And what were those, you know, what were the conversations in relation to exactly, did you, as you -  
- -

A I, I - - -

Q383 - - - can recall?

A I can't recall any details, but basically, you know, what's, what is it, what is the weather doing? Where is it going - - -

Q384 Yeah.

A - - - and, and sort of try to get some information as to where the storm was moving and how that - - -

Q385 Right.

A - - - where, where it was in relation to the fleet.

Q386 Right. At any stage were you aware of a conversation that took place between, here's the name here, Brian Wiley, is his name, at any stage were you aware of a conversation which took place between Mr Hughes and Mr Wiley, in fact Mr Wiley suggested to Mr Hughes that he was going to speak to you about the weather and looking at some way of cancelling the race? Were you ever privy to that conversation?

A No.

Q387 Was a conversation similar to that ever brought to your attention?

A Yes.

Q388 And by who?

A Sam Hughes.

Q389 And what was the basis of that conversation? Do you recall?

A Oh - - -

Q390 You know, in, in general - - -

A Just general terms, is, was, do you think it'd be appropriate to abandon the race at this particular point in time?

Q391 Right. And what was your answer to that?

A My basic answer to that was to assess the weather - -  
-

Q392 Yes - - -

A - - - assess where the boats were - - -

Q393 Yes.

A - - - assess what the weather forecast was, and then make the decision from there.

Q394 And you did those things?

A Yes.

Q395 And your determination was, or your decision was?

A The decision was not to abandon the race, on the basis that the storm had, was at this stage, appeared to be a little erratic and that it, it was, the Weather Bureau couldn't guarantee where, where it was going to go.

Q396 Right.

A And that the forecast for the weather, for the next 24 hours was, was dropping off dramatically, and at this stage it was well after all the major incidents had occurred.

Q397        Yeah.

A            We're talking now that this was right in on the ....  
              about the 28th or something at this stage.

Q398        This didn't occur on the 27th?

A            No.

Q399        Right.  O.K.

A            This was well after all the - - -

Q400        Incidents.

A            - - - incidents had happened, and that, the weather was  
              dropping and had dropped significantly from that stage,  
              and it was forecast to be 5 to 10 the next day, which  
              subsequently it happened, it dropped down to nothing.

Q401        Yeah.

A            My concern was that I had a whole group of boats that,  
              I knew where they were going in the general direction,  
              be it south or back to Eden or north - - -

Q402        Yeah.

A            - - - that to tell the boats to abandon, meant that I  
              had no control over them.

Q403        Right.

A            That they would go any which way - - -

Q404        Yeah.

A            - - - and that I felt that given that there was, the  
              conditions were easing that I didn't want boats to turn  
              back into the storm.

Q405        Right.  O.K.  Were you aware of 70 knots that were  
              recorded at Wilsons Prom at about 9.00am on the 27th?

A            No.



Q406 Did you or any of your members of your committee make, or, make any inquiries as to winds and waves and conditions along the race track so to speak, during the race?

A Yes.

Q407 Would you agree that winds recorded at Wilsons Promitory of 70 knots is significant?

A It is, but only that I'd be, the wind strengths there usually read very high - - -

Q408 Right.

A - - - compared to other areas, 'cause of the wind sheer factor - - -

Q409 O.K.

A - - - of where it is. But I agree that, you know, wind strengths of that nature are high.

Q410 But nevertheless you weren't aware of that - - -

A No.

Q410 - - - right, at that time?

A No. We, we relied heavily on the fact that we had purchased service from the Weather Bureau - - -

Q411 Yes.

A - - - and for them to keep us informed.

Q412 Right. O.K.

A You know, if I wanted, you know, a Joe Bloggs service I would've opened the newspaper each day.

Q413 Yeah. Certainly. And I believe there's a fee paid - - -

A Yes.

Q413 - - - for that service?

A Yes.

Q414 O.K. Has there ever been a situation where C.Y.C.A. have preferred say, like, Roger Badham over the Bureau, or has there been discussions about the difference in the weather?

A There, there's obviously conversations go along each year about who you should and who you shouldn't use.

Q415 Yes.

A We have always felt that it was better to try and use a situation like the Bureau, because they are after all the endorsed Government weather reporting agency, and therefore should have the best resources etc. etc. and that a private organisation may not be able to pull in the worldwide - - -

Q416 Yeah.

A - - - capability that they have of the computer modelling and accept it and seeing that they offer this service we feel that, you know, that that is the, the best service to have.

Q417 Were you in hindsight satisfied with their service last year?

A I - - -

Q418 Personally, as a race director?

A Yeah. I, I don't - - -

Q419 You don't have .....

A No, I don't really think it's really fair to answer in hindsight - - -

Q420 O.K. That's fine.

A - - - you know - - -

Q421 That's fine. Obviously at the time you were satisfied?

A At the time.

Q422 Right. O.K. At approximately 9 o'clock on the 27th where presumably would you expect the fleet to be?

A In a normal race?

Q423 Yeah. Well, in last year's race, were you aware of where the fleet were at 7.00, at, at 9.00am on the 27th?

A In approximate terms, yes.

Q424 Right. And is it the case that those winds as we've discussed, which were recorded at Wilsons Prom, are in fact higher than what - - -

A Yeah.

Q424 - - - the actual wind speeds are? Are you aware of wind speeds being reported by Doctel Rager, in excess of 80 knots on that day?

A I was, but I couldn't tell you when, that came - - -

Q425 O.K.

A - - - through on one of the scheds which we got that information.

Q426 That's fine. Did that alarm you at any point?

A Obviously, yes.

Q427 O.K. And what was your response to that?

A Initially of, where, my initial thing was I guess, a bit of amazement - - -

Q428 Yes.

A - - - and - - -

Q429 Disbelief to a - - -

A - - - I think disbelief, you know - - -

Q430 Yeah.

A - - - you know, I though, you know, he must have, something's happened, you know, some, somebody's wound the instruments up or something like that, you know, like, just, you know, wind strength that like - - -

Q431 Right.

A - - - you know, I find - - -

Q432 Did you, as a result of the conversation with Sam Hughes, as a result of the sched which indicated Doctel Rager's wind speeds of 80 knots, convene a meeting with the committee?

A I, we spoke, depending on who was in the room and - - -  
-

Q433 Yes.

A - - - then, then it depended on, and it, I couldn't give you an accurate thing of all the time, but there was usually at least three or four of us there.

Q434 Yeah.

A Mr Batonak was there most of the time. Mark and I were always there. Hans was usually there, and Howard worked as the interchange with us so - - -

Q435 Right.

A - - - and we, we spoke constantly about - - -

Q436 Yes.

A - - - what was happening and - - -

Q437 Yes. And would you agree it would be a tough decision for a race committee and a race director to stand up in that environment and say we have convened and we have come to, to a decision that the race should be postponed or, or, or cancelled?

A Would that be a tough decision?

Q438 Yes, as an individual to do that? In amongst, if you take the whole picture, you've taken the whole picture.

A Oh - - -

Q439 The race starts at Boxing Day - - -

A Look, if, if I thought, if I thought it deemed necessary and I have done it before - - -

Q440 Right.

A - - - you know, the races, said no.

Q441 O.K. What would you consider to be dangerous in that particular race, to make that decision - - -

A Well, I .....

Q441 - - - to cancel or postpone?

A - - - .....

Q442 I mean you must have a benchmark within yourself.

A Yeah.

Q443 Are you able to comment on that?

A I, I'd rather not.

Q444 O.K. That's fine.

A .....

Q445 That's fine. So while the race is going there may be three or four people sitting in the race control - - -

A Yes.

Q445 - - - and you'd be constantly discussing - - -  
A What's happening.  
Q445 - - - what's happening? O.K.  
A And we would ring back to Sydney to talk to the severe weather operators - - -  
Q446 Yes.  
A - - - and ask them for what was, was happening.  
Q447 That in fact happened?  
A Yes.  
Q448 O.K. And was that, did you make those phone calls or -  
- -  
A Yes.  
Q448 - - - representative - - -  
A No, I did.  
Q449 O.K. And, and who did you speak to in particular?  
A Whoever was on duty at the time.  
Q450 Right.  
A And I can remember on the morning of the 27th speaking to the guy, and he said, I said, What's the likely wind strength they're going to get? And he said, 25 to 35. And I said, Oh well, as per what we'd had before?  
Q451 Yes.  
A He said, Yes.  
Q452 O.K.  
A Now obviously he's talking about 25 to 35 with, under his little scheme that can then be up to 60. I was literally taking him as 25 to 35.

Q453 Now there does exist a section within your control, or within your guidelines I.S.A.F. and, and notice of race, that the race committee has the power to postpone, abandon, stop, start, change the course - - -

A Yes.

Q453 - - - of the race? Is that correct?

A Yes.

Q454 That was never considered on the 26th?

A On the 26th?

Q455 Yeah. On the .... day of the race?

A No, no, no.

Q456 Was that ever considered on the 27th?

A I couldn't tell you whether it was on the 27th.

Q457 Which would be the worst day of, of the three.

A Worst. I, I couldn't, I can't ..... when - - -

Q458 O.K.

A - - - what was - - -

Q459 That's fine.

A There was so much happening then that - - -

Q460 We'll just - - -

A Yeah.

Q461 O.K. And in relation to the radio on vessels being on for 24 hours a day, that's not a requirement in, in the race rules, is it?

A No.

Q462 It's not? O.K. And why is that not a requirement?

SENIOR CONSTABLE UPSTON

Q463 Can you speak up please, Phil?

A I, I, I can't tell you why it's not - - -

DETECTIVE SENIOR CONSTABLE GRAY

Q464 O.K.

A - - - it's, you know, it's, it's not in the guideline, in the, in the books to do it.

Q465 It's not in the rules?

A Not in the rules.

Q466 O.K. I'll show you a document, I'll just, just put that one there, mate, so ..... which was C.Y.C. finds safety equipment satisfactory after post Sydney to Hobart questionnaire, 4th of May, 1994.

A Yeah.

Q467 You've probably seen that document. One of the recommendations the sailing committee mentioned was in fact compulsory 24 hour listening watches by all yachts, if and when directed by the radio relay vessel to broaden the club's race safety net. Was that the case last year, that, that the radio relay vessel would in fact, or could it in fact instruct the vessels to have their radios on for 24 hours, do you know?

A I, I have to have a look - - -

Q468 Right.

A - - - as to whether they could or couldn't, but it's - - -

Q469 Right.



A - - - not something that I'm easily aware that they could have done to .....

Q470 O.K.

A I'd have to look what the instructions say.

Q471 Are you able to comment as to why a number of these recommendations from this inquiry in 1994 were not in fact implemented?

A No.

Q472 And in fact some of these recommendations from 1994 have been recommended from 1988.

A No .....

Q473 That's fine. Did you have any involvement in the sailing committee in 1994?

A No.

Q474 Right. Did you have involvement in the investigation which was conducted?

A No.

Q475 Right. Now at some stage on the 27th, Mr Lou Carter, who was in fact the radio operator on board the - - -

A Yeah.

Q475 - - - Young Endeavour, sent out a message to crew in relation to their responsibilities.

A That's correct.

Q476 What prompted that message?

A The weather forecast that was coming through.

Q477 O.K. At any stage did you have a conversation with any members of your committee to inform Lou Carter to in fact make that announcement?

A Yes.

Q478 O.K. And on what grounds did you, did you as a group or individually, yourself, come to that decision?

A As a group we came to that decision that we should make owners, we as a group decided that, you know, Lou, should put that out seeing that there was a, a warning coming through.

Q479 O.K. Was any conversation between board members or other officials in the club conducted between yourself or the race committee to prompt that message?

A No.

Q480 O.K.

A We didn't have any, the board members were either all sailing or, or in Sydney.

Q481 O.K. And what did you as a group, or as a committee, try to achieve by passing that message to Lou?

A Oh, the, the main aim of a warning like this is to try and get owners to understand, that is, that they need to make an assessment on the standard, on the capability of their boat and their crew at that time, given the weather forecast and the impending conditions that they're going to meet, to make sure that they feel that they are in a position to be able to move forward.

Q482 Right. So was it the case that some boats were affected by the eye of the storm and other boats were behind the, the incident areas?

A I can only assume - - -

Q483 O.K.

A - - - yes, you know, and - - -

Q484 O.K.

A - - - without going into - - -

Q485 I guess what I'm trying to say to you is this. Is it, if that was issued, if that was issued by Lou Carter, well initially from, excuse me, your committee and Lou Carter after that, and boats in the race hadn't actually driven into that, or sailed into that storm -  
- -

A Yes.

Q485 - - - would it have been prudent to tell the boats that hadn't entered that storm to seek shelter, as well as their own responsibilities?

A (NO AUDIBLE REPLY)

Q486 You, do you know what I'm trying to say? There seems to be three stages of the race. There's the front boats - - -

A Yes.

Q486 - - - the middle boats and the back boats. Do you know  
- - -

A It - - -

Q486 - - - what I'm trying to say to you?

A It, it's the, very much the owner's and the skipper's call.

Q487 Right. O.K. So you feel that there's no responsibility from yourself or the race committee - -  
-

A Oh - - -

Q487 - - - to have, to have input to assist a skipper to make a decision?

A I'd rather not answer.

Q488 O.K. Were you aware of the, were you aware of a, a drop in the, the barometer to 982 - - -

A No.

Q488 - - - in Merimbula on the 27th?

A No.

Q489 Did you as a race director or did any of your committee make inquiries in relations to the weather as it occurred down the coast while the race was on, apart from Bureau reports?

A No, we relied on, on the Bureau.

Q490 O.K.

A We found that in previous years, is that it is very difficult to get accurate information from ringing varying coastal patrols etc. as to what's happening in their area, because they look out and see what's outside their window - - -

Q491 Right.

A - - - and they may, you know, may be blowing 50 knots out to sea, and they're sitting in a nice quite valley and it's .....

Q492 Yes. Now there was a concern at some stage, that there was nobody from the C.Y.C.A. in Eden. Do you recall that, during the race?

A Yes.

Q493 On the 27th?

A Yeah.

Q494 And in fact Mr Bush contacted Mr Greg Halls - - -

A Yes.

Q494 - - - and I believe that would be on the 27th of December.

A Oh, I'm just presuming - - -

Q495 Yeah, that's all right.

A - - - so, you know .....

Q496 That's all right. And obviously there was some concern in relation to the weather, for Mr Bush to contact Mr Halls and request him to travel to Eden, to set up a command post so to speak, so far as that's, if there's any difficulties boats ordinarily would come into Eden? Is that correct?

A (NO AUDIBLE REPLY)

Q497 I mean, would that be Mr Halls' tasking, if he was sent to Eden?

A I can't say, because - - -

Q498 Yeah. Certainly.

A - - - I didn't send him.

Q499 Right.

A My, my understanding was that he was there to assist the boats when they arrived.

Q500 Yeah. O.K.

A As a, someone to help them, you know, we've got a very good community involvement down there which look after - - -

Q501 Yeah.

A - - - the, you know, that ..... up, make sure they've got, you know, their, you know, they can catch buses and get out of the place - - -

Q502 Yeah.

A - - - and all the rest of it. I think it was more on the case that it looked like this year that there were going to be an increased numbers. We normally get a - - -

Q503 Yeah.

A - - - 10 per cent drop out, so we normally have about 10 boats going into, and you'd have to say the majority go to Eden.

Q504 Yes.

A That it looked like an increased number would go to Eden, so I think he was more sent there because of just sheer numbers.

Q505 Right.

A But again, I'm - - -

Q506 That, that's fine.

A Yeah.

Q507 Well my, my next question is did, was there any conversations between you or your committee with Mr Bush in relation to sending Mr Halls to Eden?

A No.

Q508 Right. Are you able to tell me why it wasn't just practice to send somebody to Eden anyway?

A Again we've, the practice has been to use the local communities down there.

Q509        Yeah.

A            They take it as a very much a pride type arrangement, they look after all the, the boats coming in, they have arranged a dedicated radio operator, which listens in to the radio scheds, and that they don't like the idea of the C.Y.C. coming in and taking over their side of, of the scheme.

Q510        O.K. In previous years there have been representatives sent down to Eden, as far as you're aware?

A            No.

Q511        You're, you're not aware, or no, there haven't been?

A            I'm, in, I can only go back since the time I've been there - - -

Q512        Yes.

A            - - - is, is no, there has not been representatives in Eden.

Q513        That's fine.

A            And prior to that my understanding is that there, there wasn't, the only time is when they did a, they took the radios down by post.

Q514        Right. Now obviously in ocean racing there is a set of rules so far, well that governs stability rating.

A            Yes.

Q515        It's, and, and the various categories are Category zero - - -

A            Yeah.

Q515        - - - Category 1, 2, 3 and 4?

A            Yes.

Q516 And Category 0 indicates a stability index of 120?  
A Yes.

Q517 And Category 2 is 115.  
A Category 1.

Q518 Oh, sorry, Category 1's 115.  
A 100 and - - -

Q519 Category 2's 110?  
A Yes.

Q520 And Category 4, 4 is 105?  
A Basically.

Q521 Basically?  
A Yeah.

Q522 Basically they go down in 5 - - -  
A Yeah.

Q522 - - - degree intervals? Can you tell me why so much importance is placed upon those, those recommended numbers, degrees, so to speak?  
A Why they're picked as those figures?

Q523 Yes, but why are they, yeah, not because of the technical side of things, but obviously they're there for a reason. Would you agree with that?  
A Yes.

Q524 And what would that reason be - - -  
A I don't know - - -

Q524 - - - .....

A I don't know why they're selected as the magic numbers.



Q525 Are you aware that, are you aware that the higher the stability of a vessel the less chance of capsizing? In, in layman's terms, are you aware of that?

A In round terms, yes.

Q526 Yeah.

A I guess, yeah.

Q527 O.K. It doesn't mean the boat's not going to capsize -  
- -

A No.

Q527 - - - but I'm just saying it's a, it's a recommended -  
- -

A Yeah.

Q527 - - - ..... do you know what I mean? And how, how would you as a race director rate the significance of stability indexes and calculated limit of positive stability in I.M.S. certificates, so far as their importance in the big picture of an entry?

A With an, as regard to an I.M.S. certificate?

Q528 Yeah. With regards to stability. I mean how important it is, is it in the process for you as a race director and for you as an organisation or the race committee to have information about the stability of a vessel?

A Well, it's one of the entry requirement, requirements -  
- -

Q529 Right.

A - - - so it's, it's a, it's a must.

Q530 Right. How would you consider, or how would you rate from your experience, some 14 Sydney to Hobarts, you, you've completed?

A Yes.

Q531 How would you rate the Sydney to Hobart so far as tough ocean races in the world?

A It's hard to really quantify that because they're only as tough as your last race and there's - - -

Q532 Yeah.

A - - - a lot of, you know, chatter afterwards. It's obviously a, a major race 'cause of it's distance, you know, it rates up there with the English Fast Net Race - - -

Q533 Yes.

A - - - the Bermuda Race, so it is one of the world's great ocean races, but as to rating them on a scale - - -

Q534 Scale - - -

A - - - is, you know - - -

Q535 Would she be in the top 10 of ocean races, if in fact there are 10?

A If there are top 10, she would be in there somewhere.

Q536 She'd be, right. Would you consider it reasonable from your position as race director, and I'm talking about you - - -

A Yeah.

Q536 - - - personally, to assume foreseeable problems in a race, so far as varying factors? That is, weather,

waves. Would it be reasonable for you to foresee that, or would you consider no, it wouldn't happen? I mean when you start a race, or when you're involved in a race, do you sit down and think to yourself well, I must assume that the worst can happen, because of this, you know, because of the, the nature of the race?

A I - - -

Q537 Do you foresee problems?

A Yes, I guess, in round terms, yes.

Q538 Yes, O.K. And those problems would be weather - - -

A Well, there's the - - -

Q538 - - - changing weather?

A You've got the basis three things that your, your ultimate concern is weather, in that there's a major storm - - -

Q539 Yes.

A - - - sink, a sinking vessel and - - -

Q540 Yes.

A - - - a man overboard are the three - - -

Q541 Right.

A - - - things that you would - - -

Q542 O.K.

A - - - you know, they're the things that you - - -

Q543 Now I don't want to check your legal prowess, but are you aware that, or has it ever been pointed out to you that a contract exists between the C.Y.C.A. and the entrant, when a application form is received and finalised?

A Yes.

Q544 A legal contract?

A Yes.

Q545 Do you consider that to place some duty of care as a, as an organisation or, or say your area, that is, race administration - - -

A Mmm.

Q545 - - - - and race committee?

A I - (Tape Beeping) - I don't know. I can't answer that, 'cause I just don't know.

Q546 O.K. Are you aware what a duty of care is?

A Yes.

Q547 O.K. We'll just suspend this interview for a tape change. The time on my watch now is 11.54. This interview is suspended.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q548 Electronically recorded interview between Detective Senior Constable Gray and Mr Phil Thompson has recommenced. The time on my watch is 12.02pm. Are you aware of, what responsibilities do the race committee have in so far as the checking of vessels other than that's, that which is carried out by the safety inspector?

A The race committee?

Q549 Yeah. Like is that part of your - - -

A It's not part of - - -

Q549 - - - charter?  
A - - - it's not part of the race committee's charter, 'cause that', remember they're taking over from the start - - -

Q550 Yes.  
A - - - so it comes back under the sailing committee, back under the hospice of the sailing office.

Q551 Right.  
A So you take the safeties - - -

Q552 Yes.  
A - - - the safeties are all done independently of the paid staff.

Q553 Right.  
A There's a, we have a dedicated safety officer in Dave Wilson, which I think you've spoken to.

Q554 Yes.  
A Who administers all the, the safety and make, we virtually just go to David and - - -

Q555 Right.  
A - - - he marks them off on the board when they are complete.

Q556 O.K. Who, whose decision is it to spot check boats on race day?  
A David's.

Q557 Does he - - -  
A David handles everything - - -

Q558 Right.  
A - - - as far as safety is concerned with the - - -

Q559 If you - - -

A - - - with the .....

Q560 If you as a race director have some concerns about a particular boat, would you speak to David?

A Oh, of course.

Q561 O.K.

A Yes.

Q562 So there is some liaison between the - - -

A Oh, definitely.

Q563 Yeah. O.K.

A You know, there's, there's obviously .... 'cause we get the, you know, when they mail their form they're full, they're in, the safety inspections in from, with the entries, we then give them to him so we've obviously looked at them - - -

Q564 Yeah.

A - - - to see, you know, and runs from there, and we speak to a lot of owners so there's obviously a communication between the two of us.

Q565 Now it's the case that obviously some boats are inspected in, you know, in other jurisdictions - - -

A Oh, yes.

Q565 - - - out of your own?

A Yeah.

Q566 So you as a race director place a lot of importance on those individuals who, who check those boats?

A Yes.

Q567 And you rely on their information?

A Yes.

Q568 So you accept a certificate with their application form and quite reasonably you can say, well, this is the safety inspection report and I'm satisfied with that as  
- - -

A Yes.

Q568 - - - race director?

A After - - -

Q569 If - - -

A - - - Hans, as long as David is.

Q570 Right. O.K.

A And he's the - - -

Q571 So there's consultation once again?

A Yes.

Q572 Are you aware of a safety inspection which was carried out on the boat called Gundy Grey in which initially the crew was six persons, and in fact on race day that crew increased to seven?

A No.

Q573 Also with that boat they were only in possession of a six man life raft.

A I now know - - -

Q574 Right.

A - - - but at the time I, no.

Q575 Right. You didn't know?

A No.

Q576 O.K. Well - - -

A It had a safety for six.

Q577 Had safety for six?  
A Yes.  
Q578 But in fact - - -  
A Carried seven.  
Q578 - - - carried seven, yeah. Are you aware of any incidences where certain items get passed from boat to boat on, on spot checks?  
A I think that's a bit of barroom myth, to tell you the truth - - -  
Q579 Yes.  
A - - - most items we insist on having the boat's name on them?  
Q580 Yes.  
A So it's, you know, it's, you know, it's, I think it's more barroom bullshit than - - -  
Q581 Yes.  
A - - - actual reality.  
Q582 Right. O.K. Now in relation to the S.A.T. phones which were put, on I think 20 vessels last year - - -  
A The C's, yes.  
Q583 Yes.  
A The Satcom C's - - -  
Q584 Yeah - - -  
A - - - yeah.  
Q584 - - - they were put on 20 vessels?  
A Yes.  
Q585 And .... phones were put on a number of vessels?  
A I, I believe so.



Q586 O.K. Are you aware that in fact those .... phones weren't connected?

A No.

Q587 You weren't aware of that?

A No, I had, the ..... and the mini S.A.T. phones were all handled by Telstra, through their media division -  
- -

Q588 Right.

A - - - and we virtually had nothing to do, to do with it.

Q589 O.K. I'll just show you a item in this Sydney to Hobart Race Review Committee book, which is on page 47, which indicates, I'll show you that, which indicates Bureau of Meteorology warnings for the 1998 Sydney to Hobart Yacht Race were - - -

A Mmm.

Q589 - - - as follows. And I take you down to 27/12, at 11.00 hours. The warning is storm.

A Mmm.

Q590 The area's low, and south east of 38.150.

A Mmm.

Q591 And the winds cyclonic, 45 to 55. Have you seen this document?

A No.

Q592 Were you aware of the word cyclonic being used last year in any - - -

A No.

Q592 - - - way, shape or form?

A No.

Q593 O.K. I take you to page 54 of the same report, which discusses the administration process of, of, with yacht entrants. It says for unknown yachts or crew the review is more intense and is usually referred to the sailing manager who, whom - - -

A Yes.

Q593 - - - is yourself, or the chairman of the sailing committee - - -

A Yes.

Q593 - - - who would be Hans Sommer?

A Yes.

Q594 On some occasions the matter will be referred to the sailing committee for a decision.

A Yes.

Q595 O.K. Is it the case that there sometimes are boats which change their, change their vessel from year to year, so far as moving items in the boat, or removing ballast and changing rigging and all that sort of thing, does, does that occur?

A Oh, yes.

Q596 O.K.

A Yes.

Q597 In that case does that basically mean that every boat is unknown until proved otherwise? Is that an analogy which can be drawn from that?

A Oh - - -

Q598 Do you know what I mean? Like you know that say Boat A complied in 1998 by its paperwork.

A Yes.

Q599 Do you know for a fact prior to receiving the paperwork that boat A that was in '98, would still comply in '99, without the paperwork?

A Oh - - -

Q600 Do you know what I'm saying?

A Yeah. Oh - - -

Q601 What I'm saying is if, if one boat met the requirements in 1998 and provided all the necessary paperwork and you reviewed it and it, and it was accepted, it was eligible, is it fair to say that you would have to do that again for the same boat in 1999, to ensure it complied? Would, would you agree with that?

A Yes.

Q602 You couldn't just say, oh well, she, she was eligible in '98, she's therefore eligible in '99, without accompanying paperwork?

A (NO AUDIBLE REPLY)

Q603 Because things could've changed on the boat? Unbeknowns to you, and the only way that these things would become evident to is if you were told, or if you received information on say an I.M.S. certificate, which indicated a different stability, which could indicate a change in ballast, change in weight in the boat, which would alter the stability?

A Mmm.

Q604 So what I'm saying to you is that you can't take one boat from one year and accept that it's going to be the same the next year, without examining it, so far as the paperwork. Do you agree with that?

A I'd rather not comment.

Q605 O.K. Now just back to the final briefing with those boats that were mentioned in the final briefing on, on or about the 24th of December, that didn't comply for one reason or another, can you tell me where you drew that information from?

A Off our board, which would have meant that they - - -

Q606 Right.

A - - - weren't greened off.

Q607 O.K. David?

SENIOR CONSTABLE UPSTON

Q608 Just on that, Phil, would you agree that all I.M.S. stability certificates are in fact not valid after the 30th of the 6th of each year?

A Yes.

Q609 So I'll just draw that to your attention - - -

A Yeah.

Q609 - - - just to, just to clarify that. On the, on the top of the certificate it says here, not certificate after the 30th of the 6th, and in fact this year it's got 1998.

A Yeah.

Q610 And you would agree that that would in fact relate to all vessels with certificates current and not current then after the 30th of the 6th? Is that correct?

A Mmm.

Q611 So you would then assume that every vessel entering the race would have to comply with a new certificate?

A Yes.

Q612 And it would be part of your charter then to check those certificate, for that to be compliant, or that, that vessel to be compliant in the race?

A (NO AUDIBLE REPLY)

Q613 O.K. Now just on, on another issue. With the letter that Senior Constable Gray showed you earlier with the  
- - -

A Mmm.

Q613 - - - with Hans Sommer, is it the fact that you drafted this letter for Sam, for, for Hans?

A Most likely, or my, would have, my office would've.

Q614 Right.

A If I didn't, Mark would've or, but it would have been checked by either one.

Q615 So you would, would it be your duty to in fact check all correspondence that goes out for it, its correctness?

A Yes.

Q616 And in fact if, if there was anomaly between any vessel and you instructed Hans to sign it, in fact it would be

either drafted by yourself or someone in your office and you would check it?

A Yes.

Q617 From the storm warning, from the fax that Senior Constable Gray showed you earlier from the Bureau of Meteorology to the Cruising Yacht Club, which was forwarded at 14 - - -

DETECTIVE SENIOR CONSTABLE GRAY

Q618 49.

SENIOR CONSTABLE UPSTON

Q619 - - - 14.49, what's your interpretation of a storm warning?

A As what it has got written there.

Q620 You wouldn't think that under the circumstances of a, of a, of a Beaufort scale that a storm warning would be greater than 45 knots?

A No.

Q621 Are you aware of the Beaufort scale?

A I am aware of the Beaufort scale, yes.

Q622 Right.

A And I would, you know, I, I would go by a storm, storm warning that, I must admit I relate to the Beaufort scale, not by the, you know, I know subsequently know that the Weather Bureau rate the storm warning higher than anything else, where I, I was, I relate storm warnings to a lower degree and I would go by their weather. And I spoke to them as, as well, after that and they, I said to them, What's going to happen? And

they said, The usual, nothing was changing. You know, they were going to get, you know, 25 to 35 and then after the front moderating - - -

Q623 But if you saw storm warning and then you saw under that, winds between 20 to 25 knots, would you think that, there'd be something wrong there, that it doesn't sort of correlate, between a storm warning and the winds expected?

A (NO AUDIBLE REPLY)

Q624 Knowing your knowledge of, of how many Sydney to Hobart yacht races - - -

A Well, that, that's why I, I'm, you know, that's why as I said I, when I rang them and asked them about what the weather was doing and if they, you know, they, they told me the wind strengths, and I said, O.K. That's fine.

Q625 Did you discuss at all the, the difference between the storm warning and knowing the Beaufort scale, and what that may have, and what the - - -

A No.

Q625 - - - winds - - -

A No, I didn't discuss it at all. I just purely asked what wind strengths do you think they, they are intending in getting.

Q626 In your own mind did that come to your attention, the differences between what a storm warning would mean and - - -

A I, I thought the, I thought the storm warning, I thought it's a, a bit extreme, given those obviously wind conditions, what they were forecasting in straight numbers, but I thought, I didn't really go beyond that. I thought they were just being over cautious because of, it was a Sydney Hobart weather forecast, and therefore that they are playing on, edging on the caution sign and telling everybody, you know, be aware there is a storm coming. And then qualified it into, you know, they gave pretty, to my way of thinking, pretty accurate wind predictions and wave height predictions. And in reading that I went by those.

Q627 O.K. You mentioned earlier that you made certain inquiries about weather down the track, by contacting and reading information that was received from Wilsons Promontory?

A No, I didn't get anything from Wilsons Promontory.

Q628 O.K. Did you at all look for any information that was relating to the winds and wave heights that were experienced at King ....

A No.

Q629 O.K. I arrived solely on the information that the Weather Bureau was giving me.

Q630 As a crew member on, on the, the number of Sydney to Hobart yacht races that you've participated in, have you ever been aware of the stability index, or the limit of positive stability of any of those vessels?

A Yes.



Q631 Do you make it your, your business to go and check to see what they are?

A In the early days I'd have to say no, but the average, with, with I.M.S. in particular, since I.M.S. most crews would, would know, would know where they're, where they're at, how their, their boat sits in relation to what their stability is 'cause it has a, they use it for then how they're going to stack the boats and all the rest of it.

Q632 When you say they, who are you relating that to? Are you relating to the owners or the skippers or the whole crew?

A The owners, the whole crew, in that they might decided, for example, is they might decide that this is going to be a, a downwind race, so they might decide to re-trim their boat and go for a, a light trim, or they might decide to, whatever the designers come up with, that this is the ultimate figure, they might be, you know, they might be 113 for around the buoys, might be the ultimate figure to be at for best performance.

Q633 Would you be surprised if I told you that the majority of people that we've spoken to and we have in fact raised that same issue, that the majority of the crews were not aware of the limit of positive stability or the stability index of the vessel that they were sailing on?

A I, before the race I would've said that would surprise me, but in hearing what a lot of them have said it

doesn't surprise me that they have denied all knowledge of anything to do with anything. You know, my general opinion of most crews today has dropped dramatically in that I feel that most of them, you know, have just opted out of any responsibility at all for absolutely anything, as far as ocean racing goes.

Q634 Can you expand on that a little bit more?

A Well, the view that I have formed is most crew now feel that it is not their responsibility to do anything as far as almost anything goes on that boat. When we sailed, particularly in, in any major race or when we had anybody new on board, we always made sure that we did a safety drill, that everybody on board knew where the safety equipment was. We all had a very good knowledge of what the weather was going to do for that race, and we made sure that we were kept informed as to what the weather was doing. We all, all knew a lot about the whole race strategy, where we were going to go and how we were going to, you know, attack the race. We were all very keenly interested and all used to listen in on the radio scheds, and as I said we all carried a whole variety of safety equipment and prepared ourselves for whatever we thought was coming.

Q635 So what you're saying is that you feel that in current races and races up to, up to date that the professionalism level has dropped considerably, between skippers and perhaps their crew?

A I think a lot of crew for whatever reason, have decided to, that, that they are not in the loop, that their responsibility has been, basically been removed and that they don't have an obligation to, you know, understand how anything works on a boat.

Q636 O.K. Now just going back now, Phil, to the e-mails that - - -

A Yes.

Q636 - - - we've been informed about, that have been forwarded to the sailing office - - -

A Yes.

Q636 - - - from the A.Y.F.

A Yes.

Q637 If we were to temporarily suspend this interview, would you be in a position to show us the discs or any information that you received from the, from the A.Y.F. in regards to that, that raw data that's sent across?

A Yes.

Q638 Senior Constable Gray, would you like to suspend the interview?

DETECTIVE SENIOR CONSTABLE GRAY

Q639 Yes, certainly. The, the time on my watch is now 12.20pm. We'll suspend this interview for that request just made by Senior Constable Upston.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q640 Interview between Detective Gray and Mr Thompson is recommenced. The time on my watch is now 12.30pm.

SENIOR CONSTABLE UPSTON

Q641 Phil, do you agree that we suspended the interview and we, Senior Constable Gray and myself accompanied by you attended the sailing office at the Cruising Yacht Club of Australia, and in fact extracted information from the sailing office's computer?

A Yes.

Q642 And that information is raw data or data that has been e-mailed to the sailing office from the Australian Yachting Federation?

A That's correct.

Q643 And do you agree that the information that we extracted has a certificate date of December the 15th, 1998, and in fact the time it was sent is 12.47 and 19 seconds. Is that, do you agree with that?

A That's the date that the certificate is run.

Q644 And that - - -

A Not, not the date that it, the data is sent.

Q645 O.K. So - - -

A That certificate was, was produced - - -

Q646 Yes.

A - - - for that boat on that day.

Q647 Right. O.K. And that's from the A.Y.F?

A Yes.

Q648 All right. And is it the case that this information was e-mailed to the sailing office right up until about the, the 25th of December?

A Yes. I don't know whether it was e-mailed or disc, one of, one of the two.

Q649 All right. Well, if we were to inform you that in fact we've been informed that it, the information is e-mailed.

A O.K. ....

Q650 All right? Now have you seen these certificates before?

A In that form?

Q651 Yes.

A No.

Q652 Never seen them before?

A No.

Q653 So can you in fact interpolate the information that's on this certificate?

A Yes.

Q654 All right. What, just going through it, and in fact we have two certificates here.

A Yes.

Q655 One is the yacht named ABN AMRO Challenge - - -

A Yes.

Q655 - - - with a sail number, and in fact the other certificate is Naiad with a sail number.

A Yes.

Q656 O.K. Can you go through the, this certificate and explain to me what the information means?

A O.K. The next line down is a certificate date, when the certificate was issued. Next line down is the style of boat and it is, in this case it's a racer, it could be a cruiser racer or a racer, dynamic allowance is an age allowance for older boats, and in this case it's a modern boat, so it is zero, and the age date of the boat is December, '97, that's when this boat was built. So, then under that we go into a, a matrix, and whilst the top line is missing, across the top are wind strengths, going from 6 to 20, and then down the side are the different wind angles, and basically what this is is a, a matrix of a speed of how fast this boat would travel in these wind conditions.

Q657 And when you say how fast this boat would travel - - -

A Yes.

Q657 - - - what, the, the numbers are depicted in, in speeds?

A In speeds.

Q658 What sort of speeds?

A Seconds per mile.

Q659 O.K.

A I missed - - -

Q660 All right.

A - - - out a line there. The G.P.H. is its general purpose handicap ..... weighted average, and again these are all different types of, used for

handicapping, and this guy has got a minimum, a maximum allowed crew weight of 980 kilos.

Q661 O.K. And on the far left hand side of that matrix you've got the words, beat opt angle?

A Yeah.

Q662 And beat V.M.G?

A Yeah.

Q663 And - - -

A They're, they relate to wind angles on the boat, so for example, the first, the first, the first one of a V.M.G. beat at, which is a wind angle, at V.M.G, V.M.G beat, he should be doing 43, he should be sailing at an angle to the breeze of 43.6 degrees, and in 6 knots he will take 867.4 seconds to cover 1 mile.

Q664 O.K. All right. And anywhere on that certificate, does it show the vessel's stability index or the limit of positive stability?

A No, not that I can see, no.

Q665 Right. So you would never, you, is it the case that you would not refer to this to interpolate information for that stability index or - - -

A That - - -

Q665 - - - the limit of positive stability?

A That's correct. We only use this for actually calculating results.

Q666 And that, that is speed results?

A Speed results, yes.

Q667 And in fact if there was, if there was a vessel's speed increased or decreased from what you would assume from here, what would you normally do?

A Sorry, I don't quite - - -

Q668 O.K. If, if, if a race took place - - -

A Yes.

Q668 - - - and the, the indicated speeds of, of, of, that has been showed here, shown here differs from what the actual performance of the vessel, what would you do?

A If, if for, I presume you're saying that a boat would win a race by say a very large margin, there's a whole raft of investigative procedures that we can take to investigate why that boat is, is performing well above its rating certificate. It, it may well be a, an inputting error from the measurers when they have done it. They might, you know, a common occurrence used to be that they used to type in a figure of, you know, they used to all be baton lengths, and they used to be 1 metre, and they used to type in, thinking 1.0, and they used to type in 10, and that was a common error. So you'd look for errors and then take it from there.

Q669 O.K. All right. Now we mentioned to you about the vessel Gundy Grey?

A Yes.

Q670 And, and what occurred on that vessel. Who informed you of that?

A Again I think it came from Peter Bush.



Q671 And do you recall who informed Peter Bush that, that that was the case?

A No, no.

DETECTIVE SENIOR CONSTABLE GRAY

Q672 Phil, just a couple of things ..... As a race director in the 1998 Sydney to Hobart Yacht Race, are you able to say if you checked every I.M.S. certificate for every entry?

A Am I?

Q673 Yes.

A After applications, from - - -

Q674 Yes.

A - - - application points, no.

Q675 O.K. Are you aware if, if any of your staff checked every updated or expired I.M.S. certificate prior to the race?

A I can only go at the time of the applications. I know at the time of applications every certificate or whatever we had relating to stability was checked.

Q676 O.K.

A I can't say what happened beyond that point.

Q677 O.K. Are you able to say whether you personally checked any I.M.S. certificates which were re-issued to yachts, because their other certificates had expired?

A Yes. I can say I did some.

Q678 Some. You can't say that you did check the Naiad new issued certificate?

A I'd have to say that I didn't - - -

Q679 Right.

A - - - because I would've picked it up if - - -

Q680 O.K.

A - - - I had.

Q681 You mentioned before in relation to yacht crews, do you feel that the crews are more and more releasing their own obligation, or the obligations is from their mind shifting more to the organisers, as opposed to their own responsibilities?

A I don't know whether they've actually made that conscious decision to shift it to anybody - - -

Q682 Yes.

A - - - I think they're just relinquishing their own responsibilities themselves in - - -

Q683 O.K. Now this, these forms we were just discussing, the I.M.S. certificate data, for verification only, we notice that in the yacht named Naiad, which we just obtained from the sailing office, the certificate date is the 15th of October, 1998.

A Yes.

Q684 Do you agree with that?

A Yes.

Q685 I'll show you the re-issued certificate of the Naiad, and the date of issue was in fact the 15th of October, 1998.

A Yes.

Q686 So we can say that this information from this form we -  
- -

A Yes.

Q686 - - - we took off the computer is directly - - -

A We - - -

Q686 - - - taken from .....

A - - - we can check it - - -

Q687 We can check it.

A - - - because there's the simple thing of in the first line, is 995.2, which - - -

Q688 And that exists?

A - - - .... that exists.

Q689 Right. So we can say that that, that that certificate from the A.Y.F. sorry, the disc information is taken off the, the new certificate issued?

A Yes.

Q690 Right. O.K.

SENIOR CONSTABLE UPSTON

Q691 There's just one more thing, Phil, and just to, just to finalise. If the, if the stability indices are, are an important factor of, of a entrant entering the race and you're, you're aware of the, of the certificate of the Naiad not being current, and in fact you wanted, you, you, you sent that away with, with either a letter or you - - -

A Yes.

Q691 - - - you'd contacted the owner, and that was the case, wouldn't it be an important factor that you would personally want to check that, that a new certificate came, and that it was in fact now eligible to race?

A (NO AUDIBLE REPLY)

Q692 As the sailing director?

A I could only say I rely on the rest of my staff when these certificates come through.

Q693 So what you're saying that it's the case that other people in the office have the authority to check the vessels' correct certificates and information that comes in, and, and they, it's on their authority then that, that they're, they become an entrant of the race?

A In some cases, yes, as with safeties, you know, David Lawson does all the safety equipment.

Q694 But you said earlier that you still check that those safety certificates are current, and that everything is, is kosher with them, with him together? Didn't you, did you say - - -

A I don't, no, I don't check every certificate.

Q695 Right.

A I check some that come through that I physically handle, but I leave the physical verification that all those safety certificates are O.K. and to his satisfaction to him.

Q696 All right.

A He looks after them at the time. He's the one that signs off them at the end of the day that they are correct.

Q697 Right. Well with safety certificates then, that's ..... David Lawson?

A Yeah.

Q698 Well what's the case then with the, with the, the stability ratings then?

A Well, as I said they are checked at the time of application, and then it depends who gets them then when they're lodged.

Q699 But if you're aware of, of this particular certificate being expired, would you then not normally assume that you would want to check that again, having prior knowledge of it?

A All I can say in talking to the owner, the owner must've, I can only assume that I've either written to him or rang him and as I said I know I had numerous phone calls with them, that there was no indication that the boat was being remeasured. As far as I was concerned it was a, purely a re-validation of an existing certificate with no changes.

Q700 But it would have to be re-measured, would it not?

A No.

Q701 For a new certificate to be issued?

A No. They have, it's like a renewal of your motor, motor car registration. You pay your money, they re-issue the certificate.

Q702 But if there's an anomaly between it, if it's, if it's expired, is it not the case that, that the vessel, that new information has to come to the A.Y.F. - - -

A Correct, if, if they've made changes.

Q703 Right. And it, do you know if it's, if it is the case, that changes were made to the vessel?

A At the time, I was under the impression that no changes had been made.

Q704 So it's the case two, two things exist. It may be a possibility that a certificate just gets re-issued, without any measurement?

A That's correct.

Q705 And the other scenario is it gets re-measured due to a change of the boat or whatever?

A To the change .... yes.

Q706 So how do you qualify that information or how do you check that information on the return or issue of the new certificate?

A (NO AUDIBLE REPLY)

Q707 Why do you assume that in this certificate here which I show you, which indicates 112 degrees, I believe - - -

A Yes.

Q707 - - - why do you naturally assume that that's going to be the case again?

A In my discussions with the owners I must have come to the conclusion that there was no change to the boat.

Q708 O.K. Is it the case that, do all your staff, and that would be Andrea and Mark Robinson, are they aware of the 115 degree stability requirements for the - - -

A Yes.

Q708 - - - Sydney to Hobart?

A Yes.

Q709 Are they also aware of the 110 degrees?

A Yes.

Q710 So is it the case then if in fact you didn't view that certificate and the only alternative would be that one of, one or both of them had viewed the certificate, that they would be aware that, that the, the Naiad didn't comply, based on that figure of 104.7?

A (NO AUDIBLE REPLY)

Q711 I'm not asking you to put yourself into their minds, but what I'm saying is these are your staff, and if they're aware of the minimum requirements and they were to view a certificate, in fact file it - - -

A I can, I, I - - -

Q711 - - - you .... answer for them?

A No, I can't ..... that - - -

Q712 .....

A - - - and I can only just, you know, I can only go on the fact that I believe if they saw a certificate that was invalid they would've said something.

Q713 Right.

A You know, they, they have in the past, you know, they, you know, I have no reason to doubt that they wouldn't do that - - -

Q714 O.K.

A - - - in the future.

DETECTIVE SENIOR CONSTABLE GRAY

Q715 O.K. Is there anything further you'd like to say, Phil, in relation to - - -

A No.

Q715 - - - today's interview?

A No.

Q716 O.K. That being the end, and the time on my watch is now 12.45pm. This interview is concluded.

INTERVIEW CONCLUDED